

1 STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
 2 )SS  
 3 COUNTY OF DEUEL ) THIRD JUDICIAL CIRCUIT  
 4 ) 19CIV18-000019  
 5 GEORGE HOLBORN, RUBY HOLBORN,  
 6 JOHN HOMAN, TERESA HOMAN, VICKI  
 7 HINDERS, STACEY HINDERS, RICK  
 8 KOLBECK, JENNIFER KOLBECK,  
 9 WILLIAM STONE, FAY STONE, HEATH  
 10 STONE, KATIE STONE, and STEVEN  
 11 OVERBY,  
 12  
 13 Petitioners,  
 14 vs.  
 15 DEUEL COUNTY BOARD OF  
 16 ADJUSTMENT, DEUEL HARVEST WIND  
 17 ENERGY LLC, and DEUEL HARVEST  
 18 WIND ENERGY SOUTH LLC,  
 19 Respondents.

**DEPOSITION OF STEVEN RHODY,**

15 taken before NANCY McCLANAHAN, court reporter and  
 16 notary public within and for the County of Codington,  
 17 State of South Dakota.

17 DEUEL COUNTY COURTHOUSE

18 Jury Room  
 19 408 Fourth Street West  
 20 Clear Lake, South Dakota

21 **September 21, 2018**

22 3:00 P.M.

23 Nancy McClanahan  
 24 Reporter/RPR,RMR

25 McCLANAHAN REPORTING  
 605-880-9439 - Cell  
 605-882-0936  
 P.O. Box 342  
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**APPEARANCES**

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 5 Plaintiffs. George Holborn, Ruby Holborn, John Homan  
 6 appearing personally at the deposition.

7 Christina L. Kilby, KILBY LAW, PLLC, 112  
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15 Lisa M. Agrimonti, FREDRIKSON & BYRON, P.A.,  
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 18 of Defendants, Deuel Harvest Wind Energy LLC and Deuel  
 19 Harvest Wind Energy South LLC. Michael Svedeman  
 20 appearing personally at the deposition.

**STIPULATION**

14 **IT IS STIPULATED** by and between counsel for the  
 15 parties hereto that the DEPOSITION OF **STEVEN RHODY**, may  
 16 be taken at this time and place before NANCY McCLANAHAN,  
 17 a court reporter and a notary public in and for the  
 18 County of Codington, State of South Dakota, for the  
 19 purpose of discovery or for use at trial or for each of  
 20 said purposes; that said deposition is taken in  
 21 accordance with the applicable statutes and rules of  
 22 civil procedure and taken pursuant to written notice;  
 23 and that counsel waive reading and signature of the  
 24 transcript by the deponent. It is further noted that  
 25 the deponent has waived reading and signature.

**PROCEEDINGS****STEVEN RHODY,**

3 **being first duly sworn, testified as follows:**

**EXAMINATION**

5 **By MR. ALMOND:**

6 Q. Can you state your name and spell your name for  
 7 the court reporter, please.

8 **A. Steven Rhody. S-T-E-V-E-N. R-H-O-D-Y.**

9 Q. And, Mr. Rhody, just a few ground rules here.

10 Let's try not to talk over one another, because it's  
 11 really hard for her to take down two people talking at  
 12 the same time; and if you can answer all my questions  
 13 verbally as opposed to with head nods or uh-huhs (Yeses)  
 14 or huh-uhs (Nos).

15 **A. Yeah.**

16 Q. Because it's really hard for the court reporter  
 17 to take down those types of things. We're probably  
 18 going to break those rules, but let's just try our best  
 19 not to. Okay?

20 Let's start with the names of your parents,  
 21 first and last.

22 **A. Arlen and Barbara.**

23 Q. Rhody?

24 **A. Rhody.**

25 Q. What about siblings of yours?



1 **A. What?**  
 2 Q. Siblings?  
 3 **A. Oh, Roger, Judy, and Daniel.**  
 4 Q. Can you give me your siblings; and if they're  
 5 married, their spouse's name and then their last name as  
 6 well.  
 7 **A. Roger Rhody and then Kim. And then Judy Falken**  
 8 **and Dennis Falken. And Daniel Rhody and his wife died.**  
 9 **She was Sandy. And then me and then Carlene. And then**  
 10 **there is Jane Rhody, Jane Stoltenburg now, and**  
 11 **Jody Stoltenburg. And Diane Dobbs and her husband**  
 12 **Kevin Dobbs.**  
 13 **MS. AGRIMONTI:** Mr. Rhody, I apologize.  
 14 Could I ask you to speak up just a little bit. I'm  
 15 having some difficulty hearing you.  
 16 **THE WITNESS:** I can't hear you.  
 17 (Laughter.)  
 18 **MS. AGRIMONTI:** If you'll speak up, then I'll  
 19 speak up. I'm having some of difficulty hearing you.  
 20 **THE WITNESS:** Well, I got out of breath  
 21 coming up the stairs.  
 22 **MR. ALMOND:** Actually, do you want to grab  
 23 the door? That might help.  
 24 **MR. SVEDEMAN:** Sure.  
 25 Q. The Stoltenburg name, what was the name of the

1 male, the husband?  
 2 **A. Jody.**  
 3 Q. Jody. Okay. Children. Do you have any  
 4 children?  
 5 **A. My children are Robert and Kate.**  
 6 Q. Is Kate married?  
 7 **A. Yep.**  
 8 Q. And what is her last name?  
 9 **A. Rhody.**  
 10 Q. Other board members' family members. Do you  
 11 know James and Jerome DeBoer?  
 12 **A. I know them, yeah.**  
 13 Q. Do you know that their Mike DeBoer's brothers?  
 14 **A. Mike DeBoer?**  
 15 Q. I'm sorry. Kevin DeBoer's brothers.  
 16 **A. Yeah, I think I knew they were brothers.**  
 17 Q. Do you know Justin and Kristen Brandt?  
 18 **A. Huh-uh (No).**  
 19 Q. No?  
 20 **A. No.**  
 21 Q. What about a Diane and Joel Brandt?  
 22 **A. Yeah, I know them.**  
 23 Q. And I believe Joel is Paul Brandt's brother;  
 24 correct?  
 25 **A. I believe so.**

1 Q. I think they're twins, actually, someone said  
 2 earlier.  
 3 **A. I think they're twins, yeah.**  
 4 Q. What do you do for a living?  
 5 **A. I have cattle and I put up hay. And then I**  
 6 **have a window washing service on the side.**  
 7 Q. And Dennis Kanengieter, your co-board-member,  
 8 do you know what he does for a living?  
 9 **A. I think he works for Clark Rogness and works on**  
 10 **his trucks or something. And then I think he helps him**  
 11 **farm when he needs it.**  
 12 Q. Do you know Clark Rogness?  
 13 **A. Yes, I do.**  
 14 Q. Do you know Phillip Rogness?  
 15 **A. Yes.**  
 16 Q. How long has Dennis been working for the  
 17 Rognesses?  
 18 **A. Oh, I don't know.**  
 19 Q. Has it been quite a awhile?  
 20 **A. Yeah, I think it's been quite a while.**  
 21 Q. All right. Mr. Rhody, what I'd like you to  
 22 tell me is tell me any and all agreements that you've  
 23 made or entered into with any wind company, if there are  
 24 any.  
 25 **A. There is none.**

1 Q. You've never entered into an agreement with any  
 2 wind company?  
 3 **A. No.**  
 4 Q. Again, if you can wait for me to finish asking  
 5 the question, the court reporter will like us both much  
 6 more.  
 7 **A. Yeah, I suppose.**  
 8 Q. In your role as a board member, have you ever  
 9 recused yourself or abstained from voting on any issue  
 10 related to wind?  
 11 **A. No.**  
 12 Q. Have you ever recused yourself or abstained  
 13 from voting on any issue?  
 14 **A. No.**  
 15 Q. How long have you been a board member?  
 16 **A. January of 2017.**  
 17 Q. And how did you get on the Board?  
 18 **A. Well, I got on the Board because Gary Jaeger**  
 19 **didn't want to be on there anymore and they needed a**  
 20 **commissioner, so I -- it was my turn that I had to do**  
 21 **it. (Chuckles.)**  
 22 Q. Did Gary ask you to do it?  
 23 **A. Yeah.**  
 24 Q. And when did Gary ask you to be on the Board?  
 25 **A. I'm sorry. Did you say when or --**

1 Q. When.  
 2 A. When. Well, it was probably when he decided he  
 3 was going to get off like December or something.  
 4 Q. December of 2016?  
 5 A. I suppose.  
 6 Q. Then are you also on the county commission?  
 7 A. Yes.  
 8 Q. And did you join the county commission the same  
 9 time?  
 10 A. Nope. I was on there, oh, 2012? Let's see.  
 11 Yeah, it might have been.  
 12 Q. Around 2012?  
 13 A. Yeah, I think so. Is that that election year?  
 14 I think so.  
 15 Q. Do the Deuel County ordinances require a person  
 16 on the county commission, at least one person also sit  
 17 on the Board of Adjustment?  
 18 A. Yeah. I'm sorry. Yes.  
 19 Q. So Gary basically said I'm sick of doing that  
 20 dual service role and it's basically your turn?  
 21 A. He had been on there a long time.  
 22 Q. How do the county commissioners decide who is  
 23 going to fill that role on the Board?  
 24 A. Well, we all have a certain amount of duties.  
 25 And we just decide amongst each other who wants to do

1 Q. Were you guys concerning a wind project at all?  
 2 A. Yeah, I thought it was.  
 3 Q. What wind project?  
 4 A. And I don't think I was on the Board then.  
 5 Q. And what was the wind project?  
 6 A. Was that the Flying Cow?  
 7 Q. Were you at the board meeting, or how do you  
 8 know that -- why do you think somebody was --  
 9 A. I was just at the board meeting. Do you  
 10 remember, George?  
 11 Q. Okay.  
 12 A. I thought somebody --  
 13 MR. PETERSON: You can't ask other people in  
 14 the room.  
 15 A. Oh, okay. I don't remember anything.  
 16 Q. So tell me about last night. Why did  
 17 Paul Brandt recuse himself last night?  
 18 A. Oh, I think he said he had a meteor -- he was  
 19 going to have a meteorological tower or he did have one.  
 20 Q. And last night was the Crowned Ridge project;  
 21 correct?  
 22 A. Yeah.  
 23 Q. Mr. Rhody, when did you first become aware or  
 24 familiar, when did you first hear about Invenergy?  
 25 A. Yeah, that's been a while ago. Oh, when they

1 what.  
 2 Q. Okay. In your time that you've been on the  
 3 Board -- When I said the Board, I'm referring to the  
 4 zoning board and the Board of Adjustment. Do you  
 5 understand that?  
 6 A. Yes.  
 7 Q. And if I'm going to refer to your services as a  
 8 county commissioner, I'll be sure to talk about the  
 9 county commission. Okay?  
 10 A. Okay.  
 11 Q. In your time as serving on the Board, have any  
 12 of your board members ever recused himself or refrained  
 13 from voting on any wind issues?  
 14 A. I don't think so. You mean, before that  
 15 January 22 meeting?  
 16 Q. At any time.  
 17 A. Well, I don't recall. I don't think so.  
 18 Q. We've heard a little bit about Paul Brandt, I  
 19 believe, recusing himself last night; correct?  
 20 A. Correct, yes.  
 21 Q. Aside from that, do you recall any other time  
 22 when a board member who's recused himself?  
 23 A. Maybe one time in that when we were meeting in  
 24 the 4H Service Center. George, was there, weren't you?  
 25 Didn't somebody recuse themselves there?

1 first found out that -- Well, you remember the CapX  
 2 project, it was a little while after that. Then we  
 3 heard that they were, Invenergy, was going to come  
 4 through.  
 5 Q. The CapX?  
 6 A. Yeah, that big line by, over by Astoria and  
 7 north. It was a while after that.  
 8 Q. And my understanding is that Invenergy hosted  
 9 or sponsored various events around the area and invited  
 10 members who lived in the area to those events. Did you  
 11 hear about any events like that?  
 12 A. No, I didn't.  
 13 Q. You never heard about any events like that?  
 14 A. No, because they wouldn't invite me. I wasn't  
 15 a landowner or whatever. I don't know. And I would  
 16 hear about these meetings, you know, these events, and  
 17 they never invited me.  
 18 Q. So you did hear about them but you were never  
 19 invited?  
 20 A. Right.  
 21 Q. So because you were never invited, did you ever  
 22 go to any of them?  
 23 A. I think some of them were in the paper maybe.  
 24 Q. Okay.  
 25 A. But I neglected to see that and I didn't go to

1 **them, so. I was busy.**  
 2 Q. You never attended any events?  
 3 **A. No, I never went to any of them.**  
 4 Q. We got off topic. Crowned Ridge project. So  
 5 Mr. Brandt recused himself last night because he had  
 6 a -- What kind of tower did you say?  
 7 **A. He called it a meteorological tower.**  
 8 Q. And did the board members discuss his recusal  
 9 at all?  
 10 **A. No. Well, I didn't. But it's just a fact of**  
 11 **matter, you know, he said that and I pretty much just**  
 12 **walked out of the room after that.**  
 13 Q. So did he show up to the meeting or -- How did  
 14 he recuse himself? Did he recuse himself, or did  
 15 someone recuse him? I guess I'm trying to figure out  
 16 more of the details.  
 17 **A. I think he recused himself.**  
 18 Q. Did he still attend the meeting?  
 19 **A. He did -- You mean last night?**  
 20 Q. Yes.  
 21 **A. He did part of the meeting last night with**  
 22 **those other things that we had to do, and then when it**  
 23 **got to be 7:00, why, then, Gary DeJong took over.**  
 24 Q. Okay. And the meeting last night, tell me  
 25 about what was the project for?

1 Q. I'm talking about the Invenergy project, the  
 2 public also submitted comments for that project as well;  
 3 correct?  
 4 **A. You mean, since it's started?**  
 5 Q. No. If you go back to the hearing that took  
 6 place in January for the Invenergy project --  
 7 **A. Yeah.**  
 8 Q. -- the public submitted comments before that  
 9 hearing and during the hearing. Right?  
 10 **A. Oh, yes. That's right.**  
 11 Q. Just like the public submitted comments for the  
 12 Crowned Ridge project before and during the Crowned  
 13 Ridge hearing?  
 14 **A. And in the Invenergy one there was a lot more**  
 15 **activity, I guess.**  
 16 Q. So there was a lot --  
 17 **A. A lot of e-mails.**  
 18 Q. A lot more public comments in the Invenergy  
 19 application versus the Crowned Ridge application?  
 20 **A. Yes. Definitely.**  
 21 Q. Was there a lot more written material submitted  
 22 in the Invenergy proceeding than in the Crowned Ridge  
 23 proceeding?  
 24 **A. Yes.**  
 25 Q. What about application sizes? How did the

1 **A. What was the project for?**  
 2 Q. The Crowned Ridge, what is that?  
 3 **A. Well, they're having wind towers from**  
 4 **Codington, Grant, and Deuel.**  
 5 Q. So it's a wind energy system?  
 6 **A. Wind energy system.**  
 7 Q. Similar to the Invenergy application?  
 8 **A. Yeah, I think so. It was very similar.**  
 9 Q. Were public comments submitted in the Crowned  
 10 Ridge proceeding?  
 11 **A. Were public comments submitted to me?**  
 12 Q. Yeah, did people from the public submit  
 13 comments to the board before and during the hearing?  
 14 **A. Ah, yeah, we -- I know Jodi got a letter and**  
 15 **wanted it read last night. And then I had a copy of it.**  
 16 **And there might have been one other one, one other**  
 17 **letter that Jodi got and forwarded it to me for me to**  
 18 **read.**  
 19 Q. And similar public comments were submitted in  
 20 the Invenergy project; correct?  
 21 **A. You mean last night?**  
 22 Q. No. We just talked about the public comments.  
 23 There were public comments submitted for last night's  
 24 project.  
 25 **A. Yeah.**

1 applications compare? The Invenergy applications versus  
 2 the Crowned Ridge applications? Which one contained  
 3 more information?  
 4 **A. That's hard to say. I think they're about the**  
 5 **same.**  
 6 Q. Was a decision reached last night in the  
 7 Crowned Ridge project?  
 8 **A. No.**  
 9 Q. What happened?  
 10 **A. We just had a lot of information. We had to**  
 11 **process it, think it over before we decide.**  
 12 Q. So was there a vote at all?  
 13 **A. No.**  
 14 Q. So did you end up tabling it?  
 15 **A. Postponed it.**  
 16 Q. Postponed it.  
 17 **A. (Nods affirmatively.)**  
 18 Q. Were there any discussions amongst the board  
 19 members before last year night's hearing about the  
 20 option or the possibility of postponing the vote?  
 21 **A. No.**  
 22 Q. The Board didn't discuss it amongst themselves?  
 23 **A. I wasn't part of it.**  
 24 Q. Did anyone ever suggest to you the notion of  
 25 postponing the hearing last night prior to the hearing?

1 **A. No.**  
 2 Q. In front of you in these four binders is what  
 3 has been marked as Exhibit 2. And they are Exhibit B to  
 4 the return that was produced in this proceeding. What  
 5 they are is the two applications that were submitted by  
 6 Invenergy for their special exception permits. Are you  
 7 with me?  
 8 **A. That's what they submitted for their special**  
 9 **exception permit?**  
 10 Q. That's my understanding. Do you remember  
 11 Invenergy submitting applications?  
 12 **A. Uh-huh (Yes).**  
 13 Q. For a special exception permit, or for two  
 14 special exception permits?  
 15 **A. Uh-huh (Yes).**  
 16 Q. Yes?  
 17 **A. Yes.**  
 18 Q. And because there were two projects; right?  
 19 **A. Yeah. There was a "North" and a "South."**  
 20 Q. And they submitted a separate application for  
 21 each project?  
 22 **A. The Deuel Harvest North and a Deuel Harvest**  
 23 **South, correct. Yep.**  
 24 Q. And I have the application separated here into  
 25 the "North" project and the "South" project. Did you

1 **A. Nope, but let me look at it.**  
 2 Q. Yep. Feel free to. Then turn to the next  
 3 page, on page 201, there is a list of those people who  
 4 have entered into Memorandum of Easements. Did you go  
 5 through this list?  
 6 **A. I didn't go through the list, no.**  
 7 Q. You didn't go through the list.  
 8 **A. Huh-uh (No).**  
 9 Q. Were you aware, did you have any knowledge of  
 10 who signed up with Invenergy before the hearing?  
 11 **A. No. Huh-uh (No).**  
 12 Q. You didn't know, did you know of anyone who had  
 13 signed up with Invenergy before the hearing?  
 14 **A. I'm from Toronto and these were mostly up here**  
 15 **so I didn't talk to a lot of people. I might have known**  
 16 **one or two people.**  
 17 Q. Who were they?  
 18 **A. I don't remember. Do you want me to look**  
 19 **through the list?**  
 20 Q. Well, no, I was just hoping you could tell me  
 21 off the top of your head, but I don't need you to look  
 22 through the whole list. Did you know that  
 23 Kevin DeBoer's brothers, James and Jerome were signed  
 24 up?  
 25 **A. No, I didn't know that.**

1 get the applications before the hearing?  
 2 **A. Yes.**  
 3 Q. Do you recall when you received the  
 4 applications?  
 5 **A. Not exactly, but I think it was probably like**  
 6 **two, three weeks before.**  
 7 Q. And how did you --  
 8 **A. Maybe a month before.**  
 9 Q. And how did you get the applications?  
 10 **A. Jodi gave me a book.**  
 11 Q. It was a hard copy version?  
 12 **A. Uh-huh (Yes).**  
 13 Q. Yes?  
 14 **A. Yes.**  
 15 Q. Did you read through both applications?  
 16 **A. Yes.**  
 17 Q. Did you read the applications in their  
 18 entirety?  
 19 **A. Well, I scanned the entirety, and I've read**  
 20 **quite a bit of it.**  
 21 Q. I'm going to show you page 200 of Exhibit 2  
 22 here. Do you remember seeing Appendix F, Copies of  
 23 Memorandum of Easements with landowners?  
 24 **A. Nope.**  
 25 Q. You don't remember seeing that?

1 Q. What about a Justin and a Kristen Brandt? Did  
 2 you know that they were signed up?  
 3 **A. I don't know them, no.**  
 4 Q. Were you aware that Kevin DeBoer had previously  
 5 signed up with Invenergy?  
 6 **A. No.**  
 7 Q. What about Mike Dahl? Were you aware that  
 8 Mike Dahl had previously signed an agreement with  
 9 Invenergy?  
 10 **A. I might have wondered about if he did or not.**  
 11 **But I wasn't going to be nosey and ask him if he did or**  
 12 **not. It wasn't my place to ask him.**  
 13 Q. What about the Rognesses? Any knowledge about  
 14 whether any of those people had signed up for wind  
 15 leases?  
 16 **A. I didn't want to ask that question because it**  
 17 **wasn't none of my business.**  
 18 Q. Tell me about -- What about any of your county  
 19 commissioners? Did you have any knowledge about any of  
 20 them signing up with Invenergy?  
 21 **A. Let's see. There was Gary. He has, is a**  
 22 **landowner, and I don't know if he did. And I was**  
 23 **wondering if did he, but I wasn't going to ask him that**  
 24 **question either.**  
 25 Q. Gary. What's Gary's last name?

1 A. Jaeger.  
 2 Q. Jaeger?  
 3 A. Yeah. I just assumed he would.  
 4 Q. What about Lynn Pederson?  
 5 A. Lynn, I did ask him. We were talking about  
 6 that with him one day, and he had, what was it?  
 7 Grassland easement. And he was complaining that he  
 8 didn't think he could be a part of that because he had  
 9 that, but I'm not sure that's right. Because I -- Can't  
 10 some of these guys with grassland easements sign up?  
 11 Anyhow, that's what he was talking about one day.  
 12 Q. Did Lynn Pederson ever tell you whether or not  
 13 he signed up?  
 14 A. He said he wasn't.  
 15 Q. Okay. When did that conversation take place?  
 16 A. Oh, yeah. It was long before Invenergy.  
 17 That's been quite a while ago.  
 18 Q. Did Invenergy ever come to any county  
 19 commission meetings?  
 20 A. Yes.  
 21 Q. And when did they first start coming to county  
 22 commission meetings?  
 23 A. Yeah, let's see. That's a good question. You  
 24 know, it's been like six months before or maybe it was  
 25 even a year before they moved forward on it.

1 A. Yeah, when he came to the meetings.  
 2 Q. So you first met Mr. Litchfield through  
 3 Invenergy?  
 4 A. Uh-huh (Yes).  
 5 Q. Yes?  
 6 A. Yes.  
 7 Q. I'm handing you what's been marked as  
 8 Exhibit 19. This document was produced by Invenergy,  
 9 and to me it looks like kind of a calendar notification  
 10 and it says, Call Steve Rhody. It's dated March 21 of  
 11 2017, and the organizer was Dan Litchfield. Do you  
 12 remember having a telephone conversation with  
 13 Dan Litchfield back in March of 2017?  
 14 A. Yes.  
 15 Q. Tell me about that conversation.  
 16 A. He wanted to come -- or he wanted me to come to  
 17 the office and have him -- he wanted to show me the maps  
 18 of his project. And I said, No, why don't you just --  
 19 because DeAnne Dumke, she's a commissioner, too, and she  
 20 wanted to see maps too. And so he asked to meet with  
 21 both of us, and I said, no, just come out to the house  
 22 and we'll just have DeAnne and we'll both do it at the  
 23 same time.  
 24 Q. Did you guys talk about anything else during  
 25 that conversation?

1 Q. A year before when?  
 2 A. Before January of last year.  
 3 Q. January of this year, January of 2018?  
 4 A. Or of this year, yeah. So it probably would  
 5 have been, you know -- I'm guessing here. I can't  
 6 remember, but I know they were there long before they --  
 7 (Nods affirmatively.)  
 8 Q. Why were they coming to the county commission  
 9 meetings?  
 10 A. Just to make us aware of what they were doing.  
 11 Q. Did they ask for anything from the county  
 12 commission?  
 13 A. Nope. Not at that time.  
 14 Q. At some point they did?  
 15 A. Just an information meeting.  
 16 Q. At some point they did ask for something from  
 17 the county commission or --  
 18 A. I don't -- Well, not from the commission they  
 19 didn't ask anything from us. Maybe some maps from  
 20 equalization office or something.  
 21 Q. Okay. Mark this please. Do you know a  
 22 Dan Litchfield?  
 23 A. Yes.  
 24 (DEPOSITION EXHIBIT 19 MARKED.)  
 25 Q. How long have you known Dan Litchfield?

1 A. No. That was it that I remember.  
 2 Q. So then did Mr. Litchfield come out to your  
 3 house then?  
 4 A. Yeah.  
 5 Q. And DeAnne join you guys?  
 6 A. Yep.  
 7 Q. And tell me about what happened there.  
 8 A. He laid out his maps out on my counter, because  
 9 I had a nice big counter there and he can lay them out  
 10 and we looked at them. And he was explaining his  
 11 setback areas. And he wanted, you know, different sizes  
 12 setbacks and how that would affect the project.  
 13 Q. Approximately when did this take place? When  
 14 did he come out to your house?  
 15 A. Well, I'm thinking probably right around when  
 16 this was.  
 17 Q. A couple days after this phone call?  
 18 A. Yeah, probably -- Yeah, that could be. That  
 19 could be about the time he was there.  
 20 Q. When you guys were talking about setbacks, were  
 21 you talking about actual distances of setbacks?  
 22 A. Yes.  
 23 Q. Was he advocating for one distance versus  
 24 another?  
 25 A. Yeah, he wanted the original setbacks. And he

1 was explaining why he could get a lot more towers in  
 2 with a, you know, the smaller setbacks.  
 3 Q. And at this point in time, had the ordinances  
 4 been changed?  
 5 A. No.  
 6 Q. At this point in time was the county  
 7 considering changing their ordinances?  
 8 A. Yes. I believe so. I think we were thinking  
 9 about if we needed to change them, as far as I remember  
 10 now. Sometimes I get the time, you know, confused, but  
 11 I think that was when we were considering how big to  
 12 make the setbacks.  
 13 Q. And at that meeting did you form any sort of  
 14 opinion or conclusion about what setbacks were good in  
 15 your opinion?  
 16 A. Not at the meeting. It was after the meeting.  
 17 Q. So he didn't persuade you when he came out  
 18 there?  
 19 A. Tried to persuade us, yeah, at this job.  
 20 Q. And at some point you ultimately decided to  
 21 make a conclusion about his proposed setbacks, whether  
 22 or not you agreed with his position or you thought  
 23 different setbacks were appropriate?  
 24 A. We disagreed with his opinion of the small  
 25 setbacks and his opinion of the large setbacks, so.

1 A. I don't think I have. I think I talked to him  
 2 at other meetings, but that's probably all I talked to  
 3 him about.  
 4 Q. Right now I'm asking about meetings outside of  
 5 either a commission meeting or a board meeting. Like  
 6 you had a meeting --  
 7 A. I know he was calling. You know, I was busy.  
 8 I guess I didn't see the reason to meet with him. I  
 9 know he wanted to talk some more but I never did, I  
 10 don't think.  
 11 Q. What about anyone else from Inverenergy?  
 12 A. No. No one else.  
 13 Q. And did you have any other meetings with  
 14 Mr. Litchfield aside from that time when he came out to  
 15 your house?  
 16 A. I don't recall one. No.  
 17 Q. I'm showing you what has been marked as  
 18 Exhibit 5. Looking at page 26, there is an e-mail from  
 19 Todd Kays to Jodi, the zoning officer. Do you see that?  
 20 A. Uh-huh (Yes).  
 21 Q. Did you receive that e-mail at any point in  
 22 time?  
 23 A. I don't remember this, but I know they were  
 24 involved in it, yeah.  
 25 Q. And that e-mail references a Staff Report and

1 Yeah. That was -- You know, DeAnne and all the other  
 2 commissioners we all decided not to go with that.  
 3 Q. Aside from that meeting with Dan Litchfield,  
 4 did you have any other meetings or discussions with  
 5 anyone from Inverenergy related to the zoning ordinances  
 6 or setbacks?  
 7 A. Oh, I know there are other Inverenergy people;  
 8 right? There is other ones besides Dan? And I probably  
 9 met them but I forgot their name. But, no, I really  
 10 can't remember any single discussion, other than Dan.  
 11 That's about the only one I ever talked to.  
 12 Q. Michael Svedeman? Did you ever have any  
 13 conversations with him?  
 14 A. I might have, but I can't remember his name,  
 15 but, no, I don't know him.  
 16 Q. Do you recognize the gentleman at the end of  
 17 the table here?  
 18 A. Oh, yeah.  
 19 MR. SVEDEMAN: That's me.  
 20 A. That's Michael? Okay, yeah.  
 21 Q. Did you have any conversations or meetings with  
 22 him to talk about setbacks, zoning ordinances, or  
 23 anything with respect to the project?  
 24 A. A personal meeting with him?  
 25 Q. Yes.

1 some questions from the chair, Findings of Fact, letter  
 2 of assurance in Exhibit A. Did you ever get any copies  
 3 of any of those documents before the January 22 hearing?  
 4 A. Other documents than this?  
 5 Q. No, the documents that are referenced in this  
 6 e-mail. Did you receive any of those before the  
 7 January 22 hearing? And those documents are actually  
 8 behind that e-mail, so if you want to look through them  
 9 to try to refresh your memory, you're more than welcome  
 10 to.  
 11 A. Yeah, we were really pushed for time there, and  
 12 I don't remember any of these, but I probably got them.  
 13 Q. When you say you were pushed for time, what do  
 14 you mean?  
 15 A. Oh, I think I had a lot of window washing to do  
 16 and a lot of things here, and if it wasn't -- When do  
 17 you think these were sent to me?  
 18 Q. I don't know if they were. That's what I'm  
 19 trying to figure out.  
 20 A. Uh-huh (Yes).  
 21 Q. Do you remember receiving a Staff Report for  
 22 the Inverenergy project?  
 23 A. I don't remember it.  
 24 Q. Here on page 27, it says staff report here and  
 25 it's dated June 22, 2018. You don't remember receiving

1 that?

2 **A. I may have. I don't remember, though. I see**

3 **so many things.**

4 Q. Going back, you said about being pressed for

5 time. I just want to find out more what you meant by

6 that.

7 **A. I don't know. It just seems like this window**

8 **washing keeps me so busy, and then I've got to go to**

9 **these meetings and that was a busy, busy time.**

10 Q. So if you got this, you might not have reviewed

11 it?

12 **A. I might not have reviewed it entirely.**

13 Q. No. Other things that were sent to you by

14 Jodi, you might not have reviewed. Is that fair?

15 **A. That's fair. Yeah, that's fair.**

16 Q. Okay.

17 **A. And with all the other letters and e-mails.**

18 **I'd get -- Sometimes I'd have 300 e-mails on my computer**

19 **and I'd have to clean them off.**

20 Q. Did anyone from Invenergy ever e-mail you?

21 **A. Oh, yes. I'm sure they did.**

22 Q. Have you went back and looked in your e-mail to

23 try to locate any e-mails from people from Invenergy?

24 **A. No.**

25 Q. I'm going to ask you that you do that after

1 **It's so full. Yeah. I can't -- Anything new coming in**

2 **it gets lost in there. And I'm not an e-mail guy. If**

3 **you want to get ahold of me, you call me on the phone.**

4 **End of story. That's it. I'm old school. I'm not**

5 **e-mail. I'll text. Pretty much everybody who knows me**

6 **knows that.**

7 Q. Going back to First District, did they provide

8 any sort of assistance or guidance to the Board for the

9 Invenergy project?

10 **A. Yes. They did.**

11 Q. And I've heard from other board members that

12 they assisted with the Findings of Fact after the

13 hearing.

14 **A. Yes.**

15 Q. What I'm curious about, did they insist in any

16 way before the hearing?

17 **A. I don't recall that they assisted anything**

18 **before. Todd might have came to a meeting one time and**

19 **just told us how we should run our meeting. You know,**

20 **he's been through that and we hadn't been. And he was**

21 **just giving us some pointers and procedural things. He**

22 **didn't tell us anything on how to vote. He just -- No,**

23 **he never would have done that.**

24 Q. And the meeting that -- You said Todd Kays?

25 **A. Yes.**

1 this deposition, and if you find any --

2 **A. How do I do that? In my e-mail? They're all**

3 **trash.**

4 Q. Oh, you deleted all your e-mails?

5 **A. Oh, yeah. I get rid of them right away.**

6 Q. So you're the type of person that deletes

7 e-mails as soon as they've read them?

8 **A. Right.**

9 Q. Do you have any ability to retrieve them? Are

10 they in the trash folder?

11 **A. They're trash, and then I deleted all my trash,**

12 **so, because I get so full. Why do you want them? Those**

13 **were from -- Just nothing. It was what everybody else**

14 **got. It was the same e-mails that everybody else got.**

15 **Then we'd talk about them at the meetings, but.**

16 Q. First, what are your e-mail addresses that you

17 use?

18 **A. Steve.Rhody@yahoo.**

19 Q. Do you use any other e-mail addresses?

20 **A. No.**

21 Q. So you have a Yahoo e-mail account?

22 **A. Yes.**

23 Q. How regularly do you empty out trash or clear

24 out the trash?

25 **A. Oh, I've got to do that every couple weeks.**

1 Q. -- may have came too, would that have been the

2 board meeting that took place before the January 22

3 hearing, if it did take place?

4 **A. Yeah. Uh-huh (Yes).**

5 Q. So if we were to go look in the minutes of that

6 board meeting, if he spoke at that meeting, then the

7 minutes would likely reflect that?

8 **A. Yeah.**

9 Q. And if the minutes don't reflect that and they

10 don't mention Todd Kays at all, would it be fair to

11 assume that he wasn't there?

12 **A. Well, he was there. I remember him being**

13 **there.**

14 Q. He was there for the meeting before the

15 January 22 hearing?

16 **A. Yeah, like a month or two before I thought.**

17 Q. Was Todd Kays at the January 22 hearing?

18 **A. I think he was, wasn't he? If I remember**

19 **correctly. He may not have been, but I thought he would**

20 **like to be.**

21 Q. I'm going to show you what has been marked as

22 Exhibit 4. I'll represent to you that Exhibit 4 is an

23 assortment of documents, many of which are the public

24 comments that were submitted to the Board either before

25 the hearing or, perhaps, during the hearing. I think



1 there were some that were submitted after the hearing in  
 2 here. So I just want to talk generally about how you  
 3 received public comments for the Invenergy project. Did  
 4 you receive -- You tell me how. Before the hearing, how  
 5 did you receive public comments?  
 6 **A. A lot of e-mails and letters.**  
 7 Q. And when you say "e-mails," who were the  
 8 e-mails from?  
 9 **A. Oh, they were from neighbors, and they were**  
 10 **from mostly people up in Clear Lake.**  
 11 Q. Were they sending e-mails directly to you, or  
 12 were they sending them to Jodi and then she forwarded  
 13 them to you?  
 14 **A. A lot of them were to Jody and then to me.**  
 15 Q. Did anyone from Invenergy e-mail you before the  
 16 hearing?  
 17 **A. Before the hearing, I don't think so.**  
 18 Q. Looking back at Exhibit 4, there is an e-mail  
 19 here from Joe Blastick. Do you see that?  
 20 **A. Yeah.**  
 21 Q. Do you know who Joe Blastick is?  
 22 **A. No, I don't recall who he is.**  
 23 Q. If you read the e-mail there, it basically  
 24 says, Jodi, I'm attaching a bunch of documents that I  
 25 would like to be submitted as public comments,

1 **A. After about the two-hundredth one, why, you**  
 2 **quit, you don't really remember any of them.**  
 3 Q. Yeah, after the 200th one you said you quit.  
 4 You quit what?  
 5 **A. Remembering them.**  
 6 Q. Okay. Did Jodi ever provide you any hard  
 7 copies of public comments?  
 8 **A. Hard copies like paper?**  
 9 Q. Yeah, paper copies.  
 10 **A. Oh, yeah.**  
 11 Q. She did. Would she mail them to you, or would  
 12 you pick them up?  
 13 **A. Oh, yeah, she would mail them. Yep. I'd**  
 14 **always get mail. And then Pam Lundy would give us a lot**  
 15 **of them too. She would mail out a lot of letters.**  
 16 Q. And then the night of the hearing, January 22,  
 17 when you showed up to the hearing, was there a stack of  
 18 documents of public comments at the hearing already when  
 19 you showed up?  
 20 **A. Yeah, there was a whole stack on the table**  
 21 **underneath the paper.**  
 22 Q. Did you look through those at the hearing?  
 23 **A. You ain't got time to do that at the hearing.**  
 24 Q. As I understand it, during the hearing some  
 25 members of the public provided written comments and

1 essentially. Do you see that?  
 2 **A. Yeah. Uh-huh (Yes).**  
 3 Q. And then after this e-mail are the documents  
 4 that are attached to the e-mail.  
 5 **A. Okay.**  
 6 Q. Do you recall if this e-mail was forwarded to  
 7 you?  
 8 **A. Yeah, like I say, there was so many of them. I**  
 9 **would just have time to scan them and that's all I could**  
 10 **do.**  
 11 Q. And what about this letter here?  
 12 **A. I've seen a lot of letters like that.**  
 13 Q. Any recollection of actually receiving this  
 14 letter?  
 15 **A. That's from Blastick too?**  
 16 Q. That's my understanding, yes. His signature is  
 17 here.  
 18 **A. You see, that's what I do, is I scan them and**  
 19 **see if they're opposed or not and then see why. I try**  
 20 **to read them all.**  
 21 Q. Do you recall getting this letter from  
 22 Mr. Blastick?  
 23 **A. I recall getting letters like that. I don't**  
 24 **remember Blastick.**  
 25 Q. Okay.

1 during the hearing?  
 2 **A. Right.**  
 3 Q. They'd say their piece and then they'd give  
 4 written documents to the Board. Do you remember that  
 5 taking place?  
 6 **A. Yeah.**  
 7 Q. Did you have time to read those documents  
 8 before?  
 9 **A. And I thought that was ridiculous because**  
 10 **you're sitting there trying to do your work, and they're**  
 11 **giving you documents to read. You ain't got time to**  
 12 **read the documents that night. You can scan them but**  
 13 **that's all you can do.**  
 14 Q. Okay. Then at the end of the January 22  
 15 hearing, the Board voted to approve the permit; correct?  
 16 **A. Say that again.**  
 17 Q. At the end of the January 22 hearing, the Board  
 18 voted to approve the permits?  
 19 **A. Yeah. Yes.**  
 20 Q. Did you have any discussions with any of the  
 21 other board members before the January 22 hearing about  
 22 the Invenergy applications outside of a board meeting?  
 23 **A. Nope.**  
 24 Q. I want to talk a little bit about the process  
 25 that was used at the hearing. Do you recall there being

1 a three-minute time limit for people in the public to  
 2 speak?  
 3 **A. There was a three-minute time limit, yeah.**  
 4 Q. Was there a three-minute time limit last night  
 5 for the Crowned Ridge application?  
 6 **A. Yes.**  
 7 Q. So back to the Invenergy hearing. Do you know  
 8 whose idea it was to impose that three-minute time  
 9 limit?  
 10 **A. Kind of my idea. But I don't know if I can**  
 11 **take full credit for that, because then Gary Jaeger he**  
 12 **come up and he says, you know, we've got to have a**  
 13 **limited time to speak, because there is going to be a**  
 14 **lot of people to speak and we're not going to be to**  
 15 **get -- hear everybody. So then we were thinking about**  
 16 **it, and then I think Todd Kays came to that meeting, and**  
 17 **we were talking about that and he thought three minutes**  
 18 **would be right.**  
 19 Q. And what meeting are we talking about right  
 20 now?  
 21 **A. The commissioner meeting.**  
 22 Q. The commissioner meeting.  
 23 **A. Prior, right.**  
 24 Q. I'm talking about the Board of Adjustment  
 25 meeting.

1 meeting that was considering the ordinance changes?  
 2 **A. Yes, I think so. Yeah, when did we do that?**  
 3 **Was that in 2016? I think that's how it went, that**  
 4 **that's when we first used that. You know, that might**  
 5 **have been where Todd was before, maybe Todd came in**  
 6 **front of the commissioners before the ordinance one. I**  
 7 **might have had my -- I really can't remember. But I**  
 8 **think that's maybe when Todd came.**  
 9 Q. Are you aware of any other projects that are  
 10 trying to be developed in Deuel County?  
 11 **A. Well, yeah, Jesse Bermel down here at the**  
 12 **Avangrid. Avangrid. A-V-I-N grid, I think. He was**  
 13 **going to put up some meteorological towers around and**  
 14 **study the wind.**  
 15 Q. Where at in the process is that project, if you  
 16 know?  
 17 **A. That's where it is. It's meteorological towers**  
 18 **and studying wind flows and stuff. And I think they're**  
 19 **probably running around trying to find some leases.**  
 20 **That's what I think, but.**  
 21 Q. Has anyone ever approached you about signing a  
 22 lease?  
 23 **A. I don't have any land to put anything on.**  
 24 Q. You live here in town?  
 25 **A. No. I live west of Toronto on an acreage. I**

1 **A. No, this is prior to the, the commissioner**  
 2 **meeting prior to, when we were going to -- We were**  
 3 **trying to set some ground rules for the meeting.**  
 4 Q. The commissioner meeting. What was that? What  
 5 were you guys considering?  
 6 **A. Oh, wait a minute. I got my wires crossed.**  
 7 **That was for the ordinance, ordinance meeting. No, for**  
 8 **the Invenergy meeting, that had already been done and it**  
 9 **worked very well. So we did it the same way. That's**  
 10 **what we did there. I've got to back up.**  
 11 Q. So let's go to the first meeting.  
 12 **A. The Invenergy meeting?**  
 13 Q. The first meeting where this three-minute limit  
 14 came to being.  
 15 **A. Where that started, that was for the ordinance.**  
 16 Q. And what body? Was it the county commission or  
 17 the Board of Adjustment?  
 18 **A. That was the county commission.**  
 19 Q. It was a county commission meeting?  
 20 **A. Uh-huh (Yes). Yep.**  
 21 Q. And who was it that had the idea to implement a  
 22 three-minute time limit?  
 23 **A. Well, the actual three-minute, I think that was**  
 24 **probably Todd. He had done that before.**  
 25 Q. And that was utilized at the county commission

1 **only got 11 acres.**  
 2 Q. But no one has ever approached you and asked  
 3 you to sign up for a wind easement?  
 4 **A. A wind easement, no. That's why I don't get**  
 5 **invited to any of these parties, because I don't have**  
 6 **any -- (Chuckles.)**  
 7 Q. Do you remember John Homan submitting a special  
 8 exception permit for a runway?  
 9 **A. Yeah.**  
 10 Q. If you turn to page 310 of Exhibit 4 for me.  
 11 **A. (Complies.)**  
 12 Q. Is that the special exception permit  
 13 application that Mr. Homan submitted to the zoning  
 14 officer for his runway?  
 15 **A. Yeah, looks like it.**  
 16 Q. And that was filed with the zoning officer in  
 17 March of 2017; correct?  
 18 **A. Correct. Yes.**  
 19 Q. And when he filed this application, there  
 20 weren't any wind towers around the property where  
 21 Mr. Homan wanted to place a runway, were there?  
 22 **A. No, there wasn't any wind towers. It was just**  
 23 **everybody was talking about wind towers at that time.**  
 24 Q. And there was no application to place any wind  
 25 towers around?

1 **A. No. Huh-uh (No).**  
 2 Q. And to put it simply, his neighbors didn't have  
 3 any right to put any wind turbines around?  
 4 **A. No, they had nothing. I don't know if they had**  
 5 **signed leases or why they knew. I don't know about**  
 6 **that.**  
 7 Q. But even if they had signed leases, they didn't  
 8 have a right to put a turbine until they'd gotten  
 9 approval from the Board?  
 10 **A. I think they had high hopes of getting one,**  
 11 **yeah, but they didn't have any permits. Nobody had any.**  
 12 **Nothing was going on yet.**  
 13 Q. Then there was a board meeting that took place  
 14 in April of 2017 to consider Mr. Homan's application.  
 15 Do you recall that meeting?  
 16 **A. Yeah.**  
 17 Q. If you flip forward to page 346, on pages 346,  
 18 347, and 348 are a letter John Homan wrote to the  
 19 Deuel County Commissioners. Did you receive this  
 20 letter?  
 21 **A. I probably did.**  
 22 Q. Regardless, in the third paragraph here  
 23 Mr. Homan is talking about that April zoning board  
 24 meeting. Do you see that?  
 25 **A. Yeah.**

1 **wouldn't -- They never said that they wouldn't give him**  
 2 **that.**  
 3 Q. What did they want to consider?  
 4 **A. About the wind towers and his landing strip to**  
 5 **see if it was compatible. That's how I remember it.**  
 6 Q. And, again, there weren't any wind towers  
 7 around; right?  
 8 **A. Right.**  
 9 Q. And there weren't any applications for wind  
 10 towers that were pending; right?  
 11 **A. No. Huh-uh (No).**  
 12 Q. Do you think it made much sense to consider  
 13 wind towers then with respect to that runway  
 14 application?  
 15 **A. Myself, I think it made no sense to ask that**  
 16 **question right away.**  
 17 Q. As I understand it, there were a couple more  
 18 board meetings regarding Mr. Homan's application for a  
 19 special exception permit; right?  
 20 **A. Yes.**  
 21 Q. Ultimately, he was granted one; right?  
 22 **A. Yes.**  
 23 Q. But during those additional meetings where the  
 24 Board discussed his special exception permit for a  
 25 runway, the vast majority of the discussion took place

1 Q. It says, I attended the April zoning board  
 2 meeting to apply for the permit in person. The very  
 3 first question I received from the Board before any  
 4 question about airports or landing strips was from  
 5 Mr. Kanengieter and it was, How is this going to affect  
 6 wind towers?  
 7 Did he accurately describe what took place at  
 8 that April board meeting in that paragraph there?  
 9 **A. In that third paragraph?**  
 10 Q. Was the first question from a board member  
 11 specifically --  
 12 **A. Yeah, I think it was. Yeah.**  
 13 Q. And if you go to the next paragraph, he  
 14 summarizes that board meeting further. It says, The  
 15 conversation continued for over a half hour and the  
 16 Board's questions and comments were only concerning wind  
 17 towers. They went so far as the Board telling me that  
 18 they would not grant me the permit because in the future  
 19 some surrounding landowner may want to put up a wind  
 20 tower on the adjacent property.  
 21 Did he accurately summarize what took place in  
 22 that paragraph?  
 23 **A. I think that we said we wanted to consider it.**  
 24 **I didn't say -- I was pretty quiet. But them other**  
 25 **guys, they wanted to consider it. They said they**

1 regarding wind towers; right?  
 2 **A. Right.**  
 3 Q. And how that runway was going to impact --  
 4 **A. Right.**  
 5 Q. -- wind towers?  
 6 **A. Right. Now, John, he came and I met him in the**  
 7 **Cenex one day. I can't remember if that was before the**  
 8 **meeting or after the meeting, talking about the landing**  
 9 **strip that he wanted to get done.**  
 10 Q. Mr. Homan is required to sign a letter of  
 11 assurance. Do you remember that, for his runway  
 12 application?  
 13 **A. That's what they called it, yeah.**  
 14 Q. Whose idea was it to have him sign a letter of  
 15 assurance?  
 16 **A. I don't know where the assurance word came from**  
 17 **there. But I thought if he just went around and got,**  
 18 **from all his neighbors, just to communicate with his**  
 19 **neighbors and just so there was communication there so,**  
 20 **you know, everything is better with communication. So**  
 21 **that's what I suggested. And then I don't know how it**  
 22 **evolved to a letter of assurance. I don't know how they**  
 23 **did that.**  
 24 Q. Was it your idea to have a letter of assurance?  
 25 **A. No, it was my idea to have him --**

1 Q. Communicate with his neighbors.  
 2 A. -- communicate with his neighbors.  
 3 (DEPOSITION EXHIBIT 20 MARKED.)  
 4 Q. I'm handing you what has been marked as  
 5 Exhibit 20. I'll represent to you that these are the  
 6 meeting minutes from the July 10, 2017 board meeting.  
 7 If you go to the back, they're not signed. I'll  
 8 represent that I pulled these off the Deuel County  
 9 website a few days ago. So this is what we're working  
 10 with. Would you agree that these are the July 10, 2017  
 11 meeting minutes?  
 12 A. They sure could be.  
 13 Q. If you go to paragraph 9, looks like that  
 14 paragraph where the Board's talking about Mr. Homan's  
 15 special exception runway permit?  
 16 A. Uh-huh (Yes).  
 17 Q. Yeah?  
 18 A. Yes.  
 19 Q. If you go down kind of towards the middle  
 20 there, it says, Rhody stated that he talked to  
 21 Jesse Bermel with Avangrid Renewables and they would  
 22 work around an airstrip.  
 23 A. Yep.  
 24 Q. Did you have some -- How do you know  
 25 Jesse Bermel?

1 Q. I was just curious if you'd ever seen this.  
 2 A. I might have but I don't remember it.  
 3 MR. ALMOND: Let's take five.  
 4 (RECESS TAKEN AT 4:00 TO 4:04 P.M.)  
 5 By MR. ALMOND:  
 6 Q. Mr. Rhody, I want to cover a little bit about  
 7 the Findings of Fact that were prepared for the  
 8 Invenergy projects.  
 9 A. Yeah.  
 10 Q. Tell me about how those Findings of Fact were  
 11 prepared.  
 12 A. I think Luke did those.  
 13 Q. Luke --  
 14 A. From First District.  
 15 Q. When was the first time you saw the findings on  
 16 paper?  
 17 A. Hmm? I think that was probably the first time  
 18 was Luke's findings.  
 19 Q. So did Luke come to a board meeting and present  
 20 you guys with the findings?  
 21 A. Luke's been at one of our commissioner  
 22 meetings. Or you're talking about the zoning meetings?  
 23 Q. I'm talking about the Findings of Fact for the  
 24 Invenergy projects.  
 25 A. Yeah. I don't remember if he came or not.

1 A. Because he came to one of our meetings, too,  
 2 didn't he? He introduces himself. You know, they ain't  
 3 going to sit there and not introduce themselves around.  
 4 Q. Does Jesse live around here?  
 5 A. No, he lives at -- I don't know. Somewhere in  
 6 Iowa, I think.  
 7 Q. And he works for Avangrid Renewables?  
 8 A. Avangrid Renewables, yeah. And when this came  
 9 up, I knew Jesse and I live down there by them,  
 10 Buffalo Ridge there. And I'm only two miles from towers  
 11 now. And I -- I might have called Jesse or something or  
 12 talked to him when I saw him sometime, and I asked him,  
 13 Well, how do these wind towers and landing strips, how  
 14 do you do that? And he said, Well, we would just work  
 15 around it. That's kind of what -- And then I talked to  
 16 the crop duster up at Watertown, and he didn't like --  
 17 he did not like wind towers. He liked to be at least a  
 18 half mile back from them. So that's what that refers  
 19 to.  
 20 Q. I'm handing you what has been marked as  
 21 Exhibit 13. Do you recall ever receiving that e-mail or  
 22 having that e-mail forwarded to you?  
 23 A. I don't remember it. What are these numbers  
 24 here? And then my name. I have no easement with them.  
 25 I don't remember it.

1 Q. But you think he's the one who put them  
 2 together?  
 3 A. I know he put them together, yeah. Yeah.  
 4 Q. Did you discuss with him, have any  
 5 conversations with him about how to put them together?  
 6 A. No.  
 7 Q. What to include in them?  
 8 A. No.  
 9 Q. Do you know if any of the other board members  
 10 did?  
 11 A. No, I don't think they did. Not that I -- I  
 12 don't think so.  
 13 Q. Shifting gears a little bit here. Did  
 14 Invenergy provide the commissioners, the county  
 15 commissioners, with information throughout the last two,  
 16 two-and-a-half years?  
 17 A. Throughout the last two-and-a-half years?  
 18 Q. Yeah.  
 19 A. Yeah, from time to time.  
 20 Q. I mean, they were attending meetings --  
 21 A. And if we wanted to know something, we would  
 22 ask them.  
 23 Q. And they were submitting information to all the  
 24 county commissioners. Is that fair?  
 25 A. Yes. That's fair.

1 Q. Do you know approximately how much information  
2 Invenergy submitted to the county commissioners leading  
3 up to their application?

4 A. Well, it was a fair bit. I mean, it was  
5 whenever we wanted to know something, he would tell us  
6 and that's mostly how it worked, I think, if we got  
7 curious about something, somebody would ask them about  
8 it; or if he had something to tell us, he would send us  
9 something.

10 Q. And was the information that Invenergy  
11 submitted to the county commissioners, was that done  
12 only through commission meetings, or did they drop stuff  
13 you off to the commission office or e-mail the  
14 commissioners or anything like that?

15 A. Oh, I don't really remember if they would  
16 e-mail us directly or if they came -- a lot of stuff  
17 came from Pam and then to us.

18 Q. Did Invenergy provide the commissioners of any  
19 additional information that wasn't provided to the board  
20 members in their application?

21 A. No, I don't think so. I don't know what it  
22 would have been.

23 MR. ALMOND: I don't have any other questions  
24 for you, Mr. Rhody.

25 MS. AGRIMONTI: I have a few, Mr. Rhody.

1 A. Oh, to my recollection, that he had some  
2 reservations about it or something. About -- Goll', I  
3 just can't remember enough about it. But I know he was  
4 talking about his airstrip and he was afraid that it  
5 wasn't going to get -- There would be some reason why.  
6 I can't really remember why now, but. I know we had a  
7 pretty good conversation there, and I agreed with him  
8 about a lot of things.

9 Q. Do you recall how long that conversation was,  
10 Mr. Rhody?

11 A. Yeah, it was a half hour or so.

12 Q. Do you remember any context of that  
13 conversation?

14 A. Just talking about the airstrip and that I  
15 didn't see any reason why you can't have an airstrip,  
16 because there isn't any permits out there or nothing.  
17 Nobody's even applied for them. I don't see why you  
18 can't have it.

19 Q. Was there anybody else present at that meeting  
20 at the Cenex?

21 A. No, it was just --

22 Q. So to summarize, Mr. Homan contacted you by  
23 phone to ask for a meeting?

24 A. I believe so.

25 Q. And then you agreed to meet with him at the

1 Thank you.

#### 2 EXAMINATION

3 By MS. AGRIMONTI:

4 Q. I believe you were asked some questions of  
5 Mr. Almond about the Homan airstrip, and you started to  
6 talk about meeting John at Cenex, and I would like to  
7 ask you some questions about that.

8 A. Oh, sure.

9 Q. Did Mr. Homan, Mr. John Homan, approach you in  
10 the Cenex?

11 A. Yeah, we talked on the phone, and then he  
12 wanted to talk about this. And I said, Well, sure let's  
13 go to the Cenex and have a cup of coffee.

14 Q. When did he contact you to talk about his  
15 airstrip application?

16 A. You know, I just don't remember if it was  
17 before that, after that. But I think it was -- I'm  
18 pretty sure it was before that. And I know you can't  
19 talk otherwise I'd ask you.

20 Q. Just to be clear, do you believe that  
21 conversation occurred before the special exception  
22 permit was granted for Mr. Homan's airstrip or after?

23 A. Oh, I think it was before that.

24 Q. All right. And what did Mr. Homan request of  
25 you?

1 Cenex for coffee?

2 A. Yeah. Yep.

3 Q. And you met for about a half hour?

4 A. Yep.

5 Q. And the subject matter at that meeting was the  
6 pending application for approval of the airstrip?

7 A. Yep.

8 MS. AGRIMONTI: Thank you. That's all I  
9 have.

10 MR. PETERSON: Any follow-up?

#### 11 FURTHER EXAMINATION

12 By MR. ALMOND:

13 Q. That conversation, do you remember if that  
14 conversation took place while his permit was pending?

15 A. I don't think -- I don't think so. I don't  
16 think he had gone there yet.

17 Q. You don't think he had submitted his  
18 application yet?

19 A. I don't think so. I don't think he had done  
20 that yet. I think he was going to. He wanted, yeah,  
21 just talk about it.

22 MR. ALMOND: Nothing further.

23 MR. PETERSON: I just have one question.

24

25

1 **EXAMINATION**  
2 **By MR. PETERSON:**  
3 Q. You talked about Todd Kays coming to visit  
4 with -- and you said the Board, but I want to get some  
5 clarification on this. Did he come to the Board of  
6 Adjustment or the county commission?  
7 **A. See, I think I'm confused on that. He might**  
8 **have come to the commissioners instead of the Board to**  
9 **tell us how to run that meeting prior to that.**  
10 Q. When you're saying "that meeting," are you  
11 talking about the meeting at which the new ordinance  
12 provisions were being considered?  
13 **A. The new ordinance provisions, yeah. It might**  
14 **have been that, and he might have come twice. I can't**  
15 **remember now. But I guess we would have to look back on**  
16 **the minutes to find out if he did or not.**  
17 Q. Okay.  
18 **A. I talk to Todd a lot, you know. He's our**  
19 **First District guy, so.**  
20 **MR. PETERSON:** That's all I had. Anything  
21 else from anyone?  
22 **MS. AGRIMONTI:** No. Thank you.  
23 **MR. PETERSON:** Steve, you have the right to  
24 read the transcript and correct any errors you  
25 perceive in how she took things down. You can waive

1 STATE OF SOUTH DAKOTA )  
2 COUNTY OF CODINGTON )SS CERTIFICATE  
3 BE IT KNOWN that the foregoing deposition was  
4 taken before me, NANCY MCCLANAHAN, a court reporter and  
5 a notary public in and for the County of Codington,  
6 State of South Dakota; that the deponent, STEVEN RHODY,  
7 before testifying was duly sworn by me to testify to the  
8 whole truth; that the questions propounded to the  
9 witness, the answers of the witness thereto, and any  
10 objections or statements of counsel were taken down by  
11 me stenographically and thereafter typewritten through  
12 computerized transcription under my direction; that the  
13 witness has waived reading and signature of the  
14 deposition; and that the foregoing 5 - 54 pages are a  
15 true and correct transcript of all the proceedings had  
16 upon the taking of said deposition, all done to the best  
17 of my skill and ability.  
18 I FURTHER CERTIFY that I am not a relative,  
19 employee, attorney or counsel of any of the parties,  
20 or am I a relative or employee of such attorney or  
21 counsel, or financially interested in the action.  
22 DATED at Watertown, South Dakota, Codington  
23 County, on this 26th day of October, 2018.  
24  
25 /s/ Nancy McClanahan  
Nancy McClanahan, RPR/RMR/NP  
Expires: 4/13/2023.

1 that right and rely upon what she did here today. I  
2 don't have a preference but I need you to indicate on  
3 the record what you'd like to do.  
4 **THE WITNESS:** I'm sure she does a good job so  
5 I don't --  
6 **MR. PETERSON:** So you waive?  
7 **THE WITNESS:** Yeah, I'll waive.  
8 **(DEPOSITION CONCLUDED AT 4:12 P.M.)**  
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<b>MR. ALMOND: [4]</b> 5/21 47/2 49/22 52/21 <b>MR. PETERSON: [6]</b> 11/12 52/9 52/22 53/19 53/22 54/5 <b>MR. SVEDEMAN:</b> <b>[2]</b> 5/23 26/18 <b>MS. AGRIMONTI:</b> <b>[5]</b> 5/12 5/17 49/24 52/7 53/21 <b>THE WITNESS: [4]</b> 5/15 5/19 54/3 54/6 <b>1</b> <b>10 [2]</b> 45/6 45/10 <b>11 acres [1]</b> 40/1 <b>13 [1]</b> 46/21 <b>19 [2]</b> 22/24 23/8 <b>2</b> <b>20 [2]</b> 45/3 45/5 <b>200 [1]</b> 18/21 <b>200th [1]</b> 35/3 <b>201 [1]</b> 19/3 <b>2012 [2]</b> 9/10 9/12 <b>2016 [2]</b> 9/4 39/3 <b>2017 [7]</b> 8/16 23/11 23/13 40/17 41/14 45/6 45/10 <b>2018 [2]</b> 22/3 28/25 <b>21 [1]</b> 23/10 <b>22 [11]</b> 10/15 28/3 28/7 28/25 32/2 32/15 32/17 35/16 36/14 36/17 36/21 <b>26 [1]</b> 27/18 <b>27 [1]</b> 28/24 <b>3</b> <b>300 [1]</b> 29/18 <b>310 [1]</b> 40/10 <b>346 [2]</b> 41/17 41/17 <b>347 [1]</b> 41/18 <b>348 [1]</b> 41/18 <b>4</b> <b>4:00 [1]</b> 47/4 <b>4:04 [1]</b> 47/4 <b>4:12 [1]</b> 54/8 <b>4H [1]</b> 10/24 <b>7</b> <b>7:00 [1]</b> 13/23 <b>A</b> <b>A-V-I-N [1]</b> 39/12 <b>ability [1]</b> 30/9 <b>abstained [2]</b> 8/9	8/12 <b>account [1]</b> 30/21 <b>accurately [2]</b> 42/7 42/21 <b>acreage [1]</b> 39/25 <b>acres [1]</b> 40/1 <b>activity [1]</b> 15/15 <b>actual [2]</b> 24/21 38/23 <b>additional [2]</b> 43/23 49/19 <b>addresses [2]</b> 30/16 30/19 <b>adjacent [1]</b> 42/20 <b>Adjustment [5]</b> 9/17 10/4 37/24 38/17 53/6 <b>advocating [1]</b> 24/23 <b>affect [2]</b> 24/12 42/5 <b>affirmatively [2]</b> 16/17 22/7 <b>afraid [1]</b> 51/4 <b>ago [3]</b> 11/25 21/17 45/9 <b>agree [1]</b> 45/10 <b>agreed [3]</b> 25/22 51/7 51/25 <b>agreement [2]</b> 8/1 20/8 <b>agreements [1]</b> 7/22 <b>Ah [1]</b> 14/14 <b>ahold [1]</b> 31/3 <b>ain't [3]</b> 35/23 36/11 46/2 <b>airports [1]</b> 42/4 <b>airstrip [8]</b> 45/22 50/5 50/15 50/22 51/4 51/14 51/15 52/6 <b>Almond [1]</b> 50/5 <b>also [3]</b> 9/6 9/16 15/2 <b>amongst [3]</b> 9/25 16/18 16/22 <b>amount [1]</b> 9/24 <b>answer [1]</b> 4/12 <b>anybody [1]</b> 51/19 <b>Anyhow [1]</b> 21/11 <b>anymore [1]</b> 8/19 <b>apologize [1]</b> 5/13 <b>Appendix [1]</b> 18/22 <b>Appendix F [1]</b> 18/22 <b>application [19]</b> 14/7 15/19 15/19 15/25 17/20 17/24 37/5 40/13 40/19	40/24 41/14 43/14 43/18 44/12 49/3 49/20 50/15 52/6 52/18 <b>applications [12]</b> 16/1 16/1 16/2 17/5 17/11 18/1 18/4 18/9 18/15 18/17 36/22 43/9 <b>applied [1]</b> 51/17 <b>apply [1]</b> 42/2 <b>approach [1]</b> 50/9 <b>approached [2]</b> 39/21 40/2 <b>appropriate [1]</b> 25/23 <b>approval [2]</b> 41/9 52/6 <b>approve [2]</b> 36/15 36/18 <b>approximately [2]</b> 24/13 49/1 <b>April [4]</b> 41/14 41/23 42/1 42/8 <b>area [2]</b> 12/9 12/10 <b>areas [1]</b> 24/11 <b>Arlen [1]</b> 4/22 <b>aside [3]</b> 10/21 26/3 27/14 <b>assistance [1]</b> 31/8 <b>assisted [2]</b> 31/12 31/17 <b>assortment [1]</b> 32/23 <b>assume [1]</b> 32/11 <b>assumed [1]</b> 21/3 <b>assurance [6]</b> 28/2 44/11 44/15 44/16 44/22 44/24 <b>Astoria [1]</b> 12/6 <b>attached [1]</b> 34/4 <b>attaching [1]</b> 33/24 <b>attend [1]</b> 13/18 <b>attended [2]</b> 13/2 42/1 <b>attending [1]</b> 48/20 <b>Avangrid [5]</b> 39/12 39/12 45/21 46/7 46/8 <b>Avangrid</b> <b>Renewables [1]</b> 45/21 <b>away [2]</b> 30/5 43/16 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<b>business [1]</b> 20/17 <b>busy [5]</b> 13/1 27/7 29/8 29/9 29/9 <b>C</b> <b>calendar [1]</b> 23/9 <b>call [3]</b> 23/10 24/17 31/3 <b>called [3]</b> 13/7 44/13 46/11 <b>calling [1]</b> 27/7 <b>came [16]</b> 23/1 25/17 27/14 31/18	32/1 37/16 38/14 39/5 39/8 44/6 44/16 46/1 46/8 47/25 49/16 49/17 <b>can't [15]</b> 5/16 11/13 21/9 22/5 26/10 26/14 31/1 39/7 44/7 50/18 51/3 51/6 51/15 51/18 53/14 <b>CapX [2]</b> 12/1 12/5 <b>Carlene [1]</b> 5/9 <b>cattle [1]</b> 7/5 <b>Genex [6]</b> 44/7 50/6 50/10 50/13 51/20 52/1 <b>Center [1]</b> 10/24 <b>certain [1]</b> 9/24 <b>chair [1]</b> 28/1 <b>change [1]</b> 25/9 <b>changed [1]</b> 25/4 <b>changes [1]</b> 39/1 <b>changing [1]</b> 25/7 <b>children [3]</b> 6/3 6/4 6/5 <b>Chuckles [2]</b> 8/21 40/6 <b>clarification [1]</b> 53/5 <b>Clark [2]</b> 7/9 7/12 <b>Clark Rogness [2]</b> 7/9 7/12 <b>clean [1]</b> 29/19 <b>clear [3]</b> 30/23 33/10 50/20 <b>Clear Lake [1]</b> 33/10 <b>co [1]</b> 7/7 <b>co-board-member</b> <b>[1]</b> 7/7 <b>Codington [1]</b> 14/4 <b>coffee [2]</b> 50/13 52/1 <b>come [12]</b> 12/3 21/18 23/16 23/16 23/21 24/2 24/14 37/12 47/19 53/5 53/8 53/14 <b>coming [5]</b> 5/21 21/21 22/8 31/1 53/3 <b>comments [18]</b> 14/9 14/11 14/13 14/19 14/22 14/23 15/2 15/8 15/11 15/18 32/24 33/3 33/5 33/25 35/7 35/18 35/25 42/16 <b>commission [18]</b> 9/6 9/8 9/16 10/9 21/19 21/22 22/8
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<p><b>C</b></p> <p><b>commission...</b> [11] 22/12 22/17 22/18 27/5 38/16 38/18 38/19 38/25 49/12 49/13 53/6</p> <p><b>commissioner</b> [8] 8/20 10/8 23/19 37/21 37/22 38/1 38/4 47/21</p> <p><b>commissioners</b> [13] 9/22 20/19 26/2 39/6 41/19 48/14 48/15 48/24 49/2 49/11 49/14 49/18 53/8</p> <p><b>communicate</b> [3] 44/18 45/1 45/2</p> <p><b>communication</b> [2] 44/19 44/20</p> <p><b>company</b> [2] 7/23 8/2</p> <p><b>compare</b> [1] 16/1</p> <p><b>compatible</b> [1] 43/5</p> <p><b>complaining</b> [1] 21/7</p> <p><b>Complies</b> [1] 40/11</p> <p><b>computer</b> [1] 29/18</p> <p><b>concerning</b> [2] 11/1 42/16</p> <p><b>CONCLUDED</b> [1] 54/8</p> <p><b>conclusion</b> [2] 25/14 25/21</p> <p><b>confused</b> [2] 25/10 53/7</p> <p><b>consider</b> [5] 41/14 42/23 42/25 43/3 43/12</p> <p><b>considered</b> [1] 53/12</p> <p><b>considering</b> [4] 25/7 25/11 38/5 39/1</p> <p><b>contact</b> [1] 50/14</p> <p><b>contacted</b> [1] 51/22</p> <p><b>contained</b> [1] 16/2</p> <p><b>context</b> [1] 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