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BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)
OF SALT RIVER PROJECT)
AGRICULTURAL IMPROVEMENT AND) DOCKET NO.
POWER DISTRICT, IN CONFORMANCE) L-00000B-09-0311-00148
WITH THE REQUIREMENTS OF ARIZONA)
REVISED STATUTES, SECTIONS) Case No. 148
40-360, et seq., FOR A)
CERTIFICATE OF ENVIRONMENTAL) Arizona Corporation Commission
COMPATIBILITY AUTHORIZING) DOCKETED
CONSTRUCTION OF A 230kV DOUBLE-)
CIRCUIT TRANSMISSION LINE) OCT 23 2009
ORIGINATING AT THE PLANNED AND)
PERMITTED ABEL SUBSTATION, NEAR)
JUDD AND ATTAWAY ROADS IN PINAL)
COUNTY, TO THE PLANNED AND)
PERMITTED RS-17 SUBSTATION,)
ADJACENT TO THE EXISTING MOODY)
SUBSTATION, LOCATED NEAR PECOS)
AND RECKER ROADS, IN THE TOWN OF)
GILBERT, MARICOPA COUNTY,)
ARIZONA, AND INCLUDING A NEW)
230/69kV SUBSTATION NEAR THE)
INTERSECTION OF COMBS AND)
MERIDIAN ROADS, IN OR ADJACENT TO)
THE TOWN OF QUEEN CREEK, ARIZONA.)

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Pages
1291 through 1521

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DOCKET CONTROL

At: Chandler, Arizona

Date: October 20, 2009

Filed: **OCT 23 2009**

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

ARIZONA REPORTING SERVICE, INC.
Court Reporting
Suite 502
2200 North Central Avenue
Phoenix, Arizona 85004-1481
By: COLETTE E. ROSS
Certified Reporter
Certificate No. 50658

Prepared for:
THE SITING COMMITTEE

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1 BE IT REMEMBERED that the above-entitled and
 2 numbered matter came on to be heard before the Arizona
 3 Power Plant and Transmission Line Siting Committee, at
 4 the San Marcos Hotel, One San Marcos Place, Chandler,
 5 Arizona, commencing at 9:30 a.m., on the 20th of
 6 October, 2009.

7
 8 BEFORE: JOHN FOREMAN, Chairman
 9 DAVID L. EBERHART, Arizona Corporation
 10 Commission
 11 PAUL W. RASMUSSEN, Department of Environmental
 12 Quality
 13 JESSICA YOULE, Department of Commerce
 14 MICHAEL WHALEN, Appointed Member
 15 MICHAEL PALMER, Appointed Member
 16 JEFF McGUIRE, Appointed Member
 17 BARRY WONG, Appointed Member

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1 CHMN. FOREMAN: This is a resumption of the
2 hearing before the Arizona Power Plant and Transmission
3 Line Siting Committee of the Abel to Moody transmission
4 project, which is our Case No. 148.

5 I think I see most folks here who were here
6 yesterday. We have a couple attorneys who had early
7 conflicts who I guess will join us as soon as they are
8 able. So I think we will go ahead and get started.

9 This morning we were going to start with the
10 testimony of an expert that had been found by the
11 applicant who could talk about pilots and safety, and
12 specifically the issues that are associated with the
13 proposed Germann Road alignment in this project.

14 Counsel.

15 MR. SUNDLOF: Thank you, Your Honor. The
16 Committee had requested that we find somebody who could
17 discuss the alignments from a pilot perspective. And we
18 looked around, and we contacted the Aircraft Owners and
19 Pilots Association, and they recommended a flight
20 instructor and pilot named Samir Kanuga, and he is here
21 today ready to testify.

22 CHMN. FOREMAN: Okay.

23 MR. SUNDLOF: So I think I will present him. I
24 will introduce him and then the Committee can ask
25 questions, I think might be the best approach.

1 CHMN. FOREMAN: That would be great.

2 Mr. Kanuga, if you would come forward and sit up
3 on that table up there, that would be great.

4 MEMBER YOULE: Or sit on the chair.

5 CHMN. FOREMAN: You can sit on the chair. If
6 you really need to sit on the table...

7 I think I see Mr. Robertson outside.

8 All right. Sir, do you wish an oath or
9 affirmation?

10 MR. KANUGA: Either.

11 CHMN. FOREMAN: All right.

12 (Samir Kanuga was duly affirmed.)

13 CHMN. FOREMAN: Tell us your name, and if you
14 would, please spell your name for our court reporter.

15 THE WITNESS: Hi, good morning. My name is
16 Samir, S-a-m-i-r, Kanuga, K-a-n-u-g-a.

17 CHMN. FOREMAN: All right. Counsel, do you want
18 to give us a little background of Mr. Kanuga.

19 MR. SUNDLOF: Yes, thank you.

20

21

22

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24

25

1 SAMIR KANUGA,
2 a witness on behalf of the Committee, having been
3 previously duly affirmed by the Chairman to speak the
4 truth and nothing but the truth, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SUNDLOF:

8 Q. Mr. Kanuga, first, thank you for coming here and
9 taking the time out of your busy day to help us in the
10 hearing.

11 Could you, for the Committee, just give us a
12 brief overview of your background on pilots, flight
13 instructors, and flight safety.

14 A. Sure. I am a flight instructor based out
15 Scottsdale Airport. I have been flying since I was 12,
16 and teaching now about just about seven years. I
17 volunteer as an FAA safety counselor and frequently give
18 presentations on runway safety.

19 Q. And are you familiar with the Phoenix-Mesa
20 Gateway Airport?

21 A. Yes. We use that quite extensively in our
22 training and have flown there numerous times.

23 Q. And are you familiar with the alignments in this
24 application along Germann Road and Ryan Road?

25 A. Yes. This is on our final approach path to the

1 runways, and we fly over this every single time.

2 MR. SUNDLOF: Okay. I think I will turn
3 Mr. Kanuga over to the Committee for questions.

4 CHMN. FOREMAN: All right. Since I was the one
5 that had expressed early concern, let me start
6 questioning, but I would be happy to have other members
7 of the Committee chime in.

8 Could we have SRP-123 and SRP-125 on the board
9 please.

10

11

EXAMINATION

12 BY CHMN. FOREMAN:

13 Q. Mr. Kanuga, I am John Foreman, and I am Chairman
14 of the Committee. And we have heard testimony
15 concerning whether or not the proposed alignment along
16 Germann Road would create problems for federal
17 guidelines, which we presume to be safety guidelines,
18 for pilots who would be landing and taking off from
19 Williams Gateway Airport.

20 Are you familiar with the correspondence from
21 the FAA concerning whether or not there would be a
22 problem?

23 A. I haven't seen that.

24 Q. Haven't seen the letters.

25 Would it be possible to show Mr. Kanuga the most

1 recent letter from the FAA concerning the application?

2 Do we know what exhibit that is?

3 MR. SUNDLOF: Chairman Foreman, I am without all
4 my support staff today, so we will get it.

5 CHMN. FOREMAN: Well, you have more staff than I
6 do, so that's why I call for your -- I am asking for
7 your assistance.

8 MR. BIRNBAUM: Mr. Chairman, excuse me.
9 Mr. Chairman.

10 CHMN. FOREMAN: Yes, sir.

11 MR. BIRNBAUM: While Mr. Sundlof is looking, I
12 should alert you to something that you may not be aware
13 of. The FAA --

14 CHMN. FOREMAN: There is a great deal in the
15 world I am --

16 MR. BIRNBAUM: The FAA submittals are sort of a
17 pole by pole, height by height. And I think you are
18 going to find, if my recollection is correct, that the
19 quoted letter that you just asked him to find and look
20 at I think is 155 pages in length. So I don't think you
21 were aware of that.

22 CHMN. FOREMAN: Well, I certainly wasn't, that
23 it was 155 pages in length. It seems to me that we were
24 shown a two-page letter that was a summary that came
25 after our first proceeding in either late August or

1 early September. Now, I don't know whether that just
2 covered a report or whether I just -- my attention span
3 was only two pages long.

4 MR. BIRNBAUM: Well, I apologize if there is
5 such a thing. But I thought that that covered one pole,
6 and that you have each pole location with a separate FAA
7 determination.

8 CHMN. FOREMAN: All right. Well, maybe that's
9 so.

10 MR. SUNDLOF: Chairman, the FAA determination is
11 SRP-174, and it is the fairly lengthy document.

12 CHMN. FOREMAN: That's right. I remember that
13 that's the one I was passing out to other Committee
14 members, and it was actually -- what I would like to
15 do -- and you say, Mr. Kanuga, you have not seen this
16 before?

17 THE WITNESS: I haven't.

18 CHMN. FOREMAN: All right. What we are going to
19 do is take just a brief recess. I would like for
20 counsel to show this to you so in fairness you have an
21 opportunity to take a look at it. It does appear to be,
22 just as counsel has described it, a pole-by-pole
23 description of the problem. And then if you would let
24 us know when you are ready to comment on that, we will
25 resume. So we will take a recess.

1 (A recess ensued from 9:38 a.m. to 9:45 a.m.)

2 CHMN. FOREMAN: Let's see if we can get started
3 again.

4 BY CHMN. FOREMAN:

5 Q. Mr. Kanuga, have you had an opportunity to
6 review Exhibit SRP-174?

7 A. Yes, thank you.

8 Q. Could we get the microphone on over here. Maybe
9 you need to pull it in just a little bit. We had
10 trouble with that yesterday.

11 A. Is that better?

12 Q. That's better.

13 A. Thank you.

14 Q. Some of us are getting on in years and our
15 hearing is not as acute as it used to be.

16 So if I could summarize the testimony -- and I
17 would be happy to have others correct me -- there was an
18 indication that the pole structures that you would see
19 along Germann Road, which you see portrayed in SRP-123
20 up on the left-hand board, would have to be altered,
21 that is to say lowered, near Ellsworth Road a little bit
22 to the east, and more substantially to the west of
23 Ellsworth Road, in order for it not to intrude into what
24 was called an airport protected surface.

25 And there was also an indication that the poles

1 along Germann Road might impact the one engine
2 inoperative surface. And I think those two and, as I
3 understand it, different administrative rules and
4 regulations concerning airport constructions are
5 referenced in the documents you have before you.

6 What I am interested in learning from you as
7 someone who is an experienced pilot and who teaches
8 pilots, what is the importance of these poles coming
9 right up to the edge of the these surfaces?

10 A. The poles as I can see here through the
11 altitudes, they would be of great concern to me as a
12 pilot as I am coming in for landing on the runways, on
13 the three zero runway, so the north, the northwest side
14 as I approach from the southeast. The heights on here
15 are actually a little bit higher than I originally
16 thought. And there is not much clearance when you are
17 on a normal approach to landing on the three zero
18 runways.

19 I do have some numbers. I have flown this route
20 many times. And if you are on runway three zero center,
21 which is the middle runway, on what is called an
22 instrument landing system approach, which is where you
23 would be simulating you are actually in a cloud using
24 your instrumentation to guide you down, you would cross
25 Ryan Road at approximately 2,900 foot MSL. And based on

1 the highest tower here, that's only a clearance of
2 about, rough numbers, 1300 feet.

3 Q. So the MSL figure is what, above sea level?

4 A. The MSL is, correct, above sea level.

5 Q. And the ground level at that point is what,
6 about 1400 feet?

7 A. No. It is -- it doesn't say on here, but yes,
8 using rough numbers it is approximately.

9 Q. Approximately that. So then you add the utility
10 pole heights on top of that, and then you get up into an
11 area where you would have some concern as a pilot?

12 A. Yes, absolutely. By looking if you were to
13 cross the Germann Road on the instrument landing system,
14 which is the most precise system available to pilots to
15 guide you into the runway, if you are in bad weather
16 situations, you would only cross, you would cross
17 Germann at approximately 2,300 foot MSL, or from the
18 highest tower that I have seen in here, that's only
19 about 800 and change foot above that tower, which is --
20 it provides -- you are just reducing that amount of
21 margin that's available to pilots. Basically you are
22 taking away airspace. That's, you know, that's a good
23 solid 10 percent of my usable airspace gone in the event
24 of an emergency.

25 Q. How often do you run into concerns like this in

1 other airports like the Williams Gateway?

2 A. As of right now I mean there is no concern
3 coming into Williams Gateway. You know, a lot of
4 airports have these obstacles, which unfortunately we
5 have to deal with. But it provides, you know, as you
6 are going into these airports and you are on final, just
7 making your final approach into this runway or any
8 runway, you know, this is the most critical time phase
9 of flight. If anything happens there is just not a lot
10 of room for error, because we are slow, we have slowed
11 down for our final approach, means we are less
12 maneuverable. We don't have as much altitude as we did,
13 you know, if something happens, in the cruise phase of
14 flight.

15 So this is just getting to the very critical
16 point in our phase of flight. And it just provides a
17 huge -- not only is there the risk of safety issue, but
18 it just provides also a psychological factor. Power
19 lines are very detrimental for us flying single engine,
20 twin engine piston airplanes, even the smaller corporate
21 turboprop planes.

22 Q. Do you have any experience with flying larger
23 commercial jets?

24 A. No.

25 Q. Okay.

1 A. But --

2 Q. Do you talk with people who fly larger
3 commercial jets? Do you have any idea whether they
4 would share the concerns that you have?

5 A. Well, they would definitely -- they would follow
6 the same approach, so they would cross these power lines
7 at the same height. Provided there is no pilot error
8 and there is some deviations in that, that's the
9 prescribed heights. But the commercial airliners,
10 frankly, they are just so much bigger than the little
11 airplanes or the little helicopters, if an airliner was
12 to impact this, it would have, you know, the airliner
13 would be a lot more better off than a single engine or
14 twin engine airplane.

15 Q. So that an airliner could survive hitting one of
16 those lines a lot easier than a smaller craft?

17 A. Absolutely. Absolutely. From a pilot
18 perspective as we are coming in on final, power lines --
19 I mean any time we lose an engine, if it is a single
20 engine or twin engine airplane, number one, it is all
21 about sustainability of flight, how long can we stay
22 aloft. Then the second point is what is the next
23 suitable -- what is the best suitable place to land the
24 aircraft in, as a field, a dirt road, a road, a runway
25 if we can make it. But in that search for the best

1 place to set the airplane down, it would -- power lines,
2 we look for power lines first and try to avoid them at
3 all costs.

4 So at this point, you know, so close, you know,
5 with airports being of course the best, if we can make
6 the airport, so anything in proximity to an airport, you
7 know, it is just creating additional hazards for us in
8 the event that we were to lose an engine or have an
9 emergency.

10 Q. I assume you discuss safety issues with other
11 pilots?

12 A. Absolutely.

13 Q. Do you have an opinion, based on your experience
14 discussing safety with other pilots, whether general
15 aviation pilots as a group would have concern about
16 placement of the utility poles that are described in
17 Exhibit 174 along Germann Road when they are landing at
18 Williams Gateway Airport?

19 A. Absolutely. The runway three zeros are most
20 predominantly used as the landing, so there would --
21 Germann and Ryan Road would be our final approach to
22 landing. It is -- I mean they are used so much more
23 than the runway one two off of Williams Gateway.

24 So numerous pilots will be over flying these,
25 over these lines and it would, it would also create just

1 a psychological impact. These power lines are
2 extremely -- an extreme hazard to our airplanes. And if
3 you can imagine, when an airplane is flying on a final
4 approach, we are looking at our runway with these power
5 lines, if they are, let's call it on average 100 foot
6 above the ground, that's basically a ten-story building.
7 So imagine just drawing out a ten, having a ten-story
8 building that runs all along Germann Road. You can
9 imagine the psychological impact of, you know, having to
10 clear another obstacle while trying to set up for
11 landing.

12 Q. All right. You have been talking about
13 landings. Let's turn it around and assume that you are
14 taking off now, and you are taking off northwest to
15 southeast. And we have heard some discussion about
16 occasionally if there is a mechanical problem you have
17 to make some sort of a turn and go back. Does this
18 create any -- a greater problem or a lesser problem or
19 about the same problem for takeoffs?

20 A. Well, on the takeoff there is two scenarios that
21 can happen. The aircraft -- number one, takeoff is by
22 far the most critical phase of flight because we are
23 heavy, we have got all of our passengers, fuel, and
24 everything loaded up for the trip. We are slow because
25 we are just accelerating off the runway, and we are very

1 low to the ground because we are just coming off.

2 Two scenarios typically happen on the takeoff,
3 emergency failure, in that either you would lift off and
4 have sufficient altitude to turn around and make it back
5 to the runway, which is a much more risky scenario, or
6 usually the prescribed method is to just go straight
7 ahead and then land in whatever overrun areas are
8 outside of the airport boundary. So if we were taking
9 off on runway one two center and something were to
10 happen, it is much safer just to go straight ahead and
11 land in the fields than it would be to try and execute a
12 tight turn, U-turn back to the runways.

13 Q. Okay. Could you describe what the one engine
14 inoperative standard is meant to describe?

15 A. Right. It is basically when a twin engine
16 airplane, if you lose one engine and you are having to
17 climb out of that airport just on one engine, while you
18 can secure that engine and then circle and land back at
19 that airport is what is meant.

20 While there are some, a little, you know, a
21 little bit of grace built in by the FAA, just the pilot
22 workload is just tremendous, because we have got to
23 secure the one engine, the one that has failed, and
24 which, you know, is a process of, it is a series of
25 checklist items, and then fly the airplane, talk on the

1 radio to circle -- you know, we have to let the
2 controller know that we have a problem and declare the
3 emergency -- and then work on navigating, avoiding
4 obstacles, and trying to circle back to the airport.

5 Now, I am not exactly sure. I looked at this
6 chart briefly, and there is a couple of numbers, 20, 40,
7 60, I am reading them as they come out, and I am not
8 sure if that is the FAA minimum, minimums or is that
9 the --

10 Q. My understanding was that is the surface, which
11 would mean the surface of the minimum heights that would
12 meet the FAA standards. And you can see where the
13 100-foot line goes. And the 100-foot line in that
14 narrow range that is coming up to the southeast away
15 from the runway appears to go across Germann Road again
16 near the Ellsworth Road, which is the north-south road I
17 think you can see in both of the areas. And I would --
18 if somebody has a different recollection, please let me
19 know, but my understanding is that --

20 A. So those are the minimums that an airplane -- or
21 highest?

22 Q. That's the minimum to comply with the standard.

23 A. Okay.

24 Q. And my recollection was that the height did not
25 comply with the standard, but the FAA said under the

1 circumstances that it was -- they did not view this as a
2 hazard significant enough to call it a hazard.

3 Am I close to accurately stating the testimony?

4 MR. SUNDLOF: I think, Your Honor, that's close.

5 CHMN. FOREMAN: Okay. Well, so and I am just
6 relying on the material that I had in my notes that I
7 took from Mr. Knaggs' testimony.

8 BY CHMN. FOREMAN:

9 Q. But it appears to me, and my understanding of
10 the testimony was that the 100 foot high area or the 100
11 foot high line on that gradually ascending slope coming
12 off the runway crosses Germann Road at about the same
13 location that you see on the airport protective surfaces
14 on Exhibit SRP-123. So again, is this a problem also or
15 this is --

16 A. Well, it appears to me that it is just very
17 close to the minimums. Again, these are just the
18 minimum standards set forth by the FAA, which doesn't
19 give much in terms of, you know, any variation in the
20 pilot.

21 You know, if there is -- if the pilot, you know,
22 coming off an airport with an emergency happening right
23 away, just the psychological factor of, you know, oh,
24 there is an emergency happening, you know, you lose time
25 right there. So you lose probably about four seconds of

1 time just to tell yourself that there is an emergency
2 happening, you know, yes, it is really happening to me.

3 Then you go through the checklist of, you know,
4 getting the plane intact, you know, getting the other
5 engine feathered, as they call it, secured, and trying
6 to fly the airplane. From my perspective it just looks
7 like it is very close to the bare minimums of being able
8 to.

9 Q. What do these, what does minimal compliance with
10 FAA standards mean to pilots? I mean is this something
11 that, do pilots say, well, if the FAA signs off on this
12 then I don't have to worry about it, or do pilots say,
13 if there is an issue with regard to compliance with FAA
14 standards, that's something I need to be particularly
15 careful about?

16 A. Well, pilots do realize that these are the bare
17 minimums set forth. For example, on instrument
18 departures when you are taking off in cloudy or bad
19 weather, the FAA does set out minimum climb gradients
20 when we today need to make the prescribed turns. But we
21 always try to exceed that just because we don't -- I
22 mean, frankly, I don't want to get close to the minimums
23 just doing a bare, bare minimums to clear any obstacles
24 or anything. So we do our best.

25 We take everything with a grain of salt and just

1 try to, try to clear everything as best as we can,
2 because we know that it is, it is just human nature
3 that, you know, we may not be performing to the best.
4 And, you know, if we had some turbulence we have to deal
5 with that, you know, there is just a lot of variables
6 built in.

7 CHMN. FOREMAN: Okay. All right.

8 Member Rasmussen.

9 These are the members of the Committee, and we
10 will have attorneys that I assume will ask you questions
11 also.

12

13

EXAMINATION

14 BY MEMBER RASMUSSEN:

15 Q. Could you comment on the difference between the
16 numbers on the two slides from Germann Road to Ryan
17 Road. Does that differential make a significant
18 difference from a safety standpoint to the situations
19 you just discussed? Obviously it would be better, but
20 your perspective on how much better it is.

21 A. It would make a tremendous difference to the
22 pilot just because there are two scenarios. You are
23 either taking off that direction or you are landing that
24 direction. Aircraft landing that direction, as much, as
25 far away as we can keep buildings and other obstacles

1 away from the runway on a landing it just clears up, you
2 know, clears up any, any psychological factor. Again,
3 to a pilot, this line would basically look like a
4 ten-story building that's just strung across this entire
5 road. You might as well make it a building because it
6 is, it would have the same impact.

7 Pilots don't have the ability, let's say, during
8 an emergency to go underneath these lines or do anything
9 you see in the movies. So we would have to clear it
10 from the top. So it is, on the landing perspective,
11 further away from the runway keeping things away from
12 our runway is the best.

13 In addition, if you are coming -- if you are
14 approaching runway three zero from the north so you are
15 making right turns to get back, if you are paralleling
16 the runway on the north to make right turns to circle to
17 runway three zero, again, if you are in an emergency
18 scenario where you have lost your engine, you just want
19 wide open fields, wide open land, so basically no
20 obstacles that would impact our flight.

21 Q. Well, you use the term tremendous difference. I
22 mean you are saying in both takeoff, landing, or even in
23 an inoperative situation, the Ryan Road, the southern
24 alignment below Germann provides pilots additional
25 margin that is significant?

1 A. Yes. Based on the instrument landing system on
2 the approach it is approximately a 600-foot difference.
3 600 feet when you are only, you know, you crossed
4 Germann at a thousand foot above the ground versus 1600
5 foot you cross Ryan Road at, you know, if -- 1,000 feet
6 above the ground only gives me, it gives me less than
7 one minute of flight time. And that's on a, you know, a
8 very capable, a training airplane which is meant to
9 glide. It is meant to be the most conservative. So I
10 have got approximately 50 seconds to one minute to
11 glide. You know, adding another 600 feet, and that's,
12 you know, almost, you know, 20, 30 seconds more that I
13 have got to determine a suitable landing spot, you know,
14 let the tower know, unlock our doors, get prepared,
15 brace for impact.

16 Q. And then finally, one of the proposed alignments
17 is along the Union Pacific Railroad, as you can see in
18 both those. How much of an obstacle from the pilot's
19 standpoint would an alignment along the railroad be?

20 A. That would provide, it would open up our clear
21 for takeoff, our takeoff and our landing scenarios, and
22 it wouldn't provide nearly as much of a hazard.

23 MEMBER RASMUSSEN: Thank you.

24 CHMN. FOREMAN: Mr. Kanuga, in the document that
25 you have before you, Exhibit SRP-174, if you just look

1 on the first page and look at most of these little
2 two-page or three-page or four-page or five-page
3 references to each one of the individual poles, they say
4 based on this evaluation, marking and lighting are not
5 necessary for aviation safety. As a pilot, would you
6 feel more comfortable if there was one of those little
7 orange balls out there or some sort of other marking
8 device on those poles?

9 THE WITNESS: Sure, absolutely. Power lines are
10 extremely difficult to see for a pilot as we come in.
11 They are so narrow. It just provides a hard, a hard, a
12 very deadly obstacle to see. The little red lights that
13 you see I think are required at 200 foot AGL for any
14 structure 200 foot AGL and higher. And/or the little
15 yellow balls on the power lines absolutely, anything to
16 make them more visible to pilots would help.

17 CHMN. FOREMAN: Okay. Any other questions?

18 Member Palmer.

19 MEMBER PALMER: Thank you, Mr. Chairman.

20

21

EXAMINATION

22 BY MEMBER PALMER:

23 Q. Is it reasonable to conclude that the more
24 potential obstacles you have in a flight path, the fewer
25 options you have available under one engine inoperative?

1 A. Exactly, or zero engine, I mean if you are a one
2 engine airplane.

3 Q. And for clarification purposes, I remember
4 testimony regarding one engine inoperative procedures,
5 and it was that each airline or each company has their
6 own procedures, it is not a standardized procedure
7 through the FAA for one engine inoperative, is that
8 correct?

9 A. Right, yes.

10 Q. If you were designing a procedure -- let's make
11 you the president of an airline -- would you then
12 advocate for or protest the creation of obstacles,
13 potential obstacles along Germann Road relative to your
14 procedures for one engine inoperative?

15 A. Germann Road would definitely be detrimental to
16 pilots, as the number one thing whenever we lose an
17 engine or have an emergency is to gain altitude.
18 Because once we give up altitude, it is gone forever, we
19 can never reclaim.

20 So if anything were to happen, if you have --
21 let's say if you have no engine, well, the first thing
22 is to climb up as much as you can to help maximize your
23 glide. If you have two engine and you lose one, you
24 have still got one engine functioning so again, the
25 scenario is just climb. Get as much altitude as you can

1 and then worry about the problem.

2 I worry about the lines along Germann as, you
3 know, the scenario is one engine inoperative, we just
4 barely clip those lines or, you know, it is just
5 providing additional hazard as we are trying to, at this
6 very critical phase of flight, I mean securing the engine
7 is, and it takes a lot of work and concentration.

8 I understand the airliners, you know, the jets
9 there is Allegiant Airlines, which operates out of
10 there, which is, you know, they operate the MD-80, which
11 is a huge jet, if they have got any engine trouble or
12 anything, these lines would be very easily cleared by
13 them. But again, airline traffic only represents less
14 than 1 percent of all the operations, and I am using
15 numbers based on December 31st, 2007. General aviation
16 represents 63 percent of the traffic there at Williams
17 Gateway.

18 Q. If you were given the opportunity to author a
19 procedure for one engine inoperative, then you would
20 recommend against the placement of poles on Germann
21 Road?

22 A. Absolutely.

23 Q. And one other question, give Mr. Eberhart a
24 quick question. That is, when you have to utilize flaps
25 for a landing, it increases the rate of descent. It

1 also increases the risk factor in terms of errors that
2 may be made by the pilot. So what your testimony
3 indicates to me is that that not only involves one
4 engine inoperative, but involves part of the final
5 approach landing area to minimize or remove as many
6 obstacles as possible and that, in some cases like
7 landing commercially in San Diego, there, that's
8 incredibly dangerous. And I have talked to a number of
9 pilots that have indicated that they would have a
10 preference of not having the airport where it is at.

11 A. Exactly.

12 Q. But they have all the natural, the hills and
13 buildings in San Diego. So here is an example where we
14 do have an option. We can either approve siting along
15 Germann Road or not. And what your testimony indicates
16 to me is a preference to not site on Germann Road.

17 A. Yes, absolutely. It would be, it would just
18 create such a hazard and also the psychological impact,
19 too.

20 MEMBER PALMER: Thank you.

21 CHMN. FOREMAN: All right. Very good. Counsel
22 for the applicant have any questions you would like to
23 ask?

24 MR. SUNDLOF: Thank you, Your Honor. No
25 questions.

1 CHMN. FOREMAN: Counsel for City of Mesa.

2 MR. MARKS: Thank you, Mr. Chairman. No
3 questions.

4 CHMN. FOREMAN: Town of Gilbert.

5 MR. SULLIVAN: No questions.

6 CHMN. FOREMAN: Vlachos entities.

7 MR. NELSON: No questions, Mr. Chairman.

8 CHMN. FOREMAN: And I thought I saw Mr. Slavin
9 here. There.

10 MR. SLAVIN: No questions, Your Honor.

11 CHMN. FOREMAN: No questions, okay. It is okay
12 if you sit up at the table.

13 Pinal County, Mr. Robertson.

14 MR. ROBERTSON: No questions, Mr. Chairman.

15 CHMN. FOREMAN: Town of Queen Creek.

16 MR. BRASELTON: Thank you, Mr. Chairman.

17

18 CROSS-EXAMINATION

19 BY MR. BRASELTON:

20 Q. Mr. Kanuga, my name is Jim Braselton, and I
21 represent the Town of Queen Creek.

22 Let's kind of go back to ground zero. You
23 started with a few numbers that you had calculated.
24 When did you first learn about this matter?

25 A. I believe it was on Thursday.

1 Q. Thursday last week? You were contacted by
2 someone from the -- that represents SRP?

3 A. No, the AOPA, Aircraft Owners and Pilots
4 Association. That's a national organization which about
5 two-thirds of pilots belong to.

6 Q. Okay. Are you here speaking on behalf of them?

7 A. I am speaking on behalf of any pilot. I mean
8 no, I am not. I wasn't pushed here by anybody.

9 Q. You are not authorized by the AOPA to speak for
10 them, are you?

11 A. No.

12 Q. Now, were you given any documents to review
13 before you came in here this morning?

14 A. I did see one of the maps that was on-line, and
15 it looked -- it was almost like that.

16 Q. I am sorry. You saw a map on-line?

17 A. Yes. It was on the AZ power website, which just
18 described the two routes, Germann Road and the Ryan Road
19 route.

20 Q. Okay. But you haven't reviewed any exhibits
21 that are part of this hearing record, is that correct?

22 A. Just this one FAA.

23 Q. The one you were given this morning when --
24 after you started your testimony, correct?

25 A. Yes, that's correct.

1 Q. And you don't perform the type of analysis that
2 Mr. Knaggs does on a regular basis in terms of analyzing
3 Part 77 or one engine inoperative?

4 A. That's correct, I do not.

5 Q. Okay. The first part of your testimony, the
6 first number I heard you talk about was 1300 feet
7 above -- was that above ground level or was that above
8 the proposed pole height for Germann Road?

9 A. Well, what I was looking at is, as I looked
10 through this, I just am looking at the highest pole,
11 which was approximately, that I saw in here, that was
12 approximately 1568 foot MSL, or 120 feet off the ground.

13 Q. And where is that pole located, or would be
14 located?

15 A. It would be closer on the three zero right side,
16 so further east.

17 Q. It is way east, outside of the very end of
18 splay, isn't it?

19 A. Yes.

20 Q. So it is not even a part of the approach you
21 would make if you were aligned with the runway, is it?

22 A. Correct. Well, I mean I can't tell looking at
23 the map if it would be used on three zero right.

24 Q. Well, if you were aligned with the runway and
25 making a correct approach, approximately where would you

1 cross Germann Road?

2 A. It would be -- well, yes, on final for one of
3 those runways, three zero left, center, or right.

4 Q. Okay. Let's just take three zero center.
5 That's the one you use most often, right?

6 A. Right.

7 Q. And if you were aligned with that runway, where
8 would you cross Germann Road? What approximately --
9 show us on one of these two exhibits. I don't know if
10 you have a laser pointer or not.

11 A. Well, it would be three zero center and then
12 just draw a line out.

13 Q. Okay. So that would be approximately what? I
14 can't read that. Can you read the road, the north-south
15 road that you would hit as you come across Germann?

16 A. No. I am not sure what road that is.

17 Q. Okay. All right. If we look at the pole height
18 there, what is the height of that pole, do you know?

19 A. I am not sure.

20 Q. Okay. Well, let's go out to the one you were
21 looking at. You were looking at one on the far east
22 end, right? Do you want to point to where that is with
23 the pointer?

24 A. Somewhere out there.

25 Q. Okay. And how high was that one?

1 A. 120 foot above the ground, or 1568 feet.

2 Q. And how high would you be on your instrument
3 approach landing to that runway as you cross Germann
4 Road?

5 A. You know, I don't have the instrument procedure
6 on me for three zero right, and I don't know.

7 Q. Okay. Let's go over to the one you have, three
8 zero center, right?

9 A. Okay.

10 Q. And you said how high would you be on your
11 instrument approach landing on that?

12 A. Approximately 2,300 feet MSL.

13 Q. So you would be a thousand feet above the pole,
14 right -- well, I am sorry, I am sorry, 800 feet, 800
15 feet?

16 A. Seven or eight.

17 Q. Okay, above the pole.

18 Now, are you familiar with the approaches to the
19 runways at Sky Harbor?

20 A. Minimal.

21 Q. You don't fly out of there at all? Are you
22 familiar whether or not there are power lines on the
23 east end of the runway?

24 A. I don't know.

25 CHMN. FOREMAN: Let me stop you there, Counsel.

1 We do have a court reporter, and it is obvious
2 that you don't have your testimony taken every day. So
3 remember when you say yes and no she can't take down a
4 shake of the head.

5 THE WITNESS: Okay.

6 CHMN. FOREMAN: So do say yes or no.

7 I am sorry, Counsel, go ahead.

8 MR. BRASELTON: Thank you, Mr. Chairman.

9 BY MR. BRASELTON:

10 Q. Mr. Kanuga, let's look at the one engine
11 inoperative. That's the exhibit on the right-hand side
12 there, SRP-124. Are you familiar with how those
13 calculations are done under the one engine inoperative
14 standards?

15 A. No. There is a formula for that, and I do not
16 know.

17 Q. Okay. So you don't perform those calculations?

18 A. That's correct, I do not perform those.

19 Q. And that's not even part of the FAA analysis
20 when it performs its safety analysis, is it?

21 A. I am not sure.

22 Q. Okay. Do you know anything about performance
23 calculations with regard to airlines?

24 A. Not in terms of the airline standards, but we
25 use similar tools.

1 Q. You use similar tools?

2 A. To help calculate out our performance on takeoff
3 and landing.

4 Q. Okay. Are you familiar with any other buildings
5 that are already existing in this area that are 130 feet
6 high?

7 A. I am not sure of any that tall.

8 Q. But you fly in and out of here how often?

9 A. Almost, at least three times a week.

10 Q. And you are not familiar with any building that
11 is currently an obstacle at that height or approximately
12 that height, right?

13 A. Right. I know there is another tower in the
14 area, but...

15 Q. Okay. Is it fair to say, then, your testimony
16 is that you just prefer not to have any obstacles in the
17 way of the runway, is that pretty much what you are here
18 to say?

19 A. Absolutely, well, absolutely.

20 MR. BRASELTON: Okay. Thank you. That's all I
21 have, Mr. Chairman.

22 CHMN. FOREMAN: Any other questions?

23 (No response.)

24 CHMN. FOREMAN: All right. Very good. Thank
25 you, sir, for coming and talking and answering the

1 questions. We really appreciate you taking your time to
2 do that.

3 THE WITNESS: Thank you.

4 CHMN. FOREMAN: All right. Let's -- whose copy
5 of Exhibit No. 174 is up there? I guess that's yours.

6 MR. SUNDLOF: It is ours.

7 CHMN. FOREMAN: Let's move to Town of Queen
8 Creek.

9 MR. BRASELTON: Mr. Chairman, we call Ken
10 Scarborough as our first witness this morning.

11 CHMN. FOREMAN: All right. Ask him to come
12 forward.

13 Sir, would you prefer an oath or affirmation?

14 MR. SCARBOROUGH: Oath.

15 (Ken Scarborough was duly sworn.)

16 CHMN. FOREMAN: Please tell us your name and
17 spell your last name for the assistance of the court
18 reporter.

19 THE WITNESS: My name is Ken Scarborough,
20 S-c-a-r-b-o-r-o-u-g-h.

21 CHMN. FOREMAN: Counsel, you may proceed.

22 MR. BRASELTON: Thank you, Mr. Chairman.

23

24

25

1 KEN SCARBOROUGH,
2 a witness on behalf of the Town of Queen Creek, having
3 been previously duly sworn by the Chairman to speak the
4 truth and nothing but the truth, was examined and
5 testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. BRASELTON:

9 Q. Mr. Scarborough, who do you work for?

10 A. I work for Planning Technology, Inc.

11 Q. What services or products does that company
12 provide?

13 A. They provide web tools, specifically airspace
14 analysis type tools for airports nationally.

15 Q. Okay. Are you familiar with the proposed power
16 line routes that have been proposed by SRP in connection
17 with these proceedings?

18 A. Yes.

19 Q. Have you analyzed the Ryan and Germann routes in
20 terms of their impact on airport safety with regard to
21 the Phoenix-Mesa Gateway Airport?

22 A. Yes.

23 Q. Okay. Let me go back to your qualifications a
24 little bit. I am going to let you give a little
25 background. Tell us what your post high school

1 education is.

2 A. I have a bachelor's in aviation management and
3 flight technology from the Florida Institute of
4 Technology, flight technology part of that degree being
5 my pilot's license. Part of that program is taking you
6 up through commercial, instrument, CFI, multi-engine,
7 instrument instructor.

8 Q. Okay. So you are a licensed pilot?

9 A. Yes.

10 Q. And you hold ratings of multi-engine and
11 commercial ratings, or you have held them?

12 A. Yes.

13 Q. They may or may not be current?

14 A. I have let my currency lapse, but yes, I have
15 held them in the past.

16 Q. You are a flight instructor or were a flight
17 instructor at one point in time as well?

18 A. Yes.

19 Q. And when did you graduate, sir?

20 A. 1991.

21 Q. Okay. Now, after graduation, did you begin a
22 career in the aviation industry?

23 A. Yes. Nine days after I graduated I started with
24 an aviation consulting firm in Orlando, Florida.

25 Q. Okay. And have you worked in the industry

1 since?

2 A. And have been since then. Yes. I am sorry.
3 Yes, I have been employed in aviation consulting ever
4 since then, three different firms.

5 Q. Well, you traveled a long way to come to testify
6 in this case, right?

7 A. That's correct. Currently live in Rhode Island.

8 Q. Okay. And your company is based in Florida?

9 A. In Clearwater, Florida, yes.

10 Q. You just heard the testimony of Mr. Kanuga. You
11 were here for that, right?

12 A. Yes.

13 Q. Let me just ask this. Did he say anything you
14 disagree with?

15 A. There are numerous aspects of his testimony that
16 I would clarify or take issue with from a, you know,
17 primarily from the work that I have done with airline
18 performance engineers and the issue of safety and these
19 poles.

20 Q. Okay. Well, let me just give you an opportunity
21 to explain where you differ with Mr. Kanuga. You
22 actually -- you have done the calculations under Part 77
23 for the two routes here for Ryan and Germann, right?

24 A. Yes.

25 Q. You have done the calculations under the TERPS

1 analysis, is that right?

2 A. Yes.

3 Q. You have done the calculation under the one
4 engine inoperative analysis, is that right?

5 A. Yes.

6 Q. Okay. And you have -- you are familiar -- you
7 have done work in the Phoenix metropolitan area for a
8 number of years, correct?

9 A. Yes.

10 Q. Been involved in work with regard to Sky Harbor
11 Airport?

12 A. Yes.

13 Q. Tell the members of the Committee a little bit
14 about your background and what you have done with regard
15 to Sky Harbor.

16 A. I initially was brought to Phoenix to assist the
17 City of Phoenix, the owner and operator of Sky Harbor,
18 with the analysis of the proposed stadium in Tempe back
19 a number of years ago. And that was when I began
20 working in Phoenix, at the conclusion of.

21 Once that stadium issue was no longer an issue
22 off the edge of the runway, they asked me to continue to
23 do a height zoning ordinance over essentially one square
24 mile of downtown Phoenix. And so I was the senior
25 airport planner that was on the project that developed

1 the ordinance for the downtown area.

2 And then at the point where we concluded that,
3 they, the City of Phoenix, asked that we help them
4 develop a height zoning ordinance for the entire Phoenix
5 jurisdictional area.

6 Q. So you have been doing work for the City of
7 Phoenix in connection with Sky Harbor flight safety for
8 approximately the last eight years at least on an
9 on-and-off periodic basis?

10 A. Yes.

11 Q. Okay. Give us examples of other airports that
12 you have done similar type safety analysis for that are
13 located in other cities around the country.

14 A. We have done the same height zoning ordinance
15 type work. That is my specialty area, I guess, is
16 interairspace design. You would say that is the
17 airspace that is close in to the airport, determining
18 allowable building heights or tower heights or windows
19 or whatever that are in close proximity to airports as
20 shown here.

21 Boston is an airport that we have worked
22 extensively at, that I have worked extensively at. It
23 started with the South Boston Seaport area as the
24 initial part of the study where they were looking to
25 extend downtown Boston along the waterfront, and we

1 analyzed allowable building heights over that area.
2 That also then, the second phase of that was to do the
3 same thing 360 degrees around the airport looking at
4 Part 77, TERPS and OEI surfaces, and melding them all
5 together to develop what we call a composite map.

6 And I have done that, we just finished that same
7 process for San Francisco International Airport. We
8 were called in as an independent company to analyze work
9 that had been done at San Jose and, as part of that
10 process, downtown San Jose, and as part of that process
11 we have sort of redefined the downtown zoning ordinance
12 that's being proposed for San Jose. Doing the same
13 thing right now with Houston.

14 Q. Okay. Let me kind of go to the end and then I
15 am going to come back a little bit toward the middle.
16 Just state for us, if you would, or state for the
17 members of the Committee what your final conclusions are
18 as a result of the analyses that you have done in
19 connection with the work you have done in this case.

20 A. Certainly. My analysis of the Germann Road and
21 Ryan Road alignments is that at the proposed heights,
22 that is, the heights that were proposed in the 7460s by
23 SRP's aviation consultants, is that there is no
24 difference from either a safety aspect or a potential
25 economic impact to the airport aspect on -- neither the

1 Germann or the Ryan Road have an impact on safety or
2 economics avionics.

3 Q. And you said, I think, was it 7460?

4 A. Yes.

5 Q. Did you use that number?

6 A. Yes. 7460 is the actual form that is filed that
7 SRP filed for each of the pole heights. That is an FAA
8 Form 7060-1. That is how they initiate the process with
9 the FAA on doing an analysis of a structure.

10 Q. And that form that was filed by SRP then results
11 in the letters that came back that are now embodied
12 within Exhibit 174?

13 A. That's correct.

14 Q. And that was the exhibit that Mr. Kanuga
15 referred to?

16 A. Right. 7460 process is that an applicant gives
17 them a notice of proposed construction or alteration,
18 and the FAA reviews it and then comes back with the
19 final, as in an exhibit, determination of no hazard.

20 Q. Okay. Let me go back then to Mr. Kanuga's
21 testimony and ask you again to walk through step by step
22 and tell us where you think that he is being unduly
23 conservative. Let me put it that way.

24 A. Well, one of the approaches that he used as an
25 example was the ILS approach to 30 center, and --

1 Q. ILS meaning?

2 A. Instrument landing system. It is the precise
3 approach that is flown on, by airlines, by small engine
4 pilots, et cetera, that, given the distance down range,
5 the clearance that is allowed by the FAA, beneath the
6 intended flight track that is the glide slope of that
7 procedure, I mean the actual flight path that the
8 aircraft is flying, the buffer, the safety buffer, the
9 required obstacle clearance by the FAA never came into
10 issue with these poles. That was not listed on the 7460
11 responses by the FAA as being something that was an
12 issue. And so there, I don't have the exact
13 calculations, but the point is that the FAA would even
14 allow potentially higher poles along that area and still
15 not impact the ILS.

16 So from the FAA, that is the one who is tasked
17 with maintaining the national airspace system and making
18 sure it is safe, they are fine with the poles along,
19 like I said, a ten-story wall all along Germann. That
20 is something that the FAA, you know, has determined
21 through the no hazard determinations of these poles that
22 that is acceptable. And so I don't see an issue with
23 the ILS.

24 Q. Experience has demonstrated that that's not a
25 problem from the regulatory agency that is charged with

1 safety responsibilities, is that right?

2 A. Yes.

3 MR. BRASELTON: Okay. May I ask you or the
4 technical folks to put up 152 on either screen,
5 whichever one you have it available on.

6 BY MR. BRASELTON:

7 Q. Okay. Mr. Scarborough, are you familiar with
8 that exhibit?

9 A. Yes.

10 Q. What is depicted on that exhibit?

11 A. What is depicted on Exhibit 152 are the poles as
12 submitted along Germann Road by SRP. The locations of
13 them are shown along that road with the heights
14 indicated as far as above ground level elevations of
15 those poles.

16 Q. Okay. And if the Committee were to approve an
17 alignment along Germann Road and the poles were built to
18 those heights that are depicted on Exhibit 152, would
19 there be any safety concerns whatsoever with regard to
20 the operations into or out of Phoenix-Mesa Gateway
21 Airport?

22 A. No.

23 Q. Okay. Now, just so -- your calculations
24 reflected a maximum height permissible for the poles
25 along this route, right?

1 A. Yes.

2 Q. Are those the numbers that are actually shown on
3 that Exhibit 152?

4 A. Not based on my analysis, no.

5 Q. What did your calculations reflect, just in a
6 general sense? You don't have to go into details here;
7 we have already heard from Mr. Knaggs.

8 A. Right. That they are essentially, where they
9 dip down below 120, that the poles, the pole heights
10 that are shown there are conservative, meaning lower
11 than they would be, they could be higher along numerous
12 places. Most of those poles could be higher than are
13 shown there.

14 Q. Okay. So in that area around Ellsworth Road,
15 there is even an additional safety factor already built
16 in, if you will, to the proposed heights that SRP has
17 suggested?

18 A. Yes.

19 Q. Okay. Explain to us, if you can, just briefly,
20 what -- let me -- well, let me come at it this way. The
21 Part 77 analysis and the TERPS analysis, are those the
22 two required analyses for FAA safety requirement
23 perspectives or is there more than that?

24 A. There is more than that in the sense that they
25 also do potential interference with radar and, you know,

1 electromagnetic interference. But from a surfaces
2 standpoint, yes, Part 77 and TERPS are what the FAA look
3 at.

4 Q. Okay. Then how does the OEI, the one engine
5 inoperative, analysis play into this whole safety
6 concern? Explain that to us if you would.

7 A. The one engine inoperative concerns are those
8 of, frankly, more economics of the airline slash airport
9 and surrounding community. If something were built up
10 into what is currently an OEI surface, therefore becomes
11 the new controlling obstruction that an aircraft
12 performance engineer has to look at and has to make sure
13 the planes are clearing, then that could cause a weight
14 penalty to the airline, weight penalty being that they
15 now have to take off at a lighter weight. They have to
16 either offload fuel, passengers, baggage, they have to
17 leave something behind so they can lift off the ground
18 earlier, become airborne, fly or climb faster so as to
19 clear that obstruction.

20 Q. As part of the OEI analysis that you did in this
21 case, did you communicate with anyone at Allegiant Air
22 to make sure that they were comfortable with whatever it
23 is the conclusions were that you were reaching?

24 A. Yes.

25 Q. Okay. And is that your understanding, that they

1 have no concerns with regard to the proposed poles along
2 Germann Road?

3 A. That's correct.

4 Q. Are there any other aspects of Mr. Kanuga's
5 testimony that you think need to be corrected or
6 clarified?

7 A. Well, I guess the -- you know, being a pilot, I
8 agree with him that a plane can't hit something that
9 isn't there, you know, that it is safer to not have
10 anything there. And being an airport consultant that
11 deals with this exact issue and trying to find a balance
12 between the airport's needs, the airlines' needs, and
13 the local community, that the reality is that things
14 will be built off the end of the runway.

15 And so my job and, you know, experience has been
16 in determining where that balance is, making sure that
17 the safety factors are met and, frankly, with the slant
18 toward making sure that there is not an impact to the
19 airport, that whatever the city wants to do, such as
20 San Jose or Boston, off the end of the runway from their
21 economic development standpoint, making sure that that
22 is compatible with the existing operations and the
23 future potential economic operations of the airport so
24 as to not impact the airport.

25 So the question is where would -- at what height

1 does it cross that threshold of causing an economic
2 impact or not. And at these heights you are still below
3 that point. The airlines can take off over these
4 obstructions one engine out and not have to incur a
5 weight penalty.

6 Q. Okay. Let me ask one more question. Imagine
7 yourself on the center runway at Phoenix-Mesa Gateway
8 Airport. You are going to take off from northwest to
9 southeast and you are in a single engine plane getting
10 ready to teach a new student how to fly that plane. As
11 you get ready to make that takeoff, and now, and the
12 lines have now been constructed along Germann Road, do
13 you have any concern whatsoever about an accident caused
14 by those lines that are now constructed along Germann
15 Road?

16 A. In an all engine operating situation or one
17 engine out?

18 Q. As you begin to do your flight training
19 operations.

20 A. I would not see them as being something that
21 from a flight training standpoint would cause any grave
22 concern. Yes, they are there, there is something that
23 you would be aware of coming in. However, if you look
24 at the existing poles that are at the corner of Crismon
25 and Germann that are approximately 70 feet, the proposed

1 poles are, what, 50 feet higher than that. That is not
2 that much of a difference.

3 The clearance above those is such that I don't
4 think you would have the perception as a pilot, all
5 engines operating, that you would be concerned about,
6 because you are more focused on the runway and there is
7 enough of a clearance below the aircraft that I don't
8 think it would be something that visually would be a
9 problem.

10 MR. BRASELTON: Okay. Thank you.

11 That's all I have right now, Mr. Chairman.

12 CHMN. FOREMAN: Counsel for the applicant, any
13 questions?

14 MR. SUNDLOF: Yes. Thank you, Your Honor.

15

16 CROSS-EXAMINATION

17 BY MR. SUNDLOF:

18 Q. Mr. Scarborough, I am Kenneth Sundlof, and I
19 represent Salt River Project. Thank you for making the
20 long trip out here.

21 A. Sure.

22 Q. The first question is, we, Salt River Project,
23 sponsored a witness, Mr. Jeremy Knaggs of Williams
24 Aviation. And Mr. Knaggs has already testified and
25 presented some conclusions to the Committee. Have you

1 reviewed Mr. Knaggs' conclusions?

2 A. Yes.

3 Q. And do you fundamentally agree with what he
4 says?

5 A. Yes.

6 Q. You made an interesting statement that your job
7 is to determine a balance. And I think you said that
8 your job is to determine a balance between airports and
9 development around airports, is that fair?

10 A. Yes. My job in that, as a consultant,
11 suggesting to the airport what position they should
12 have, yes. I mean obviously I am not a decider from a
13 city zoning standpoint, but, you know, from a
14 consultant's suggestions, yes.

15 Q. It was your words, that your job is to determine
16 a balance.

17 A. Yes.

18 Q. Okay.

19 A. Yes.

20 Q. And so that means that you understand that, all
21 things considered, less obstructions are better, but
22 some obstructions are inevitable, so you have got to
23 figure out where you are going to draw that line. Is
24 that fair to say?

25 A. Yes.

1 Q. Now, and in order to draw that line, the FAA and
2 the industries that come up with standards, obviously
3 you have to have some kind of standards, yes?

4 A. Yes.

5 Q. And your testimony is based on those standards?

6 A. Yes.

7 Q. You made an interesting statement at the
8 beginning of your testimony when asked about
9 Mr. Kanuga's testimony. You were asked if you agree,
10 and your response was very guarded and you said I agree,
11 and I quote, from an airline performance engineer
12 perspective.

13 Is that -- is your testimony you are evaluating
14 this from an airline engine -- airline performance
15 engineer perspective?

16 A. That's how I -- that is one of the ways in which
17 I am viewing this, is from an airline performance
18 standard, yes.

19 Q. You would agree with me that Mr. Kanuga's
20 testimony was fairly typical of what you might hear from
21 a pilot or a flight instructor that flies in and out of
22 local airports like this?

23 A. As far as less obstruction being better, yes, I
24 would, absolutely, yes.

25 Q. That was my next question. So from a pilot's

1 perspective, the less obstructions the better?

2 A. Yes.

3 Q. And you even made the statement a plane cannot
4 hit something that's not there.

5 A. Yes.

6 Q. So if we cannot have it there, that's better
7 because the plane is not going to hit it?

8 A. You could bury them, that's right.

9 Q. Okay. Now, given a choice, all other things
10 being equal, every other thing being equal from a
11 pilot's perspective, better to put them farther than
12 closer?

13 A. Sure, that's a fair statement, that further away
14 from the airport is better than close to the airport.

15 MR. SUNDLOF: I have no further questions.

16 Thank you.

17 CHMN. FOREMAN: City of Mesa.

18 MR. MARKS: Thank you, Mr. Chairman.

19

20 CROSS-EXAMINATION

21 BY MR. MARKS:

22 Q. Good morning. I am Craig Marks. I represent
23 the City of Mesa in this case. How are you,
24 Mr. Scarborough?

25 A. Good, thank you.

1 Q. Just a few questions for you. You stated,
2 Mr. Scarborough, that you have traveled a long way to
3 testify, is that correct?

4 A. I think that statement was made for me, but yes,
5 I will agree with that.

6 Q. You agreed with that statement, yes?

7 A. Yes.

8 Q. Are you a volunteer in this case?

9 A. A volunteer?

10 Q. Are you being -- you just flew out here to
11 provide this Committee your expertise on your own?

12 A. No. I am under a contract with the Town of
13 Queen Creek as far as the analysis that we had done for
14 them.

15 Q. So you were compensated for your travel coming
16 out here today, or you will be compensated at some
17 point?

18 A. Yes.

19 Q. What airline did you fly on?

20 A. United.

21 Q. And where did you fly into?

22 A. Sky Harbor.

23 Q. And what class of seating were you in when you
24 came out here?

25 A. Economy. Economy plus to be exact, but...

1 Q. And I think you have already sort of answered
2 this, but let me just ask it directly. You are being
3 compensated by the Town of Queen Creek for your travel,
4 for your analysis, and your testimony in this case,
5 correct?

6 A. Yes. But the economy plus didn't cost any
7 extra.

8 Q. That's your -- and when did you get here?

9 A. Yesterday afternoon.

10 CHMN. FOREMAN: So the plus wasn't part of the
11 contract?

12 THE WITNESS: I am sorry?

13 CHMN. FOREMAN: So the plus wasn't part of the
14 contract?

15 THE WITNESS: No. That's just because I have
16 already flown 50,000 miles on United this year. So the
17 airline gives me that.

18 BY MR. MARKS:

19 Q. Now, you have already testified you have
20 listened to Mr. Kanuga's testimony, correct?

21 A. Yes.

22 Q. And he testified that he flies in and out of
23 Phoenix-Mesa Gateway Airport on average of at least
24 three times a week. Did you hear that?

25 A. Yes.

1 Q. How many times a week do you fly in and out of
2 Phoenix Gateway Airport?

3 A. I have never flown in or out of Phoenix-Mesa
4 Gateway.

5 Q. So it really was necessary for you to imagine
6 yourself being in an airplane on Phoenix-Mesa Gateway
7 Airport, correct, piloting that plane?

8 A. Yes. That's into this specific airport. But my
9 pilot experience has flown over obstructions coming into
10 other airports, so...

11 Q. Now, in your visits to Phoenix and Phoenix area
12 in association with this case, have you driven the
13 various alignments that are proposed for consideration
14 by this Committee?

15 A. Yes.

16 Q. And when was that?

17 A. Last year, middle of last year, I guess, 2008.

18 Q. You observed existing structures on the various
19 alignments?

20 A. Yes.

21 Q. Now, you stated that, I think this is a quote,
22 that there is no difference in potential economic impact
23 to the airport of the Germann and Ryan alignments, is
24 that correct?

25 A. That is correct.

1 Q. Are you an economist?

2 A. I am sorry?

3 Q. Are you an economist?

4 A. No.

5 Q. Have you ever run an airline?

6 A. No.

7 Q. Now, you talked about the one engine inoperative
8 standard. Would you agree that that standard is set by
9 the -- or that's -- let me rephrase that.

10 Would you agree that the one engine inoperative
11 standard is one that is set by the airline itself that's
12 operating out of a particular airport?

13 A. The standard is set by the FAA. The requirement
14 that aircraft departing the runway plan for the loss of
15 an engine at the point where they can no longer stop,
16 you know, cut all the power and stop by the end of the
17 runway, that they need to continue that takeoff on a
18 single engine, be able to clear everything within a
19 certain path, by either 35 feet vertically or 300 feet
20 horizontally, and come back around to land or, you know,
21 to on road altitudes, that standard is set by the FAA.

22 Q. And let me ask again then. Who actually
23 determines what procedures are necessary in order to
24 satisfy that FAA standard?

25 A. Each airline is tasked with meeting that

1 standard, that they are able to clear things on takeoff.

2 Q. And each airline that operates at a particular
3 airport may have different procedures, is that correct?

4 A. Yes. For example, out of Phoenix Sky Harbor,
5 some airlines, to meet that standard, fly a straight out
6 departure. Other airlines will make a turn shortly
7 after departure so as to avoid the Tempe Butte, for
8 example. And so the airlines are given the flexibility
9 to determine what route they are going to take to avoid
10 the obstructions.

11 Q. And there is some, there is -- we have had some
12 testimony in this case, and I don't know if you have
13 read the transcript or not, but to the effect that there
14 are some pending FAA standards concerning surfaces
15 related to one engine inoperative. Are you familiar
16 with that?

17 A. Yes.

18 Q. And can you provide the Committee an update of
19 where those standards are with the FAA?

20 A. They are in FAA legal, which as far as when they
21 will come out of there, we might have a healthcare plan
22 before then, but the --

23 Q. I appreciate no lawyer jokes.

24 A. But in seriousness, what the FAA realizes is
25 that as part of their analysis of obstructions off the

1 ends of the runways, that they have paid to put in, that
2 their current 7460 review process is not adequate to
3 protect that financial investment because of the fact
4 that the OEI surfaces that are used by all the different
5 airlines are not something that the FAA can say hazard
6 based on penetrating just that surface.

7 The FAA is trying to determine how they could
8 work better with airports and local communities to
9 develop procedures that would allow the existing
10 investments to be protected properly.

11 Q. Do you expect that at some point this will clear
12 legal and we will have something embodied in the form of
13 a rule from the FAA?

14 A. Yes.

15 Q. Do you expect that to be sometime in the next --
16 well, strike that.

17 And this is a topic that the FAA could revisit
18 in the future, correct?

19 A. What topic?

20 Q. One engine inoperative, or OIS?

21 A. They are currently reviewing it.

22 Q. But they could, even after they come out with
23 the final rule at some point, this is a topic that they
24 could return to, is that correct?

25 A. Sure.

1 Q. And as far as -- let's leave that briefly.

2 You mentioned that you had talked to Allegiant
3 Airlines concerning, I believe you said, the OEI or was
4 that -- well, let me --

5 A. The OEIS.

6 Q. Who did you talk to at Allegiant?

7 A. I think his name is Wayne. I will have to get
8 back to you on the last name. But he is an independent
9 consultant to Allegiant to do these specific kinds of
10 analyses. I sent him pole heights and talked with him
11 about what standards that Allegiant uses, and slopes off
12 the ends of the runway, et cetera. And his response
13 back to Allegiant was that there was no issue with the
14 poles as proposed.

15 Q. I am sorry, you said his response back and I
16 lost --

17 A. His response back to Allegiant, meaning he's a
18 consultant to Allegiant. And so I was talking directly
19 with him. And so he is letting Allegiant know that if
20 they are contacted regarding a position on this, for
21 example, and would there be a weight penalty associated
22 with the poles, that there would not.

23 Q. So you as a consultant contacted Allegiant's
24 consultant who you are told advised Allegiant that there
25 would be no issue --

1 A. Well, he told --

2 Q. -- with the pole heights? How do you know he
3 told you?

4 A. He copied me on the e-mail as well, that
5 correspondence as well.

6 Q. Was there any response back from Allegiant --

7 A. No.

8 Q. -- to your knowledge?

9 A. Other than possibly, you know, great, thanks,
10 Wayne, kind of -- I mean nothing like a no further
11 action required, if that's what you are asking.

12 Q. So you don't really know if Allegiant accepted
13 the consultant's representation, do you?

14 A. I would have to check back through my e-mails to
15 see if there was in fact that, but I believe that they
16 did. I mean I had no reason to believe otherwise, I
17 guess.

18 Q. Well, you said to your recollection you might
19 have heard something or to the effect of great or
20 thanks.

21 A. Right.

22 Q. Does that imply to you that they said yes, as
23 far as Allegiant Airlines is concerned, the proposed
24 pole heights along Germann Road won't present any issues
25 concerning one engine inoperative?

1 A. I would have to go back to that e-mail. I mean
2 if you are looking for a specific correspondence, I
3 would have to get that for you. But my discussions with
4 Allegiant were, and my experience through knowing
5 airline performance standards, is that because of the
6 fact that they are below the 62.5 to 1 slope, that the
7 poles are planned below to not penetrate that slope,
8 that not only Allegiant, but no carrier coming in here,
9 even if 12 -- I am sorry, even if the southernmost
10 runway were extended, that it would 30 left, 12 right,
11 were extended closer to the alignment, even then the
12 62.5 to 1 is not penetrated, and, therefore, from an
13 aircraft certification standpoint, they can't have a
14 problem with it.

15 And I say can't because they have, the aircraft,
16 two-engine aircraft has to be certified, or to be
17 certified to carry passengers in the event of that
18 engine out condition, has to be able to climb at a
19 certain rate to be a certified aircraft. That rate
20 allows for building up to a 62.5 to 1, 62 and a half
21 feet horizontally for every foot vertical slope, off the
22 edge of the pavement.

23 Q. Now, at the beginning of that very long answer,
24 I heard you say something to the effect of based on my
25 discussions with Allegiant. And I also heard you say

1 that you had only spoken to the independent consultant.
2 Are there additional discussions with Allegiant beyond
3 those with the independent consultant?

4 A. No, not that I recall.

5 Q. This particular consultant, is this somebody you
6 have worked with before in connection with other
7 projects?

8 A. No. This was the first time I had -- this was
9 the first time I had contacted them. And so the person
10 that they have handle Phoenix-Mesa Gateway was Wayne.
11 And so that was who did the analysis.

12 Q. What other airlines have you talked to
13 concerning potential future operations at Gateway
14 Airport?

15 A. No airlines as far as getting analysis from
16 them, because typically that would be -- and the reason
17 is because typically that would be a waste of time
18 because they wouldn't have Phoenix-Mesa Gateway in their
19 system. If they don't fly to an airport, then they
20 haven't done the calculations for them. And because of
21 the fact that the poles are planned below the
22 certification surface, there wouldn't be an issue.

23 There is, if it were something that you were
24 proposing instead of being clear of a 62.5 to 1, if you
25 were building up to a 40 to 1 surface, then that might

1 merit some additional discussions. But where the
2 absolute minimums are being protected, there would be no
3 reason to have that conversation.

4 Q. Now, these standards, the one engine inoperative
5 standards, could change in the future, is that correct?

6 A. I guess they could, yes.

7 Q. And in your -- well, let me ask you, in
8 connection with your statement that there would be no
9 difference in potential economic impact of the Ryan and
10 Germann alignments, have you done any independent
11 analysis of potential economic impact to Phoenix-Mesa
12 Gateway Airport of a pole alignment along Germann Road?

13 A. Thank you for coming back to the economist
14 question. When I refer to no economic impact, if I can
15 further qualify that, is that no airline would have to
16 take a weight penalty, would have to offload weight so
17 as to be able to fly out of there if the poles are
18 constructed.

19 Q. And you talked about taking off weight as an
20 economic impact, is that correct?

21 A. Right, that typically if you have to offload
22 fuel, then you can't fly as far, you couldn't serve a
23 route that you might otherwise be able to serve, or you
24 have to leave passengers behind or revenue cargo behind,
25 which is how the airlines make money.

1 MR. MARKS: Give me just a minute. I think I am
2 just about finished.

3 Thank you, Mr. Scarborough. That's all I have.

4 THE WITNESS: Thank you.

5 CHMN. FOREMAN: We will take a brief recess. We
6 need to give our court reporter an opportunity to rest
7 her fingers. We will reconvene at 11:15, about 15
8 minutes.

9 (A recess ensued from 11:01 a.m. to 11:16 a.m.)

10 CHMN. FOREMAN: Let's resume our
11 cross-examination with Town of Gilbert.

12 MR. SULLIVAN: We have no questions, Your Honor.
13 Thank you.

14 CHMN. FOREMAN: Very good.

15 MR. NELSON: No questions, Your Honor.

16 CHMN. FOREMAN: No questions from the Barney
17 entities?

18 MR. SLAVIN: I have one question for the
19 witness.

20 CHMN. FOREMAN: All right. Well, we will see if
21 you are any less computationally challenged than most
22 graduates of law school. You may proceed.

23

24

25

1 CROSS-EXAMINATION

2 BY MR. SLAVIN:

3 Q. Good morning, Mr. Scarborough. I am Francis
4 Slavin, and I represent Barney Farms and some other
5 parties in this matter.

6 If I understand your testimony correctly, you
7 perform consulting work for airports among other
8 clients, correct?

9 A. Yes.

10 Q. I would like you to assume that you are under
11 contract with Phoenix-Mesa Gateway Airport, and you are
12 asked to consult regarding the erection or proposed
13 erection of high voltage transmission lines along the
14 south side of the airport. With me?

15 A. Okay.

16 Q. And your client asks you, sir, to provide your
17 preference as to the location of 120 foot tall poles and
18 power lines either along Germann Road or one half mile
19 south of Germann Road along Ryan Road. Of those two
20 alignments what would your preference be?

21 A. Well, I would analyze it from a potential impact
22 to TERPS surfaces, which would increase potentially the
23 approach minimums for the airport. I would analyze it
24 from the standpoint of is there going to be an impact to
25 the airlines in one situation or another, and develop my

1 answer based on that analysis. I mean as far as
2 preference, it would, the numbers would speak for
3 themselves.

4 MR. SLAVIN: I guess I am mathematically
5 challenged, Mr. Chairman, I need to ask one or two more
6 questions.

7

8

EXAMINATION

9 BY CHMN. FOREMAN:

10 Q. My hearing is challenged because I am getting
11 older, and I haven't heard a number speak to me lately.
12 So you said the numbers would speak for themselves.
13 What does that mean? Does that --

14 A. If one alignment caused an increase in the
15 landing minimums, that is, only allowed planes to
16 descend to one altitude and then they would have to
17 determine if they could see the airport before going on
18 into the approach, and another allowed the current
19 minimums which might allow them to come closer to the
20 airport to determine if they could see the airport
21 before continuing to approach and landing, if there was
22 a difference in that, then those numbers would give me
23 the answer as to which is a better alternative, meaning
24 anything that does not impact the current procedures
25 would be preferred over something that would impact the

1 current procedures.

2 Q. And again, I am struggling with this. So the
3 numbers for Ryan Road would be better than the numbers
4 for Germann Road for somebody who was landing or taking
5 off from Williams Gateway Airport, is that true?

6 A. No.

7 Q. There would be no difference?

8 A. There would be no difference. And that's what
9 the FAA has -- their no hazard determination on all the
10 poles along Germann and their no hazard determinations
11 along all the poles on Ryan, if you read through that
12 155-page exhibit, there would be no change to the
13 procedures given either alignment.

14 Q. So if I am understanding your testimony
15 correctly, then it is your opinion that if something, we
16 won't call it a hazard, but a tall structure that an
17 airplane might collide with is outside the envelope that
18 is described by the FAA standards to which you made
19 reference, then there is no difference from a safety
20 point of view to whether the tall thing that an airplane
21 might fly into exists out there or whether it doesn't?
22 Do you understand my question?

23 A. I believe so. And that's correct. And if I may
24 give an example of where we ran into this exact thing in
25 downtown Phoenix. When we were developing that

1 standard, we had mapped the OEI surfaces off the end of
2 the northernmost runway at Phoenix that go right past
3 downtown. And from a bird's standpoint when you look
4 straight down on it, the edge of that splay goes right
5 through the ballpark, Bank One Ballpark. I don't know
6 if that's what it is still called or not, but... So
7 that was right on the edge of downtown and there were
8 buildings behind that.

9 My concern was that if we simply, if we took
10 that obstacle accountability area that the airlines look
11 at as gospel and built right up to that, would that
12 cause a problem to the airlines, and when I say built
13 right up to that, it means outside of that splay, the
14 controlling surfaces by the FAA were much higher.

15 And we had a workshop with the airlines. We had
16 all the major airlines in the room. And I developed a
17 video that showed potentially an engine out aircraft
18 diverging from centerline toward downtown and below the
19 heights of potential buildings in downtown, based on the
20 ordinance, if we were to actually build a wall that they
21 are sort of flying past, and the aircraft in an
22 emergency situation engine out is below the height of
23 that building, right outside of that splay, would they
24 have a problem with that. And all the airlines said as
25 long as it is outside the splay, it is okay. If you are

1 outside of the ICAO surface, which -- what is the --
2 120?

3 MR. BRASELTON: Exhibit 125 is I think what you
4 are alluding to.

5 THE WITNESS: Bring up 125. See, the blue line
6 on Exhibit 125 represents the edge of that obstacle
7 accountability area for the airlines. That is what the
8 airlines used, that anything that is within that
9 trapezoid, they have to clear vertically. If it is
10 outside of that trapezoid, they are assuming that even
11 with an engine out situation that exists that Mr. Kanuga
12 was talking about, that it is a very high workload time
13 in the cockpit, that it is an emergency, you are trying
14 to figure out which engine is out, et cetera, and
15 dealing with the emergency, even with some pilot error
16 during that process, even with a potential crosswind
17 situation, that the aircraft would miss anything outside
18 of that splay by the standard 300 feet horizontally.

19 So if it is, if it is within that splay, they
20 have to clear it vertically. If it is outside of that
21 splay, they are clearing it horizontally and thus
22 meeting the FAA standards that state they must do that.

23 Does that make sense?

24 BY CHMN. FOREMAN:

25 Q. I think so. I am trying to figure out whether

1 the basis of that opinion that you have is based
2 on -- well, let me ask you. Would pilots rather have,
3 if they are taking off to the west from Sky Harbor
4 Airport on the north runway, would they rather have
5 downtown Phoenix in front of them or would they rather
6 have open riverbed?

7 A. Well, again, from the you can't hit something
8 that isn't there standpoint, I would say that the pilot
9 would rather have nothing there. But understanding that
10 they do, stuff does have to be built, I think the
11 question that the pilot would ask themselves is in the
12 event that I lose an engine am I going to clear
13 everything that is within my obstacle accountability
14 area.

15 And, in fact, just one sort of point of fact,
16 that it is not the pilot who is doing those
17 calculations. It is the performance engineers that have
18 done those calculations that work for the airlines that
19 do that for all the pilots, so that the pilot plugs in
20 what their current weight is, based on today, that I am
21 flying from Phoenix to Providence, I have this much fuel
22 on board, this many passengers, this is the weight of
23 the aircraft, the temperature today is a nice cool 115,
24 so therefore my takeoff length is this, and therefore I
25 have this runway and this runway available to me for

1 takeoff, so that whichever one I am assigned by air
2 traffic control, I could take either one of those
3 because it is one or the other to depart based on what
4 my performance engineers back at corporate are telling
5 me my climb gradient is going to be based on flap
6 setting, et cetera. So it is a --

7 Q. Do pilots ever disagree with airline performance
8 engineers about what is safe and what isn't?

9 A. The pilot is only given -- the pilot is in
10 command of that aircraft. They are always given the
11 right to do whatever they need to to maintain the safety
12 of their aircraft. If for some reason they think that
13 the performance engineer did not take something into
14 consideration, then they would possibly for that takeoff
15 determine a different runway and then, you know, send a
16 message back to the performance engineer.

17 This exact thing, when they were building the
18 buildings right across the harbor in Boston, I have a
19 picture from a pilot on takeoff of cranes in the
20 departure corridor that were building some of the
21 buildings that are right across the water that they sent
22 back to the performance engineer saying do you guys know
23 about these cranes, is something -- because that happens
24 all the time, obstructions come up that people don't
25 know about, either they don't file the 7460, people in

1 town didn't know they had to, and this happens
2 nationally a lot, that there will be an obstruction that
3 the performance engineers are not aware of. And so the
4 pilots who are actually flying it would relay that back
5 and say, hey, are you sure that this obstruction is in
6 the database. So...

7 Q. As I get older I find that certainly
8 unreasonable people can disagree but that reasonable
9 people can disagree about what is safe and what isn't
10 and what is good and what isn't and so on. Are
11 there -- do pilots just disagree with performance
12 engineers about some of these standards that we have
13 seen?

14 A. I would say that that is a safe statement, that
15 there would be times where the pilots would disagree
16 with what the performance engineer determined on paper
17 is possible.

18 However, I think those situations exist more in
19 the areas where you have tall obstructions off the end,
20 you know, straight ahead off the end of the runway such
21 as in San Jose, San Francisco, Boston, that it is a
22 matter of if I don't turn by this point down range, then
23 I am going to hit that. The engineers told me I need to
24 be turning at 102 feet above the runway regardless of
25 what engine is out or -- in that situation, that the

1 pilots or the pilot's union might disagree and require
2 the performance engineer to develop a different
3 procedure that is more conservative.

4 In this case, this is the most conservative. A
5 straight ahead 62.5 to 1 at the ICAO standard width is
6 as conservative as it gets.

7 Q. And the standard to which you are referring are
8 standards that are, you would call, a conservative
9 performance engineer standard?

10 A. Yes, the blue line, blue trap that's shown on
11 that is as conservative as it gets, yes.

12 Q. And you would characterize your testimony
13 concerning safety here to be conservative performance
14 engineer opinion, would that be fair?

15 A. I am sorry, repeat the question.

16 Q. Your testimony here concerning safety that you
17 have given me previously in answering all these
18 questions -- and I am just trying to get a general
19 handle on that -- that testimony is from the perspective
20 of a conservative performance engineer, would that be
21 fair?

22 A. Yes, from what I have learned in dealing with
23 the performance engineers at all the major airlines over
24 the last -- steadily over the last 12 years, yes.

25 CHMN. FOREMAN: Okay. I am sorry. Redirect.

1 Oh, Member Rasmussen.

2 MEMBER RASMUSSEN: Mr. Palmer first.

3 CHMN. FOREMAN: Member Palmer.

4 MEMBER PALMER: Thank you, Mr. Chairman.

5

6

EXAMINATION

7 BY MEMBER PALMER:

8 Q. Mr. Scarborough, earlier you testified during
9 cross-examination from the City of Mesa that the
10 construction of these poles would not have any economic
11 impact, and you talked about the lessening of weight of
12 an aircraft. Isn't there another variable and that's
13 ambient air temperature? I remember when I was in the
14 legislature decades ago they closed Sky harbor when it
15 reached 122 degrees.

16 My question for you is if we had an extremely
17 hot day, say 115 degrees, that affects the amount of
18 time and space that it takes to actually reach safe
19 elevation --

20 A. Yes.

21 Q. -- in an aircraft. If the poles existed versus
22 not existing, isn't that a factor in the ability of an
23 aircraft to safely take off from Gateway?

24 A. I am assuming that it is not the power lines
25 that are causing the temperature increase.

1 Q. No.

2 A. And you have very high temperatures. The reason
3 I say that, because the ambient temperature is factored
4 into that equation. So from an all things being equal
5 standpoint, it is that hot on that day whether the poles
6 are here or the poles are there.

7 Q. I am not arguing that. My question specifically
8 is, if the poles didn't exist on Germann Road, would an
9 aircraft be allowed to take off and would have otherwise
10 hit the poles had them been constructed, but since they
11 are not there they are still allowed to take off, but
12 since they are there on an extremely hot day they would
13 prohibited from taking off or have to be lightened?

14 A. Thank you for giving me the opportunity to clear
15 this up. The standard that they must climb at that they
16 need to be able to meet that climb standard is given,
17 their takeoff weight, the ambient temperature that day,
18 the route that they are traveling, et cetera. And so
19 the fact that the poles are beneath the 62.5 to 1
20 surface means that they do not come into the equation.
21 You could have a concrete slope at that surface and it
22 would not change the takeoff weight of the aircraft
23 because they have to take into consideration ambient
24 temperature.

25 And so if they -- they probably are not going to

1 be able take off a structural takeoff way, but that is
2 because of the ambient temperature, not because of the
3 obstructions. They are not what they call obstruction
4 limited in that case. They are runway limited or that
5 they just don't have six miles of runway to get up to
6 the air speed that they would need to, you know.

7 MEMBER PALMER: All right. Thank you. That
8 clarifies that.

9 CHMN. FOREMAN: Member Rasmussen.

10

11

EXAMINATION

12 BY MEMBER RASMUSSEN:

13 Q. A lot of your testimony really sort of referred
14 back to the commercial operations. And in point of
15 fact, I think at least of this stage in the game,
16 foreseeable future, that general aviation might dominate
17 the use of this particular airport much like Scottsdale.

18 A. Certainly.

19 Q. Obviously commercial trained pilots and the
20 rigors in terms of what they go through and
21 recertification and all those kinds of things, not to
22 disparage private pilots in any way, but I think there,
23 maybe the operational capability and experience of a
24 commercial pilot may be of a higher level than your
25 private pilot who would come in occasionally in and out

1 of this airport.

2 Would that make a difference in terms of these
3 obstruction issues of Germann versus Ryan versus, say,
4 the Union Pacific route, experience and/or, in terms of
5 that particular airport, frequency of use and/or
6 training in terms of emergency situations?

7 It seems to me that we are dealing with more
8 often than not a general aviation situation. In a
9 decade or beyond, maybe there will be commercial
10 operations, there may not. I don't know. But could you
11 comment on that?

12 A. If I understand the question, it is will general
13 aviation aircraft be able to operate within the same
14 parameters as the commercial airline pilots operate.

15 Q. Yes. Is that a potential risk factor beyond
16 what commercial pilots would be used to dealing with?

17 A. I would have to answer that based on the, again,
18 the FAA's no hazard determination. The FAA, of course,
19 looks at the VFR traffic, the general aviation traffic,
20 all of those considerations as part of their analysis.
21 And when the FAA develops required obstacle clearance
22 standards, that is the distance between the aircraft and
23 an allowable obstruction, to design a procedure, I would
24 have to defer to them in that they have done adequate
25 research on determining what a requirement would be, the

1 acceptable obstacle clearance required clearance is, and
2 that since none of the minimums change with any of these
3 poles we are talking about, then the FAA's analysis is
4 that they would not be a hazard.

5 Q. Well, what I was trying to get at is in
6 relationship to the previous testimony that we heard,
7 which was a private pilot and a trainer, and maybe that
8 was more subjective than maybe the analytic analysis of
9 FAA, but I think it was fairly clear in terms of his
10 reaction to two possible alignments that are in
11 discussion, Germann and Ryan, that the further away the
12 more safety margin is provided, and he used the word
13 tremendous when I asked him about it. So I guess maybe
14 it is somewhat subjective, but that's what I wanted to
15 try to get to in terms of the previous question.

16 Thank you.

17 A. Yes. I would have to agree that it is -- those
18 are subjective answers. I mean typically part of FAA
19 flight training is landing over the typical 50-foot
20 obstacle at the end of the runway. And that's how you
21 train to come across the threshold, assuming there was a
22 tree or something 50 feet at the edge of a runway and
23 being able to land.

24 In this case you are talking a 110-foot
25 obstruction, but considerably farther down range than

1 the end of the runway. So while I agree again from a no
2 obstructions are better than any obstruction standard
3 standpoint, as far as where you are going to start
4 building things, is this a safe area to put an
5 obstruction of these heights as shown in SRP-152, I have
6 to say yes, they do not violate any safety standards.

7 MEMBER RASMUSSEN: Thank you.

8 CHMN. FOREMAN: Member Wong.

9 MEMBER WONG: Thank you, Mr. Chairman.

10

11

EXAMINATION

12 BY MEMBER WONG:

13 Q. What I have heard so far is that the proposed
14 pole heights on one of the alternative routes, that
15 being Germann Road, it is the opinion of the FAA that
16 those proposed pole heights on that alignment presents
17 no hazards, at least it is their determination of no
18 hazard, is that correct?

19 A. That's correct.

20 Q. Would it be possible that the FAA could change
21 its determination to be a hazard even with the same pole
22 heights if the airport altered its operations?

23 For example, if it expands its operations,
24 whether it is lengthening the runway to extend closer to
25 the pole location to accommodate larger aircraft, for

1 example, could then the FAA come in and say that will be
2 a hazard? Have there been instances where that has
3 occurred?

4 A. It is possible that that could happen, yes. I
5 mean that if, if the runways were to extend closer to
6 these, then yes, those surfaces all come down as part of
7 our analysis.

8 We did contact Walt Fix from Phoenix-Mesa
9 Gateway and I asked him about his airport layout plan,
10 the development potential at the airport, and is there
11 anything that is not -- when we go into the FAA's
12 database and get the runway coordinates upon which all
13 these surfaces are built and planned and developed, was
14 there anything that might not be captured in that that
15 they would be considering, such as a runway extension
16 this direction. And he said yes, that the southernmost
17 runway ends there, that is currently not aligned with
18 the other two runway ends, and would extend down to that
19 point, around a thousand foot extension. I don't have
20 the exact number.

21 But that was factored into our consideration, is
22 all of our analysis assumed that that runway would be
23 extended in the future down to essentially line up with
24 the other two runway ends. And all the surfaces that go
25 to the current runway end slid down, so that we factored

1 that into consideration.

2 And so, therefore, I would say that we have
3 taken into consideration all of the future plans for the
4 airport that are on their airport layout plan that would
5 affect the surfaces over the Town of Queen Creek and
6 down to this side of the airport.

7 Q. You said your client is Phoenix-Mesa Gateway
8 Airport?

9 A. No. We are contracted directly with the Town of
10 Queen Creek. They are the ones who contacted us
11 initially to do this analysis of if there would be a
12 potential impact on the airport by these poles going in.

13 And that's sort of one other point I guess we
14 really haven't talked about, is the fact that the
15 majority of our clients are airport clients. The fact
16 that we would contract with a city is unique for our
17 company in that it is, or with just the town, that is
18 not a direct owner/operator of an airport. Yes, we are
19 contracted with the City of Phoenix, but that's because
20 they have an aviation division that is responsible for
21 running the airport.

22 In this case, Walt Fix is not employed, for
23 example, by the Town of Queen Creek. And so we made
24 sure that when we set up this contract that we were very
25 clear about the fact that we would not be doing an

1 analysis for the Town of Queen Creek that would seek
2 higher heights within the town than what the current
3 procedures would allow, and that includes extension of
4 that runway.

5 So again, our -- the way we see the world, our
6 company sees the world, is protecting airspace,
7 protecting the airports, advising them on what heights
8 are critical to them. Because typically an airport
9 planner that works for an airport doesn't necessarily
10 know what -- whether or not a height of some obstruction
11 out there would impact all the airlines, would impact
12 surfaces. That's where our specialty is, is in
13 analyzing airspace, FAA airspace surfaces, working with
14 the airlines to determine OEI impacts, and being able to
15 provide guidance to airport owners and operators on what
16 are acceptable heights.

17 That's why we have developed composite maps all
18 the way around Phoenix Sky Harbor, Boston, San
19 Francisco, San Jose, et cetera, et cetera.

20 Q. So you stated that the information you received
21 from the airport on its proposed future uses was
22 factored into your analysis, is that correct?

23 A. Yes.

24 Q. And then your analysis, the result of your
25 analysis concurs with the FAA finding, is that correct?

1 A. Yes.

2 Q. Who did you communicate with at the airport that
3 furnished you, provided that information about the
4 future airport use?

5 A. Walt Fix.

6 Q. What is his title?

7 A. He is -- I don't have his exact title, but he is
8 senior airport planner essentially with Phoenix-Mesa
9 Gateway.

10 Q. So he would be most knowledgeable about the
11 future of the airport use, is that correct?

12 A. Yes, he would be the one who would know about
13 the airport layout plan, all the development that is
14 planned at the airport.

15 Q. And did he at any time express displeasure or
16 any opposition to that Germann Road alignment based on
17 those pole heights?

18 A. Did he at any time express concern, I would say
19 yes, he did. But after we talked about it, I would say
20 that his concern was alleviated once I explained the OEI
21 surfaces of our analysis, what we took into
22 consideration, our experience with different airports,
23 all the major airlines, including international
24 airlines, and how there would not be a weight penalty
25 even if you were to build up to the surface shown there.

1 I think he understood that and was fine with it.

2 Q. So would you say that there was initial concern
3 expressed by the Phoenix-Mesa Airport official you spoke
4 to, correct?

5 A. Yes.

6 Q. About the pole heights and location?

7 A. Sure. And of course he, like every other
8 airport personal pilot, says the further away the
9 better. But once you have that discussion on balance
10 between, you know, if you are going to build something
11 at what point does it cross that threshold of becoming a
12 safety concern or economic concern, we are not there
13 yet.

14 Q. Did he say that his position was an official
15 position of the airport, or it was just his personal
16 opinion?

17 A. I don't specifically recall having that
18 discussion as to if it is his personal opinion or if it
19 is the position of the airport. I don't recall.

20 Q. But after he expressed that concern, you,
21 through your explanation and analysis, you dispelled
22 that concern, is that correct?

23 A. I believe so.

24 MEMBER WONG: Thank you.

25 CHMN. FOREMAN: All right. Redirect.

1 MR. BRASELTON: Thank you, Mr. Chairman.

2

3

REDIRECT EXAMINATION

4 BY MR. BRASELTON:

5 Q. Mr. Scarborough, most of the questions I had
6 have now been covered. I just wanted to touch on a
7 couple other areas.

8 One, with regard to your communications with the
9 Allegiant Air consultant, clarify for me, were you
10 communicating with the person upon whom Allegiant Air
11 relies for its OEI determination?

12 A. Yes. We contacted Allegiant and they put us in
13 touch with this person to do the analysis for them.

14 Q. Okay. So you went through Allegiant to obtain a
15 contact?

16 A. Yes.

17 Q. Okay. Is that person, was he a former employee
18 of Allegiant?

19 A. I do not know.

20 Q. Referring again to Exhibit 125, I think you have
21 a laser pointer there at the table with you.

22 A. Yes.

23 Q. Explain to the members of the Committee, if you
24 would, what the differences are between those blue
25 lines, the splay that is depicted by the blue lines and

1 then the wider splay that is kind of a gold line just
2 outside that. You were explaining that to me over the
3 break. If you would, go through that.

4 A. Sure. And I will sort of piggyback on
5 Mr. Wong's question as -- and in talking about one of
6 the things that Walt Fix misunderstood, I guess is the
7 best way to say. And that is the difference between the
8 blue line we have talked about as the edge of what is
9 known as the ICAO splay, the International Civil
10 Aviation Organization Annex 6 splay, the obstacle
11 accountability there, and the orange line that is shown
12 here, which is the airport design, quote, unquote, OEI
13 splay.

14 The FAA in their airport design circular, that
15 covers a whole range of airport design issues, has
16 suggested this, if an airport is going out to survey off
17 of the end of the runway, that that is the area that
18 they should survey, the wider orange splay that is shown
19 there.

20 Think about if you are designing a roadway from
21 point A to point B. You don't just survey a straight
22 line at the width of the road. You would survey a
23 certain distance each side of that so, in case the road
24 needs to bend or twist a little bit along that
25 alignment, that you would have that survey there.

1 This is the same type of situation. If you are
2 going to survey, you survey a little bit wider than the
3 area that is actually used by other airlines for their
4 performance calculations, again, going back to my
5 previous testimony that if it is within, if it is
6 between the blue lines, if it is within that splay, then
7 the aircraft needs to clear that vertically.

8 One thing that these pole heights, the pole
9 heights along Germann are based on is also clearing that
10 surface in that difference between the edge of the
11 advisory, or the edge of the advisory circular splay
12 here and the ICAO splay. And that's what I am saying,
13 is in an overly conservative calculation that they would
14 not actually need to keep the poles below that 62.5 to 1
15 surface in the difference between those two lines, that
16 they would be able to go to whatever the next higher
17 surface is.

18 Q. Okay. So, but the calculations reflected on
19 Exhibit 152 are the maximum heights reflected on Exhibit
20 152 do incorporate that area between the blue and the
21 orange line as being part of the analysis, in other
22 words, you kept the restrictions all the way out to the
23 orange lines, right?

24 A. The SRP consultant kept that all the way out to
25 the orange lines. We stopped that 62.5/1 surface at the

1 edge of blue lines in our analysis.

2 Q. Okay. So, but the line, the numbers then on 152
3 which were generated by SRP's analysis would reflect the
4 more conservative analysis?

5 A. Correct.

6 Q. Okay. Just a question then regarding the
7 speculation about how rules may change in the future. I
8 assume you have maintained familiarity with proposals to
9 rule changes as part of the work that you do, correct?

10 A. Yes.

11 Q. As you sit here today, are you aware of any
12 proposed changes to any rules that would affect airline
13 safety or airport operation safety with regard to
14 Phoenix-Mesa Gateway that would in any way, if adopted,
15 that would in any way impact the viability, the safety
16 with regard to a proposed alignment along Germann Road?

17 A. No. I know of no -- if I understand your
18 question correctly, I know of no changes that are coming
19 up in the FAA's way of looking at things or the
20 airlines' way of looking at things that would change our
21 analysis. Does that answer your question?

22 MR. BRASELTON: Yes, it does. Thank you.

23 That's all I have, Mr. Chairman.

24

25

1 FURTHER EXAMINATION

2 BY CHMN. FOREMAN:

3 Q. Mr. Scarborough, looking on SRP-152, there are
4 18 poles that are identified on there that are less than
5 120 feet high. If all 18 of those poles were 120 feet
6 high, in your opinion, would there be a safety concern
7 raised?

8 A. Would there be a safety concern?

9 Q. Yes.

10 A. No. Would there be an impact economic?
11 Potentially.

12 Q. Well --

13 A. And the reason I say there wouldn't be a safety
14 concern is because airlines and general aviation pilots
15 don't just take off saying, well, I hope we don't lose
16 the engine on this one because if we do we are going to
17 hit that. The weight of the plane is based on clearing
18 that obstruction. So if something is built, then the
19 weight of the aircraft is adjusted to accommodate it and
20 to make it a safe operation.

21 So there would be a potential impact of having
22 to offload revenue cargo, passengers, fuel, that kind of
23 thing. But would it then become an unsafe situation?
24 No, because they won't let an unsafe situation exist,
25 that potential.

1 Q. So your assumption is that everyone will always
2 follow the rules and that, as a result, these
3 obstructions at the end of runways are never safety
4 issues, they are always economic issues?

5 A. As long as the FAA is aware of them, the FAA
6 should be adjusting the procedures as necessary to
7 accommodate them so that it is not a safety issue,
8 meaning if the poles were built higher, thereby
9 penetrating what is currently the required obstacle
10 clearance beneath the current flight path, if it
11 penetrates that, then there is a whole series of
12 calculations on, well, how does the flight path adjust
13 to accommodate it.

14 Q. How high would those poles have to be, sir,
15 before they would pose a safety concern for you?

16 A. I have not done that analysis. I guess, I mean
17 as to at what point would it --

18 Q. Would --

19 A. -- shut down the use of operating in that
20 direction? I mean that's the -- certainly we are not
21 there yet. To be below a 62.5 to 1 surface off the end
22 of the runway, you are nowhere close to that point,
23 considering the fact that Boston has buildings that are
24 built up to the 40 to 1 surface off the end of the
25 runway, and it is used by airplanes every day for

1 takeoff.

2 Q. Is that a safety concern to you or is --

3 A. No.

4 Q. -- that an economic concern? That's an economic
5 concern?

6 A. Sure, that if those buildings were not there, if
7 they had a lower surface available, aircraft would be
8 able to operate off there at a higher weight, therefore
9 potentially fly longer routes off of that runway, be
10 able to fly more cargo. So it is an economic issue in
11 that sense.

12 Q. Okay. All right.

13 A. All leading back to, of course, the general
14 understanding that no obstructions are better than
15 obstruction. I mean I endorse that philosophy. But my
16 position, I guess, is one of determining from a pure
17 technical numbers standpoint if a obstruction gets
18 built, what is the resulting impact either economically
19 or on approachment, things like that.

20 Q. Well, is no obstruction better than some
21 obstruction because it is safer or because it is
22 economically more viable?

23 A. Benefits in both ways. I mean that, sure, there
24 is always the time when things don't go as planned. And
25 I mean that's why planes fly into the sides of mountains

1 every now and again. But that's not what we are talking
2 about here.

3 I guess in my analysis of being asked to
4 evaluate this from a procedure standpoint, airspace
5 surfaces, economic, potential impact of the airport,
6 there is no difference between the Germann and Ryan Road
7 alignments in that analysis.

8 CHMN. FOREMAN: Okay. Thank you very much for
9 coming and testifying. We appreciate it.

10 THE WITNESS: All right. Thanks for having me.

11 CHMN. FOREMAN: We will take the lunch recess.
12 We will resume at 1:30, be back here.

13 (A recess ensued from 12:00 p.m. to 1:30 p.m.)

14 CHMN. FOREMAN: Let's go back on the record. We
15 are now ready, I think, for the next witness from Queen
16 Creek.

17 Counsel, you may proceed.

18 MR. BIRNBAUM: Thank you, Mr. Chairman. Queen
19 Creek calls John Kross.

20 CHMN. FOREMAN: Sir, do you wish an oath or
21 affirmation?

22 MR. KROSS: An oath is fine, Mr. Chairman.

23 (John Kross was duly sworn.)

24 CHMN. FOREMAN: State your name for the record
25 and please spell your last name for the court reporter.

1 THE WITNESS: John Kross, K-r-o-s-s.

2 CHMN. FOREMAN: Counsel, you may proceed.

3 MR. BIRNBAUM: Thank you, Mr. Chairman.

4

5

JOHN KROSS,

6 a witness on behalf of the Town of Queen Creek, having
7 been previously duly sworn by the Chairman to speak the
8 truth and nothing but the truth, was examined and
9 testified as follows:

10

11

DIRECT EXAMINATION

12

BY MR. BIRNBAUM:

13

Q. Good afternoon, Mr. Kross. Mr. Kross, would you
14 tell us what your current position is.

15

A. I am town manager for Queen Creek.

16

Q. And you need to pull the mike a little bit
17 closer. And just so everyone heard, you are the town
18 manager of Queen Creek currently?

19

A. That's correct.

20

Q. Could you tell us your educational background.

21

A. Yes. I have a bachelor of arts in business
22 management, public policy from Ripon College in
23 Wisconsin, and a master's in public administration from
24 Arizona State.

25

Q. And could you tell us, Mr. Kross, when did you

1 join Queen Creek?

2 A. In January 1996.

3 Q. Could you tell us the positions you held before
4 joining the staff of Queen Creek in 1996.

5 A. Sure. I started out initially back in Wisconsin
6 working for a private downtown development firm and came
7 back to Arizona when I started with Wickenburg as
8 associate planner. I worked for a time as project
9 manager for Phoenix, a principal planner for the Town of
10 Gilbert.

11 Q. And when was Queen Creek incorporated?

12 A. We were incorporated in September 1989.

13 Q. And you joined Queen Creek in approximately '96,
14 you said, is that right?

15 A. January of '96.

16 Q. Would you tell us the positions you have had
17 within the Queen Creek administration since 1996.

18 A. I was originally appointed as planning director
19 for Queen Creek; from there, community development
20 director, assistant town manager, and now town manager.

21 Q. And Mr. Kross, what are the responsibilities
22 generally of a town manager, or specifically the Queen
23 Creek town manager?

24 A. We operate under the council/manager form of
25 government, which is comparable to, at least in the

1 private sector, a board of directors, which in the
2 public sector would be our elected seven member mayor
3 and council. The chief executive private sector
4 comparable position for the public sector is the town
5 manager.

6 The town manager oversees, my responsibilities,
7 oversee all of our day-to-day operations of the town,
8 overseeing all of the 250 employees for the
9 organization. I am responsible for submitting and
10 preparing an annual budget to the mayor and council, and
11 primarily chief policy advisor to them.

12 Q. Do your responsibilities as town manager include
13 oversight of the town's planning activities?

14 A. It does, yes. A heavy component of the position
15 is land use and economic development.

16 Q. You ran very quickly through your positions. I
17 think you said planner and community --

18 A. And development director.

19 Q. -- community development director and assistant
20 manager and then manager. In the entire 13 years that
21 you have been associated with Queen Creek, have you at
22 all times been involved in the planning activities for
23 the town?

24 A. Yes, in fact, two or three of our center plan
25 updates, zoning ordinance rewrites, subdivision

1 ordinance developments, all of our major land
2 development ordinances and management implementation
3 policies.

4 Step away from that a little bit as town
5 manager, but I do oversee those operations in this
6 particular role.

7 Q. Okay. Just so we are all dealing with the same
8 definitions, Mr. Kross, can you tell me what a strategic
9 planning or long-term strategic planning means to you?

10 A. Well, for Queen Creek, we have been involved
11 with strategic planning probably since our
12 incorporation. Frankly, the community has felt from the
13 initial incorporation, frankly, the reason the community
14 incorporated was to avoid annexation by Mesa or Gilbert.
15 And one of the reasons for that was to -- they saw a
16 very unique opportunity, quite frankly, to build and
17 develop a community that was very different from those
18 communities, and in fact very different in the
19 metropolitan area.

20 In fact, right after incorporation, it was
21 either in 1990 or shortly in 1991, when the community
22 was very quick to adopt its first general plan. And one
23 of the key provisions of that in that particular
24 process, that being the very first step in really
25 building our vision for the community, was ensuring that

1 you had a fiscally balanced general plan, you had a
2 proper amount of land uses for residential that was
3 balanced with employment and commercial and the like.

4 In this, when you are building a community like
5 Queen Creek from virtually scratch -- it started as a
6 farming community. It is not so much that anymore
7 today. The community very much for us is like a blank
8 slate, blank canvas. And we had a lot of opportunities,
9 still do, to see what has been done right in planning,
10 what has been done wrong in planning, and really learn
11 from those particular examples.

12 And in this business you don't get re-do's, no
13 mulligans. So it has been very, very important for us
14 to have a real -- put the right step forward very early
15 in the land use planning process, starting with
16 strategic planning with that particular document.

17 Q. Have the strategic planning efforts in the town
18 been continuous without interruption during the 13 years
19 that you have been there?

20 A. Virtually, very, very much so. In fact, the
21 community felt for some time before the installation of
22 the first major wastewater system in 1998 that there was
23 seven years in advance of that to really get the
24 necessary land use management policies in place, like
25 the general plan I spoke about, the subdivision

1 ordinances, the zoning ordinances, all of those land use
2 policies in place, so that we could properly guide that
3 vision in the development of the community.

4 A component of that was undertaking of an
5 economic development strategic plan. And that strategic
6 plan was adopted, actually amended in 2007. We spent
7 several years even in advance of work on various
8 versions of that. The community has adopted a corporate
9 strategic plan as well as other policy documents along
10 the way.

11 Q. Let me take you back, because that was a long
12 answer, Mr. Kross. You mentioned as part of the
13 strategic planning efforts in Queen Creek. Have there
14 been various different forms that those efforts have
15 taken over the years?

16 A. Yes. I mentioned probably most so far, but the
17 probably most significant being the Queen Creek general
18 plan and the economic development strategic plan.

19 Q. I am going to ask you about each of those plans
20 in a second. Does each one of them involve a public
21 process where, through some device or devices, input
22 from all of the stakeholders in the community is
23 assured?

24 A. Absolutely. In fact, because we are a smaller
25 community, today about 26,000, when I started we were

1 only about 3200, you have to, by virtue of it being a
2 small community, have a lot of public involvement. That
3 starts with any, any major policy document, and in
4 particular the Queen Creek general plan.

5 Our last general plan update, I think I will
6 talk about in a little more detail, we had over 60
7 public meetings to ensure that as many aspects and
8 sectors of our entire community were outreached.

9 Q. Some of these plans you have referred to the
10 Committee has not heard about yet or seen. And we are
11 not going to go through them line by line or even
12 chapter by chapter, but I do want to go through them,
13 give you an opportunity to just explain what each one is
14 about.

15 So let me ask first if we could have Exhibit
16 QC-2 placed on the screen.

17 Now, Mr. Kross, this document says it is the
18 economic development strategic plan. And that's a plan
19 you have already referred to. So tell the Committee, if
20 you would, what is this plan all about.

21 A. Well, in short, this is the jobs plan for the
22 community. It identifies various targeted industry that
23 the community prefers. We look at this plan as not only
24 a local plan but a regional plan that's heavily linked
25 to our land use plan or the Queen Creek general plan,

1 but also heavily linked with Mesa's general plan,
2 Gilbert's to a large extent, as well as Gateway Airport.

3 The targeted industry, just by way of
4 information, is aerospace/aviation, health wellness,
5 arts/culture experience, and financial business
6 services.

7 Q. So when we talk in a little while about
8 employment areas within the town, is this one of the
9 planning efforts that ultimately led to the designation
10 of employment areas?

11 A. Absolutely. It is also an implementation
12 document as well. So it is very heavily linked and
13 linked to the Queen Creek general planning.

14 Q. So did this plan result -- of a public process
15 ultimately result in council adoption?

16 A. Yes. We have in Queen Creek, I will say of the
17 four or five other communities I have worked for, this
18 has been, in my experience, this has been the most
19 citizen engaged community that I have ever worked for.
20 And by that I mean we use a lot of citizen committees to
21 advise our elected officials on plans like this.

22 So in this particular instance we have an
23 economic development commission with citizens as well as
24 business owners that may not necessarily be citizens but
25 own businesses in the community, or landowners that may

1 not necessarily reside -- large landowners that may not
2 necessarily reside in the community, but also they
3 participate, help shape and guide and provide policy
4 advice for the council.

5 Q. And the date that's reflected on QC-2 of
6 October 2007, was that the date of the formal adoption
7 of this plan?

8 A. That's correct.

9 Q. Let me go to QC-3. You also mentioned during
10 your testimony, sir, already this afternoon a corporate
11 strategic plan. That's something different than the
12 economic development strategic plan, is that right?

13 A. Yes, it is. It is all linked, however. This
14 links heavily to the land use component, the Queen Creek
15 general plan, as well as the economic development
16 strategic plan, but this one specifically identifies 11
17 key result areas. It is a key strategic document for
18 elected officials, our mayor and council.

19 We began creating this document just about two,
20 maybe three years ago, and it identifies the council's
21 strategic objectives for various documents and their
22 goals and objectives, not only for the first year but a
23 five-year plan, as you can see by the 2008 to 2013
24 reference.

25 Q. And is this again a document that was approved

1 and adopted by the Queen Creek town council?

2 A. Yes, it has been.

3 Q. And again, this is part of that whole process of
4 identifying future employment prospects and future
5 employment areas?

6 A. It is, yes. It provides key guidance to the
7 staff to help us prioritize our workload to ensure that
8 we are being strategic and prioritizing things in the
9 proper order that the elected officials want us to
10 implement the land uses.

11 Q. Now, the plans we have referred to so far you
12 have testified, Mr. Kross, are all tied to the general
13 plan. I am pretty certain that every member of the
14 Committee has a pretty good idea what the general plan
15 is, but why don't you briefly describe it so we are all
16 using the same definitions and understanding that you
17 have.

18 A. Sure. The general plan in Queen Creek we, as I
19 mentioned, have or use a very heavily and intensive
20 public engagement process. It is very much a grassroots
21 effort. We are very interested in ensuring that we are
22 current with the ideals and values, the culture of the
23 community.

24 So for us, even though the statute requires that
25 a general plan technically be submitted to voters for

1 updating every ten years, we do it every five years
2 because of how dynamic the environment is in the Town of
3 Queen Creek. But basically speaking, it includes
4 several elements. Most often referred to is the land
5 use element, which identifies really that blueprint for
6 future development of the community. Our planning area
7 technically is about 70 square miles; however, our
8 incorporated limits is only 26 square miles. We have a
9 very defined area that actually is in the town limits
10 for jurisdictional control, but the key component is the
11 land use element and the employment areas.

12 Q. Let me show you exhibit QC-1. Can I have that?

13 Is this the land use element of the current
14 Queen Creek general plan, Mr. Kross?

15 A. Yes, it is.

16 Q. As the town manager, were you the person who
17 oversaw or spearheaded the last general plan update
18 process?

19 A. Yes, in conjunction with some very key
20 department head staff, yes.

21 Q. And do you happen to recall when the latest --
22 you said you do it every five years. What is the latest
23 update that we are looking at here of the Queen Creek
24 general plan?

25 A. That was sent to voters which they approved in

1 September of 2008. So that's a fairly updated recent
2 version.

3 Q. Let me just emphasize what you just said. The
4 Queen Creek general plan update is the result of a
5 public process followed by a council process, followed
6 by an actual election of the voters of Queen Creek, is
7 that correct?

8 A. Yes, that's correct. And in fact our planning
9 commission, it is so important for Queen Creek they
10 ordinarily just meet once a month, but because of the
11 workload and public outreach for development of the
12 general plan, they meet an extra meeting every single
13 month.

14 It takes well over a year to develop and form
15 the document, but it works its way through focus groups,
16 open houses, public meetings. You know, frankly, we
17 have tried very innovative ways to stay current with how
18 to communicate with our community. Rather than just the
19 standard public hearing process, we have fairly recently
20 been using Facebook, Twitter, other ways to reach out to
21 different demographic groups that don't ordinarily just
22 read a newspaper and see a public hearing notice. And
23 that has been very key, we think, to engaging our public
24 and ensuring that they are active in developing this
25 general plan.

1 Q. We can certainly reach Senator McCain that way,
2 as we know that.

3 Are there within the general plan areas, are
4 there some specific plan areas where Queen Creek has
5 identified specific areas for further study?

6 A. Yes, there is technically two. The Santan area
7 plan, which is in the southern or bottom portion of the
8 Queen Creek general plan, the Santan area plan, which is
9 this area here, actually includes a good part of the
10 Santan Mountain Regional Park, but the other specific
11 area plan is the Queen Creek town center plan.

12 Q. Let me ask for Exhibit QC-4A.

13 Now, this is just intended to be the cover of
14 the plan book itself, Mr. Kross, but I wanted to give
15 you an opportunity to explain in narrative form how we
16 look at a map, what is covered by the Queen Creek town
17 center plan.

18 A. Well, the town center plan is technically a
19 specific area of the plan which is formally recognized
20 in state law. So there are some very key components
21 within the specific area plan that we include to be
22 completely compliant with statute. But it includes
23 various goals, objectives, and policies that the
24 community values and would like to see formally
25 implemented over a period of time to shape the vision

1 that really is a downtown.

2 Now, Queen Creek, when we incorporated in the
3 1989, really didn't have much of a downtown. It was
4 pretty much Ellsworth Road and Ocotillo as being sort of
5 that center of the entire community. But over time,
6 that has been really, town center ever since
7 incorporation has really been perceived as the lungs of
8 the community, the heart and soul of it.

9 So there is a lot of components of the town
10 center plan that include very specific elements like
11 building, architecture, landscaping, street furniture,
12 pedestrian pathways to really make something unique. We
13 are slowly building that particular vision.

14 Q. Let me show you a series of maps that I think
15 may be of some help. Were you here, Mr. Kross, when the
16 Committee asked about the history of the town center,
17 whether it has changed over time?

18 A. Yes, in parts I was here.

19 Q. Let me show you a few things. First, just for a
20 moment, let's go back to QC-1, which is the general plan
21 that you described. Where is the town center depicted
22 on QC-1?

23 A. Okay. It is the large red area here.

24 Q. Okay. Now, if I may ask then let's put up QC-5.
25 Can you explain to us what is depicted on QC-5 now?

1 A. Yes. QC-5 is again showing the outline, but in
2 this case blue, of the town center geographic area. And
3 it is sort of an odd shape, but it is intended to
4 encompass several of our existing residential
5 neighborhoods as well as a pedestrian center, a core
6 which we still have targeted at Ocotillo and Ellsworth
7 Road, and then some fairly intensive commercial that
8 surrounds that.

9 Q. We are going to come back to this, but so we
10 don't leave it untouched, the red line, the diagonal
11 line that is reflected in QC-5, is that the so-called
12 railroad alignment that is being considered by the
13 Committee?

14 A. Yes. That would be that right here, cutting
15 across at that point.

16 Q. Does it, in fact, traverse a large portion of
17 the area that is within the northern and eastern
18 sections of the designated town center area?

19 A. It does.

20 Q. There was a question, I think it was by Member
21 Noland but I am not sure, about how this area has
22 changed over time. Has the designated town center
23 changed significantly over time?

24 A. I would say no. Probably next to our staff, you
25 come to the second one, is probably tenured staff

1 members. It has probably been amended twice and the
2 amendment that -- it was first adopted in '94, '95, I am
3 trying to remember exactly, and then amended -- or
4 adopted in '94, '95, amended in '98, and then March of
5 2005 has this boundary here.

6 But it was largely amended in 2005 to identify
7 some key transportation corridors, but also land use
8 elements that we felt were critical at this area here,
9 as well as along this portion to ensure that we could
10 incentivize private investment, trigger other investment
11 in the town center area.

12 Q. It is a little bit harder to read, but let me
13 ask that we have Exhibit QC-4B placed up on the screen.
14 And this, I believe, is the 1994 plan area, is that
15 correct, sir?

16 A. That's correct, yes, it would be it.

17 Q. And I don't know, perhaps it is easier, on the
18 right screen put QC-5. And I will ask you, Mr. Kross,
19 when we have them both up if you could just explain in
20 terms of geography what has changed in the town area, in
21 the town center area between the 1994 plan and the 2005
22 plan.

23 A. Two notable areas. I mentioned expansion of the
24 town center here. We increased the boundary up to
25 Rittenhouse at that point, gone across -- or a good

1 portion of the right-of-way of Rittenhouse is still
2 consistent. You can see a trail here that is intending
3 to connect neighborhoods and without -- in and around
4 the town center, I should say.

5 The other portion is a residential piece here
6 which is high density residential that was part of a
7 master plan that we felt was an integral piece of the
8 town center as well.

9 Q. Why is the town center area, why is the town
10 center plan so important to Queen Creek?

11 A. Well, it is our social and cultural activity
12 center. The town itself has invested quite a bit of
13 money in the town center by way of infrastructure
14 improvements, nearly \$100 million worth of new library,
15 Ellsworth Loop Road, which is the largest today, still
16 the largest improvement district in the State of
17 Arizona. Those two projects alone and some other
18 streetscaping totaling about \$100 million, we think that
19 that has triggered another \$350 million of private
20 investment that's built today up to the tune of about
21 750,000 square feet of retail, as well as other
22 multifamily uses that are key components of any downtown
23 in terms of segueing into -- that mix is civic,
24 residential high density, commercial, very, very
25 important ingredients for a successful downtown.

1 So it is putting all the pieces together,
2 starting to come together nicely. The key component is
3 the esthetic portion which is starting to be realized as
4 well.

5 Q. What has been referred to as the historic town
6 center located within the planned town center?

7 A. Yes. Historic town center really is this
8 particular intersection here, includes a lot of older
9 buildings of various character, also includes what is
10 designated as public on this plan. It is our municipal
11 campus, includes the historic town hall building. And
12 then north, which is actually not in the town plan but
13 fairly close, is the old Rittenhouse school, which is
14 just on the edge of the town center technically in Queen
15 Creek School District property.

16 Q. Mr. Kross, in case either you or the members are
17 curious, I am just trying to introduce all the areas of
18 the plan and that will hopefully make it easy when I ask
19 you about the town's reaction to the various alignments.
20 So let me go forward and ask you next, is there --

21 CHMN. FOREMAN: Before we leave there, just for
22 the record, the intersection to which you just
23 referred -- and I am not able to see it real clearly
24 here -- was Ellsworth and Ocotillo?

25 THE WITNESS: That's correct, Mr. Chairman.

1 CHMN. FOREMAN: Member Eberhart.

2 MEMBER EBERHART: Thank you.

3 Referring to QC-5, the map over there, would you
4 say is there much of the town center that is north or
5 east of the railroad tracks?

6 THE WITNESS: We do. It is a little bit
7 difficult for me to see from this angle, but it goes on
8 the other side of the tracks, juts north, you can see
9 where the blue line is, I think, and comes back south a
10 little bit and includes that area. That's a major trail
11 corridor for us and is used as an interface with that
12 particular component.

13 MEMBER EBERHART: Thank you.

14 BY MR. BIRNBAUM:

15 Q. Mr. Kross, has the town also designated
16 specifically by statute a town center redevelopment
17 area?

18 A. We have.

19 MR. BIRNBAUM: And let's put up QC-6 on the left
20 screen. Thank you.

21 BY MR. BIRNBAUM:

22 Q. Is the redevelopment area co-extensive, is it
23 identical to the town center plan area?

24 A. It is not identical. It is mostly, but not
25 identical. And notable areas I can point out quickly as

1 we accepted this, some of the older areas from and the
2 newer areas from the redevelopment plan. In one of our
3 residential subdivisions here we did also include in the
4 redevelopment plan the entire railroad right-of-way,
5 because we felt that that was a key corridor, if not
6 gateway, to the town center. And that was important for
7 us so that we had the appropriate statutory tools to
8 incentivize other conducive development that was
9 consistent with our town center plan.

10 Q. That addresses in part my next question, sir,
11 which is, having established a town center area with the
12 town center plan, why did the town also establish a
13 separate redevelopment area in the same general area?

14 A. From literally day one the community has wanted
15 to accelerate development in the town center to really
16 create that heart and soul of the community as being the
17 central commercial and pedestrian activity center for
18 the community, making it a destination point.

19 The challenges we have had, some of it has to do
20 with and regional competition from other areas, but in
21 Arizona we don't have as many financial pulls, if you
22 will, from the economic development standpoint, but one
23 we do have that is very significant is redevelopment and
24 declaring redevelopment districts.

25 And we recognized early on, it took several

1 years to essentially get it established, but we
2 recognized the importance of establishing a
3 redevelopment district in the town center so that we
4 could incentivize private investment in the town center
5 and get the major components of the plan put together
6 through that economic tool, the financial tool that the
7 statute provides.

8 Q. In your estimation, Mr. Kross, has Queen Creek
9 been successful in its redevelopment and town center
10 development efforts in these areas?

11 A. Oh, without question. Literally within two
12 years after this was adopted we had major submittals of
13 nonresidential land uses, major shopping centers, we had
14 development partners come to the table to help build
15 significant pieces of infrastructure, all keyed for
16 development of the town center. That's roads, water,
17 wastewater.

18 Q. Let me ask for QC-7. While that's coming up,
19 Mr. Kross, let me ask you this. Do you recall that
20 members of the Committee specifically asked that the
21 town, somebody, produce a map or some type of a chart
22 that showed existing and planned improvements within the
23 town center area? Do you recall that, sir?

24 A. I believe so, yes.

25 Q. And did you cause your staff to produce a map

1 that was responsive to that request?

2 A. Yes.

3 MR. BIRNBAUM: Okay. Referring to Exhibit
4 QC-7A, I think we have called it, if it is possible, may
5 I ask that the middle of that diagram be blown up just
6 to help the witness describe what is here. Thank you
7 very much. That's great.

8 BY MR. BIRNBAUM:

9 Q. Okay. Mr. Kross, tell us what is depicted on
10 QC-7, 7A. Excuse me.

11 A. Just orient everybody. The major streets that
12 are shown here, this is the Ellsworth Loop Road. This
13 is existing Ellsworth Road I mentioned before, and
14 existing Ocotillo Road.

15 This is that central pedestrian activity center
16 that we are trying to encourage. Major developments
17 that have occurred right in our north section is the
18 Queen Creek Marketplace. Today I believe that's
19 somewhere around 450,000 square feet. Phase two
20 includes movie theaters and some dining establishments.

21 This is a parcel that's under construction
22 currently with I think two and another use that's on the
23 drawing board. This is our new library, about 43,000
24 square feet. We own this 20 acres here, and we intend
25 on bringing other development parcels to the market,

1 including a very interesting partnership. We are
2 working with Rio Salado and the Maricopa County
3 Community College District for like a university on that
4 same site. So that's a real key part of the civic uses.

5 On the corner here, a project we just got
6 finished, more retail at that portion. What you see
7 here is the cornerstone project that happens to include
8 a very large super Walmart and other related retail
9 uses. This road kind of bends, and internal to that is
10 a multifamily use, apartment, key component for our
11 population center. And another multifamily parcel that
12 was developed here in green is completely finished as
13 well.

14 You see here, this part of residential, this is
15 single family detached residential on small lots. Town
16 center I did not mention before is our highest density
17 residential community in the community with up to 18
18 units to the acre. That may seem contrary to a small
19 rural community, but the idea of it is that's the only
20 place where there would be that very high density. And
21 as you get away from the town center, the density goes
22 out where we have large estate lots out by Queen Creek
23 Wash.

24 Q. I am sure this is obvious, but this is a
25 relatively current photograph, is that correct, sir, so

1 the developments that we actually see, they are there
2 today?

3 A. That's correct.

4 Q. What is that subdivision called up in the
5 northeast corner?

6 A. This one right here?

7 Q. Yes, sir.

8 A. That's Queenland Manor. That's one of our town
9 center large master-planned communities.

10 Q. And then the green areas that you pointed out,
11 those are projects that have been approved or pending
12 approval that are perhaps not yet built, is that right?

13 A. That is correct. Some are built, in fact, most
14 are built, and I would estimate maybe about a third are
15 approved and about to be permitted, I would say.

16 Q. Okay. Now, let me ask for Exhibit 7B. And
17 heeding the Chair's admonition, sometimes it is easier
18 to hear what we are asked rather than understand it,
19 here is an alternative photograph and map that you have
20 had prepared. Could you explain what is shown on 7B.

21 A. Yes. 7B shows numerically describing exactly
22 what the names of the projects are and then
23 geographically where they are located. For example,
24 project number one is the Ellsworth Loop Road. That's
25 our, what I mentioned earlier, our largest -- well,

1 today our largest infrastructure project for a small
2 community that was quite ambitious. But the intent is
3 to show all the development activity and project names
4 in the town center.

5 Q. Mr. Kross, let me turn to a related but
6 different topic and show you QC-17. Now, this is a copy
7 of a statute, A.R.S. 40-360.06. I think you were here
8 much earlier in the hearing when the statute was
9 referenced. And it refers to the activities of the
10 Committee and the matters that the Committee may or
11 should consider. And number one, it refers to existing
12 plans of the state, local government, and private
13 entities, et cetera.

14 The various exhibits we have now gone through
15 4A, 4B, 5, 6, 7, do those represent the existing town
16 center and redevelopment area plans adopted by Queen
17 Creek long before the application in this case was ever
18 filed?

19 A. Yes, they do.

20 Q. And we will get to the specific requests of
21 Queen Creek for CEC provisions later, but what exactly
22 is it that the Queen Creek staff and council is asking
23 the Committee to consider under 40-360.06?

24 A. Well, without restating our town center plans,
25 we have specifically or are specifically requesting

1 complete avoidance of the town center area because of
2 all of the years and years of planning, citizen
3 involvement, the vision for the town center.

4 In fact, something I didn't mention, quite
5 frankly, I know the Committee has done this, but you may
6 not recall that probably about this location all the way
7 down to Ocotillo Road there is not one power line there.
8 So our question all along in this process is how does a
9 230kV high tension power line implement the vision and
10 goals of the Queen creek town center plan or general
11 plan from based on all the goals and objectives that
12 have been generated over the years.

13 Q. Well, Mr. Kross, you made what I hope is an
14 important point. We have heard a lot of reference to
15 power lines running down Rittenhouse Road, power lines
16 in the railroad alignment. Are there aboveground power
17 lines in this area?

18 A. There is in the area, there are in the area.
19 But where proposed, this is one area we have been
20 particularly sensitive to, the railroad corridor does
21 have underground utilities. But there are other
22 utilities in the area. But our intent is, to the extent
23 we can accomplish it successfully, is to underground the
24 remaining overhead utility lines that are consistent
25 with, you know, adopted policies, particularly SRP

1 policies.

2 Q. Let me ask you a couple of general questions
3 about Queen Creek and we will move forward. In terms of
4 growth, is Queen Creek different than the other
5 municipalities you have worked for or worked with in the
6 valley?

7 A. I think so, and in a variety of ways, many of
8 which I have already mentioned. But our growth rate has
9 been substantial, absolutely substantial. And that has
10 been a real challenge for us, as well as many other
11 communities in the state, no question about it, but the
12 growth rate itself has been one of the most challenging
13 aspects of our overall plans.

14 Q. Have you ever heard the term hypergrowth city?

15 A. Yes. In fact, we used that phrase or term quite
16 a bit, actually.

17 Q. As a hypergrowth city perhaps you can just very
18 quickly illustrate what the population of Queen Creek
19 was, say, when you got there, what the population is
20 today, and what it is predicted to be 10 or 15 years in
21 the future.

22 A. Okay. First let me, when we think of the word
23 or the term hypergrowth, our definition of that is, in
24 fact we were key in advocating some state legislation
25 for structure development where we used that term, but

1 hypergrowth to us means a growth rate of a community
2 within the last five years has grown by more than
3 50 percent. In the last five years we have grown by
4 more than 77 percent. In fact, if you go back to 1996,
5 which is when I started, we were about 3,270 people.
6 Today we are about 26,000, maybe even 27,000 including
7 some of the multifamily counts. Our projected
8 population which we have extended out because of the
9 economy today, and who knows when that target date will
10 be, our projected population is 95,000 in population.

11 Q. And that under current projections, even given
12 the economic slowdown in recent times, what is the
13 current projected buildout date for the town?

14 A. We have published, I believe it is, 2717, but
15 frankly that has been pushed back to about 2030 probably
16 at the earliest, given the current economic conditions
17 that not only we are experiencing but the region.

18 Q. So in the next 15 or 20 years the town's
19 population is projected to grow another 3- or
20 400 percent, is that right?

21 A. Yes.

22 Q. Let's go back to QC-1. Mr. Kross, in this area
23 of this hypergrowth town that you have described, how
24 many employment areas, and obviously people are familiar
25 with McDonald's and other stores as well, but how many

1 focused employment areas are actually planned for the
2 town by the council in its existing planning documents?

3 A. Well, we consider it to be just one. And when I
4 say that, it is this geographic area here. And the
5 reason it is characterized in that way by me is that's
6 within our jurisdiction, that's in the town limits right
7 now which we have complete regulatory control over in
8 terms of any of the entitlements, et cetera.

9 Q. So that area up in the northeast corner, that is
10 not currently within the Town of Queen Creek?

11 A. This is not. It is in the planning area. I
12 mentioned the 70 square miles. It is part of that 70
13 square miles.

14 But what is important to note about this, it is
15 all owned by the State of Arizona state lands. That has
16 been a point of some controversy, shall we say, with the
17 State Land Department with respect to the land use
18 designation that we have placed on that. But our hope
19 is that maybe in the future, many, many years down the
20 road, there might be opportunities there. But today we
21 are not able to really factor that into our overall
22 employment plans, absorption analysis, just being
23 outside of our boundaries.

24 Q. Is the planned employment area that you have
25 just spoken about, is it effectively one contiguous area

1 in the northern part of town?

2 A. Yes, it is. It is right there, as I mentioned,
3 contiguous and located in that particular area, because
4 we see Queen Creek as a key component dovetailing into
5 the development that is happening in Mesa, partners with
6 Mesa in a lot of very innovative things, but also the
7 region including Phoenix-Mesa Gateway Airport.

8 Q. Why is the fact that there is a single
9 contiguous employment area important in the town's
10 long-range planning efforts?

11 A. Well, a single contiguous employment area
12 presents a lot of options, we think, for the community,
13 one being, from a land assemblage perspective, it is a
14 lot easier to have options for new businesses and
15 companies that have various needs when there is a larger
16 land that is contiguous. That's in this case probably
17 only two to three different ownership groups. So the
18 complexities for development are significantly reduced
19 under those particular -- under that particular
20 scenario.

21 It is also important for utilities and the
22 extension of planning of utilities. It is very key, as
23 I mentioned, in supporting the region's economic
24 development plan with Phoenix-Mesa Gateway Airport. But
25 for us, if you look at the bigger picture, I mentioned

1 earlier where the general plan we have had to create, we
2 did this anyway before the statute was amended, but we
3 do a fiscal analysis of the general plan so that we
4 aren't just throwing pretty color up on the map and
5 hoping our public supports it and getting a lot of input
6 from them as to where they would like it, but it has got
7 to make sense fiscally so that at the buildout condition
8 of that 95,000 population do we have jobs for our
9 residents internal to our community.

10 We cannot survive from a sustainability
11 standpoint if we are just a bedroom community; we would
12 be upside down considerably. As you know, a lot -- a
13 big revenue source in a lot of cities and towns is sales
14 tax. And you just cannot continue to survive from a
15 long-term standpoint relying exclusively on that. There
16 has to be the proper balance of mixed land use. And
17 employment is very, very key for us.

18 Q. All right. Mr. Kross, you have touched upon the
19 employment area, then the public services and intense
20 residential area. Is that the town center that you have
21 already described?

22 A. Yes.

23 Q. And why don't you just point that out also again
24 on the map.

25 A. That's right here.

1 Q. Okay. By the way, the employment areas, is that
2 both the dark purple and the light purple areas that are
3 referred to above?

4 A. Yes, it is the dark purple being the more
5 intensive employment areas.

6 Q. All right. Then let's go to what I will call
7 regional commercial. How many regional commercial areas
8 are there designated within the --

9 What did you say? 26 miles?

10 A. 26 square miles.

11 Q. -- 26 square miles of Town of Queen Creek? How
12 many regional commercial areas have been planned?

13 A. We have one. It is in the southeast quadrant of
14 the planning area, right down in that location.

15 Q. And what is it that the town envisions in that
16 area?

17 A. The regional commercial is intended to capture a
18 much larger population than just what the town center
19 might, and it is designed very differently. Much of the
20 land uses are a very intense commercial that would
21 require frequent automobile trips. For example, an auto
22 mall is planned within that particular land use. There
23 is also a Catholic Healthcare West Hospital, new
24 hospital that's proposed. And there is also a
25 residential component as well. And that's identified in

1 the mixed use hatched mark area around that.

2 Q. Is the regional commercial site fully assembled
3 for development?

4 A. To my knowledge, it is. And there is, I think,
5 two to three major property owners, but fully assembled.
6 That came in all as one case.

7 Q. And is the company known as Westcor one of the
8 participants in the development of that site?

9 A. Yes, major regional mall. I should have
10 mentioned that first off. I was focused on the auto
11 mall. But the key anchor land use is another regional
12 mall. And that is the Westcor group that is proposing
13 that.

14 Q. Okay. Mr. Kross, another area that we have
15 heard about is called Queen Creek Station. Are you
16 familiar with that project, sir?

17 A. Yes.

18 Q. And where is that located?

19 Oh, I am sorry, I didn't ask you. About how
20 many acres are there on that commercial center?

21 A. I believe we have got approximately 600 acres.
22 These are about, this is a little bit more than that
23 actually, probably 620, something like that.

24 Q. And where is Queen Creek Station located?

25 A. Queen Creek Station is touching town center,

1 starting down at this point, goes along the rail line,
2 Rittenhouse Road, touches just about Ellsworth Mini
3 Farms and continues up and around that particular area.
4 It is, to date, the town's larger master-planned
5 community, mixed use master-planned community.

6 Q. Approximately how many acres are located in the
7 town's largest master-planned community?

8 A. I think it was a little over 1100 acres.

9 Q. And how long has the planning process involving
10 the town, how long has the planning process for Queen
11 Creek Station been going on?

12 A. Well over a couple of years. Very intensive
13 public involvement component with that plan.

14 Q. What type of actions has the town council taken
15 during that time?

16 A. In December of '07, 2007, the council approved
17 the general plan amendment for the project.

18 Q. And is the general plan -- let's go -- is the
19 general plan now as reflected on QC-1, does that now
20 include the amendments so that it reflects the planned
21 land uses for the Queen Creek Station project?

22 A. It does. And that was a very key feature of not
23 only Queen Creek Station, the process, but about seven
24 months, eight months later the public got a chance to
25 vote on not only the entire but including that part that

1 was mapped.

2 Q. You may just have answered this, Mr. Kross. How
3 long does the general plan amendment process take for a
4 project like Queen Creek Station?

5 A. Like Queen Creek Station, because of its
6 complexities, that was over two years, as I mentioned.
7 The general plan process, depending on the complexities,
8 can be as quick as six months, but generally it is up
9 towards a year, if not a little bit longer.

10 Q. And can you describe briefly the process?

11 A. Yes. Each year, I believe it is middle June,
12 our general plan establishes a filing date for major
13 amendments to the Queen Creek general plan. The staff
14 from that point takes those applications without any
15 review quickly to the mayor and council to formally kick
16 off the 60-day statutory public comment period. That's
17 established in statute.

18 Now, technically speaking, even though statute
19 calls out a 60-day public comment period, we take
20 comments all the way up to the final action of council.
21 But during that 60-day public comment period we are
22 conducting several open houses, neighborhood meetings.
23 The applicant is required to conduct neighborhood
24 meetings themselves, as well as take meeting minutes,
25 send out mailings to the surrounding and affected

1 neighborhoods of the proposed application.

2 We have a very active community. They are very
3 involved and care passionately about the general plan,
4 so any sort of change to the general plan is of a
5 tremendous concern to the community. And I will tell
6 you it is very refreshing from a planning perspective to
7 have such an engaged community in your public process
8 with that.

9 So after that 60-day public comment period we go
10 to the planning commission. And the planning commission
11 is also conducting a public hearing, at least one at
12 their level. They then are asked to make a
13 recommendation to the mayor and council and goes to the
14 mayor and council. If it is staying in or within that
15 six-month time period, by December, the mayor and
16 council is also conducting a public hearing, and then
17 possibly taking final action on that general plan
18 amendment.

19 Q. In the public process that you have described,
20 is the Phoenix-Mesa Gateway Airport Authority invited to
21 participate and comment?

22 A. Absolutely. And actually I think it is very --
23 could be mistaken on this, but I think our policy still
24 requires every change to not only our general plan but
25 every zoning case, and I believe it is also just

1 administrative cases like subdivision plan approvals, go
2 to Phoenix-Mesa Gateway Airport for comment.

3 You know, if you look at our general plan, you
4 can see the airport is not shown on here, but it is one
5 mile north of us, and this whole area is affected
6 directly -- half of our planning area practically -- by
7 the airport. So they are a very important stakeholder
8 for us as part of our planning process.

9 Q. In the course of your general plan amendment
10 process, is the council, Queen Creek town council
11 presented with a conceptual master plan by the developer
12 for use in considering what changes need to be made in
13 the general plan?

14 A. They are, at varying levels of specificity. But
15 the council is very interested in seeing the location of
16 neighborhoods, key transportation corridors, open
17 spaces, for example parks, trail linkages, the location
18 of schools, how will all that interplay with not only
19 within the plan itself, but how does that affect the
20 surrounding neighborhoods and other important
21 transportation systems that would be affected by that
22 proposal.

23 Q. And when the town council took action to approve
24 the Queen Creek Station general plan amendment, did it
25 have submitted to it a conceptual master plan for

1 development of Queen Creek Station?

2 A. Yes, it did.

3 Q. Let me ask you to take a look at QC-25. Is that
4 in fact, Mr. Kross, the development master plan, or at
5 least the overall picture of it, that was presented to
6 the Queen Creek town council?

7 A. Yes, I believe it was, or is.

8 Q. Just for referencing, would you point out with a
9 pointer where Ryan Road is on that map.

10 A. Yes, Ryan is here, and today it comes to a T
11 intersection with Ellsworth Road. But that would
12 continue easterly along that way.

13 Q. Can you point out where the anticipated school
14 site is.

15 A. There is an elementary school site off of Ryan
16 Road here. And this is one of our higher density
17 residential parcels as well in that particular corridor.

18 Q. So Ryan Road is, as at least envisioned in the
19 master plan which then led to the general plan
20 amendment, kind of runs between the elementary school
21 site and the middle of the high density residential, is
22 that --

23 A. That's correct.

24 Q. Let me show you QC-26, another page from the
25 master plan. Can you again point out where Ryan Road

1 is, sir?

2 A. Today Ryan Road is here. The alignment would be
3 in that general location.

4 Q. So this section entitled medium high density by
5 the developer, that depicts that as immediately adjacent
6 to the Ryan Road alignment?

7 A. That's correct, right here, yes.

8 Q. All right. We will return to Queen Creek
9 Station in a couple of moments.

10 Let me turn then to Rittenhouse Road, go back to
11 QC-1 again. Everybody in this room knows it, Mr. Kross,
12 but would you show us now where Rittenhouse Road is as
13 it extends through the town.

14 A. Cuts right across the community, right in that
15 location.

16 Q. And why is this roadway or this alignment of
17 particular importance from the perspective of a
18 municipal planner?

19 A. Well, Rittenhouse is a key corridor for Queen
20 Creek, has been for many, many years. It is a key, I
21 would argue, cultural, economic, mixed use corridor.
22 And it is evolving today and meeting a lot of those
23 particular definitions and goals that the community has
24 adopted by way of various plans that have been adopted.

25 Q. There is, we have heard, a utility corridor that

1 is parallel to Rittenhouse Road, isn't that true?

2 A. Yes.

3 Q. What are the town's plans for the Rittenhouse
4 Road area?

5 A. Well, Rittenhouse Road right through town
6 center, a good part of it is already widened to its full
7 section, in some cases six lanes, in some cases four
8 lanes, but additional trail corridors along the railroad
9 right-of-way.

10 It does include, once you get outside of town
11 center, overhead power lines along this point here that
12 SRP has installed. And it does include, once you get
13 outside of town center, I believe this is 12kV along the
14 existing railroad alignment here. But that's in terms
15 of the actual infrastructure improvement.

16 That's not our biggest road in terms of
17 widening, but it is a key road for us and provides a lot
18 of access both pedestrian and bicycle but, importantly,
19 automobile access to and from the high, high density
20 residential area and commercial area of the community.

21 Q. To the extent that there are 12kV lines along
22 Rittenhouse Road or the railroad alignment, what is the
23 town's plans with respect to those 12kV lines?

24 A. In fact, we needed to address that particular
25 issue in a redevelopment plan. But our intention is and

1 we have forecasted hopefully with the use of future
2 esthetics funds to be able to underground the 12kV
3 that's existing. And it is not just in that area I
4 pointed out. We might have an exhibit that shows other
5 areas within the town center.

6 Q. The Salt River Project esthetic funds, which we
7 will discuss in somewhat more detail, have they been
8 used by the town for undergrounding that 12kV lines?

9 A. Yes, we have. And in fact it has been most
10 closely near the municipal center or municipal campus.

11 Q. And is it the town's plan to continue utilizing
12 any available esthetic funds received from SRP to
13 continue the process of trying to underground the 12kV
14 lines, specifically along Rittenhouse Road?

15 A. Yes, we would very much like to do that. We do
16 see Rittenhouse as a gateway into the cultural
17 pedestrian activity center, commercial, primary
18 commercial activity center for the community, so
19 esthetically that's an extremely important corridor for
20 us. So undergrounding those lines are very key.

21 Q. Mr. Kross, does the town view the Rittenhouse
22 Road corridor, if I may use that term, as an industrial
23 corridor or as a residential and services corridor?

24 A. It is absolutely not an industrial corridor.
25 And I don't think we have ever placed, at least to my

1 recollection, with any plan have certified it as an
2 industrial corridor. It has always been mixed use
3 commercial services and those compatible uses that you
4 would expect all in a corridor of that character.

5 Q. Let me ask you to take a look at QC-8. Now, one
6 of the questions that came from the Committee,
7 anticipating something we hope to show them anyway, is
8 what residential subdivisions exist in the area or along
9 this Rittenhouse corridor. So could you explain QC-8 to
10 us.

11 A. Yes. I wonder if we could blow that up just a
12 little bit. It might be easier for the Committee to
13 see. Thank you very much.

14 Along the corridor -- I am going to start at the
15 northwest part of the community. This is Sossaman Road
16 and Germann. The corridor is here. And along the
17 corridor master-planned community No. 9 is Cortina. We
18 have got about a thousand dwelling units. I think
19 that's No. 17, I can't quite tell, but the Remington
20 Heights. That's a Pulte Homes project. They have about
21 650 some odd units there.

22 This use not mapped is Canyon State Academy. It
23 is a school for troubled youth, as they characterize it
24 themselves, which is very right adjacent. And they have
25 been a very important community partner ever since the

1 days they called it Arizona Boys Ranch.

2 And moving on, this is Ellsworth Mini Farms
3 here, one of the large lot estate developments. And as
4 we get closer to town center, what is planned as No. 54
5 is a parcel within the Victoria planned area
6 development. No. 40 is Queenland Manor. Adjacent to
7 that is No. 26, and I think that's Langley Gateway
8 estates. This is Nauvoo Station, another single family
9 development, residential development; No. 57, Will
10 Rogers Equestrian Ranch.

11 37 is one of our high density parcels; 31 and
12 23, more single family residential. This large
13 master-planned area of about 1700 units I believe is the
14 Villages of Queen Creek. That's No. 53. And then No.
15 25, the builder renamed it and I forget the name of that
16 one.

17 Q. La Sientero?

18 A. La Sientero. I remember the old name.

19 Q. I am cheating. I have the index at the bottom
20 of the exhibit that you don't.

21 A. Yes. So we have got quite a residential
22 corridor as you can see here.

23 And I want to also point out next to No. 2, not
24 shown here, is the Queen Creek High School as well, and
25 this parcel up here, the Queen Creek Middle School right

1 off of Queen Creek Road. So they are also somewhat
2 influenced by this.

3 Q. So is it fair to say, then, in summary as to the
4 Rittenhouse corridor that it is all residential or high
5 density residential or schools or support retail
6 services, in other words, it is a series of residential
7 uses with supporting uses?

8 A. Absolutely, yes.

9 Q. So the railroad alignment, which we will turn to
10 in just a moment or two, the railroad alignment
11 basically bisects this residential corridor that you
12 just described, is that correct?

13 A. That's correct.

14 Q. Okay. Let me turn -- let's go back to QC-1.
15 And let me turn to one of the last of the remaining
16 areas. And I want to talk about the interchange or
17 intersection where Rittenhouse and Combs and Meridian
18 and the railroad all meet. Can you point out where that
19 is?

20 A. Yes. That's right there. You can't see it real
21 easily, but it is a yellow star right at that
22 intersection.

23 Q. And Mr. Kross, how many places are there within
24 the whole town where three roadways meet in a similar
25 fashion?

1 A. Just have one more, and it is up at the other
2 end of the community, Sossaman and Germann. And
3 Rittenhouse, we have realigned Rittenhouse a little bit
4 here, but that intersection still needs to be widened to
5 be able to accommodate the plan.

6 Q. Do the intersections of these various roads and
7 uses all at one point create any special safety
8 concerns?

9 A. They do. They have got very odd angles. And
10 one of the early challenges for this community has been
11 to try to design Rittenhouse so it does not have that
12 Grand Avenue effect that's noticeable on the west side
13 of the valley. And so we have been working on, for a
14 very long time, our intersection widening and
15 realignment of roadways to be able to create safe
16 intersections so you don't have these angles of
17 intersections that are different than 90 degrees because
18 of the safety issues.

19 Q. Is it just safety or is it traffic control in
20 general?

21 A. Traffic control in general, too. We have got
22 tremendous growth and pass-through traffic from this
23 area here, which is in Pinal County, northwest Pinal
24 County. So we have got this tremendous northwesterly
25 traffic flow that comes through.

1 Q. What about esthetic concerns, do they arise
2 here, too?

3 A. They do. Any time you do a roadway improvement
4 you want to be able to accommodate enough right-of-way
5 for not only the actual pavement, curbs, gutter, but
6 also sidewalks, appropriate landscaping.

7 Q. So, Mr. Kross, what does Queen Creek plan to do
8 about the traffic, safety, esthetic concerns of these
9 three roadways and the railroad all converging at one
10 point?

11 A. Well, many years ago -- this is a complicated
12 intersection because it involves not only Queen Creek,
13 but Pinal County and Maricopa County. The three of us,
14 three agencies, got together to look at design options
15 for this corridor, and in particular focusing on that
16 particular intersection. And the agreed upon result was
17 an elevated intersection, because we can't move the
18 railroad. It is going to be there for a very long time.
19 So it is proposed to be an elevated intersection to be
20 able to avoid the confluence of the railroad for those
21 streets that are intersecting at that particular point.

22 So you need additional right-of-way and special
23 considerations for that type of design. Quite possibly
24 that might be the most expensive intersection that we
25 might ever embark on, and we are obviously not going to

1 be able to accommodate the entire expense ourselves,
2 quite frankly.

3 Q. Do you know how much land is going to be
4 required?

5 A. In total I do not. But the buffering or at
6 least the right-of-way from a radius standpoint is at
7 least 140 feet in width in terms of the total radius
8 with respect to full intersection improvements. It has
9 to be early on the design concept report.

10 Q. When the general plan update was adopted in 2008
11 did you specifically note those future interchange
12 modifications on the general plan?

13 A. Yes. And that's what I was referring to earlier
14 with these yellow stars. We wanted to call those out as
15 future intersection improvements because of all the
16 reasons I just stated.

17 Q. And what is the current status of that
18 interchange planning effort that you described?

19 A. We have completed an initial report. I may have
20 misspoke earlier. I think technically the phase we are
21 now is called the design concept report, which includes
22 basically round two of us, and that is the Town of Queen
23 Creek, Queen Creek plus with Pinal County and Maricopa
24 County furthering the design and refining the design of
25 that particular intersection.

1 Q. Mr. Kross, as we talk about the specific
2 questions, alignments, and locations that bring us here,
3 one of the things we have had presented is a lengthy
4 description of the public input process that SRP engaged
5 in. And you have heard some of that discussion, have
6 you not, sir?

7 A. I have.

8 Q. And the town's staff did communicate with SRP on
9 a number of occasions, did they not?

10 A. Yes.

11 Q. How did SRP describe to you the significance of
12 the transmission line project that is the subject of
13 this hearing?

14 A. Well, as I recall their description, it was a
15 very important regional project. And the initial map
16 certainly did suggest that by the boundaries that were
17 described on that regional map. It is a very large area
18 as everybody knows.

19 Q. We have heard some reference to the fact that,
20 well, this project is going to provide power to Queen
21 Creek. Standing alone that's a true statement, isn't
22 it, sir?

23 A. It is a true statement. I think primarily the
24 RS-24 station. But if you look at the entire
25 transmission, I call it transmission lines, in the

1 service area that is mapped with the application, the
2 CEC application, quite frankly, most of the demand goes
3 to Pinal County. There is a good 40,000 to 50,000
4 accounts that will be served by this transmission line
5 versus 8,000 in Queen Creek. As has been stated it is
6 exclusively for Queen Creek, that's not true.

7 Q. Did SRP in its communications with you and other
8 town officials ever say this was for Queen Creek, or did
9 they emphasize the statewide regional significance of
10 this project?

11 A. All that I ever heard, it was a regional project
12 with tremendous benefits to Queen Creek, we don't deny
13 that, but as a regional, characterized as a regional
14 project.

15 Q. All right. Returning to the communications with
16 SRP, did the town ever advise SRP through you or
17 otherwise that it supported a railroad or Rittenhouse
18 alignment for the transmission line?

19 A. No. We have never supported that. And I say
20 we, our specifically staff. And then neither has the
21 mayor and council of Queen Creek.

22 Q. Okay. Let's go to QC-18. Mr. Kross, on
23 July 16th, 2008, the town adopted resolution 748-08.
24 You are familiar with that, are you not, sir?

25 A. I am.

1 Q. You personally reviewed it?

2 A. I have.

3 Q. We don't need to go to page 2 at the moment, but
4 if we do, your signature appears on it, does it not?

5 A. It does.

6 Q. Okay. What was the purpose of this resolution?

7 A. Well, the main purpose was to formulate, provide
8 input from our elected officials, the Queen Creek mayor
9 and council, with general criteria to SRP. And we hoped
10 that they would take that criteria into consideration
11 for locating any of the alignments through our
12 community.

13 Q. Was this a somewhat unusual thing for the town
14 council to do, to adopt a formal resolution to
15 communicate with the power company?

16 A. It was. Ordinarily we are fairly effective
17 through the staff-to-staff communication.

18 Q. Let me see if we can scroll forward to the third
19 page, which is Exhibit A, line siting criteria. You
20 recall these criteria, Mr. Kross?

21 A. I do.

22 Q. You helped formulate them with your staff?

23 A. Yes.

24 Q. And, now, among the criteria, it says that the
25 town would favorably view the placement of the line in

1 areas designated for employment use in locally adopted
2 general comprehensive or master plans.

3 Now, first, with respect to the railroad or
4 Rittenhouse alignment, does that satisfy that criteria
5 in any respect?

6 A. No.

7 Q. All right. Now, with respect to the Ryan Road
8 alignment, where it passes through the residential areas
9 of Queen Creek Station, Queen Creek Station plan, does
10 that satisfy that criteria?

11 A. No.

12 Q. Now, where it then proceeds to the east and
13 passes through the employment areas along Ryan Road, the
14 employment areas of the general plan, would that satisfy
15 the descriptions in section A?

16 A. No.

17 Q. Okay. Now, why wouldn't it, since that's an
18 area designated for employment use at least as to that
19 area, wouldn't the Ryan Road alignment satisfy
20 criteria A?

21 A. Our intent behind that statement, as our mayor
22 and council tells me, was looking at it from a larger
23 perspective. And a larger perspective we were including
24 the City of Mesa, quite frankly. Whenever we have gone
25 forward with amending our general plan, updating our

1 general plan, you cannot -- we have never done this in a
2 vacuum so that we were not interfacing properly or
3 appropriately with our neighboring community.

4 So from our view on this particular statement,
5 the Germann Road corridor was consistent with that
6 because of the larger perspective of what is proposed by
7 way of very heavy industrial land uses north of Germann
8 in the City of Mesa. And so for that reason, that was
9 the intent behind that particular statement.

10 Q. So Germann is on the periphery of the employment
11 area, the Ryan line runs through the heart of it?

12 A. That's correct.

13 Q. Okay. If we could scroll down just a little bit
14 further, please.

15 With respect to the town center in this
16 resolution, was the town council fairly unambiguous
17 about its view of the proposed line that represented an
18 incursion into the town center area? I am referring to
19 paragraph B.

20 A. We felt that they are very clear with that
21 particular statement.

22 Q. Okay. Not within the town center?

23 A. Not within the town center.

24 Q. Has the town's position as communicated to SRP
25 in that regard ever changed?

1 A. No, it has not.

2 Q. Okay. This resolution was in July of 2008. So
3 now you were providing some line siting criteria through
4 a formal council resolution to SRP. What happens next?

5 A. Well, my recollection, it was after that time
6 period that we saw more refined alignments. And you
7 will see looking back at it, what we were always
8 pressured about was the SRP timeline and deadline. They
9 absolutely had to file this CEC application by the fall.

10 Q. Well, they had to or they told you you had to?

11 A. They told us that they had to. So when we
12 realized that they were not responding to our concerns
13 regarding Rittenhouse Road and an alignment through town
14 center, it was very clear that we needed to engage our
15 elected officials about and provide the appropriate form
16 of communication through a resolution.

17 Q. The July 2008 resolution is still up on the
18 screen, was that a unanimous resolution of the town
19 council?

20 A. Yes.

21 Q. Okay. Now, in light of what you felt was a
22 nonresponsiveness to your concerns by SRP, did the town
23 council then meet again?

24 A. They did. We had subsequent to July saw a
25 winnowing down of preferred alignments, and lo and

1 behold the Rittenhouse alignment through town center is
2 still on the map.

3 Q. Let me show you Exhibit QC-19. Now, resolution
4 760-08 is in August of 2000 -- August 15th, 2008, 30
5 days later. What was of the purpose of this resolution?

6 A. Well, we quite frankly did not feel we were
7 being listened to, to put it bluntly. We felt that we
8 had to be more explicit in the communication,
9 unfortunately had to engage our elected officials one
10 more time. And then this resolution was adopted by the
11 mayor and council that provided very explicit
12 preferences on the part of the Town of Queen Creek as to
13 what we would prefer for our a preferred alignment to
14 SRP. We thought that would be helpful.

15 MR. BIRNBAUM: Let me ask our technical
16 assistants to scroll down onto the second page, follows
17 now therefore. Okay.

18 BY MR. BIRNBAUM:

19 Q. So in section 3 of this -- oh, was this
20 resolution, by the way, was this also a unanimous action
21 by the town council?

22 A. Yes.

23 Q. Was this even more unusual to now follow up a
24 communication to the utility company by a second
25 unanimous council resolution 30 days later?

1 A. Yes, highly unusual. I can't think of another
2 time, at least in my experience, where we have had -- I
3 might add we have had wonderful relationships with SRP,
4 SRP staff. There has been a few notable exceptions on
5 the development services side of things, but by and
6 large they are very engaging staff. And this has taken
7 us by quite a bit of surprise, quite frankly.

8 Q. Now, at the same time that this resolution is
9 being adopted, have you personally communicated with SRP
10 regarding the town's first strong opposition to a
11 railroad or Rittenhouse location?

12 A. Yes.

13 Q. In section 3 of this resolution, does the town
14 now expressly recommend or provide its support to a
15 Germann to Meridian alignment?

16 A. Yes.

17 Q. Let's scroll down a little bit further. And is
18 there in section 4 then a specific reference to the
19 roadway improvements that are going to be made in the
20 future at the Meridian/Combs/Rittenhouse intersection?

21 A. Yes. And this was specifically identified
22 because our concern is, because of a prior experience in
23 the widening of Ellsworth Road, that despite
24 communication with SRP about our concerns and the
25 location of future intersection or roads, a pole might

1 go in in one of the future lanes. So the idea behind
2 this was to revise a lot of these particular issues
3 through a formal resolution.

4 Q. Did the town continue to communicate with SRP
5 after the July and August resolutions?

6 A. Yes.

7 Q. Would you describe the communications or
8 meetings that occurred, sir.

9 A. Well, we have had several meetings. I would
10 characterize them as we were hoping to have success at a
11 meeting at the new SRP hall center in Pinal County
12 where a larger group was present.

13 Once again we expressed our concern about the
14 Rittenhouse corridor and added opposition to that. And
15 the response was only this is the SRP process, and this
16 is -- you are basically just going to have to live with
17 it. And that, it was totally unacceptable to us, none
18 of our years of planning that had been going on for the
19 community, as I have been through quite a bit with you
20 already.

21 Q. In those meetings, did you specifically explain
22 to SRP the costs that the town would be forced to incur
23 if a railroad alignment remained on the map as one of
24 the available alternatives?

25 A. Yes. We feel like we have been forced into a

1 very defensive posture. We have been through three
2 years of budget cutting by -- general funds has been cut
3 by over one-third. The last thing that we wanted to do
4 was have to hire attorneys to represent this community
5 to defend against what we find is a complete intrusion
6 to our town center for many, many years of planning.
7 And that has been communicated to them several, several
8 times, in many different ways.

9 Q. All right. Let me move on to another subject,
10 Mr. Kross. Are you familiar with an organization by the
11 name of Rittenhouse Residents Against Transmission
12 Lines? I think they sometimes call themselves RRATL,
13 R-R-A-T-L.

14 A. Yes.

15 Q. And did the town have any role in organizing
16 RRATL?

17 A. No, we have not.

18 Q. Has the town provided any financial support or
19 assistance to RRATL?

20 A. No, we have not.

21 Q. What is your understanding of RRATL's goals as
22 they have communicated to the town?

23 A. In my perspective very clear, they oppose the
24 Rittenhouse corridor in its entirety, and they do
25 support the Queen Creek mayor and council's adopted

1 resolutions with the preferred Queen Creek alignment.

2 Q. According to RRATL's communications with the
3 town --

4 CHMN. FOREMAN: Counsel, let me interrupt you
5 briefly.

6 Member Eberhart.

7 MEMBER EBERHART: I just wanted to have you
8 clarify that last point. Your statement was that your
9 understanding is they oppose the Rittenhouse alignment
10 in its entirety. There are two phases to this project.
11 And I just wanted to clarify.

12 THE WITNESS: Yes, thank you for that.

13 MEMBER EBERHART: Sure.

14 THE WITNESS: For me, my world view of entirety
15 includes the town limits from at this point to this
16 point, the Town of Queen Creek. So that's my
17 perspective and why I answered that particular way.

18 MEMBER EBERHART: So could you rephrase.

19 THE WITNESS: Yes, certainly. My understanding
20 of their opposition, and I don't have the segment
21 numbers to be able to specifically, Mr. Chairman, refer
22 to it, but it is basically pretty much right at Germann
23 Road and the Sossaman Road intersection all the way down
24 to the Combs/Meridian location in that Rittenhouse
25 corridor.

1 CHMN. FOREMAN: Why don't we take the afternoon
2 recess. We will take 15 minutes. We will start again
3 at 3:10.

4 (A recess ensued from 2:56 p.m. to 3:11 p.m.)

5 CHMN. FOREMAN: All right. Getting back on the
6 record, Counsel, you were in your direct examination.
7 You may proceed.

8 MR. BIRNBAUM: Thank you, Mr. Chairman.

9 BY MR. BIRNBAUM:

10 Q. Mr. Kross, before we go back to before we left
11 off, it has been pointed out to me that I made one
12 mistake in speaking to you. I have only been pointed
13 out one, I may have made many. But on the screen is the
14 second resolution, I believe it is QC-19. And the
15 second resolution is not an August 2008, it is in
16 October 2008. Is that properly reflected on the
17 exhibit?

18 A. That's correct, yes, October 2008.

19 Q. And I apologize for the mistake in reference.

20 All right. Returning to the petitions from
21 RRATL, sir, how many petition signatures did you now
22 understand that RRATL has in fact acquired in
23 opposition, at a minimum, in opposition to the
24 Rittenhouse alignment?

25 A. We have been told 3,000.

1 Q. And you were here, were you not, when there was
2 some discussion of the materials that the petitioners
3 utilized in gaining signatures. Do you recall that?

4 A. I do.

5 Q. Let me ask you to take a look at the first
6 page of QC-11. In response to the town's inquiry of
7 RRATL, were you provided with this document?

8 A. Yes.

9 Q. This appears to be an SRP project newsletter, is
10 that correct, sir?

11 A. That's correct.

12 Q. And what were you told about the information
13 that the RRATL petitioners delivered to people at their
14 homes?

15 MR. MARKS: Objection. This is pure hearsay.
16 And we were told there would be a representative from
17 the RRATL group here to talk about the petitions, and
18 now he is trying to have the town manager talk about a
19 subject that he has no firsthand knowledge about other
20 than what other folks have told him.

21 CHMN. FOREMAN: It is clearly pure hearsay, but
22 pure and impure hearsay are both admissible if there is
23 some sort of indication of reliability and some sort of
24 relationship to the issues that we have at hand. I am
25 certainly going to allow counsel to cross-examine on

1 this point and, if it is necessary, to bring a
2 representative and we can discuss that.

3 But again, the fact that we have had multiple
4 representatives appear as a part of the public comment
5 process, I am going to allow the question. So the
6 objection is overruled.

7 BY MR. BIRNBAUM:

8 Q. Mr. Kross, what is it that you understand that
9 the RRATL petitioners delivered to people in their
10 homes?

11 A. I was told by the president, John Upshur, that
12 this particular piece of information was shown to
13 prospective petitioners on their door-to-door campaign
14 effort.

15 The other, I might just add, and a point of
16 frustration that he expressed to me, was that although
17 the document has a map and attempts to describe exactly
18 what the project proposes, the words high tension are
19 nowhere on that particular document to further explain
20 the significance and the possible impact of the actual
21 power line project on Queen Creek neighborhoods.

22 Q. Do you recall earlier in this hearing,
23 Mr. Kross, that one of the Committee members, I believe
24 one of the Committee members, inquired about where these
25 petition signatures came from?

1 A. I do.

2 Q. Did you request that your staff do some analysis
3 to try to identify where the petitions were coming from?

4 A. Yes. That was important to us to understand,
5 you know, what neighborhoods were actively involved so
6 that we could communicate effectively to our elected
7 officials.

8 Q. You did not have all of the petitions that have
9 now been submitted at that time, did you, sir?

10 A. That's correct.

11 Q. Okay. Do you recall approximately how many were
12 available to the town?

13 A. Oh, goodness. I don't recall. The 2,000 comes
14 to mind, but I don't know if that's, that's the --

15 Q. Let me see if I can be of some help. If we can
16 have Exhibit QC-12.

17 Is this the summary chart that was created by
18 town staff based on the signatures that were then in
19 your possession?

20 A. Yes, that's the one.

21 Q. And at the bottom it says 2,270. Was that the
22 total number of petitions then in your possession?

23 A. That's correct, yes.

24 Q. All right. And obviously we don't need to go
25 through this by subdivision, and we do have other

1 exhibits to show you, Mr. Kross, but what did you learn
2 from this analysis?

3 A. Well, we have significant numbers of our
4 neighborhoods adjacent to the Rittenhouse Road corridor
5 that are very, very concerned about this particular
6 power line project, and they have expressed themselves
7 through this particular process. It is very revealing.

8 Q. Let me ask you then to take a look, sir, at
9 QC-13. And can you describe -- we can get a close-up if
10 you need it -- but first describe what is shown on
11 QC-13.

12 A. What is shown is the petitioner count by
13 subdivision. And there is numbers over each one of the
14 subdivisions that show at the time that the town
15 received the total quantity of, the quantity of 2,270,
16 geographically where those numbers occur within the Town
17 of Queen Creek town limits.

18 MR. BIRNBAUM: And let me ask the technical
19 assistants if we could just blow up the map.

20 BY MR. BIRNBAUM:

21 Q. And, Mr. Kross, what is reflected in terms of
22 the concentrations of petitions in the area along the
23 Rittenhouse alignment?

24 A. A clear majority are along the Rittenhouse
25 alignment. We have 716 up here, 250 about in the

1 Remington Heights subdivision, Queen Creek Villages
2 about 207, Queensland Manor subdivision 320 or so, all
3 along that corridor alignment.

4 Q. Okay. And now let me show you just for a
5 second, sir, I believe it was asked for, QC-14. This
6 was an effort to look at the number of signatures versus
7 the number of homes, residences in each of the
8 subdivisions. And let me request that we have that one
9 blown up as well. And what is revealed here on the
10 percentage basis?

11 A. I have got quite a high percentage again along
12 the railroad corridor, over 55 percent, 56 percent with
13 Cortina, 38 percent here, 13 percent or so in the
14 Villages of Queen Creek, 100 -- quite a bit in Queensland
15 Manor.

16 Q. 125.29 percent. That means you had more than
17 one signature for each home --

18 A. Yes.

19 Q. -- is that right?

20 A. Yes. I can't quite read that number.

21 Q. All right. Thank you.

22 Now, a suggestion was made that persons who
23 appear at public meetings may be more concerned than
24 those who just sign petitions. Has that been your
25 experience as a public official, sir?

1 A. No, not at all. And I think that, you know,
2 particularly with the -- I don't want to say Queen Creek
3 is extraordinarily unique in this particular instance,
4 but I think it speaks to our demographics. We are a
5 very young community still, about 33 for our median age.

6 The reason I mention that added point, people
7 are just flat out busy. They are working. They are
8 trying to raise their families. They are involved with
9 their school activities, perhaps church and other
10 activities that are keeping them extremely busy. They
11 don't have time to always either attend public hearings
12 here at the town council level, even here.

13 And frankly, we think it is a dangerous
14 assumption to assume that just those that show up at the
15 hearing are the only ones that care about the particular
16 issue. We get a lot of input, quite frankly, through
17 electronic media, which I mentioned earlier, whether it
18 be through the electronic newsletter that we use; very
19 sophisticated community with respect to use of
20 electronic media. They let us know frequently how they
21 feel about issues and we are very happy to hear that on
22 most occasions.

23 But we just think it is a dangerous assumption,
24 I think it is a dangerous assumption to assume that just
25 those that show up are the only ones that care about

1 issues.

2 Q. Mr. Kross, after that suggestion was at least
3 raised or the question raised at this hearing, did
4 representatives, RRATL, come to you and ask whether they
5 should have a mass turnout at this hearing?

6 A. Yes, they did.

7 Q. I presume you didn't tell them to line up the
8 buses outside?

9 A. No, I did not. But I did say that it was
10 important nonetheless to the greatest extent possible,
11 if their time does allow it, to be able to attend, if
12 nothing else, not necessarily to speak, but to hear the
13 dialogue, the perspectives, the other opinions that are
14 being presented on this issue.

15 Q. The approximately 3,000 signatures that have
16 been received represents roughly what percentage of the
17 total adult population of the Town of Queen Creek?

18 A. It is about 20 percent. And frankly I would
19 characterize that as significant.

20 Q. In your personal experience, I think you said
21 you were in Wickenburg and you worked in Gilbert and you
22 have worked in Queen Creek and you have obviously had
23 other experiences in your town manager capacity, can you
24 offhand recall 20 percent of the adult population of any
25 municipality taking a position in opposition to anything

1 in writing?

2 A. I cannot. I am sure somebody will correct me on
3 some issue that I am not remembering, but I cannot.
4 That is very significant. And the momentum is
5 continuing. That is significant at any level, I
6 believe.

7 Q. All right, sir. I think the last or next to
8 last of our topics -- and then we will try to get to
9 your positions today and get through your testimony --
10 is the airport. Is the Phoenix-Mesa Gateway Airport of
11 importance to Queen Creek in terms of its economic
12 growth?

13 A. Significant, extremely important.

14 Q. You have talked about this single contiguous
15 employment area in your general plan. Is that area
16 intentionally located in proximity to the airport?

17 A. Yes, it is. It is at various points within one
18 mile of the actual property boundary of the airport.
19 That makes it very, very competitive, we believe, for
20 future employment land uses. And the proximity of the
21 airport fulfills our economic development strategic plan
22 and we hope strengthens the importance of not only the
23 airport and its economic development numbers but a
24 regional partner as well.

25 Q. Is Queen Creek an actual owner of the airport?

1 A. We are. We are a small owner, about 3 percent.
2 But frankly, arguably, we think we are one of the
3 communities that's most directly impacted by the
4 overflights of the airport, much beyond that 3 percent.
5 But because of budget and size of the community, that's
6 about what our budget allows us to be able to afford,
7 quite frankly, by way of ownership.

8 Q. Does Queen Creek participate in the airport
9 planning activities?

10 A. We do. We are very active. I am on the senior
11 staff committee, which is the other city managers, which
12 we advise the board of directors on a regular basis as
13 well as the airport staff, very integral, as well as
14 other planning activities that go on.

15 Q. The position of chair of the airport authority,
16 it actually rotates, does it not, among the owners?

17 A. It does.

18 Q. And since July of 2009 who has been the chair of
19 the airport authority?

20 A. Our mayor, Queen Creek Mayor Art Sanders.

21 Q. You mentioned earlier that Queen Creek submits
22 its plans, development plans to the airport, is that
23 correct?

24 A. It is, quite extensively and actively.

25 Q. And you have said that includes the Queen Creek

1 Station plans, is that correct?

2 A. Yes, yes.

3 Q. Did it include the Queen Creek general plan
4 amendment as well?

5 A. Absolutely.

6 Q. I presume the importance of the airport to the
7 town explains why you incurred the cost of employing a
8 prominent airport consultant and aviation consultant to
9 assist in this case, is that right?

10 A. Absolutely. Quite frankly, while we appreciate
11 the work of SRP and their own aviation consultant, and
12 that was most helpful to us obviously in arriving and
13 providing some guidance on a preferred alignment, from
14 our perspective we felt that if we could have another
15 opinion on it, and if that opinion differed from the SRP
16 aviation consultant, quite frankly that would be a
17 different position that we would be taking, because we
18 are an owner.

19 We have been an owner ever since the beginning
20 of the joint powers authority that created the actual
21 ownership group or entity for Gateway Airport. And we
22 are a long-term, long-time stakeholder. We are going to
23 be a partner for many, many years and we want to be able
24 to protect the airport, its ability to create jobs,
25 provide efficient transportation for this region. And

1 it is integral to the success of not only Queen Creek,
2 but every one of us. So we felt very importantly -- or
3 felt that was a very important step for us to take to be
4 able to get that advice.

5 Q. We have heard all kinds of references and
6 speculation about the airport, Mr. Kross. To the best
7 of your knowledge in this case or otherwise, has any
8 expert aviation consultant, any expert aviation
9 standards engineer, do any of them, have any of them
10 ever taken the position that an alignment along Germann
11 road utilizing the pole heights that SRP has suggested,
12 that Mr. Scarborough called conservative, has anyone
13 ever said that there was any type of air safety hazard
14 at all associated with the construction of the SRP line
15 on Germann?

16 MR. MARKS: Objection. He is getting into an
17 ultimate issue of fact here that's to be determined by
18 the Committee.

19 Again, this gentleman has no expertise based on
20 his testimony to date in the areas of airline safety or
21 transmission towers as how they impact the approach to
22 the airport.

23 CHMN. FOREMAN: It is one of the ultimate
24 issues, but it is not precluded. The objection is
25 overruled.

1 BY MR. BIRNBAUM:

2 Q. Do you recall my question, Mr. Kross?

3 A. I do. Not to my knowledge that we heard that
4 there was from those individuals any safety concerns.

5 In fact, I wanted to mention this, that the
6 specific instructions -- because we are a part owner of
7 the airport -- to our own aviation consultant was to
8 first get with Gateway Airport staff and, from them,
9 with their advice and counsel, use the most conservative
10 standard to develop our analysis, findings and study, so
11 that we had that perspective from step one. And that
12 was the one engine out, one engine inoperable standard.
13 And that's what was used. And that's what was presented
14 earlier today. That's what we have relied on to provide
15 us advice and counsel.

16 Q. Let me show you SRP Exhibit 152. Now, whether
17 this is the unduly conservative numbers or not,
18 Mr. Knaggs and Mr. Scarborough and apparently the FAA
19 all now agree that the Germann Road alignment, using
20 these heights for transmission line structures, would
21 create no hazard.

22 Is this alignment, that is the heights given
23 here, number of poles, is this acceptable to the Town of
24 Queen Creek?

25 A. Yes, it is.

1 Q. And again, a slightly different question than I
2 asked you a moment ago, are you aware of any consultant
3 or aviation expert or performance standards expert of
4 any kind who disagrees with the conclusion that
5 construction of the poles at these locations and heights
6 along Germann Road would present no safety hazard?

7 A. Not to my knowledge.

8 Q. Let me now ask you to turn to the subject of the
9 substation, RS-24. You are familiar with each
10 alternative site, are you not, sir?

11 A. Yes.

12 Q. Does the town have a preference?

13 A. We do.

14 Q. And is that the northwest site?

15 A. It is the northwest site.

16 Q. Why does the -- well, we can put up
17 QC-1 -- well, I am sorry.

18 What is a good exhibit that shows the substation
19 site? 81?

20 MR. SLAVIN: DV-1.

21 MR. BIRNBAUM: DV-1 would be fine. Thank you.

22 BY MR. BIRNBAUM:

23 Q. Now, with respect to the substation, sir, why is
24 the northwest site the best site in the view of the
25 town?

1 A. Well, it is one of the larger sites, but it
2 provides, we believe, a lot of flexibility for design
3 and locating the actual infrastructure. Meridian Road
4 is a high capacity corridor for the town and, in fact,
5 the region. So that particular site with its
6 flexibility allows for the property setbacks to allow
7 for the accommodation and widening of Meridian Road.
8 Also for any mitigation that we could achieve for
9 screening the site, for location of block walls as well
10 as landscaping, that site would accommodate that as
11 well.

12 One of our important planning partners in the
13 region is Pinal County. They support it as well.
14 That's very important to us. The property, frankly, is
15 already under option for future purpose. Frankly,
16 landowners have already testified earlier that they are
17 also in agreement to this.

18 And we think that for all of those reasons that
19 allows us to be able to support it as well.

20 Q. Have you personally discussed this site with
21 SRP?

22 A. Yes.

23 Q. Do you understand it to be an acceptable site to
24 SRP?

25 A. Yes.

1 Q. Have you discussed this site with
2 representatives of Pinal County?

3 A. Yes.

4 Q. Do you understand it to in fact be the desired
5 site by Pinal County?

6 A. Yes.

7 Q. Have you personally discussed this site with the
8 area landowners?

9 A. Yes.

10 Q. And do you understand it to be an acceptable or
11 even desired site for those landowners?

12 A. Yes.

13 Q. Are you aware of anyone who has expressed an
14 objection to the northwest site?

15 A. No.

16 Q. Does the north -- is the northwest site located
17 sufficiently distant from the multi-road interchange to
18 comport with the town's future construction needs?

19 A. It is, as long as there is a way through the CEC
20 process, a stipulation can be added with respect to the
21 proper setbacks that acknowledge the roadway widening.
22 We cannot afford to relocate the substation or its
23 infrastructure in the future, and certainly not now.
24 But if it was set at 2016, I cannot be able to foresee
25 that time period being a time period where we could

1 avoid relocating. So with the proper stipulations
2 regarding setbacks to accommodate the roadway, I think
3 that would be acceptable.

4 Q. Okay. Mr. Kross, why is screening of the
5 substation a concern for the town?

6 A. For a variety of reasons, importantly, to screen
7 from existing uses and certainly what is planned in the
8 area. I spoke earlier about the regional commercial
9 center, major mall that's proposed for that part of the
10 community, a new hospital site, other adjacent lands
11 uses. There is a subdivision that was approved a few
12 years ago by the town council just east of Meridian
13 Road, as well as a master-planned community on the other
14 side of Rittenhouse that will have some visibility.
15 Schnepf Farms in the area, that receives a fair amount
16 of traffic to their events at this time and throughout
17 the end of the spring. It is important for all of those
18 particular reasons.

19 And it is a major piece of infrastructure. It
20 is not a generating station, but it is certainly
21 something certainly close, at least from our perspective
22 and its impact on the community.

23 Q. Are other smaller substations in the town
24 screened with masonry walls?

25 A. They are.

1 Q. Were esthetic funds used or allocated to help
2 with the cost of that screening?

3 A. Yes.

4 Q. Are there any such funds available here?

5 A. No. Apparently due to the SRP rules or existing
6 policies, SRP, the esthetic funds cannot be used for
7 this size of a substation.

8 Q. At current funding levels, even if esthetics
9 funds were available, are the town's limited esthetic
10 funds already allocated to another program?

11 A. They are. In fact, I wanted to mention that.
12 There is a question that I think came up earlier by one
13 of the Committee members, and I have asked my staff to
14 provide some additional information on what we have
15 planned for the future. Which, by the way, we as a
16 smaller community really do appreciate this program. It
17 is very helpful obviously.

18 We have, as it has been stated, I think there is
19 about \$627,000 that's currently in the esthetic funds
20 account. We have four projects that are anticipated to
21 receive that funding: Sonoqui Wash at Hawes for about
22 \$125,000; Sonoqui Wash along Riggs Road, that will be
23 half a million dollars. Those are -- and, well,
24 Ellsworth south of Germann is \$250,000. That total is
25 \$875,000 in just undergrounding of power lines and other

1 areas outside of the town center. I haven't even
2 included in town center.

3 And then there is another substation called the
4 Morcom station that will need a screening wall adjacent
5 to one of our large estate neighborhoods. And that is,
6 I am going to conservatively estimate that at 400,000.
7 The most recent one that SRP built was 450,000 at the
8 Egan station.

9 So all told that's \$1.275 million that's already
10 allocated for future esthetic funds.

11 Q. Sounds like recent government programs,
12 a million two allocated from 600,000, is that what you
13 are telling us?

14 A. Right.

15 Q. All right. Are you familiar, Mr. Kross, with
16 the screening costs that have been incurred at some
17 other, particularly smaller substations?

18 A. Yes.

19 Q. Okay. You mentioned Egan. I am not sure that
20 the Committee has heard that name before. What is the
21 Egan substation?

22 A. Egan is located at Signal Butte and Ocotillo.

23 Q. In the Town of Queen Creek?

24 A. In the Town of Queen Creek, near Queen Creek
25 High School.

1 Q. And is that a smaller 69kV substation?

2 A. I think they call it a neighborhood substation,
3 about two acres, two plus acres.

4 Q. And is there a masonry wall that has been
5 constructed around that?

6 A. Yes.

7 Q. And when was that wall completed?

8 A. I don't know the answer to that question. It
9 was relatively recently. I don't know the exact date.

10 Q. Precision to dates is not what I am looking for.
11 It is within the last one to two years, is that correct?

12 A. Yes, yes.

13 Q. And how large is the Egan site?

14 A. About two acres, I believe.

15 Q. And is the masonry wall constructed all around
16 it?

17 A. Yes.

18 Q. What was the cost of constructing the masonry
19 wall at Egan?

20 A. We have been told 485,000.

21 Q. All right. And just to quickly do some math,
22 SRP originally applied for a 25-acre, approximately,
23 substation. In their recent answers to questions they
24 now say that this one will likely be 15 acres to be
25 screened. Actually that's three and a half times the

1 lineal footage of the two-acre site.

2 If that's the case, if it was 485,000 for a
3 two-acre site, and if it is three and a half times the
4 length, we are not looking for mathematical precision,
5 but roughly what does the Egan wall cost indicate that
6 the minimum cost would be at RS-24?

7 A. Oh, I think that's about 1.8 million.

8 Q. Okay. Now, we have also heard testimony about a
9 Rittenhouse substation. Do you recall that?

10 A. Yes.

11 Q. And where is that located, do you remember?

12 A. That's in downtown. It is off of the Ellsworth
13 Loop Road just north of Ocotillo, approximately the
14 northwest corner.

15 Q. Ellsworth and Ocotillo in the Town of Queen
16 Creek?

17 A. Yes.

18 Q. And is that also about two acres?

19 A. It is.

20 Q. And is that fully screened?

21 A. It is, yes.

22 Q. Do you recall how long ago that screening was
23 accomplished?

24 A. About, I would say about two years ago,
25 somewhere in that neighborhood.

1 Q. All right. And do you recall, sir, from the
2 testimony or otherwise, what the cost was of screening
3 of that substation?

4 A. My recollection was about 330,000.

5 Q. Okay. And again, without using specific
6 numbers, you multiply 330,000 by just the 3.5 that SRP
7 now says is the size, lineal size of the wall around
8 this substation, what do you come out with?

9 A. 1.2, 1.3 million.

10 Q. Now, we also saw -- and I am not going to pull
11 up the exhibits unless it is necessary for rebuttal --
12 we also saw a presentation of some data SRP had from
13 other substations. Do you recall that, sir?

14 A. Uh-huh, I do, yes.

15 Q. Do you recall there was a 20-acre, roughly,
16 substation in Chandler that had two masonry walls built,
17 do you recall that?

18 A. I do.

19 Q. And the cost of those two walls was
20 approximately a little over a million dollars?

21 A. I think that's correct, yes.

22 Q. Assuming that the substation and RS-24 are
23 roughly the same size, in terms of the lineal footage,
24 what does that million dollars in cost for two walls
25 suggest to you about the likely cost of screening the

1 RS-24 substation?

2 A. That's about \$2 million.

3 Q. Now, to the extent that you are aware of, sir,
4 particularly on the Queen Creek facilities, does that
5 include landscaping?

6 A. On the RS-24 station?

7 Q. Well, the numbers we just used for those
8 comparable facilities, do those numbers include
9 landscaping, or do we have to add that on as well?

10 A. I believe the Chandler site does not. I don't
11 think any of them include landscaping. I know for
12 certain there is no landscaping in any of the
13 substations I just mentioned. I just can't recall this
14 Chandler substation.

15 Q. And we are going to return to the specific
16 landscaping, but does Queen Creek have an estimate of
17 the amount of money that would be required for
18 appropriate landscaping around the RS-24, hopefully
19 walled or screened, facility?

20 A. We do.

21 Q. And can you tell us what that is, sir?

22 A. We have estimated it to be about \$500,000.

23 Q. Okay. So if we were to do a masonry wall around
24 the entire facility, that would probably in your
25 estimation be a million and a half to \$2 million, is

1 that right?

2 A. About, right.

3 Q. And then landscaping would be approximately
4 another \$500,000?

5 A. That's correct.

6 Q. Okay. Now, there was a mention of esthetics
7 funds, so I want to return to that for just a moment.

8 Can we have QC-29. I am sorry, that's the wrong
9 number. I will have to find this. The esthetic funds
10 guidelines.

11 Excuse me for just one second, Mr. Chairman. I
12 have got them. I just have to find it.

13 Okay. Thank you. QC-24, can you identify this
14 exhibit for us, Mr. Kross?

15 A. It is titled the municipal program guidelines.
16 I believe it is the policy for the esthetic funds
17 program.

18 Q. Is this a set of guidelines that was provided to
19 the Town of Queen Creek?

20 A. Yes.

21 Q. Let me just go through a couple of items here
22 and then we will be done with this exhibit.

23 First, if you will, scroll forward to the
24 section entitled base fund, just past it.

25 Okay. First paragraph under base fund, there

1 was some question raised about how much money the
2 esthetic fund was or where it came from. This document
3 says the base fund is provided from 0.8 percent of SRP's
4 annual gross revenues -- that's under 1 percent, 0.8 --
5 taken from the most recently published audited annual
6 report, or 12 million, whichever is less. Is that
7 consistent with your understanding, sir.

8 A. Yes.

9 Q. Okay. Then, by the way, that allocation of
10 funds, whatever the number may be, that would cover
11 essentially the entire valley, would it not?

12 A. That's my understanding, their service
13 territory, yes.

14 Q. Okay. Now, there is also -- let me go on and,
15 rather than just quote to you, it also says that
16 surrounding walls and landscape for 230kV and 500kV
17 receiving station facilities do not qualify. I believe
18 that's on page 4 of the document at the top. There it
19 is, surrounding walls and landscape for 230kV and 500kV
20 receiving stations, receiving station facilities. And
21 this, this is the list of things that do not qualify
22 under the plan. Nonqualifying projects is the heading
23 of this section. That's also consistent with what you
24 have testified to, is it not, sir?

25 A. Yes.

1 Q. All right. And then it goes on and says,
2 rather, quote, a separate budget and plan has been
3 implemented by SRP to improve these sites over the next
4 several years, close quote.

5 Are you aware of that, Mr. Kross? Is there some
6 special separate budget and plan that you have been made
7 aware of for this site?

8 A. Not as part of the CEC process, we have not seen
9 that.

10 Q. Your analysis has indicated about \$2 million is
11 required for what you believe is adequate screening
12 walls and landscape. Have you suggested to SRP that
13 that amount of money in fact be allocated for this
14 purpose?

15 A. We have. We provided them with an estimate as
16 to our concept plan that shows a proposal that we feel
17 is effective to be able to accomplish that.

18 Q. And we have heard some information about SRP
19 indicating a willingness to spend up to an aggregate
20 \$750,000. Is that what has been communicated to you?

21 A. That's what I have heard through these
22 proceedings, yes.

23 Q. Do you have an opinion, sir, on whether there is
24 any chance that that is an adequate sum to provide
25 masonry wall screening and adequate landscaping?

1 A. For a \$62 million project, given the facts that
2 we have just reviewed on small two-acre substation
3 sites, it is woefully inadequate, doesn't accomplish the
4 screening or mitigation needs that we have expressed.

5 Q. On the screening for example, Mr. Kross, am I
6 correct that Queen Creek desires to have the masonry
7 screening walls with appropriate design features at
8 least on the sides where it adjoins major roadways, and
9 you are not concerned about the cost, you are concerned
10 about getting it done, isn't that right?

11 A. That's correct.

12 Q. With respect to landscape -- now, let me go back
13 to plans. Has SRP prepared, to the best of your
14 knowledge, a plan that shows screening walls on all four
15 sides of this facility?

16 A. No, we have not seen anything like that.

17 Q. Has SRP ever prepared a cost estimate that has
18 been made available to the town, through this hearing or
19 otherwise, for the walls that you have just provided a
20 cost estimate for?

21 A. No.

22 Q. Has SRP ever shown you a landscape plan of any
23 kind for RS-24?

24 A. They have not filed one with the CEC process.
25 We have not seen that with this application.

1 Q. Have they submitted a cost estimate for the
2 landscaping that the town believes is adequate or for
3 any landscaping plan?

4 A. Not to my knowledge, no.

5 Q. Let me put up QC-22. Now, has the town, at its
6 own expense, prepared a screening wall plan?

7 A. We have, yes.

8 Q. And has the town, at its expense, prepared a
9 landscape plan for the RS-24 substation if located at
10 the northwest site?

11 A. Yes, we have.

12 Q. And has the town provided those plans to SRP?

13 A. We have.

14 Q. Were they provided -- do you remember when they
15 were provided?

16 A. Probably at this point about three and a half
17 weeks ago or so.

18 Q. Okay. Describe Exhibit QC-22 to us, to the
19 Committee.

20 A. Well, it identifies, of course, the power
21 infrastructure, substation site itself, internal portion
22 to the overall property that's under option, as we
23 understand the property configuration.

24 What is not shown is Rittenhouse Road, which is
25 over here, or the full terminus of Meridian Road, which

1 is here. What we are proposing, because of surrounding
2 future development and existing development -- Queen
3 Creek Wash is up here.

4 The washes, by the way, in Queen Creek are not
5 an afterthought. If you have been through our wash
6 system, they are major trail corridors. And we care
7 about what the edges of those washes look like, and
8 fencing is an extremely important component of it.

9 Q. How about the west side?

10 A. The west side as well because of the visibility
11 along Rittenhouse Road. Granted there is a railroad,
12 rail line between there, but park, railroad, the cars
13 here, it is still very visible from here. And Schnepf
14 Farms is over in this area.

15 So we have proposed, of course, the obvious
16 location along Meridian, but also the south, the Olive
17 Mill restaurant and retail business is south here, heavy
18 tourist destination for the community, as well as the
19 west boundary line and the north because of the wash for
20 the reasons I just explained, and then landscaping
21 throughout.

22 And this is a concept plan -- it does not
23 identify even the size of the plant species -- generally
24 located so that we can continue to discuss, quite
25 frankly, if need be at the appropriate time with SRP,

1 but this was our concept and at least our attempt,
2 because we weren't seeing anything by way of specifics.
3 We had to take the initiative.

4 Q. And the cost estimates that you have provided,
5 sir, for the wall and the landscape, would those in
6 Queen Creek's judgment allow the construction of the
7 wall and landscape pursuant to this plan?

8 A. We believe so, yes.

9 Q. One other thing about the pictures, there are
10 substations in Queen Creek, small ones that you have
11 referred to. Does SRP have photos of the walls
12 surrounding those substations?

13 A. I believe they do.

14 Q. And have they been shown to representatives of
15 Queen Creek?

16 A. We have seen photographs. We have taken some
17 ourselves, and I believe my staff, yes.

18 Q. Okay. I don't know if you were here when we
19 asked if we could have those, but have you ever received
20 a copy from SRP of those substation photos?

21 A. I have not. But I don't know if they have
22 arrived in -- with someone else, but I have not.

23 Q. Let me go to what SRP has produced. There are
24 certain 230kV stations that do have masonry walls around
25 them, do they not?

1 A. Yes.

2 Q. And let me ask for SRP Exhibit 181 first, and
3 then 182. Exhibit 181, which is an SRP exhibit, I
4 believe this one is the Schrader substation. Is this
5 the type and the height of wall, although obviously you
6 have an architectural deviation, is this what you are
7 referring to, sir?

8 A. Generally speaking, yes.

9 Q. And in terms of landscaping, I assume that you
10 are speaking about something more than the gravel ground
11 cover that's at the front of this photo?

12 A. Yes. We would be looking for some additional
13 enhancements.

14 Q. Okay. Let's go to SRP-182. This one is labeled
15 the Papago Buttes substation. And how does this wall
16 and landscaping again compare to what you have referred
17 to or what the town has requested in this case?

18 A. Generally consistent, again absent some of the
19 architectural contouring that we presented in our
20 concept plan, but the landscaping is more enhanced.

21 Q. So to conclude on the substation, Mr. Kross,
22 let's go over what the town is requesting in the CEC.
23 You favor the north substation site which is already
24 under option by SRP, is that correct?

25 A. That's correct.

1 Q. Okay. When it is constructed, which I think SRP
2 has estimated is 2016, you desire a screening wall and
3 landscape in accordance or similar to that set forth in
4 Exhibit QC-22, is that correct?

5 A. That's correct.

6 Q. Or because SRP has talked about flexibility that
7 sometimes is needed over time, you would certainly
8 agree, I assume, that if the town and SRP could agree to
9 some technical or minor modifications in plans approved
10 today in the CEC, that would be acceptable to the town?

11 A. Yes, absolutely.

12 Q. Okay. And with respect to landscaping as
13 opposed to the wall, in 2009 dollars at least, your
14 estimate is \$500,000 as what is necessary for
15 appropriate landscaping given this particular location,
16 is that right?

17 A. That's correct.

18 Q. Okay. There was earlier in the case a reference
19 to SRP's position, I think it was in response to some
20 questions I asked a number of times, about their
21 willingness to work with the town and that the CEC
22 should not impose screening walls or landscape
23 requirements, but they will work with the town. What is
24 wrong with that, Mr. Kross?

25 A. This project is of such profound impact to the

1 community, our small community, I cannot go back to the
2 residents of my community with "we will work with you"
3 comment. If I had a dime every time I heard that from a
4 developer, we might not be in the conversation we are
5 having now, I suppose.

6 I don't mean to be flippant about it, but in all
7 seriousness, this is serious business for this
8 community. And we are asking for fairly specific
9 stipulations within the CEC approval so that there is
10 some assurances as to what expectations we might be able
11 to receive by way of mitigation when and if that
12 substation site gets constructed.

13 Q. Does SRP's comments at this hearing about the
14 wall and landscaping can both be constructed for
15 \$750,000, even though we don't know what wall and
16 landscaping they were referring to, does that provide
17 any comfort to you as the representative of the town?

18 A. No, given the facts that we went over with
19 respect to existing construction costs for much, much
20 smaller sites, even without landscaping, absolutely not.

21 Q. Okay. Mr. Kross, let's go to the final big
22 subject, which is the transmission line alignments.
23 Let's begin with the railroad alignment. I think
24 everybody now knows that the town is strongly opposed to
25 the railroad alignment. Would you please tell the

1 Committee members in your words why.

2 A. Well, at the risk of restating some of what I
3 already said, you have heard me testify that the
4 community has gone through at this point nearly 20 years
5 of planning. And we have tried to use every single tool
6 provided to the community that the state has given us to
7 manage growth properly, include the proper design
8 standards with all our documents.

9 We are very disappointed that the City of Mesa
10 hasn't recognized this and has elected to impose, when
11 they could have selected Ryan Road, decided to support a
12 Rittenhouse Road corridor, knowing full well that would
13 be completely disruptive to 20 years of planning.

14 We oppose Rittenhouse Road for all of those
15 particular reasons and all of our efforts by way of
16 creating a cultural, social, economic community,
17 commercial center for the town and trying to essentially
18 create a downtown from scratch. And I don't know how
19 anybody could arrive at conclusions otherwise that would
20 suggest that high tension power lines marry up with
21 those goals that the community has adopted.

22 Q. All right, thank you, sir.

23 There has been some discussion about the future
24 buildout along these alignments. Certainly along Ryan
25 and Germann there is a good deal of vacant land today.

1 Did you make any exploration of the number of impacted
2 residents upon completion of the buildout of the planned
3 projects along these lines?

4 A. We have done some estimates. There is no
5 existing platted project other than the two
6 neighborhoods that we talked about earlier, Ellsworth
7 Mini Farms or Queens Park. But along those lines, with
8 the one exception of Signal Butte, once you get south of
9 Ocotillo Road, Ocotillo Heights is a subdivision in
10 Queen Creek that is in the ground currently with
11 existing residents. We have done some estimates.

12 Q. All right. Let me first, let me very quickly go
13 through just a series of maps that the town has had
14 prepared, some of which do duplicate the effort of SRP.
15 But let's go to QC-15 first.

16 And QC-15 was the town's effort to respond to
17 the Committee's request for the location of residences
18 within a half mile of the various routes, is that
19 correct, sir?

20 A. That's correct.

21 Q. And we can blow -- if you blow it up just for
22 one second so the Committee can see a little more
23 clearly the exhibit which has hopefully made it to your
24 notebooks, this high intensity purple color that is
25 lined up along the Rittenhouse corridor, is that the

1 roughly 3,750 units that are within that half mile?

2 A. Yes, that's correct. These are the purple areas
3 you are talking about that's existing, yes.

4 Q. Right.

5 A. Occupied homes that are impacted.

6 Q. Now, this chart says at the bottom, Germann
7 route, 729; Ryan route, 1584. That's the total units
8 within a half mile, is that correct?

9 A. That is correct.

10 Q. And the reason that there are in fact so many
11 units along Ryan is because on the far western end of
12 Ryan, which we don't talk about much, you have that
13 intensity of development directly across Rittenhouse
14 Road and within a half a mile of Ryan, is that correct,
15 sir?

16 A. That's correct.

17 Q. Let's go on to Exhibit 15.1. This is the same
18 map now -- and please blow it up, if you would, just
19 focusing on Rittenhouse. So the red color here is
20 designed to show the existing residential density within
21 a half mile of the lines on each side.

22 15.2 is now the same chart showing Germann,
23 essentially showing that you have a large density of
24 residences where Germann essentially meets Rittenhouse,
25 Germann, and Sossaman. And then you have the one

1 subdivision that's on the Mesa side of Germann that we
2 have heard a good deal about. And other than that and
3 the large acreages to the south, that's pretty much all
4 of the residences impacted on Germann, is that correct,
5 sir?

6 A. That's correct.

7 Q. Okay. And then 15.3, which is Ryan, and this
8 one also reflects Signal Butte, what we see here is
9 that, again, like Germann, there is not a large number
10 of residences impacted on Ryan or Signal Butte, just
11 like there isn't on Meridian as we have seen on other
12 maps. But what happens here is by running down along
13 the railroad from Germann to Ryan, we have now
14 potentially impacted something like a thousand
15 additional homes which are now within a half mile of the
16 line. Is that a fair summary, sir?

17 A. Yes, that's correct. That's this area right
18 here.

19 Q. And down at the bottom of the map, there is --
20 that shows a subdivision that's impacted when Signal
21 Butte then returns to the railroad or Rittenhouse
22 alignment?

23 A. That's correct, right here.

24 Q. All right. Now, that is existing subdivisions.
25 Your view of this as a professional in the planning

1 field, Mr. Kross, is this, as the gentleman from Gilbert
2 testified, is this bad planning?

3 A. Absolutely it is bad planning.

4 Q. Okay. Why does the town prefer a Germann
5 alignment versus a Ryan alignment if the Committee, in
6 your view, properly rejects this railroad alignment?

7 A. Well, we state several of our reasons, of
8 course, in the two resolutions, more specifically in one
9 versus the other. We believe Germann, from not only
10 Queen Creek's perspective but the region's perspective,
11 accomplishes more of our long-term goals, consistent
12 with the existing adopted plan within the Town of Queen
13 Creek.

14 The other options that are proposed are the
15 alternatives. Rittenhouse is disastrous for the
16 community for all the reasons that we have just stated.
17 It conflicts with our specific area plans and other
18 long-term plans within the general plan for the town.
19 Ryan conflicts with long-term goals and some of the
20 master planning that we have already talked about,
21 particularly with Queen Creek Station which has been the
22 most diverse largest master plan the community has seen,
23 arguably, the most creative. And Ryan we have argued
24 also bisects the single only contiguous employment area.

25 Now, we have heard earlier about the

1 marketability from landowners in the area. And we are
2 not going to take that to issue, but we quite frankly
3 feel that the ability to assemble land that is
4 uninterrupted in one contiguous employment area and
5 without this major piece of infrastructure is a better
6 opportunity for the community to be able to implement
7 its employment goals than a Ryan Road alignment.

8 Q. Now, Mr. Kross, you would agree, while you
9 believe that Rittenhouse is just simply bad planning,
10 you acknowledge, do you not, the town acknowledges that
11 there are some benefits from a Ryan alignment and some
12 benefits from a Germann alignment?

13 A. Absolutely, absolutely.

14 Q. Ryan is somewhat shorter and probably therefore
15 somewhat less expensive --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. Germann does not have the disadvantage of
20 piercing through the middle of your one contiguous
21 employment area?

22 A. That's correct.

23 Q. Okay. I would like to talk for a moment about
24 what is going to be in these areas, because we have
25 talked a great deal about the small number of homes on

1 any one of the Ryan or Germann or Signal Butte or
2 Meridian alignments. But I want to compare Germann and
3 Ryan in terms of what is going to be impacted by the
4 line if it is -- if these areas are developed exactly as
5 planned today and as approved in the Queen Creek general
6 plan. You understand what I am talking about?

7 A. Okay, yes.

8 MR. BIRNBAUM: Okay. Let me ask the assistants
9 to place Exhibit QC-21.1 on the map.

10 BY MR. BIRNBAUM:

11 Q. Now, this, sir, is Ryan Road, assuming buildout,
12 based on the existing Queen Creek general plan and
13 approved Queen Creek Station general plan amendment, is
14 that correct, sir?

15 A. Yes, it is.

16 Q. Go ahead and explain what is on 21.1, just in
17 this one section of Ryan Road running from Rittenhouse a
18 mile or so to the east. What are you going to be
19 impacting?

20 A. Okay. What is designated here is they are
21 mapping the densities in this entire area. What is
22 difficult to see, this is Ryan Road here yellow on
23 yellow. So that's obviously difficult to see, but
24 that's the centerline or at least the general location
25 of Ryan Road.

1 And what is mapped is the 500-foot buffer on
2 each side and what impact that would have on developed
3 residential or developed properties in the area. And
4 then the blue hashed or dotted line is the one quarter
5 mile buffer. And as you can see, it impacts more
6 significantly what is planned with the Queen Creek
7 Station project because this is a mixed use area which
8 has high-density residential.

9 Q. And in terms of the actual quantification,
10 because it may be difficult to read across the room, if
11 you use a half a mile from the Ryan Road alignment,
12 there will be 2,863 new homes built in this area
13 impacted if you use a half mile standard by a Ryan Road
14 alignment, is that correct?

15 A. Yes, that would be correct.

16 Q. And even at a quarter of a mile it is 1400
17 additional homes on top of the charts we were looking at
18 a few moments ago?

19 A. That's correct.

20 Q. And at 500 feet, it is 356 homes, is that
21 correct, sir?

22 A. That is correct.

23 Q. Now, let me then take you to Exhibit 21.2. And
24 let's talk about -- and these were all prepared by your
25 staff at your request, is that correct?

1 A. That's correct.

2 Q. Okay. So the corresponding numbers on Germann
3 are significantly less, 200 impacted homes at a half
4 mile, 129 at a quarter and 42 at 500 feet. Why is that?

5 A. Well, most of the land use is, particularly on
6 the north side of Germann Road in the City of Mesa, is
7 planned employment, and currently there is very little.
8 But the residential neighbors are very low density and
9 not of a higher density that we see once you get south
10 of Ryan Road.

11 Q. Mr. Kross, what is the significance of 21.1 and
12 21.2, in your view, and why do you think it should be
13 significant to the Committee?

14 A. One of the factors, at least as I understand it
15 within statute, is its impact on existing residential
16 and planned residential. And that's what we tried to
17 address with these particular exhibits. So you could
18 see with QC-21.2 there is significantly less impact
19 overall in that particular corridor than the previous
20 exhibit.

21 Q. And let me go way down then to the east. You
22 were present, were you not, for Mr. Vlachos' testimony?

23 A. Yes.

24 Q. Okay. What about that, sir? As the town
25 manager -- first, I assume Mr. Vlachos is a fine and

1 honorable man and a good citizen of your town?

2 A. I am not certain of his residency, but I would
3 agree with that, and do appreciate and respect his
4 position as a business owner.

5 Q. Okay. Now, what about his position that he is
6 going to get impacted one way or the other, but he
7 doesn't want his wholesale nursery to have a
8 transmission line on its north side, he would rather
9 have it on the south side?

10 A. Well, we have really tried to look at the
11 impacts on as much as, in this situation in the Town of
12 Queen Creek, as much as we possibly could. And quite
13 frankly we just disagree with the merits of the
14 argument. There are still options that he has if it is
15 Germann Road that is selected that still allow for the
16 economic vitality and use of his property. And we are
17 not aware of any particular inherent conflicts that
18 would be created by a line in that particular corridor
19 that would restrict him from any economic value for his
20 existing use.

21 Q. Mr. Kross, in terms of your position as the town
22 manager, and we have all heard the NIMBY phrase, I am
23 sure the Committee hears it more often than we can
24 imagine, but is the position of the town somehow
25 different than everybody else that is just saying, well,

1 I don't want it in my backyard?

2 A. I think in one profound way our position is
3 different. I am representing a community of about
4 26,000 people. Is every single one of those residents
5 in support of the Germann Road alignment, the Meridian?
6 No, I wouldn't go so far as to say that.

7 But we think that that particular position with
8 that perspective within an entire community being
9 representative is something that should be taken into
10 consideration, quite frankly, particularly as it relates
11 to these other impacts we have been talking about.

12 Q. What is your position, Mr. Kross, what is the
13 town's position, if the Committee finds that a Ryan Road
14 alignment and a Germann alignment are both reasonable
15 alternatives, the applicant is hereby suggesting a Ryan
16 Road alignment, what is your view of what the Committee
17 should appropriately do in that circumstance?

18 A. Well, even though we believe that Ryan is
19 frankly a mistake for the reasons we have just gone
20 over, we think there should be deference given to the
21 incorporated community, the municipality most directly
22 impacted by this project. Every single alternative
23 impacts Queen Creek in one way or the other. There is
24 no other community that is impacted to the severity that
25 we are.

1 And, quite frankly, throughout all these
2 hearings we feel it is like us against the world. And
3 it has been frustrating. But I am glad and appreciate
4 the opportunity to be able to communicate at least our
5 position and the reasons behind it.

6 But we do hope that the Committee will provide
7 deference to the incorporated community, municipality,
8 the last one in the southeast valley, and the seven
9 member elected officials that represent the 26,000
10 people that live in the community.

11 Q. Mr. Kross, what about Meridian versus Signal
12 Butte? Why -- the town has adopted a resolution which
13 the Committee has seen that prefers a Meridian
14 alignment. Could you explain why?

15 A. Meridian is an important corridor for the
16 community. We just frankly find that there are more
17 options for us being able to achieve our employment
18 goals and our economic development strategic plan and
19 the Queen Creek general plan if there is no intrusion of
20 these power lines in the middle of the contiguous
21 employment area.

22 Now, we can agree all day long or disagree all
23 day long with the landowners in that area, and I respect
24 their position greatly. But at the end of the day
25 that's our position. Is Meridian going to be a major

1 transportation corridor? It is. We have evaluated the
2 options for placement of the posts and where they could
3 go relative to the road right-of-way. It works. It
4 flat out works. Is it esthetically the most pleasing
5 option for those master-planned communities there now?
6 I agree with that. But our view is from a bigger
7 perspective, and, frankly, when we go to look at these
8 plans, particularly in the area of economic development
9 and employment, it is not the next year, next two years,
10 next five years, these are 20-year plans in a lot of
11 cases, and that, when I talked about earlier the
12 physical balance that the community has to arrive at
13 when it goes to identifying different land uses, we have
14 to make sure that we do everything in our power to try
15 to preserve those employment areas and the sanctity of
16 them. And we think there is conflict with these
17 employment areas when it goes right in the middle of it.

18 Q. The Signal Butte alignment once again cuts into
19 that contiguous employment area, does it not?

20 A. It does.

21 Q. And with respect to east side or west side of
22 Meridian, isn't it true, sir, that the town's
23 recommendation is that the line be placed to the fullest
24 extent possible on the west side of Meridian, which is
25 in the town, as opposed to the town advocating it be

1 placed in unincorporated Pinal County?

2 A. Yes, that is correct, on the west side of the
3 Meridian alignment, that's correct.

4 Q. Has there even been some concern at the town
5 about whether the current Signal Butte alignment should
6 remain the Signal Butte alignment -- I am sorry, let me
7 rephrase that.

8 The current Signal Butte Road alignment, I am
9 not talking about the power line, has there been some
10 concern at the town about perhaps realigning Signal
11 Butte altogether?

12 A. Yes. As a matter of fact, one of the proposals
13 that the mayor and council considered that staff worked
14 on was in conjunction with a Maricopa County design
15 concept report for actually, I think it is called, a
16 corridor study for Signal Butte Road. And the county
17 taking a regional perspective of transportation planning
18 obviously includes Signal Butte south of Germann in the
19 Town of Queen Creek. And so we had a particular
20 viewpoint on what the ultimate disposition should be for
21 Signal Butte, how wide, how far, its location.

22 But ultimately one of the ideas was to realign
23 Signal Butte through a section, square section mile so
24 that it came out and essentially ran coterminous -- I
25 wish I had an exhibit to show it -- with Meridian Road.

1 So obviously if power lines are identified to
2 follow the location of a Signal Butte alignment, if that
3 road bends, which is what our council has considered,
4 depending on the timing of when the road is shifted
5 versus the location of the poles, that could be an
6 inherent conflict that we have to address at some point
7 in the future.

8 Q. No action has been taken to realign Signal Butte
9 Road at the present time, has it?

10 A. Not in the specifics. It is identified, I
11 think, in our general plan as an area for future study
12 with some concept plans for that particular area.
13 Landowner involvement has been pretty heavy with respect
14 to that.

15 Q. The last subject I wanted to discuss with you,
16 Mr. Kross, is what we will call mitigation. I want you
17 to -- have you discussed with SRP trying to mitigate the
18 impact of the transmission lines if they are located
19 along Ryan Road, and particularly if they run through
20 the master-planned community of Queen Creek Station?

21 A. We have.

22 Q. What exactly has the town proposed? Perhaps it
23 will help you, let me put up QC-27 and you can then
24 answer the question.

25 A. About that same three and a half week time

1 period we presented to SRP staff one of the cross
2 sections for trails that's in our community. It has
3 been referred to as a linear park. This is not a linear
4 park; this is a trail.

5 Q. Mr. Kross, before you go on, just so I can show
6 the Committee and then we can take it off the screen,
7 would you just go to the second page of this exhibit for
8 a moment. These are the dimensions that tie back to the
9 diagram on the prior page, is that correct?

10 A. That's correct.

11 MR. BIRNBAUM: I don't know if it is -- if you
12 want to put that on the right screen and go back to the
13 picture on the left screen, that would be great. If
14 that's difficult to do, let's just stick with the
15 picture that's QC-27, page 2. Perfect. Okay.

16 BY MR. BIRNBAUM:

17 Q. Mr. Kross, go ahead. What was the town's
18 proposal?

19 A. We had felt, we understand, recognize that, and
20 granted that, just taking a step back and looking at the
21 totality of the impact, that our community is, we
22 believe, disproportionately harmed by the project
23 whether it is Ryan or other alignments, we felt that
24 maybe there is a way we could communicate some solution,
25 if you will, that could be accommodated with a Ryan Road

1 alignment.

2 And in our trails plan that the council has
3 adopted, this is one of the exhibits that is envisioned
4 for a multi-use trail. And we have several of these
5 throughout the community. But the intent with this is
6 to show a trail that might go along that Ryan Road
7 corridor and then intersect with a planned 130-acre
8 regional park. And we would not be asking for even the
9 entire section.

10 This was sent for as illustrated purposes for
11 possible discussion with the SRP staff, and as a point
12 of departure for perhaps maybe we could look at
13 something that might be an amenity of the community
14 versus that's going to be a complete eyesore, again
15 disruptive to the vision of the community.

16 One of the concerns we know is going to happen
17 when we give directions to people to come to Queen
18 Creek: Just south on Ellsworth Road; when you get to
19 the 125 foot power lines, you know you are close.

20 So this is proposed, and we would like to have
21 discussions with the SRP staff about how to implement
22 something like that. Not in its exact, scientific exact
23 technicality, but along the theme and concept is what we
24 were proposing and hoping for a dialogue on.

25 Q. Let me go back to Exhibit QC-25. And let's put

1 up QC-1 on the other screen, if you would, which is the
2 Queen Creek general plan.

3 Where would this path run, Mr. Kross?

4 A. I will start with the general plan map. And if
5 I can identify it closely, it would be approximately at
6 Rittenhouse Road and connect to the 130-acre park which
7 is that green vertical rectangle that I think I am on
8 over there. And the idea would be that that would be
9 constructed when we construct the 130-acre park so there
10 is meaningful connection with that.

11 Q. And on the eastern side of that line you just
12 showed us is the Queen Creek Station project --

13 A. Yes.

14 Q. -- is that illustration, the conceptual master
15 plan we discussed earlier. So where would this trail or
16 path or linear park be constructed here?

17 A. Most likely up in this particular area along
18 Ryan Road here, again, the railroad is generally here,
19 and then head easterly along this particular alignment
20 generally up until the larger park site.

21 Q. Would it specifically be utilized to mitigate
22 the impact of the line where it passes between, if it
23 were to go on Ryan, passes between the school site and
24 the medium density housing neighborhood?

25 A. Yes. We -- that's the intent behind it, is to

1 be able to accomplish that, yes.

2 Q. What is the town's best estimate of the total
3 capital cost associated with this program?

4 A. I believe we had estimated in the neighborhood
5 of 1.5 million in terms of the total capital cost.

6 Q. And approximately how long, how many lineal
7 miles or feet would this program cover from Rittenhouse
8 Road out to the regional park?

9 A. It is about three miles.

10 Q. So three miles and about a million and a half
11 dollars to build, is that correct?

12 A. That's correct.

13 Q. And have you proposed to SRP that SRP as part of
14 the mitigation of this line siting, if a Ryan Road line
15 is selected, even though it doesn't resolve the question
16 of dividing your employment area, but to address the
17 western side of this alignment, the Queen Creek Station
18 to park alignment, have you suggested to SRP that those
19 mitigation funds be expended or applied through the CEC
20 to this project?

21 A. We have.

22 Q. And what response have you received from SRP?

23 A. They oppose it.

24 Q. Now, there was a question sometime back from a
25 member about, well, if you ask SRP for mitigation -- oh,

1 I am sorry, I forgot one thing before I get to that.

2 The land underneath the line, the easement
3 rights that would be necessary to build the trail,
4 that's owned by third parties, is it not?

5 A. It is, yes.

6 Q. Has the town agreed that it would do whatever is
7 necessary to acquire those lands if this program were to
8 be implemented?

9 A. Yes. And that's what we communicated to SRP.

10 Q. Okay. Now, with respect to let's just call it
11 this park, for want of a better phrase for today, with
12 respect to this park, how much is it going to cost
13 annually for the town to maintain this path, trail, park
14 system from Rittenhouse all the way to the regional
15 park?

16 A. We have costed that out. Obviously an ongoing
17 cost is a concern for us, but it is identified as part
18 of our system and that's \$300,000 annually. That's what
19 we would be committed to to be able to accomplish with
20 this project.

21 Q. So you were asked or we were asked much earlier
22 about the contribution the town was willing to make to
23 this mitigation effort. Do I understand correctly, sir,
24 that the town's proposal is that capital costs of the
25 park be paid by SRP as part of its mitigation effort,

1 while the town will arrange for necessary land
2 acquisitions, hopefully by dedications to the town, and
3 pay the 3-, to 4-, \$500,000 a year essentially forever
4 to maintain the park system?

5 A. That's correct.

6 Q. Mr. Kross, we --

7 CHMN. FOREMAN: Member Eberhart has a question.

8 MEMBER EBERHART: Thank you, Mr. Chairman.

9 You alluded earlier to working with developers
10 and the phrase that they are willing to work with the
11 town. Would you characterize the town's position with
12 respect to obtaining fee for this trail in the same
13 manner as that? In other words, you are telling SRP
14 that you are going to try and work with them on this.
15 That's what it sounds like to me.

16 THE WITNESS: Mr. Chairman, Mr. Eberhart, if I
17 understand your question, you are referring to a
18 statement that I made earlier about my reluctance to
19 accept to work with me, work with us comment --

20 MEMBER EBERHART: Right.

21 THE WITNESS: -- and me using a similar comment
22 with this particular --

23 MEMBER EBERHART: Correct. Is there any -- am I
24 misunderstanding your position on this?

25 THE WITNESS: I may be misunderstanding your

1 question, sir. But if it is, if you are asking me
2 whether or not the town would be requesting the
3 development community work with us to ensure the trail
4 gets implemented, we have a variety of ways that we have
5 partnered with the development community for
6 construction of a lot of our infrastructure, and we
7 would be using any of those particular strategies in
8 cooperation with the landowners to be able to achieve
9 that. Today I don't know what that would be, quite
10 frankly, but it would be one of many that we have used
11 in the past in a cooperative nature.

12 MEMBER EBERHART: Thank you.

13 CHMN. FOREMAN: How much longer do you
14 anticipate your examination will be?

15 MR. BIRNBAUM: Under five minutes.

16 CHMN. FOREMAN: Proceed.

17 BY MR. BIRNBAUM:

18 Q. Mr. Kross, the original application -- and I
19 don't think it has ever formally been amended -- has SRP
20 requesting a corridor, regardless of Germann, Ryan,
21 Meridian, Signal Butte, of 250 feet in each direction
22 from the centerline of each of the impacted roadways.
23 What would, in your view, what would the impact be on
24 lands within the corridors that don't end up being used?

25 A. Oh, we have evaluated that. And I will tell you

1 that is a very significant impact on the landowners and
2 the lands of those particular areas. It is
3 unmarketable, we believe, undevelopable, perhaps
4 unfinanceble. Values may be depressed. Any or all of
5 those particular conditions certainly may exist as a
6 result of that.

7 Q. So the town's position, then, is you should pick
8 a corridor on one side or the other and it should be as
9 narrow as possible?

10 A. Yes, it is.

11 Q. Let's go through the four. On Meridian, I
12 believe you have already testified west side --

13 A. That's correct.

14 Q. -- is the town's position.

15 On Germann, SRP has submitted at least one
16 flexible model because they say there needs to be
17 crossing. Is that model, that concept acceptable to the
18 town?

19 A. Yes.

20 Q. On Signal Butte, does the town have a preference
21 whether the line be east or west or both?

22 A. We do not have a preference at this point in
23 time.

24 Q. And if the line were to be located on Ryan, does
25 the town have a preference as to whether it be on the

1 north side or the south side?

2 A. It is our preference it be on the south side.

3 Q. Mr. Kross, I know it has been a long
4 examination. Is there anything that I have missed that
5 you would like to convey to the Committee before we end
6 your direct examination?

7 A. Mr. Chairman, members of the Committee, I did
8 want to thank you for your time and service and
9 listening to our particular position. I know this is
10 day eight of nine days, I think, of this entire project
11 and it is very tiring. And I just --

12 CHMN. FOREMAN: Maybe ten.

13 THE WITNESS: Sorry. From our perspective, we
14 very much appreciate the time and attention you are
15 taking on this important matter, and understanding and
16 listening to our perspective and its potential impact on
17 the Town of Queen Creek. And I just want to thank you
18 for that.

19 MR. BIRNBAUM: Thank you, Mr. Chairman. I have
20 no further questions.

21 CHMN. FOREMAN: Member Palmer.

22 MEMBER PALMER: Thank you, Mr. Chairman.

23

24

25

1

EXAMINATION

2 BY MEMBER PALMER:

3 Q. Mr. Kross, do you agree that the need for this
4 230kV bulk transmission line is in part due to the
5 projected growth of Queen Creek?

6 A. I do agree with that.

7 Q. You indicated earlier in your testimony that you
8 have gone through some stellar efforts to include not
9 only stakeholders, but as many as 20 percent of the
10 adult population of Queen Creek in comprehensive
11 planning process and strategic planning, is that
12 correct?

13 A. Mr. Chairman, Committee Member, that's correct.

14 Q. At any time during that rather exhaustive
15 process did anybody participating make mention of the
16 need for a transmission corridor through Queen Creek?

17 A. Mr. Chairman, Committee Member Palmer, if you
18 are asking -- maybe I don't completely understand your
19 question. If you are asking, going back to our general
20 plan planning process or any of our strategic planning
21 process with either the town center plan, economic
22 strategic plan, the answer is no.

23 Q. It seems as if transmission planning and the
24 transmission line itself is sort of the redheaded
25 stepchild of municipal planning. You know that you have

1 to do something with it, but you are hoping somebody
2 will come along and adopt it so you don't have to deal
3 with the problem. Because it is a problem that this
4 Committee has grappled with for the eight and a half
5 years I have been privileged to be a member.

6 I had one other question. And it is regarding
7 the objection that your counsel gives and that you state
8 regarding the Ryan Road alignment traversing the
9 employment area, projected employment area zone. That
10 would be light industrial, I would think, zoning.

11 A. It is zoned our heavy industrial, actually.

12 Q. So --

13 A. But planning, the planning map, I am sorry, the
14 future land use map has light employment, light
15 industrial also that is not technically zoned yet.

16 Q. Well, I am a little confused, because this
17 Committee in my eight and a half years participation has
18 endeavored to site transmission lines in those areas as
19 a preference for residential areas. And I am curious as
20 to who would object. Would somebody be employed as a
21 viewscape monitor and spend all day looking outside at
22 the transmission lines? Because wouldn't most of them
23 be working during weekdays and daylight hours for the
24 most part? I mean what would be offensive to them, is
25 what I am asking.

1 A. Mr. Chairman, Committee Member Palmer, maybe I
2 didn't -- or you didn't hear my response to that
3 earlier. But the point we were making in that
4 resolution was looking at it from a regional context.
5 We completely agree and respect your time and efforts to
6 locate these lines in employment land uses. That's the
7 compatible area, there's no question about that. We
8 don't disagree with that.

9 It is where in the employment areas. And all we
10 are asking, quite frankly, is we believe that that
11 Germann Road corridor when you take the regional
12 context -- I am including the City of Mesa in this
13 regional context -- that was the view of our mayor and
14 council, that that's the corridor that should be looked
15 at. Not because of employees that are working there
16 that may be view monitors, I am not sure what that is,
17 but it is because of Queen Creek has got such a small
18 and compact planning area, and we only have three
19 really, arguably two and a half square miles of
20 available employment lands, the transmission line we
21 think creates a problem for us to attract the types of
22 employment uses that may be impacted because of where
23 that would be physically located right through the
24 middle of that area. That's our argument.

25 Q. Well, we had a member here for many years, 11

1 years, Wayne Smith, whom we all respected a great deal.
2 And Wayne had a dream that municipalities and counties
3 would some day plan for such things as bulk transmission
4 line and create corridors. And maybe some day that will
5 be realized. I am hoping at least that people pay
6 attention to that from the Commission and that
7 eventually we will establish these transportation and
8 transmission and utility corridors in advance, which
9 would seem to save a lot of money over the process we
10 currently engage in.

11 A. Mr. Chairman, if I could just add something. I
12 talked about the active citizen involvement. And
13 related to Mr. Palmer's comment, which frankly I agree
14 with, if we had the tools from the State of Arizona to
15 do that and we could actively engage the utility
16 companies to locate their substations -- they are
17 reluctant to do that for a whole variety of reasons,
18 largely it has to deal with real estate transactions; we
19 are sensitive to that -- but Queen Creek has an SRP task
20 force that's a citizens committee. It came out, it was
21 an outgrowth from a 69kV power line that came down
22 Ocotillo Road, concerning our neighborhoods. We said
23 listen, is there a way we can work cooperatively with
24 Salt River Project to jointly look at planning these
25 particular lines. And that's what -- we have tried to

1 do that, but in different ways.

2 MEMBER PALMER: Thank you.

3 CHMN. FOREMAN: Member Eberhart.

4 MEMBER EBERHART: Thank you, Mr. Chairman. I
5 have more than one question today. If we could turn to
6 Queen Creek 24, QC-24, the guide for using the esthetic
7 funds. I had a question.

8

9

EXAMINATION

10 BY MEMBER EBERHART:

11 Q. You testified that Queen Creek has more projects
12 in mind than funds available?

13 A. That's correct.

14 Q. About double or something like that. I read in
15 this, on page 5, the last paragraph, that esthetics
16 funds will only be authorized for projects that are
17 expected to begin construction within 24 months from the
18 date of authorization.

19 Are you testifying that all of those projects
20 are expected to begin construction within the next 24
21 months?

22 A. Mr. Chairman, Committee Member Eberhart, the
23 answer to that is no. But frankly -- and we are no
24 different than any other communities -- we try to
25 forecast in anticipation of esthetic funds being

1 available what projects might come along at the
2 appropriate time to be able to program consistent with
3 that.

4 Q. So does the Town of Queen Creek have \$680,000
5 worth of projects that are coming on line within the
6 next 24 months?

7 A. Well, specifically, Mr. Chairman, Committee
8 Eberhart, yes.

9 Q. And those are which projects? The
10 undergrounding of the 12kV lines?

11 A. Yeah, these are the ones, Member Eberhart, we
12 were reading off earlier. That is existing overhead
13 power lines that exist that we could actively engage
14 design with SRP and then...

15 Q. And is SRP aware that those are prepared to
16 begin construction within the next 24 months?

17 A. Mr. Chairman, Committee Member Eberhart, I am
18 not certain if they are aware of all those projects. I
19 would have to get back with you, I'm not sure.

20 Q. Because the next sentence, or further in that
21 paragraph it says that in the event that projects are
22 more than 24 months out, the authorization becomes void
23 and the applicable funds are returned to the uncommitted
24 pool. Were you aware of that provision in this?

25 A. Yes, Mr. Chairman, Committee Member Eberhart.

1 We have never had a shortage of projects. I am not
2 aware of us ever returning any money to the pool, and I
3 wouldn't anticipate that in the future --

4 Q. We all --

5 A. -- at least the near future.

6 Q. We all in this time of tough economics, even in
7 our households and in our government agencies and in
8 private businesses, have to prioritize our expenditures.
9 Would you agree with that statement?

10 A. I would agree with that.

11 Q. In the event that RS-24, the substation, is
12 sited where we propose or where the applicant proposes,
13 and the funds are not sufficient to meet the landscaping
14 and wall requirements that the Town of Queen Creek
15 desires, would that become a priority that the Town of
16 Queen Creek might want to prioritize in place of one of
17 the 12kV lines, if SRP was amenable to authorizing that
18 use of esthetic funds?

19 A. Mr. Chairman, Committee Member Eberhart, I think
20 a couple of conditions would have to come into play in
21 order for me to sufficiently answer that question.

22 One is, because these projects I mentioned are
23 also prioritized by the mayor and council, the mayor and
24 council wanted to juggle its priorities at that
25 particular point in time.

1 But I think the most significant one is SRP's
2 own rules that currently prohibit use of esthetic funds
3 on the use of the substation. So that would have to be
4 amended by SRP. And my understanding from their staff
5 is that's a board action in order to amend that.

6 So I think one of those two conditions, well,
7 both of those conditions would probably have to come
8 into play at that time.

9 Q. Again, I agree. And it was a hypothetical that
10 I proposed to you, so I appreciate that.

11 Would you agree with the general statement that
12 growth should pay for growth?

13 A. Mr. Chairman, Committee Member Eberhart, yes, I
14 do agree with that. In fact, we have that of our land
15 use policy and impact fee program is consistent with
16 statute to be able to accomplish that goal, yes.

17 Q. Does the town of -- I almost said Cave Creek.
18 Does the Town of Queen Creek impose impact fees on
19 developments?

20 A. Mr. Chairman, Committee Member Eberhart, we do.
21 And impact fees, as you are probably aware, do not pay
22 for the full cost of growth. There is still a subsidy
23 to a certain extent that existing residents have to
24 contribute to for pieces of infrastructure.

25 It is a wonderful financing tool, particularly

1 for a new and urbanizing community, particularly the
2 smaller communities that don't have the same revenue
3 streams as the City of Mesa for example. But yes, we do
4 have that program.

5 Q. You testified earlier in response to Member
6 Palmer that you agree that this project is due in part,
7 the need for this project is in part due to the growth
8 in the Queen Creek area, is that right?

9 A. Mr. Chairman, Committee Member Eberhart, the
10 answer to that is yes. But the majority of the project,
11 as has been explained to me and my staff, has been
12 because of the need of the larger region. It has been
13 mischaracterized that this entire project is entirely
14 for the Town of Queen Creek. That's flat out not true.
15 I believe that's what I testified to earlier.

16 Q. I think Mr. Palmer and I said in part to the
17 growth in Queen Creek.

18 A. Yes, I agree with that.

19 Q. And so I don't want to -- I want to make that
20 clear.

21 My point being, would it be feasible or possible
22 for the Town of Queen Creek to impose impact fees on
23 developers to help pay for esthetic funds, mitigation
24 funds for the linear hiking trails, for the desirable
25 landscaping for RS-24 substation, for masonry retaining

1 walls above and beyond the limits that SRP has agreed
2 to? Is that possible?

3 A. Mr. Chairman, Committee Member Eberhart,
4 currently under state law it is not possible for
5 municipalities, we do not have the permission from the
6 Arizona legislature to actually collect impact fees for
7 third-party infrastructure, utilities, infrastructure.
8 So unless that is changed by the legislature, we cannot
9 use impact fees for that particular infrastructure,
10 landscaping of the substation or walls.

11 Q. And just to get on the record, the Town of Queen
12 Creek has met with SRP regarding the RS-24 substation as
13 far as what your desires are --

14 A. Yes.

15 Q. -- as far as landscaping and wall treatments and
16 the extent of the wall?

17 Has the Town of Queen Creek volunteered through
18 an ITA or anything like that to participate in any costs
19 associated with that above and beyond what SRP has
20 already offered?

21 A. Mr. Chairman, Committee Member Eberhart, we have
22 not. And for the reasons that I have explained earlier,
23 sadly, because of the economy, its impact, arguably
24 disproportionate impact to high growth communities,
25 where we rely, in my opinion, too much on growth as a

1 primary source of revenue, those revenues have fallen
2 off so significantly for us we have undergone three
3 straight years of budget cutting. I mentioned one-third
4 of our general fund has been cut significantly, layouts
5 to the community or to the organization. We are just
6 not in the position today to be able to commit to that.

7 Q. Switching gears here a little bit, yesterday
8 there was significant testimony from some of the
9 landowners along Meridian and their puzzlement and
10 concern and -- I don't want to use the wrong word --
11 almost disbelief that the Town of Queen Creek was
12 advocating alignment along Meridian, which is designated
13 as a regional arterial roadway system. How does
14 that -- do you have a response to those concerns?

15 A. Yes, Mr. Chairman, Commissioner -- Committee
16 Member Eberhart. I think we are just going to have to
17 agree to disagree on that perspective. I already stated
18 our reasons for objecting to Signal Butte and Ryan Road
19 being in the middle of our employment areas. We have a
20 difference of opinion with respect to the disposition of
21 that, that being internal to a limited developable area
22 versus the edges, particularly with Meridian Road.

23 And, you know, there is a lot of examples I
24 think throughout the valley where there is other
25 infrastructure along major, what would be a principal

1 arterial roads. Val Vista Drive in Gilbert is an
2 example. Yesterday's paper, I believe the front page of
3 The Arizona Republic, showed a major piece of high
4 tension line along a major corridor.

5 MEMBER EBERHART: I am just about done,
6 Mr. Chairman. I would like to see if we could pull up
7 Queen Creek 14, QC-14. That was the map showing the
8 petition percentages or signatures. If we could zoom in
9 a little closer. Thank you.

10 BY MEMBER EBERHART:

11 Q. I was a little -- my first question regarding
12 this exhibit is: Do you know who prepared this exhibit?

13 A. Mr. Chairman, Committee Member Eberhart, I
14 believe it was one of our staff members that had
15 prepared this particular exhibit. I don't know which
16 one. We have got several that do mapping for us.

17 Q. And what information did the town want to convey
18 to the Committee with this exhibit?

19 A. Mr. Chairman, I believe that the title of this
20 is trying to demonstrate the ratio of signatures to
21 actual houses in each neighborhood, and identify a
22 particular area that at a snapshot in time when these
23 petitions were circulated which neighborhoods were
24 communicating the most with respect to the impact of
25 these transmission lines.

1 Q. So those percentages shown on this exhibit are
2 the percentages of the people living in those
3 neighborhoods that signed or, the percentages of the
4 petitions that were signed, the people lived in those?

5 A. This should demonstrate the percentages of
6 signatures as a ratio to houses. So like, for example,
7 that 125.29 percent that's shown in Queenland Manor,
8 more people than houses actually signed that signature.
9 I believe that's the --

10 CHMN. FOREMAN: There is a lot of retirees from
11 Chicago there.

12 MEMBER EBERHART: Jimmy Hoffa lives there.

13 CHMN. FOREMAN: I am sorry.

14 BY MEMBER EBERHART:

15 Q. And what is the significance of that? I am not
16 understanding that. Are you saying that --

17 A. Well, I think the point was just to demonstrate
18 that in some cases we have -- it is important to just
19 not count the number of housing units in the actual
20 neighborhood. People are actively involved, and this is
21 where those actual signatures appeared on the particular
22 positions.

23 Q. One particular, the upper left-hand side, I
24 can't see.

25 A. The big red one here.

1 Q. But that red --

2 A. Yes.

3 Q. -- square is affected by each of the three
4 alignments. No matter what alignment we are talking
5 about, a power line is going to run catty-corner through
6 that or by that neighborhood. Would you agree with
7 that?

8 A. I would agree with that, yes.

9 Q. So what is the significance of people in that
10 neighborhood signing the petitions if all three proposed
11 alignments that we are currently considering? And there
12 is a fourth.

13 A. Yes, Mr. Chairman, Committee Member Eberhart. I
14 think the bigger picture is to try and show the
15 Committee, because there was a comment that came up at
16 some point during these proceedings about when people
17 showing up at the hearings was a representation of more
18 interest in the issue, so this was our attempt just to
19 demonstrate, listen, it is not just these issues, this
20 is a bigger issue for the community as a whole. I agree
21 with that. I agree with that.

22 Q. I am just trying to understand the significance.
23 I thought the percentages would add all up to
24 100 percent and I couldn't read that 125 percent, so...

25 A. No. This is a percentage of each, like

1 56 percent of the total housing units, population to
2 housing units ratio of each individual neighborhood.

3 MEMBER EBERHART: Thank you. That's all.

4 CHMN. FOREMAN: We need to remember that Colette
5 has been at this for well over an hour.

6 MEMBER PALMER: Over two hours.

7 CHMN. FOREMAN: No, but getting close.

8 Member Palmer.

9 MEMBER PALMER: Just a point of clarification.
10 I had made the comment and the observation that people
11 that come and attend the meetings and participate as
12 witnesses and endure some of the process are generally
13 better informed about all the variables and the issues
14 of fact as someone who simply signs a petition and is
15 maybe influenced by the circulator. That was my point.

16 CHMN. FOREMAN: Okay.

17 Member Wong.

18 MEMBER WONG: Thank you, Mr. Chairman.

19

20 EXAMINATION

21 BY MEMBER WONG:

22 Q. Mr. Kross, what is the current relationship
23 between the Town of Queen Creek and the City of Mesa?

24 A. Mr. Chairman, Committee Member Wong, do you mean
25 with that question what has historically been our

1 relationships in terms of partnering on projects or what
2 is the general tenor today between the two communities?

3 Q. Yes. What is the general tenor? Do you have a
4 working relationship? Do you have partnerships?
5 Describe that relation.

6 A. Mr. Chairman, Committee Member Wong, I would
7 characterize it mostly positive. We share a lot of --
8 most of our goals are clearly aligned. I had made the
9 comment earlier about us being quite surprised, my mayor
10 and council shocked, as a matter of fact, dismayed was a
11 comment made by one of them, that a neighboring
12 community would come to a hearing like this and come out
13 in favor of an alignment that would impugn our downtown
14 without any phone calls, without any correspondence
15 whatsoever about the reasons behind that.

16 I am hoping this is an isolated incident, quite
17 frankly, because we have had a lot of successes, many
18 years of success and positive things to be working on
19 together, whether it be the airport, wastewater
20 treatment plant, regional transportation planning in
21 general, and a lot of things through the Maricopa County
22 Association of Governments.

23 I don't know if that answered your question, but
24 I hope it does.

25 Q. Thank you.

1 Let me talk about the airport. There has been
2 much testimony about that airport in response to one of
3 the proposed alignments being on the Germann Road. We
4 have heard from a lay pilot. We heard from at least two
5 experts in the aviation field. We have heard from the
6 airport, an executive, I think it is the planning
7 director. And we have not heard that the proposed line
8 on Germann is actually an impediment from a safety point
9 of view; in fact, we were told the FAA opined it is not
10 a safety hazard.

11 But then an expert today expressed, I think it
12 was Mr. Scarborough, expert on behalf of the town
13 of -- your town, said that the pole height could impact
14 the future operations of the airport when combined with
15 other factors. For example, if the temperature is very
16 high, that is a factor in the load factor, how long it
17 takes for the aircraft to get airborne and the height,
18 the length of the runway in relation to the heat, to the
19 cargo, the weight of the airplane.

20 And is that a concern for Town of Queen Creek?
21 Because I heard earlier that you have -- you derive a
22 benefit from the airport, is that correct?

23 A. Yes, we do derive a benefit, or we hope to,
24 quite frankly. We haven't seen a direct benefit as of
25 yet, but we know this is a long-term commitment and a

1 long-term relationship.

2 I think with respect to Mr. Scarborough's
3 response to that, my interpretation of that was if the
4 height of the poles encroached above that ceiling
5 minimum or that elevation minimum that was prescribed in
6 the one engine out standard, that the bigger factor was
7 heat itself, but today, because of the pole heights as
8 proposed along Germann Road, or Ryan Road for that
9 matter, do not abrogate any particular standard -- do
10 not create a safety hazard, regardless of weather.

11 Q. I had asked Mr. Scarborough if the airport
12 operations had, their future plan includes larger
13 aircraft, larger equipment. I understand that there may
14 be a possibility of it being a cargo hub, cargo airport.
15 And Mr. Scarborough mentioned that the proposal would
16 include, his analysis includes a planned expansion of
17 the runway which would extend closer to the Germann
18 Road. And he stated, as I recall, that even with the
19 proposed pole heights, if there is a larger aircraft,
20 greater weight, that they, to clear that height of a
21 pole as proposed, let's say the ambient temperature goes
22 up, you would have to adjust for safety reasons and may
23 have to scale back the weight of the airplane, which may
24 impact a cargo, commercial cargo use of the airplane.

25 So what I am getting at here is that are you

1 willing to sacrifice the economic engine of the airport
2 by placing those pole heights on Germann Road which
3 would then have a corresponding impact on the economic
4 impact spillover to the Town of Queen Creek. Has that
5 been considered?

6 A. Yes, Mr. Chairman, Committee Member Wong,
7 forgive me, but I don't believe that we arrived at that
8 same conclusion with that particular analysis, quite
9 frankly. And we specifically asked our consultant to
10 evaluate the standards with the most conservative
11 standard, all conditions, even evaluating the extension
12 of the runway, because it is, that is a planned capital
13 improvement project. And all the answers that we got
14 back were that there was no impact and that they could
15 be constructed and still meet the FAA standards.

16 That's our response to that particular question.
17 If new information surfaces and if we need to have
18 another analysis done, by all means we would be very
19 interested in doing that because, as I said from day --
20 or the start of the testimony today, our main interest
21 was to ensure that there was not going to be an impact
22 with this major economic development engine.

23 CHMN. FOREMAN: We need --

24 MEMBER WONG: Yes, please.

25 CHMN. FOREMAN: We need to break for the benefit

1 of our poor court reporter who has been very diligent in
2 her work.

3 We are going to reconvene tomorrow at 9:30. We
4 are going directly into the remainder of the
5 questioning, to argument, to deliberations. My hope is
6 we still will conclude tomorrow.

7 We will see you tomorrow at 9:30 and we will try
8 and start on time.

9 (The hearing recessed at 5:02 p.m.)

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1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

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I, COLETTE E. ROSS, Certified Reporter
 No. 50658 for the State of Arizona, do hereby certify
 that the foregoing printed pages constitute a full, true
 and accurate transcript of the proceedings had in the
 foregoing matter, all done to the best of my skill and
 ability.

WITNESS my hand this 22nd day of October,
 2009.



COLETTE E. ROSS
 Certified Reporter
 Certificate No. 50658