

Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue
Buzzards Bay, MA 02532
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Remote Meeting & Hearing MINUTES February 16, 2022

Meeting was called to order at 04:00pm

Mr. Andrews stated that this hearing was being recorded and televised by Bourne Community TV. Michael Rausch from the Bourne Enterprise stated he was recording. Registered Professional Reporter, Janet Wynne, CSR No. 131793 from Beacon Court Reporting Services acknowledged that she was recording. Proceedings transcribed by Janet Wynne of Beacon Court Reporting Services as attached as Exhibit B.

1. Attendance.
2. Town of Bourne Department of Integrated Solid Waste Management (ISWM) -- 201 MacArthur Boulevard (Route 28), Bourne—*CONTINUED from 2/2/2022*--Public hearing to consider application for major modification of the existing Board of Health site assignment to allow the vertical and horizontal expansion of the Bourne landfill pursuant to M.G.L. c. 111, §§ 150A -150A ½, and 310 CMR 16.00: Site Assignment Regulations for Solid Waste Facilities. [The original, published, public notice for this proceeding is attached to this agenda] – Please see attached Public Notice labeled as Exhibit A.
3. Introduction to Hearing Officer.
4. Continued public hearing.
5. Testimony from witnesses.
6. Vote to close hearing or continue to date certain.
7. Adjourn.

Public Notice

Town of Bourne
Board of Health
Town Hall, 24 Perry Avenue,
Buzzards Bay, MA 02532

In accordance with Massachusetts General Laws, Chapter 111, Sections 150A and 150A 1/2 and the regulations promulgated thereunder, 310 CMR 16.00 "Site Assignment Regulations for Solid Waste Facilities," an application for major modification of a site assignment has been filed with the Bourne Board of Health for the modification of a site assignment of two parcels of land for solid waste landfilling. The parcels are located at 201 MacArthur Boulevard (Route 28), Bourne, Massachusetts and are the locations of the current Bourne Sanitary Landfill and Waste Handling Facilities. The Applicant is the Bourne Department of Integrated Solid Waste Management (ISWM), 201 MacArthur Boulevard (Route 28), Bourne, Massachusetts.

The Bourne Board of Health has scheduled a public hearing to consider the proposed major modification of the existing site assignment to allow the vertical and horizontal expansion of the landfill. The public hearing has been scheduled for February 2, 2022 at 4:00 p.m. and will be conducted exclusively through a virtual public hearing format. The video conference zoom hearing can be accessed by the zoom link contained on the Board of Health Website.

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The area under consideration encompasses approximately 99-acres, which consists of a 74-acre parcel that is currently site assigned for landfilling and a 25-acre parcel that is currently site assigned for solid waste handling. The waste acceptance rate shall remain as it exists for the current landfill and solid waste handling operations with a maximum permitted waste acceptance rate of 825 tons per day.

The Massachusetts Department of Environmental Protection has issued a Site Suitability Report in which it has determined that the above-described place is suitable for the proposed expansion of solid waste landfilling operations. The Department's Report, the Application for Site Assignment and other relevant documents are available for review on the ISWM web page at <https://www.townofbourne.com/integrated-solid-waste-management/pages/landfill-expansion-permitting-documents>. The Bourne Board of Health shall receive comments on the proposed site assignment modification application for 14 days from the date of the publication of this public notice. All comments regarding the modification application for this site should be mailed to the Board's address above and by electronic mail address at: health@townofbourne.com received no later than 5 p.m. on January 26, 2022.

The Board of Health requests that any party seeking to intervene or participate in the public hearing pursuant to 310 CMR 16.20(9) submit to the Bourne Board of Health a written petition for leave to intervene or participate by electronic mail to: health@townofbourne.com or by mail at the address listed above for receipt no later than January 26, 2022 at 5:00 p.m. Copies of the site suitability criteria (310 CMR 16.00) are available at <https://www.mass.gov/doc/310-cmr-1600-site-assignment-for-solid-waste-facilities/download>.

Bourne Board of Health

In The Matter Of:
Bourne Board of Health Public Hearing
Before Hearing Officer John F. Shea

Remote Public Hearing
Vol. II
February 16, 2022

Beacon Court Reporting Services
100 Independence Drive, Suite 100
Hyannis, Massachusetts 02601
(774) 678-4255
www.beaconcourtreporting.com

1 COMMONWEALTH OF MASSACHUSETTS
 2 TOWN OF BOURNE
 3 BOARD OF HEALTH
 4 *****x
 5 IN RE:
 6 BOURNE BOARD OF HEALTH PUBLIC HEARING TO
 7 CONSIDER PROPOSED MAJOR MODIFICATION OF
 8 THE EXISTING SITE ASSIGNMENT TO ALLOW
 9 THE VERTICAL AND HORIZONTAL EXPANSION OF
 10 THE LANDEFILL
 11 *****x
 12 TOWN OF BOURNE BOARD OF HEALTH
 13 REMOTE PUBLIC HEARING
 14 BEFORE HEARING OFFICER JOHN F. SHEA
 15 (conducted exclusively through remote participation)
 16 Recorded and Televised by Bourne Community TV
 17 February 16, 2022, 4:00 p.m.
 18 Second Day
 19 Pages 162 - 231
 20 reported by: Janet L. Wynne, CSR No. 131793
 21 Registered Professional Reporter
 22 Beacon Court Reporting Services
 23 100 Independence Drive, Suite 7
 24 Hyannis, Massachusetts 02601
 www.beaconcourtreporting.com

1 REMOTE APPEARANCES, continued
 2 ALSO PRESENT:
 3 Terri Guarino, R.S., C.H.O, Health Agent
 4 Kaitlyn Shea, Health Inspector
 5 Philip A. Goddard, ISWM
 6 Asa Mintz, ISWM
 7 A. Raymond Quinn, SITEC
 8 Ken Ryan, SITEC
 9 Mike Quatromani, SITEC
 10 Jennifer McGrail, Bourne Community TV
 11 Michael Rausch, Bourne Enterprise
 12 Richard Jordan
 13 Kim Hazarvatian
 14 Amy Ball (HW)
 15 Amy Sharpe
 16 Donald Nagle, Esq.
 17 Patricia Taylor, EHHI
 18 Gabrielle Belfit, Tighe & Bond
 19 BOS-Longfellow

1 REMOTE APPEARANCES:
 2 BOARD MEMBERS:
 3 Stanley Andrews, Chairman
 4 William Meier, Clerk
 5 Donald C. Utti
 6 Barbara Princiotta
 7 FOR THE APPLICANT:
 8 Michelle N. O'Brien, Esq.
 9 Pierce Atwood LLP
 10 100 Summer Street, Floor 22
 11 Boston, Massachusetts 02110
 12 (617) 488-8146
 13 mobrien@pierceatwood.com
 14 FOR THE BOARD:
 15 Steven A. Torres, J.D.
 16 Victoria Rosa, Esq.
 17 West Group Law, PLLC
 18 4 Richmond Square, Suite 350
 19 Providence, Rhode Island 02906
 20 (401) 371-3636
 21 storres@westgrouplaw.com
 22 vroosa@westgrouplaw.com
 23 FOR THE TEN CITIZEN GROUP:
 24 Kirstie Pecci, Esq.
 Lisa Gianelly, Esq.
 Conservation Law Foundation
 62 Summer Street
 Boston, Massachusetts 02110
 (617) 350-0990
 18 SPEAKERS:
 19 Daniel Thomas Barrett, GM, ISWM
 20 David Murphy, PE, Tighe & Bond
 21 Steven MacNally

1 PROCEEDINGS
 2 BOURNE BOARD OF HEALTH PUBLIC HEARING REPORTED REMOTELY
 3 FROM HYANNIS, MASSACHUSETTS, ON FEBRUARY 16, 2022, AT
 4 4:00 P.M.
 5 *****
 6 MR. CHAIRMAN: It is four o'clock
 7 Wednesday, February 16, 2022. I hereby call the
 8 hearing of the Bourne Board of Health to order. I will
 9 start with a motion to reconvene the hearing from the
 10 board.
 11 MR. MEIER: I make a motion to reconvene
 12 the hearing.
 13 MR. CHAIRMAN: Do I have a second?
 14 MR. UTTI: Second.
 15 MR. CHAIRMAN: I have a motion by
 16 Mr. Meier, seconded by Mr. Utti.
 17 Roll call vote. Mr. Utti?
 18 MR. UTTI: Here.
 19 MR. CHAIRMAN: Barbara Princiotta?
 20 MS. PRINCIOTTA: Yes.
 21 MR. CHAIRMAN: Dusty Meier?
 22 MR. MEIER: Yes.
 23 MR. CHAIRMAN: Stanley Andrews.
 24 This continued public hearing is being

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1 recorded and televised by Bourne Community TV. All
2 members are participating remotely. If anyone
3 participating in the hearing is also recording, they
4 need to acknowledge such at this time.
5 MR. RAUSCH: Mr. Chairman, this is
6 Michael Rausch with the Bourne Enterprise newspaper. I
7 am audio-recording the meeting.
8 MR. CHAIRMAN: Thank you.
9 And I believe we have Janet Wynne.
10 THE STENOGRAPHER: Janet Wynne. I am a
11 stenographer with Beacon Court Reporting, and I am
12 recording as well.
13 MR. CHAIRMAN: And I believe Terri
14 Guarino is recording via Zoom.
15 MS. GUARINO: Yes.
16 MR. CHAIRMAN: Thank you.
17 This is the Town of Bourne Department of
18 Integrated Solid Waste Management, 201 McArthur
19 Boulevard, Route 28, Bourne --
20 (Stenographer requests clarification.)
21 MR. CHAIRMAN: Agenda Item Number 2,
22 Town of Bourne Department of Integrated Solid Waste
23 Management, 201 MacArthur Boulevard, Route 28, Bourne,
24 continued from February 2, 2022, public hearing to

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1 consider application for major modification of an
2 existing board of health site assignment to allow the
3 vertical and horizontal expansion of the Bourne
4 landfill pursuant to M.G.L. Chapter 111, Section 150A,
5 150A 1/2, and 310 CMR 16 site assignment regulations
6 for solid waste facilities. The original published
7 public notice for this proceeding is attached to the
8 agenda.
9 At this time I would like to introduce
10 our hearing officer, Mr. John Shea.
11 John.
12 THE HEARING OFFICER: Thank you for
13 those preliminaries, Mr. Chairman. Since we last met
14 on February 2nd, I have issued two orders on schedules
15 and protocols for this continued public hearing. The
16 first order needed to be revised, based upon a
17 conference call of counsel, to deal with the fact that
18 the stenographer has a hard stop at 8:00 p.m. I know
19 you were thinking of a hard stop at eleven, but our
20 stenographer needs to hard-stop at eight.
21 Depending on where we are with the
22 testimony and the questioning, I would need to -- and
23 if we're going to close the hearing, I would need five
24 to ten minutes for closing instructions to the board so

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1 that we can hard-stop at 8:00 p.m. And --
2 MS. PECCI: Mr. Shea, may I ask a
3 question about the timing piece, please?
4 THE HEARING OFFICER: Identify yourself,
5 please.
6 MS. PECCI: Certainly. My name is
7 Kirstie Pecci. I'm an attorney from Conservation Law
8 Foundation speaking for the ten citizens group.
9 THE HEARING OFFICER: What's your
10 question?
11 MS. PECCI: The question is: I wondered
12 if the board and the board's attorney and the hearing
13 officer had discussed the possibility of a continuance,
14 because, as I'm sure you're well aware, under 760 CMR
15 5605, with just a written agreement between the board
16 and the applicant, the timeline can be extended. And
17 given the pressure that's on the board, and, of course,
18 other pressures like the stenographer's time, for
19 instance, I would think that that would make this a lot
20 easier for the board to do their job.
21 THE HEARING OFFICER: Well, we have
22 discussed this, and I have ruled on it previously. We
23 cannot extend the 45 days for the decision to be made
24 for the deliberations to occur and the decision to be

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1 made by operation of the statute, Chapter 111 150A, and
2 by the regulations that don't allow me to modify the
3 schedule with or without the consent of the parties.
4 So we are not going to be continuing with the idea that
5 we would be extending the time for the hearing under
6 the statute and under the regulations.
7 MS. PECCI: So, just to clarify, sir,
8 you're saying that the regulations do not allow that,
9 even if the board --
10 THE HEARING OFFICER: Yes.
11 MS. PECCI: -- and hearing officer --
12 THE HEARING OFFICER: That's right. And
13 if you've read my prehearing orders and decisions, you
14 will see that I cited to the particular provision in
15 the regulations that don't allow that to happen.
16 So back to my two orders. Due to the
17 limited availability of the steno, we agreed -- we,
18 being the counsel, agreed that any rebuttal would be
19 through witnesses, instead of prefiled written rebuttal
20 testimony. So those were the two orders that I issued.
21 And in compliance with my order, the
22 review engineer submitted his prefiled direct testimony
23 and report on February 9th, and the ten citizen group
24 filed what it called prefiled presentation summaries

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1 for two witnesses, which we also received on 2/9.
2 We also received supplemental direct
3 testimony of Daniel Barrett. On February 11th -- this
4 is a little distracting. Could we have a -- Terri, a
5 broader view of -- Ms. Pecci is being featured in the
6 middle of the screen here. I don't think that's
7 appropriate.
8 MS. GUARINO: You can --
9 THE HEARING OFFICER: There you go. I'm
10 not computer savvy, so.
11 MS. GUARINO: Yeah. You can adjust your
12 settings, depending on what type of device you're
13 using. If you click the corner of the screen, you
14 should see a square with several dots that indicates
15 "View." And you can click that and have it in speaker
16 or gallery view or full screen.
17 THE HEARING OFFICER: Well, I'm not
18 going to learn Zoom tonight -- this afternoon.
19 MR. PECCI: I didn't put myself in the
20 center, sir. That's just the way the computer
21 defaults.
22 THE HEARING OFFICER: Yeah, I know.
23 Well, I asked for the removal.
24 Terri?

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1 MS. GUARINO: It is a setting on your
2 device. Unfortunately, I can't do that for you.
3 MR. MURPHY: In the upper right corner
4 it should say "View."
5 MS. O'BRIEN: Click where it says "View"
6 in the upper right corner.
7 THE HEARING OFFICER: Yeah, I see that.
8 I see all the people that are currently involved in the
9 discussion; but once you stopped, I shouldn't have to
10 have the obligation to change the view.
11 MS. PRINCIOTTA: Terri, may I speak?
12 MS. GUARINO: Please.
13 MS. PRINCIOTTA: Mr. Shea, what she's
14 saying is, if you click on that word "View," it gives
15 you three options to choose. "Speaker" view -- it
16 sounds like you're on "Speaker" view. So, if you
17 scroll your mouse and click on that word "View" --
18 THE HEARING OFFICER: Yeah, that's what
19 I've got, "Speaker" view.
20 MS. PRINCIOTTA: So click on either
21 "Gallery" -- click on "Gallery" view --
22 THE HEARING OFFICER: Okay.
23 MS. PRINCIOTTA: -- and then it won't
24 keep fluctuating between speakers.

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1 THE HEARING OFFICER: Oh, my God, then
2 it's -- then I have too many people. That's too
3 confusing. I'm going to go back to "Speaker" view.
4 MS. PRINCIOTTA: Okay.
5 THE HEARING OFFICER: Okay. So let me
6 go back.
7 We received this information on the 9th,
8 as it required it in my order. And on February 11th
9 counsel for the applicant filed motions to strike the
10 ten citizen summaries, which were supported by counsel
11 for the board's recommendation.
12 I held a telephone hearing on
13 February 14th to hear arguments by counsel and decided
14 to grant the motions to strike and preclude the ten
15 citizen witnesses.
16 I memorialized that in a decision on
17 February 15th that lays out the reasons. And I'm not
18 going to go through all of them now, but the ruling on
19 the motions to strike and preclude testimony are in the
20 record. That doesn't mean that the ten citizens group
21 cannot participate. What it means is that they can
22 examine the applicant's witnesses and the board's
23 review engineer at today's hearing, and their prefiled
24 presentation summaries will be included in the

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1 administrative record with a notation that they were
2 not admitted into evidence.
3 Counsel for the applicant, at the
4 request of the health agent, prepared a table of
5 contents for the administrative record, which I will
6 use to admit that evidence after the end of testimony.
7 So please remind me to do that. Thank you,
8 Ms. O'Brien, for undertaking that effort.
9 I note, also, that Attorney Gianelly
10 asked that two documents that she referenced in her
11 February 9th transmittal letter be admitted into
12 evidence. Those documents were not provided to me or
13 the parties. The links that were in the transmittal
14 letter, not in the offered testimony -- summary of
15 testimony, would not work for me, and the warning
16 "Potential Security Concern" came up on my computer. I
17 wasn't going to crash my firm's computer system to try
18 to figure out what these documents were about.
19 I advised Attorney Gianelly at the
20 hearing on February 14th of this difficulty and still
21 was not provided copies of the documents, and, I
22 suspect, neither were the parties.
23 In any event, the documents have not
24 been admitted into evidence. And if they are, they are

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1 going to have to be qualified through testimony based
2 on the examination by counsel for the ten citizen
3 group.
4 MS. PECCI: Mr. Shea, are you talking
5 about -- just to clarify, are you talking about the
6 MassDEP report on the MassDEP website that you could
7 not access?
8 THE HEARING OFFICER: Yes, I could not
9 access that. And Lisa, in her letter of February 15th,
10 said, "We'd like to ask again that the DEP report and
11 Doctor Lee's report --" well, that's the first time I
12 saw Dr. Lee's name -- "which we asked to be submitted
13 for the record to help the board of health evaluate
14 CLF's line of questioning, be added to the record as
15 well." And I haven't been able to review them, and I'm
16 not inclined to just add them to the record at this
17 point in time.
18 MS. PECCI: If I may -- if I may ask,
19 are you asking that they be made into a PDF and then
20 sent to you via email?
21 THE HEARING OFFICER: Yeah.
22 MS. PECCI: Because I'm a little
23 confused as to the process.
24 THE HEARING OFFICER: You know, were you

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1 at the February 14th hearing?
2 MS. PECCI: No. I'm just making sure I
3 understand so that we can correct this and get you
4 whatever you need, sir.
5 THE HEARING OFFICER: Well, it's too
6 late. It's too late.
7 MS. PECCI: Okay.
8 THE HEARING OFFICER: It's too late.
9 So, based upon the schedule that I
10 established in the order, the presentations tonight
11 will consist of the following: And I may juggle the
12 order here to accommodate the striking of the testimony
13 and preclusion of the two witnesses. So we -- the
14 applicant has its witnesses, Daniel Barrett and Raymond
15 Quinn, available for examination by counsel for the ten
16 citizen group and to offer rebuttal testimony.
17 That being said, before we take that
18 step, because Mr. Barrett submitted an additional
19 supplemental prefiled testimony, I'm going to ask the
20 applicant to offer testimony on that additional
21 submittal. And then I'm going to ask the registered
22 participant, Mr. MacNally, to offer his remarks. And
23 then the examination by counsel for the ten citizen
24 group of the applicant's two witnesses can occur -- and

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1 any rebuttal that would come out of that examination.
2 The review engineer will then present
3 his written prefiled testimony and his report and can
4 be subject to examination by the board, by counsel to
5 the board, the applicant, and the ten citizen group and
6 myself.
7 At that point -- the commitment that had
8 been made by all counsel was to try to complete the
9 examination of witnesses in an efficient manner so as
10 to complete the evidentiary portion of the hearing
11 today. And as I mentioned, I would offer some brief
12 closing instructions to the board.
13 So, with that, Attorney O'Brien, would
14 you please call Mr. Barrett to testify on his
15 supplemental testimony.
16 MS. O'BRIEN: Sure, I'd be happy to.
17 I'm not sure there's much to add. But I guess, if
18 you'd like him to basically just confirm that he
19 submitted that testimony, we can do so.
20 THE HEARING OFFICER: And I'd like a
21 brief summary of what's in it. I don't know if the
22 board has had the opportunity to review it, as I have.
23 So, Mr. Barrett, I'll remind you that
24 you have been previously sworn. And even though we've

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1 had the passage of time, your obligation to offer
2 testimony, the truth and nothing but the truth, is
3 still applicable.
4 So, Ms. O'Brien.
5 MS. O'BRIEN: Thank you, Mr. Shea.
6 Mr. Barrett, I think everybody can see
7 you in the corner of the ISWM Department Zoom thing
8 there. I believe you probably want to remove your
9 mask, if that's okay with the folks in the room there,
10 just to make it a little bit easier.
11 So I suspect most people who are on the
12 Zoom this evening were also on the last time, but I see
13 a few additional names; so would you just please remind
14 those who are in attendance who you are, what your
15 name/title is, and what your relationship is to the
16 applicant in this proceeding.
17 MR. BARRETT: I'm Dan Barrett, General
18 Manager of the ISWM facility.
19 MS. O'BRIEN: And ISWM is the Integrated
20 Solid Waste Management Department of the Town of
21 Bourne; correct?
22 MR. BARRETT: Yes, ma'am.
23 MS. O'BRIEN: Okay. And did you submit
24 supplemental direct testimony dated February 8, 2022,

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1 to the board in this proceeding?
2 MR. BARRETT: Yes, I did.
3 MS. O'BRIEN: Would you describe very
4 briefly, if you would -- I don't know if you have a
5 copy of it available to you -- hopefully, you do --
6 there, in the room with you. Would you describe very
7 briefly the purpose and the contents of the
8 supplemental testimony that you submitted to the board
9 and the hearing.
10 MR. BARRETT: Yes. There are a couple
11 of housekeeping issues. During our conversations back
12 and forth with DEP, it was realized that -- DEP had
13 asked that -- it appeared as though we had left out of
14 our two contracts that we currently have traffic
15 congestion relief stipulations, basically telling in
16 the two contracts what the truck drivers were to do.
17 I inadvertently said, yes, I hadn't
18 included that. That's on me. I wrote both contracts.
19 It is, indeed, in there. I wanted to clear that up.
20 We did clear it up in a phone conversation with DEP,
21 but it didn't make it to their final site suitability
22 report. So we just wanted to clear that up.
23 The attachments relative to that are
24 copies of both contracts with the language in them.

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1 And as luck would have it, due to an abnormality at the
2 SEMASS facility, that congestion issue was exercised
3 and worked flawlessly. So we do have past history that
4 it does, indeed, work and that we did, indeed,
5 institute it prior to having it.
6 MS. O'BRIEN: If I may interject and ask
7 you a follow-up question before you proceed to the
8 second item in your supplemental testimony. And that
9 traffic congestion condition that you were referring to
10 has to do with the U-turn lane on Route 28 to get
11 access to the facility; right?
12 MR. BARRETT: Correct. DEP --
13 MS. O'BRIEN: And that --
14 MR. BARRETT: Go ahead.
15 MS. O'BRIEN: And that was a condition
16 of the 2005 site assignment issued to the facility?
17 MR. BARRETT: Yes.
18 MS. O'BRIEN: Right?
19 And I just wanted to make sure that we
20 got that information in as well.
21 And the second item -- if there's
22 anything else with respect to that one, then please let
23 us know; but, otherwise, if you would turn to the
24 second item in your supplemental testimony and just

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1 give a brief description what that covers.
2 MR. BARRETT: Yes. During the hearing
3 there was some discussion about phasing. The chairman
4 had asked me about that. And there was some confusion.
5 It was felt that, relative to -- we wanted to clear up
6 that we would not close any of the recycling
7 facilities, including the residential drop-off area,
8 during construction and phasing of this facility. And
9 we wanted to just make sure that was entered into the
10 records. The applicant has stated that as a fact.
11 MS. O'BRIEN: Great. Thank you.
12 I have no further questions, Mr. Hearing
13 Officer. I don't know if you have any questions of
14 Mr. Barrett with respect to the supplemental testimony.
15 THE HEARING OFFICER: I don't.
16 But before I turn it over to some
17 general cross-examination or examination by Ms. Pecci,
18 I'd ask if counsel to the board has, or the board
19 itself has, any questions of Mr. Barrett on this
20 supplemental testimony.
21 MR. TORRES: Thank you, Mr. Hearing
22 Officer. Counsel for the board has no questions. I
23 yield the remainder of my time.
24 (Zoom audio distortion. Stenographer

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1 requests clarification.)
2 MR. TORRES: I yield the remainder of my
3 time to the members of the board for the purpose of
4 questioning Mr. Barrett, limited to his supplemental
5 presentation.
6 THE HEARING OFFICER: Mr. Chairman --
7 any questions from the board, Mr. Chairman?
8 MR. CHAIRMAN: I do not have any
9 questions at this time. I don't believe any of the
10 other members do. But if they do, please ask.
11 I believe we're satisfied.
12 THE HEARING OFFICER: Okay.
13 So, in accordance with the protocol for
14 the hearing, Ms. Pecci can examine the witnesses that
15 the applicant has put forward.
16 MS. O'BRIEN: Mr. Shea, may I just ask,
17 procedurally, are we going to permit questions of
18 Mr. Barrett first and then redirect and then Mr. Quinn?
19 Procedurally, how do you envision that occurring?
20 THE HEARING OFFICER: You know, it's
21 really Ms. Pecci's choice, I think, which witness she
22 wants to examine first.
23 MS. O'BRIEN: No, no, I understand which
24 one first, but I didn't know if we were sort of

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1 clumping them together, for lack of a better phrase, or
2 whether there would be questions of one witness, and
3 then potential redirect, and questions of the other
4 witness, and then potential redirect.
5 THE HEARING OFFICER: Yeah, I think we
6 do the questioning of both witnesses, and then you can
7 do your redirect of both witnesses.
8 MS. O'BRIEN: Okay.
9 MS. PECCI: Okay. Thank you very much,
10 Mr. Hearing Officer.
11 Again, Kirstie Pecci from Conservation
12 Law Foundation. I just have a few questions for
13 Mr. Barrett, and I'll try and keep it as brief as
14 possible.
15 Mr. Barrett, are you aware that the
16 SEMASS incinerator -- the Southeast Massachusetts
17 incinerator run by Covanta burns about 1.1 million tons
18 of municipal solid waste a year?
19 MR. BARRETT: Yes.
20 MS. PECCI: And, therefore, given the
21 four-to-one ratio between municipal solid waste, versus
22 tonnage of ash, they produce approximately 250,000 tons
23 of ash a year?
24 MS. O'BRIEN: Objection.

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1 MS. PECCI: I'm sorry, are you aware,
2 Mr. Barrett, that SEMASS, therefore, produces
3 approximately 240,000 tons of ash a year?
4 MR. BARRETT: I'm not really sure what
5 they produce on an annual basis. I'm relatively
6 familiar with what their permit is, and it varies
7 coming in to us.
8 MS. PECCI: Correct.
9 Mr. Barrett, does the Bourne ash
10 landfill then, between its -- the cover materials, as
11 well as what's actually buried as waste, is that a
12 totality of SEMASS's ash?
13 MR. BARRETT: As far as I know. Again,
14 they have a contractual agreement with us, and they
15 meet that contractual agreement.
16 MS. PECCI: Thank you.
17 And so, looking at recent years, would
18 you agree, Mr. Barrett, that that's about 230,000 to
19 250,000 tons of ash a year between the cover and then
20 what's buried at the Bourne ash landfill as waste?
21 MR. BARRETT: It's 232,000 a year -- I'm
22 sorry, 232,800 -- consisting of 189,000 of disposal and
23 43,800 of cover.
24 MS. PECCI: Thank you. That corresponds

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1 with what I've seen, too. Thank you.
2 If I may, Mr. Hearing Officer, share my
3 screen at this point to bring up one of the documents
4 on the record already, the MassDEP comments that CLF
5 submitted as part of the determination of the site
6 suitability process.
7 THE HEARING OFFICER: That's fine.
8 MS. PECCI: Thank you.
9 Terri, you seem to be in charge of that.
10 Am I -- do I have the capability to do that?
11 MS. GUARINO: You should have no issue.
12 MS. PECCI: Awesome. I think these
13 technical pieces are always the most difficult parts of
14 what we do.
15 Okay. Can everybody see a pie chart?
16 MR. BARRETT: Yes.
17 MS. PECCI: Thank you. Thank you,
18 Mr. Barrett. I should have directed it directly to
19 you, but I appreciate your response.
20 This is a pie chart taken from a report
21 that Covanta and the other six incinerators in
22 Massachusetts do every three years. It's called a
23 waste characterization report, and it appears on the
24 MassDEP website. Again, it's updated every three

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1 years, and it represents the approximate breakdown of
2 what Covanta at SEMASS burns for MSW.
3 Are you familiar with this chart, sir?
4 MR. BARRETT: Yes.
5 MS. PECCI: Thank you.
6 So, Mr. Barrett, as you can see, the
7 largest portion of this is organics, 23.4 percent. And
8 then we see corresponding in other amounts paper and
9 cardboard, 24.3 percent; plastic, 16.7; metal, 4.1;
10 glass, 4.3; construction and demolition materials,
11 14.9; other, which is mostly textiles, 7.4; plus HHW,
12 which, just for the board's knowledge, refers to
13 hazardous household waste; and then, finally,
14 electronics at .7 percent.
15 Are you familiar with all of these
16 designations sir?
17 MR. BARRETT: Yes.
18 MS. PECCI: Okay. Thank you.
19 So, given that Covanta, as we already
20 established, burns about 1.1 million tons of municipal
21 solid waste each year, what's really nice about this is
22 we can do the math quite easily, in other words,
23 multiply this. So organics, 23.4 percent, represents
24 234,000 tons of municipal solid waste, for instance,

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1 just to make sure I don't -- I don't want to make
2 Mr. Barrett do math on the fly. I hate doing that.
3 THE HEARING OFFICER: Yeah. And you're
4 bordering on testifying, instead of asking questions.
5 MS. PECCI: I'm coming to a few
6 questions now. I'll be done very soon, sir.
7 So, Mr. Barrett, are you familiar
8 with -- and I'm scrolling up to the document again.
9 This is a document that's already on the record. Are
10 you familiar with Code of Mass. Regulations 310 CMR 19
11 and the waste bans listed there, which are here in the
12 bullet points?
13 MR. BARRETT: Yes.
14 MS. PECCI: Thank you. So, when we look
15 at these bullet-pointed items, would you agree that
16 these materials are not allowed to be disposed of in
17 Massachusetts in incinerators or in landfills?
18 MR. BARRETT: I would agree.
19 MS. PECCI: And just to make sure that
20 the board has a chance to understand what these
21 materials are, would you agree that the asphalt
22 pavement, brick, and concrete are a part of the
23 construction/demolition material?
24 MR. BARRETT: I would agree.

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1 MS. PECCI: Would you agree that the
2 clean gypsum wallboard, also, is part of the
3 construction/demolition material?
4 MR. BARRETT: I would agree.
5 MS. O'BRIEN: I'm sorry, I have to
6 object to this line of questioning as to relevance.
7 MS. PECCI: The relevance of this is
8 that Mr. Barrett --
9 MS. O'BRIEN: I didn't ask -- I'm sorry,
10 Ms. Pecci, I'm not asking you to -- for you to --
11 that's the hearing officer's determination -- whether
12 he wants to hear argument on my objection.
13 THE HEARING OFFICER: Thank you,
14 Ms. O'Brien. So you've raised a relevancy question,
15 and I'm having a hard time seeing it myself.
16 So can you succinctly, Attorney Pecci,
17 tell us why this information is relevant to the siting
18 criteria that the board is using to determine whether
19 or not to grant the requested site assignment
20 modifications.
21 MS. PECCI: Mr. Barrett made repeated
22 assertions during his testimony that the ash landfill
23 is leading because the ash is the absolute irreducible
24 minimum that must be then buried, that there is no

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1 choice. I would like to show the board that there is
2 absolutely a choice and that most of the materials that
3 become ash should not be in the incinerator at all.
4 THE HEARING OFFICER: Well, that's a
5 question for the incinerator, for SEMASS -- how they're
6 meeting the waste bans. It's not a question for the
7 proponent here or for the board.
8 MS. PECCI: Well, Mr. Barrett did say
9 repeatedly that this was the best use of this facility
10 because this is the best way to, that we know of right
11 now, dispose of these materials. "Irreducible
12 minimum," as I said, he said many times.
13 So, again, I just have a couple more
14 questions to bring this up.
15 MS. O'BRIEN: Again, I suggest,
16 Mr. Hearing Officer, Ms. Pecci appears to be attempting
17 to testify, and she hasn't clarified where or when or
18 how Mr. Barrett has allegedly made the statements that
19 she's referring to. She's not pointing to his direct
20 testimony or anything. So I'm at a loss as to how this
21 is relevant to the siting criteria.
22 MR. TORRES: If the board may echo the
23 objection on the relevance test to be tied specifically
24 to one of the site assignment criteria, the rule for

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1 relevance in Massachusetts is that the question and the
2 answer are relevant in the sense that they tend to make
3 fact that is consequential to the outcome of the
4 decision more or less probable. And Massachusetts
5 policy on what is permitted to go into SEMASS's
6 facilities does not impact whether or not the
7 application under consideration here meets the site
8 suitability criteria to date in 310 16.40. Thank you
9 your Honor.
10 THE HEARING OFFICER: Thank you for the
11 Honorific reference, but I'm just a hearing officer.
12 I'm having a hard time, still, with the
13 relevancy of this information.
14 MS. PECCI: Mr. Hearing Officer, if the
15 Bourne ash landfill truly were taking care of a need
16 and if there were a disposal crisis in place, such as
17 what we've heard repeatedly, we would already be
18 putting these materials -- we'd be either -- we would
19 either be -- I'm sorry, I'm getting a window here on my
20 screen -- we would either be, again, composting or
21 recycling these materials, not burning them and then
22 burying them.
23 The reason -- as Mr. Barrett just said,
24 the ash is going to this ash landfill. If the

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1 incinerator can't count on the ash landfill, then other
2 choices are made. And one of the criteria is whether
3 there is actually a need for this facility. I think
4 it's very important that the board know that.
5 I was also going to ask about the
6 toxicity of hazardous household waste and electronics
7 and what that meant for the toxicity of the ash. And
8 that would be my final question.
9 MR. BARRETT: May I answer?
10 THE HEARING OFFICER: Yes, you may,
11 please.
12 MR. BARRETT: I would suggest to you
13 that what you're looking at is a breakdown of the waste
14 system in the state of Massachusetts. I don't work
15 with SEMASS. I'm not on the floor -- on the tipping
16 floor, but I do know that they very much honor their
17 waste ban obligations. They're very good at it. I
18 know that. We have to check on that. We make sure.
19 I would suggest to you that they do not
20 burn household hazardous waste -- it's not good for the
21 burner -- they do not burn electronics, practically
22 speaking; and they do not burn C&D. These are
23 materials that are in the waste stream in general in
24 the state of Massachusetts. So these things do not

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1 enter our facility as ash.
2 This is simply a model. I'm not even
3 sure where they got it. I'm not familiar with where
4 they got it. But it looks an awful lot like a
5 statewide waste analysis -- pre-burning,
6 pre-separating. They don't burn metal either, so.
7 MS. PECCI: Sir, this is not the
8 statewide analysis, which I have seen. If you can see,
9 at the bottom this says "SAK Environmental
10 Covanta/SEMASS Waste Characterization Study" in support
11 of their recycling program. So this is what they burn
12 each year.
13 MR. BARRETT: Is it what they burned, or
14 was it -- where did they go to achieve this? Did they
15 stand on the floor and take --
16 MR. PECCI: Samples.
17 MR. BARRETT: -- evidence or samples?
18 MS. PECCI: Yes, exactly. So I would
19 recommend that you look at this report because this is
20 exactly what's in your -- again, I don't want to
21 testify -- this is exactly what's in your ash.
22 MR. BARRETT: Well, I have looked at the
23 report, and, you know, I realize that 14.9 percent of
24 C&D I don't believe goes in there. I would disagree

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1 with their report. I didn't conduct the report.
2 Practically speaking, it's inaccurate.
3 MS. PECCI: Unless you have evidence to
4 state where you're getting that assertion, this is what
5 Covanta said they burn, so I would ask that that not be
6 admitted in the record, again.
7 And then, finally -- again, I don't want
8 to spend much more time on this -- the other piece of
9 this is, as -- would you agree, Mr. Barrett, that
10 you're accepting 30,000 tons of MSW at Bourne ash
11 landfill this year?
12 MR. BARRETT: Roughly, yes.
13 MS. PECCI: Roughly. And so,
14 Mr. Barrett, would you agree, as you stated, this
15 breakdown is very similar to what we see across the
16 state for the breakdown of what's in MSW in
17 Massachusetts?
18 MS. O'BRIEN: Objection.
19 MR. TORRES: Objection, your Honor.
20 THE HEARING OFFICER: Sustained.
21 MR. PECCI: Again, 30,000 tons of MSW is
22 buried at Bourne each year. About 25 percent of it is
23 organics, 25 percent is paper, et cetera, as we can see
24 here. You'd only be burning 6,000 if --

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1 MS. O'BRIEN: Objection.
2 (Simultaneous talking.)
3 THE HEARING OFFICER: You're testifying.
4 MS. O'BRIEN: Objection.
5 THE HEARING OFFICER: Your objection is
6 sustained.
7 Stop testifying, Ms. Pecci.
8 MS. PECCI: I am trying to explain where
9 I'm trying to go with this. Again, I'm happy to
10 continue the line of questioning with Mr. Barrett.
11 THE HEARING OFFICER: Ask him some
12 questions.
13 MS. PECCI: Yes, certainly.
14 Mr. Barrett, given that 30,000 tons of
15 MSW is buried at -- approximately, at Bourne ash
16 landfill each year and the breakdown is similar, as you
17 just said, to the state's -- the state's breakdown is
18 similar to this one we got from Covanta, would you
19 agree that approximately, you know, 25 -- maybe 20,000
20 tons of what's buried at Bourne ash landfill are
21 compostable or recyclable items that are sometimes
22 banned from disposal?
23 MR. BARRETT: No, I would disagree
24 wholeheartedly. We do our waste ban inspections

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1 religiously. They're well chronicled. We report and
2 have removed the materials that are recyclable. We
3 continue to do that, similar to what SEMASS does.
4 You're taking a gross look at what comes in. You're
5 not taking a look at what's removed via the waste ban
6 program.
7 MS. PECCI: How about the compostable
8 materials, sir?
9 MS. O'BRIEN: Objection.
10 MS. PECCI: About how many tons of
11 compostable materials would you estimate go into Bourne
12 ash landfill from the MSW that's buried there?
13 MS. O'BRIEN: I object to the continued
14 references to the "Bourne ash landfill" because it is
15 not designated as an ash landfill. And I'm sure that's
16 deliberate. But everyone knows this is not an ash
17 landfill.
18 THE HEARING OFFICER: Your objection is
19 noted and sustained.
20 MR. BARRETT: The amount of --
21 MS. PECCI: I'm sorry, if I may
22 rephrase.
23 Of the 30,000 tons of municipal solid
24 waste buried at the landfill, about how many tons would

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1 you guess are compostable materials?
2 MS. O'BRIEN: Objection.
3 THE HEARING OFFICER: I'll allow the
4 question, or we're going to be stuck here all night.
5 Do you know the answer to this,
6 Mr. Barrett?
7 MR. BARRETT: I do not. That's a fluid
8 question. You have to be -- she stated her question as
9 a guess, and I'm not willing to make a guess.
10 MS. PECCI: Okay. No further questions.
11 Thank you very much.
12 MR. BARRETT: Thank you.
13 THE HEARING OFFICER: Any questions,
14 Mr. Torres?
15 MR. TORRES: Just a motion to strike
16 on the substantive portions --
17 (Zoom audio distortion. Stenographer
18 requests clarification.)
19 MR. TORRES: As a matter of
20 clarification, the objection to the last question was
21 sustained and the question should be stricken from the
22 record. Generally, when a question contains the word
23 "could you guess," it's a dead giveaway that it's
24 speculative question which is not allowed under the

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1 rules of evidence in Massachusetts. So I just want to
2 make sure that that's not taken as evidence by any
3 members of our board.
4 I want to ask the hearing officer not to
5 admonish counsel but to clarify or to agree with my
6 clarification to my board that, understand, ladies and
7 gentlemen on the board, that what Ms. Pecci says is not
8 evidence. She is asking questions. The only evidence
9 is the sworn testimony of witnesses and the sworn
10 affirmation of a witness in the affirmative answer to a
11 question on cross-examination.
12 Other than that, Ms. Pecci's speech is
13 not evidence that can be considered by this board as
14 probative of any of the issues that are in dispute,
15 which are the site assignment criteria and whether or
16 not they have been satisfied. So I would ask that the
17 hearing officer concur with my instruction to my board.
18 Thank you.
19 THE HEARING OFFICER: Well, Mr. Barrett
20 refused to make a guess; so he wasn't going to
21 speculate.
22 But I do want to correct a statement
23 that you made. The CLF written comments from which she
24 extracted this pie graph were submitted to DEP during

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1 its site suitability review; so it is part of the
2 record, and the board can consider the same information
3 that DEP considered during its site suitability review.
4 MS. O'BRIEN: And, if I may, Mr. Hearing
5 Officer, Ms. Pecci -- she may also say that the CLF
6 sent that same letter to the board for its
7 consideration in this proceeding, and it is part of
8 this board record, and the response to that comment
9 letter from the applicant -- it's on my firm
10 letterhead -- is also part of the record, just so the
11 board is aware that those two items are part of its
12 record, not just the DEP record.
13 THE HEARING OFFICER: Yes, that's
14 correct. And you have appropriately listed it within
15 the administrative record exhibit that you prepared.
16 MS. O'BRIEN: Yes.
17 THE HEARING OFFICER: Any questions from
18 the board?
19 MR. UTTI: No.
20 THE HEARING OFFICER: Okay. Any --
21 MR. CHAIRMAN: No.
22 THE HEARING OFFICER: Okay.
23 Any questions from you, Ms. O'Brien?
24 MS. O'BRIEN: No. I have nothing for

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1 Mr. Barrett on redirect. Thank you.
2 THE HEARING OFFICER: Okay.
3 So I assume, Ms. Pecci, you might have
4 some questions for Mr. Quinn?
5 MS. PECCI: No. Thank you.
6 THE HEARING OFFICER: Okay. No
7 questions for Mr. Quinn, okay.
8 So we're finished with the questioning
9 of the two witnesses profered by the applicant. And I
10 guess we're at the point where I'd ask our participant
11 to make his statement after I swear him. Is he present
12 on the call?
13 (Stenographer requests the participant
14 to turn on his video.)
15 MS. O'BRIEN: Yes, he's there.
16 MR. MACNALLY: Steven MacNally. I'm
17 present.
18 THE HEARING OFFICER: Hi, Mr. MacNally.
19 I would ask you to raise your right hand.
20 STEVEN MACNALLY, sworn.
21 THE HEARING OFFICER: Could you identify
22 yourself for the record and explain how you are
23 specifically affected by the proposed vertical and
24 horizontal expansion.

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1 MR. MACNALLY: My name is Steve
2 MacNally. I was a former chairman of the board of
3 health for a number of years and was actually the
4 chairman during the 2005 site assignment. I requested
5 to be a participant on the pretense that I may speak if
6 I heard something that I had questions on; however, at
7 this time I'm going to waive my right to speak on the
8 issue.
9 THE HEARING OFFICER: Okay. Thank you,
10 Mr. MacNally.
11 MR. MACNALLY: Thank you.
12 THE HEARING OFFICER: Okay. So, moving
13 along, I think we're going to hear next from the review
14 engineer, from Tighe & Bond, working for the board of
15 health in an evaluation of the application, Mr. David
16 Murphy.
17 Mr. Murphy.
18 MR. MURPHY: Thank you. Let me call up
19 my PowerPoint and start sharing my screen.
20 THE HEARING OFFICER: I believe I swore
21 you last time, but just for good measure, I'll swear
22 you again.
23 MR. MURPHY: Sure.
24 DAVID MURPHY, sworn.

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1 THE HEARING OFFICER: And, Mr. Torres,
2 you're welcome to assist him in his presentation with
3 any clarifying questions you think are necessary.
4 MR. TORRES: Thank you, Mr. Hearing
5 Officer. Consistent with what we saw from the
6 applicant's two witnesses, I will allow Mr. Murphy to
7 proceed with his presentation unimpeded by my sporadic
8 questioning, and then I'll ask any clarifying questions
9 at the end.
10 THE HEARING OFFICER: Thank you, sir.
11 MR. MURPHY: Let me share my screen.
12 Can people see the screen?
13 MS. O'BRIEN: Yes, but not in slide
14 presentation mode, David.
15 MR. MURPHY: I'll be there in a second.
16 MS. O'BRIEN: Okay.
17 MR. MURPHY: I've just got to get this
18 out of the way here. The slide show from the
19 beginning -- can that be seen now?
20 MS. O'BRIEN: Including your notes.
21 MS. GUARINO: You have to go to display
22 settings, David -- this happens to me all the time --
23 display settings, the next one over, next one over. In
24 the middle. No, you left it.

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1 THE HEARING OFFICER: You went too far.
2 MS. GUARINO: Go back to from beginning.
3 This happens to me, you know, daily.
4 MR. MURPHY: Yeah.
5 MS. GUARINO: Then, if you look at the
6 black screen, the display settings, yeah, and switch
7 it.
8 MR. MURPHY: Okay. How's that?
9 MS. GUARINO: Perfect.
10 THE HEARING OFFICER: Beautiful.
11 MS. GUARINO: This happens to me all the
12 time.
13 MR. MURPHY: Thank you very much.
14 Okay. Good evening. My name is David
15 Murphy. I'm a professional engineer with 37 years of
16 waste management experience. I have worked as a
17 consultant for 26 years and a regulator at MassDEP for
18 nine years and then three years in Indonesia, after the
19 tsunامي, doing disaster cleanup.
20 My resume was included in my prefiled
21 direct testimony. I am employed as a vice president of
22 Tighe & Bond, who was hired to serve as the technical
23 advisor to the Bourne Board of Health for this site
24 assignment hearing.

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1 In my lead role, I manage the review of
2 the extensive documents in the record -- the MEPA docs,
3 Cape Cod Commission docs, and the site assignment
4 documents. I turned to other technical specialists in
5 our firm for assistance, including traffic, air
6 quality --
7 (Background noise. Stenographer
8 requests clarification.
9 THE HEARING OFFICER: Someone sneezed.
10 Gesundheit.
11 MR. MURPHY: -- including traffic, air
12 quality, hydro geology, and GIS.
13 I also conducted a full site visit and
14 interviewed staff from ISWM, the DEP Southeast Regional
15 Office, as well as the board of health staff. In
16 addition, I have reviewed the prefiled testimony and
17 exhibits.
18 I will start with Tighe & Bond's final
19 recommendation and then get into additional detail
20 afterwards. After careful review of the site
21 assignment application, which addressed the criterion
22 found in 310 CMR 16.40 regulations, Tighe & Bond has
23 recommended that the board finds that the proposed
24 facility site assignment application adequately

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1 satisfies and complies with the applicable site
2 suitability criteria established at 310 CMR 16.4.
3 Upon receipt of DEP's January 3rd
4 report, Tighe & Bond immediately obtained and commenced
5 an extensive review of the MEPA docs, the Cape Cod
6 Commission docs, and the site assignment docs. We then
7 conducted a site visit and several interviews.
8 In preparation for our report, we
9 scanned the DEP January 3rd report and inserted our
10 recommendations within their format. In my prefiled
11 direct testimony I noted that MassDEP text was inserted
12 without edit and was shaded to distinguish it from the
13 Tighe & Bond text.
14 There are 12 of the 16 facility-specific
15 criterion that are primarily location based. Tighe &
16 Bond independently verified with our GIS staff and plan
17 review many of these and assisted -- many folks
18 assisted with our review. As noted, we have
19 recommended to the board that the facility meets all of
20 these criterion.
21 Tonight, for this presentation, I will
22 focus additional attention on the remaining unlisted
23 three facility-specific criteria. These criteria --
24 these three criteria are Number 5, Danger to an

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1 Existing or Proposed Drinking Water Source; Number 6,
2 Sole Source Aquifer; and, Number 10, Potentially
3 Productive Aquifer.
4 The first one, Number 5, Danger to an
5 Existing or Proposed Drinking Water Source, Tighe &
6 Bond determined that the nearest public water supply is
7 a half a mile south and cross-gradient and that the
8 proposed expansion is not located upgradient of an
9 existing water supply. We reviewed the application and
10 note a double composite liner system with interstitial
11 detection monitoring is proposed that complies with
12 MassDEP regulations.
13 In addition, we documented that the
14 board of health has implemented regulations that
15 prohibit any future drinking water supplies
16 downgradient of the landfill. For these reasons,
17 Tighe & Bond also recommends to the board that the
18 facility meets this criterion.
19 The second one is, Number 6, Sole Source
20 Aquifer. We confirmed that the landfill is within the
21 sole source aquifer, but per the regulations, we
22 determined that all three determining criteria were
23 met. One, no downgradient public water sources; two,
24 no downgradient private water sources; and, three,

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1 sufficient water sources exist to meet Bourne's
2 projected needs.
3 The third facility-specific criterion I
4 wanted to point out is, Number 10, Potentially
5 Productive Aquifer. Again, after a detailed
6 independent review of the application and the full
7 record, Tighe & Bond determined that the determining
8 criteria has been met, that the aquifer cannot now or
9 in the foreseeable future be used as a public water
10 supply due to existing contamination. The record
11 documents two existing downgradient landfills and a
12 downgradient impact to the groundwater from the older
13 portions of the town's unlined landfill. Therefore, we
14 also recommend that the site meets this criteria.
15 Moving on to the general criteria, there
16 are 11 of the 13 general site suitability criteria I
17 will acknowledge but skip over during this
18 presentation. Tighe & Bond independently verified with
19 our GIS staff and other technical staff and we have
20 addressed these in my prefiled direct testimony. As
21 noted, we have recommended to the board that the
22 facility meets these criteria.
23 Tonight I will focus on -- focus
24 additional attention on the remaining two general

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1 criterion. These two general criterion are, Number 6,
2 Potential Air Quality Impacts and, Number 11, Other
3 Sources of Contamination.
4 The first general criterion I want to
5 address, Number 6, Potential Air Quality Impacts,
6 Tighe & Bond documented a history of some significant
7 odor issues related to the receipt of construction and
8 demolition, or C&D, waste containing gypsum and
9 wallboard and the production of unacceptable H2S
10 emissions historically. We also documented the
11 landfill's -- or, the facility's response was
12 extensive.
13 ISWM installed 88 layer-filled gas wells
14 that created a vacuum -- or, creates a vacuum or a
15 negative pressure within the waste mass; the
16 installation of an H2S treatment system that treats the
17 gas quality and reduces the hydrogen sulfide, or H2S,
18 concentrations down to within the DEP air quality
19 permit limits; and, finally, the installation of a
20 landfill gas flare system that destroys the collected
21 gas.
22 Based on -- excuse me -- based on
23 Tighe & Bond's review of the record, verification with
24 DEP that the facility is in full compliance with its

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1 permits and the ISWM statement that there have been no
2 odor complaints for the past eight years, Tighe & Bond
3 recommends to the board that this facility meets this
4 criterion.
5 The second general criterion I want to
6 focus on was, Number 11, Other Sources of
7 Contamination. This criterion requires the DEP to
8 consider whether the projected impacts of the proposed
9 facility pose a threat to public health, safety, or the
10 environment, taking into consideration the impacts of
11 the existing sources of pollution and whether the
12 proposed facility will mitigate or reduce those
13 sources.
14 The application and the record document
15 three primary sources of contamination: One, the
16 unlined landfill Phases 1A, 1B, and 1C; the former
17 septage lagoons, and the former DPW facility.
18 Tighe & Bond's review of the record
19 agrees with MassDEP's finding that the risks associated
20 with groundwater have been properly mitigated and that
21 the new facility will utilize a double composite liner
22 system, again with interstitial monitoring.
23 In conclusion and as stated previously,
24 Tighe & Bond has reviewed the application, along with

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1 the associated submittals and supporting information,
2 and recommends that the board finds that the proposed
3 facility site assignment application adequately
4 satisfies and complies with the site suitability
5 criteria established in 310 CMR 14.40, Section 3,
6 Facility Site Suitability Criteria, and, 4, General
7 Site Suitability Criteria.
8 And, further, based on our technical
9 review, Tighe & Bond also recommends that the board
10 finds the application, including the Phases 7, 8, and 9
11 expansions, do not pose a threat to public health,
12 safety, or the environment.
13 Thank you very much. And, with that,
14 I'll stop sharing.
15 THE HEARING OFFICER: Mr. Torres, do you
16 have any clarifying questions you want to ask?
17 MR. TORRES: Not at this time,
18 Mr. Hearing Officer. We thank Mr. Murphy for his
19 testimony and assistance to the board.
20 THE HEARING OFFICER: Okay.
21 Ms. O'Brien, do you have some questions?
22 THE STENOGRAPHER: I Can't hear you.
23 You're on mute.
24 MS. O'BRIEN: I know. I have too many

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1 things going here. It took me a few minutes to get to
2 the proper mode to unmute.
3 I do have just a few questions just for
4 clarification, Mr. Murphy, because obviously I'm not
5 going to object to your recommendations to the board.
6 So, with respect to the landfill gas,
7 you mentioned several pieces about the existing
8 landfill gas collection and treatment system. And, as
9 you know, we are here for the board to consider an
10 expansion -- a horizontal and vertical expansion. What
11 is your understanding, if you do have an
12 understanding -- I assume you do based on all the
13 materials you reviewed. What's your understanding of
14 what will happen with regard to the landfill gas
15 collection and treatment system that's in place for the
16 expansion areas, Phases 7 and 8, the horizontal
17 expansion and the vertical expansion, just generally
18 speaking?
19 MR. MURPHY: Thank you, Attorney
20 O'Brien. It's my understanding that, as the system
21 gets expanded, that, for the horizontal expansion, that
22 the new wells will be installed throughout the waste
23 mass and that the same vacuum negative pressure system
24 would be installed within those cells; and that, for

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1 the vertical expansion for Phase 9, that the existing
2 wells will be extended vertically, as is appropriate,
3 up through that waste mass. And, again, the operation
4 of that system will extend itself into the waste and
5 continue to capture, as best as it can, the maximum
6 quantity of gas possible. And I understand that's also
7 the direction that MassDEP is headed as well, that that
8 would be part of the required permits.
9 MS. O'BRIEN: So, based on that
10 understanding, would you say that the expansion -- the
11 proposed expansion of the landfill gas collection and
12 treatment system into the new areas is adequate,
13 continued to meet the siting criteria for the expansion
14 areas?
15 MR. MURPHY: Yes.
16 MS. O'BRIEN: And, also for
17 clarification, shifting to the sole source aquifer
18 criterion that you described, you mentioned, I believe,
19 that the three applicable, I guess I'll call them, sub
20 criteria have been met; is that correct? -- my
21 understanding of what your testimony was with respect
22 to the sole source aquifer.
23 MR. MURPHY: I'm trying to find which
24 criterion number that is, for the minute.

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1 MS. O'BRIEN: I'm sorry. It's Number 6
2 in the facility-specific criteria.
3 MR. MURPHY: Yeah. I'm scrolling. Yes,
4 there's -- the three criteria are there are no existing
5 public water supplies or proposed drinking-water water
6 source areas downgradient of the site. That's the
7 first one. So, yes, we've confirmed that.
8 The second one is, there are no existing
9 or potential private water supplies downgradient of the
10 site. We have confirmed that.
11 And the third one is, there exists a
12 sufficient existing water supply or proposed drinking
13 water source area to meet the municipality's projected
14 needs, and we have also confirmed that, yes.
15 MS. O'BRIEN: So those three items that
16 you just mentioned are what allow a landfill to be
17 sited on a sole source aquifer; is that fair to say?
18 MR. MURPHY: That is correct.
19 MS. O'BRIEN: Thank you.
20 I don't think I have anything else. I
21 have nothing further. Thank you.
22 THE HEARING OFFICER: Does the board
23 have any questions?
24 Mr. Chair?

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1 MR. CHAIRMAN: I do not.
2 MR. UTTI: I do not.
3 THE HEARING OFFICER: Okay.
4 Ms. Pecci?
5 MS. PECCI: I do not. Thank you.
6 THE HEARING OFFICER: Okay.
7 Well, are we at the point where the
8 evidentiary portion of testimony is completed? I think
9 so.
10 I wanted to -- I'm going to remember on
11 my own, despite my advanced age, to act on the
12 admissibility of the evidence. And I am using the
13 administrative record table of contents. I've reviewed
14 it. I asked a specific question as to whether or not
15 the 63 documents that DEP considered were part of the
16 record, and it was confirmed that they are.
17 Can you explain to me again how they're
18 being contained?
19 MS. O'BRIEN: Sure.
20 THE HEARING OFFICER: Are they in
21 binders or --
22 MS. O'BRIEN: They are, in fact.
23 Mr. Goddard has the binders. There they are. There
24 are three binders. One binder contains the table of

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1 contents as it existed this morning when I circulated
2 it among counsel and the hearing officer. And there
3 are two additional binders, the very large -- what I'll
4 call the very large white binders -- the first of which
5 contains Exhibit 3, the application and all the
6 attachments to the application, and the beginning of
7 Exhibit 4, which is the site suitability report and the
8 supporting documents, or perhaps I should call them the
9 DEP record, which is identified in a section number at
10 the back of the site suitability report. And then the
11 additional white binder is the continuation of
12 Exhibit 4.
13 So, rather than just referring to them,
14 or, you know, incorporating them by reference,
15 Mr. Goddard printed them out because the board -- it
16 was our understanding that the board wanted to have a
17 paper copy of the record. And so that's what those
18 three binders represent.
19 As I said, the first is all of the
20 documents in the record, except for Exhibits 3 and 4.
21 And Exhibits 3 and 4 are in the two white binders. 3
22 is in one of them, and the beginning of 4, and then the
23 other is the continuation of all the supporting
24 documents in the DEP site suitability report.

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1 So they are physically at the ISWM
2 office, as you can see. And, you know, sort of upon
3 direction, assuming there are no additional documents
4 to add and everyone agrees this evening that the
5 hearing is closed, then Mr. Goddard will deliver them
6 to Ms. Guarino's office, to the board of health's
7 office, tomorrow.

8 THE HEARING OFFICER: The only thing I
9 would ask you to do -- and I don't know if it's a
10 parenthetical reference within the report on site
11 suitability or a footnote -- that you could
12 specifically reference the bound volumes in some way.

13 MS. O'BRIEN: Okay. So I know -- it's,
14 obviously, hard because we're not in the same room, and
15 ordinarily we would physically go through and make sure
16 everything is there, but I understand the table of
17 contents doesn't say anything to that effect.

18 When you look at the binder, Tab 3 for
19 Exhibit 3 has a separate sheet of paper. I don't know
20 if you can actually bring it to the camera or not, but
21 it has a separate sheet of paper that says "Exhibit 3,
22 Application for Modification of Site Assignment, or
23 whatever it's technically called, and then it says "See
24 Separate Binder." The same thing for Exhibit 4, the

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1 site suitability report. There's a separate sheet of
2 paper after the tab that says "See Separate Binder."
3 And, similarly, although we haven't
4 mentioned it, Exhibit 12 is an oversize set of the
5 plans and figures, "oversize" meaning, you know, the
6 24-by-36 plan size that are all rolled. And that, too,
7 in the binder has a tab and a separate sheet of paper
8 that says "See --" you know, "See Separate Roll" or
9 "See Plans" -- I forget what we called it in -- but the
10 board of health office. So I'm assuming those would be
11 kept in a different place, perhaps, in the board of
12 health office.

13 If you're suggesting, Mr. Hearing
14 Officer, that we have something in the table of
15 contents that says sort of affirmatively, you know,
16 with attachments, I'm not sure what we can say.

17 THE HEARING OFFICER: So the report on
18 site suitability references 63, I believe, documents,
19 including the CLS submittal.

20 MS. O'BRIEN: And including the
21 application, actually.

22 THE HEARING OFFICER: Yeah. Can you
23 just put some sort of parenthetical reference that says
24 where the -- where the information is in the binder --

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1 you know, it's in binders -- just so that there isn't
2 any mystery of what the record looks like?

3 MS. O'BRIEN: In the table of contents,
4 are you saying? because it's in the binder itself.

5 THE HEARING OFFICER: No, I understand
6 that. No, I'm talking about your administrative record
7 piece that I'm using as my admission of exhibits.

8 MS. O'BRIEN: Right.

9 THE HEARING OFFICER: And I just want
10 some clarity. I know from your email -- and I know
11 because I've been through those very heavy binders to
12 confirm that all the information was present. I just
13 would like to see a reference somewhere on your
14 proposed administrative record index that tells us
15 where those documents are located in binders --
16 Binder 1, Binder 2, Binder 3, Binder 4. No, Binder 4
17 is an independent one; right?

18 MS. O'BRIEN: No. There are only three
19 binders.

20 THE HEARING OFFICER: I thought the
21 plans and figures were in a binder.

22 MS. O'BRIEN: I mean, I wish you could
23 see it physically because the binder has a cover that
24 says "Exhibit 4." I think it's apparent, but perhaps

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1 in the table of contents we could just make sure that
2 we say that it includes all the attachments in binders.

3 THE HEARING OFFICER: When you say "the
4 table of contents," I'm not interested in -- I don't
5 want people to have to go searching through the binders
6 to find the table of contents for the binder. I'd
7 rather have a reference in your administrative record
8 for the appropriate exhibit.

9 MS. O'BRIEN: Yes. I'm referring to
10 the -- when I say "table of contents," I'm referring to
11 the table of contents that, I assume, you're looking
12 at, which is the index, or the table of contents, of
13 the administrative record.

14 THE HEARING OFFICER: Okay. You got it.
15 We're on the same page.

16 MS. O'BRIEN: Yeah.

17 MR. HEARING OFFICER: Okay.

18 MS. O'BRIEN: You got it.

19 MS. PECCI: Mr. Hearing Officer, are
20 these documents going to be available electronically,
21 too?

22 THE HEARING OFFICER: No. Those are the
23 documents that were compiled by DEP in issuing the site
24 suitability decision, and we physically had to make

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1 copies of them.
2 MS. PECCI: They were all written on
3 computers, though. They all exist, so --
4 THE HEARING OFFICER: Well --
5 MS. O'BRIEN: I'm sorry, I don't know if
6 the question is referring to the documents in the
7 administrative record or the documents referenced in
8 the DEP site suitability report because the documents
9 in the record are all the documents that were submitted
10 to the board of health during this proceeding. They
11 are available, most of which were submitted
12 electronically.
13 MS. PECCI: Absolutely. So I was just
14 asking that, as you're putting them together in
15 binders, which, I understand, Mr. Shea would like, if
16 you could also just put them all in one place. That
17 way there's no, you know, question as to which copy or
18 which version is the correct one or whether it's in the
19 record or not.
20 THE HEARING OFFICER: Yeah, no, you're
21 misapprehending the -- however the file cabinet or
22 boxes are assembled by the board of health is up to
23 them and identified by exhibit number. What I was
24 asking about -- I thought you were asking about -- was

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1 the 63 documents that are listed at the end of the site
2 suitability report. Those are in binders.
3 MS. PECCI: Oh, I understand. Thank
4 you.
5 THE HEARING OFFICER: Okay. Thank you.
6 So I have -- I've looked at your list
7 here, and thank you for identifying Exhibits 30 and 31
8 as not being admitted into evidence, and I'll confirm
9 that.
10 (Stenographer requests clarification.)
11 THE HEARING OFFICER: Exhibits 30 and
12 31.
13 I had asked that they be explicitly
14 mentioned as not admitted into evidence. So with those
15 two exceptions, I find that the information in the
16 administrative record is reliable, it's relevant, and I
17 admit all those documents en masse into the record that
18 the board will be considering.
19 MR. BARRETT: Mr. Hearing Officer, if I
20 might?
21 THE HEARING OFFICER: Yes, sir.
22 MR. BARRETT: We were unable to attain
23 Document Number 51, US EPA Massachusetts Non Attainment
24 Maintenance Status, for each county by year for all

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1 criteria of pollutants. We're working with DEP. They
2 couldn't produce it. So there's one out of those
3 missing. And we will -- as soon as we get it, we will
4 enter it, But I just want to be clear that it is not
5 there right now.
6 THE HEARING OFFICER: Okay. That's --
7 out of the 63 documents that they referenced, that's
8 the one you identify as missing?
9 MR. BARRETT: Correct.
10 THE HEARING OFFICER: Well, with that
11 caveat and that it would be -- this government document
12 would be -- was referenced in the site suitability
13 report, I'll allow you to, if you can, to locate it and
14 have it be put into the binders.
15 MR. BARRETT: Thank you, sir.
16 THE HEARING OFFICER: So -- bear with
17 me.
18 I think I've done everything on my
19 checklist, with the exception of closing instructions.
20 And, certainly, as much as I could potentially string
21 them out with some extemporaneous comments, I will
22 stick to my script on the closing instructions; so
23 we'll be finished well before eight o'clock.
24 So these are my closing instructions:

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1 Under the time limits imposed by Mass. General Law
2 Chapter 111, Section 150A, and the MassDEP site
3 assignment regulations at 310 CMR 16.20,
4 paragraph 6D(3), and 16.20, paragraph 10K(1), the board
5 of health, within 45 days of the February 2, 2022,
6 commencement date, must issue the site assignment
7 modification or a written finding that the proposed
8 modification would constitute a danger to the public
9 health, safety, or the environment based upon the
10 relevant siting criteria.
11 It sometimes is unfortunate that the
12 time limits cannot be extended by agreement or consent
13 and the board must conclude the public hearing,
14 deliberate at a public meeting, not a hearing, and
15 issue its decision in such a compressed time frame. I
16 cannot extend the time for decision under the
17 limitations in 310 CMR 16.20, 5D. The board must
18 carefully manage its time so that the decision and the
19 issue by March 21, 2022.
20 The board has the power to grant a site
21 assignment modification by imposing limitations on the
22 extent, character, and nature of the modified facility
23 so that it will not present a threat to the public
24 health, safety, or environment. I know this is not new

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1 to you. Your prior site assignment decision contained
2 such special conditions.
3 The board must base its decision on the
4 evidence in the administrative record, the documents,
5 and the live testimony admitted into evidence. The
6 administrative record of the proceeding will consist of
7 all documents considered by MassDEP; the admitted
8 exhibits during the hearing; and the stenographic
9 transcript of -- if one is produced; and the decision
10 itself.
11 The site assignment regulations allow
12 the parties to make closing arguments and to file a
13 brief after closing of the public hearing. I can
14 remember only two cases in which closing oral arguments
15 were made. In very few complex cases, parties have
16 filed post-hearing briefs to guide the boards through
17 voluminous records.
18 In most cases the parties prepare a
19 proposed decision for consideration by the board. In
20 recognition of the statutory and regulatory deadlines
21 for issuing a decision, I recommend that the parties
22 waive oral arguments and briefs and, instead, submit
23 proposed decisions at least five days prior to the
24 public meeting, at which deliberations and voting are

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1 conducted by the board. And we'll talk about your
2 purported schedule for going forward. But is there any
3 discussion on this particular suggestion on waiving
4 oral arguments and briefs?
5 I'm hearing none.
6 MS. O'BRIEN: No.
7 THE HEARING OFFICER: Each board member
8 should review the record and at a public meeting,
9 noticed under the open meeting law, deliberate in open
10 session and vote on the site assignment application.
11 No new evidence or argument can be considered at the
12 public meeting. Counsel for ISWM -- I never pronounce
13 it right -- and the ten citizens group may provide a
14 proposed decision for your consideration. And, of
15 course, Attorney Torres can assist you in drafting an
16 appropriate decision.
17 The final decision must be in writing
18 and signed by the board members. The decision should
19 contain a statement of reasons and a determination of
20 facts pertaining to the site suitability criteria or
21 the law necessary to the decision and any special
22 conditions you believe are necessary and appropriate.
23 Notice of the decision, not the decision
24 itself, must be published in the newspaper within seven

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1 days of its issuance. Whether the site assignment is
2 granted or denied, any appeal to the Superior Court
3 under Mass. General Laws Chapter 30A, Section 14, is a
4 review on the administrative record. There is not a
5 trial with testifying witnesses or submission of new
6 evidence. The Court is proceeding on a motion for
7 judgment on the pleadings and the administrative record
8 with briefs and oral arguments to the judge.
9 Are there any questions on these
10 instructions?
11 Hearing none, Mr. Chairman, it is now
12 time for you to call for a motion to close the hearing
13 and to take a roll call vote on that motion.
14 MR. CHAIRMAN: Thank you, Mr. Shea.
15 At this time I'll ask Barbara to give us
16 a motion to close the hearing.
17 MS. PRINCIOTTA: Thank you, Stanley. I
18 will make a motion that the board close the public
19 hearing; adopt the administrative record as admitted
20 into evidence by the hearing officer, including the
21 record of admitted prefiled testimony and the recording
22 of the proceedings; and that the matter be referred to
23 the board for further deliberation in issuance of a
24 final decision in accordance with 310 CMR 16.20, 10K;

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1 further, that any party wishing to submit a draft or
2 recommended decision, including a draft decision with
3 conditions, do so no later than the close of business
4 on February 23, 2022, to the board of health in
5 accordance with the requirements for filing in this
6 proceeding.
7 THE HEARING OFFICER: You added
8 something to the motion that we hadn't really
9 discussed, and that was the February 23rd date.
10 Is that acceptable to the applicant and
11 counsel for the ten citizens?
12 MS. O'BRIEN: I guess we'll make it work
13 if we have to. I mean, Monday is a holiday, obviously,
14 but I don't know when the board is anticipating its
15 session to deliberate, so --
16 MR. TORRES: If I may, Mr. Hearing
17 Officer, the date for submission of those proposed
18 decisions -- and I appreciate your asking, you know,
19 the recognized parties in a proceeding -- that is an
20 essential date based on the remaining time that you so
21 carefully instructed the board that they have to
22 deliberate and the potential meeting dates that they
23 would have to deliberate and also the requirement, as
24 you have learned, of earlier proceedings here in

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1 Bourne, that they would like to have those materials in
2 advance so that they can --
3 (Stenographer requests clarification.)
4 MR. TORRES: So that they have the
5 materials in advance consistent with their practice of
6 getting the materials in advance so, as a volunteer,
7 part-time board, they're giving sufficient time to read
8 these proposed decisions before they actually hold
9 their meeting to deliberate. And that is what the
10 board has based that date on. Thank you. Thank you
11 Mr. Hearing Officer.
12 THE HEARING OFFICER: Thank you.
13 MS. PECCI: Again, as I've made
14 reference earlier, this is putting -- this is, of
15 course, putting a lot on the board in a short amount of
16 time, as well as the attorneys for all the parties, and
17 I have seen, again, in 760 CMR 56.05 many hearings do
18 extend that deadlines once everyone agrees to it.
19 You know, it is a week off and our kids
20 are going to be home; so it's going to be even harder
21 to get things done without everyone running around.
22 THE HEARING OFFICER: Well, I appreciate
23 you siting general hearing regulations, but the
24 regulations that are binding on me and this board are

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1 in 310 CMR 16.
2 So, Mr. Chairman, with that vote and
3 that proposed date, could you do a roll call vote.
4 MR. CHAIRMAN: I still need a second,
5 please.
6 MR. MEIER: Second.
7 MR. CHAIRMAN: Okay. I have a motion
8 from Barbara Princiotta, a second from Dusty Meier.
9 Any further discussion from the board?
10 Seeing and hearing none, roll call vote.
11 Mr. Utti?
12 MR. UTTI: Yes.
13 MR. CHAIRMAN: Barbara?
14 MS. PRINCIOTTA: Yes.
15 MR. CHAIRMAN: Dusty?
16 MR. MEIER: (Zoom audio distortion.)
17 MR. CHAIRMAN: I think you froze, Dusty.
18 MR. MEIER: Froze? Yes.
19 MR. CHAIRMAN: And Stanley Andrews, yes.
20 It's unanimous. The motion passed.
21 THE HEARING OFFICER: Thank you,
22 Mr. Chairman.
23 MR. CHAIRMAN: I have another statement,
24 John, please.

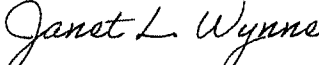
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1 THE HEARING OFFICER: Okay. Please.
2 MR. CHAIRMAN: The board's meetings to
3 deliberate and issue a final decision shall be posted
4 and conducted in accordance with the requirements of
5 Massachusetts Open Meeting Laws. Thank you.
6 THE HEARING OFFICER: Thank you,
7 Mr. Chair, for that clarification.
8 My final statement is this: I want to
9 thank the board, all the legal counsel, and especially
10 your board of health agent, and the witnesses and the
11 Zoom attendees for your participation in this hearing.
12 You all did a great job. Now the hard work begins for
13 the board to weigh through the administrative record
14 and craft a decision. And I know you'll do it justice.
15 So thank you, Board of Health.
16 MR. CHAIRMAN: John, thank you very much
17 for overseeing the proceedings. This was a daunting
18 task for the board. The board has actually -- this is
19 our third site assignment this board has done. We had
20 the one in 2005. We had another one for a transfer
21 facility in the town. That one we actually had the
22 privilege of conducting the site suitability on, as
23 well, because DEP had dropped it down to the local
24 boards of health at the time.

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1 It's still a lot of work. And with your
2 assistance and all the assistance we've had from
3 everyone, it has helped us get this far in the process.
4 We know that we have our timeline that we have to make,
5 and by March 21st we have to have our decision
6 complete. For that, I want to thank you and all the
7 participants in this process.
8 At this time I would entertain a motion
9 from the board to adjourn.
10 MS. PRINCIOTTA: Motion to adjourn.
11 MR. MEIER: Second.
12 MR. CHAIRMAN: I have a motion from
13 Barbara, a second from Dusty.
14 Roll call vote. Don?
15 It looks like we lost Don's picture.
16 Barbara?
17 MS. PRINCIOTTA: Yes.
18 MR. CHAIRMAN: Dusty?
19 MR. MEIER: Yes.
20 MR. CHAIRMAN: Stanley, yes.
21 Three. I will take Don as an
22 abstention. Three to one. We are now adjourned.
23 Thank you very much.
24 THE HEARING OFFICER: All right. Take

1 care, everyone.
2 (Whereupon the hearing adjourned at
3 5:33 p.m.)
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1 C E R T I F I C A T E
2 COMMONWEALTH OF MASSACHUSETTS
3 BARNSTABLE, ss.
4 I, Janet L. Wynne, CSR No. 131793, Registered
5 Professional Reporter, a Notary Public in and for the
6 Commonwealth of Massachusetts, do hereby certify that
7 the foregoing transcript, pages 164 through 228, is a
8 complete and accurate transcript of my stenographic
9 notes.
10 I further certify that I am not related to
11 any of the parties to this action by blood or marriage
12 and that I am in no way interested in the outcome of
13 this matter.
14 IN WITNESS WHEREOF, I have hereunto set my
15 hand this 2nd day of March, 2022.
16 
17 Janet L. Wynne, Notary Public
18 My Commission Expires:
19 February 15, 2024
20
21 THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT
22 APPLY TO ANY REPRODUCTION AND/OR DISTRIBUTION OF THE
23 SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
24 AND/OR SUPERVISION OF THE CERTIFYING COURT REPORTER.

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Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

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Notice of Amendment to Deed Restriction

Notice is hereby given of the approval by the Town of Bourne Board of Health of an amendment to the deed restriction for the property located at 110 Circuit Avenue, as shown on the Town of Bourne Assessor's book as Map 43.3, Parcel 213. The deed for this property is recorded at the Barnstable County Registry of Deeds in Book 29665, Page 312.

The Board of Health has amended their original conditions of approval, listed in a Notice of Deed Restriction previously recorded at the Barnstable County Registry of Deeds, Book 23148, Page 42, on September 10, 2008 to be that there shall be a maximum of four bedrooms in total on the property. Bedrooms are as defined in Title 5, 310 CMR: 15.00, and the Board of Health regulation dated effective April 24, 1992 regarding bedroom Definition. In addition, the septic system will continue to be an Innovative/ Alternative System for nitrogen removal which requires an operation and maintenance agreement for perpetuity and to not exceed the 19 mg/l standard of total nitrogen per Board of Health Regulations.

T. Guarino
Terri A. Guarino, R.S., C.H.O.
Health Director

May 25, 2022
Date

EXECUTED as a sealed instrument this date:

2 June 2022

Charles Primmerman

Charles A. Primmerman
Signature of Owner and Legal Address
9 Lane Farm Drive, Bedford, MA 01730

COMMONWEALTH OF MASSACHUSETTS

Barnstable ss.

Date June 2 2022

On this 2 day of June, 2022, the above named, Charles Primmerman, appeared before me, the undersigned notary public, and acknowledged the foregoing instrument to be their free act and deed.

Notary Public [Signature]

My Commission Expires _____



RALPH K. MITCHELL
Notary Public
Commonwealth of Massachusetts
My Commission Expires 06/03/2023

RECEIVED

JUN 03 2022

Bourne Health Department
24 Perry Avenue
Buzzards Bay, MA 02532

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