

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

In the Matter

of

the Application for a Project Permit for the Construction of Certain 90- and 70-meter ski jump facilities proposed by the Lake Placid Olympic Organizing Committee at Intervale (Town of North Elba) Essex County, New York, to be used for the 1980 Winter Olympic Games.

EDITED TRANSCRIPT OF PROCEEDINGS at a public hearing upon the above-entitled application before the Adirondack Park Agency of the State of New York, at the Olympic Arena, Lake Placid, New York, commencing on Friday, November 19, 1976, at 1:20 P. M.

PRESIDING:

VICTOR JOHN YANNACONE, Jr., ESQ.,

Hearing Officer.

APPEARANCES:FOR THE PROJECT SPONSOR:

MCCORMICK, URFIRER & BROOKS, P.C.
(JAMES M. BROOKS, ESQ., of Counsel)
75 Main Street, Lake Placid, New York
Appearing for the Town of North Elba
as Trustee for the Public Parks and
Playgrounds District.

NORMAN L. HESS, ESQ.
Lake Placid, New York
Appearing for the Lake Placid 1980 Winter
Olympics, Inc.

ROBERT J. KAFIN, ESQ.
115 Maple Street, Glens Falls, New York
Special Counsel for the sponsoring
committee.

FOR THE ADIRONDACK PARK AGENCY:

ROBERT C. GLENNON, ESQ., Counsel,
Ray Brook, New York.

ROBERT F. FLACKE, Chairman,
Adirondack Park Agency.

FOR THE INTERVENOR ADIRONDACK COUNCIL:

WHITEMAN, OSTERMAN & HANNA, ESQS.
(JOHN HANNA, Jr., ESQ., of Counsel)
99 Washington Avenue
Albany, New York
Appearing for the Intervenor Adirondack
Council.

APPEARANCES: (Continued)

ROSEMARY NICHOLS, ESQ.,
2706 Foxwood Drive S.,
Clifton Park, New York
Appearing for the Intervenor Adirondack
Council.

FOR THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION:

PHILIP H. GITLEN, ESQ.
Assistant Counsel, New York State
Department of Environmental Conservatio
50 Wolf Road, Albany, New York.

THOMAS MONROE, Regional Director of
Environmental Analysis,
Ray Brook, New York

FOR THE ADIRONDACK PARK LOCAL GOVERNMENT REVIEW BOA

BEVERLEY B. HARRIS, Executive Director,
P. O. Box 5, Long Lake, New York 12847

FOR OTHER INTERESTS:

HERMAN F. COLE, Executive Director of
The Governor's Executive Commission on
Winter Sports and the 1980 Winter Games
Box 119, Ray Brook, New York.

DAVID DUMONT
518 Oriental Avenue
Mamaroneck, New York
Appearing in behalf of the Sierra Club.

STEPHEN FARRINGTON
Lake Placid, New York
Appearing in behalf of the Snow Birds
of the Lake Placid Club.

P R O C E E D I N G S

THE HEARING OFFICER: Mr. Persico, as Executive Director of the Adirondack Park Agency, I want you to comment upon this particular suggestion: I suggest that the --

MR. HANNA: Mr. Hearing Officer, is this ex parte on the record?

THE HEARING OFFICER: Yes, it's strictly on the record as far as minutes are concerned.

MS. NICHOLS: If it's part of the record, may we hear it?

MR. HANNA: May we hear?

THE HEARING OFFICER: You're all welcome to listen. As far as the minutes are concerned, I am making a suggestion to the Executive Director of the Agency that the hearing reporter be directed to make a ribbon copy and two carbon copies of the minutes and be permitted to duplicate copies of the original transcript by the reprographic form of her choice provided it appears on bond paper with sufficient contrast and that these be deemed duplicate copies of the certified and official transcript (which) may be obtained directly from the hearing reporter under those

circumstances. My edited version of the transcript which shall be reproduced in quantity for informal review purposes and not formally certified until the close of this hearing shall not be deemed an official record of this hearing until such time as the hearing is concluded and that informal transcript editing has been certified by the official reporter.

THE HEARING OFFICER: It can be purchased from the hearing reporter who is the custodian of the minutes and the notes and is responsible for their certification as she would in any Supreme Court proceeding or any proceeding of a court of record unless and until such time as an agreement to the contrary is reached between the hearing reporter and the Agency and the parties involved.

Now, gentlemen, this would normally be an off the record side bar conference but since there are no off the record conferences, it is, of course, an official conference and if anybody wants to comment thereon, they can address their comments to Mr. Persico as the Executive Director of the Park Agency, who is responsible for the mechanics of providing such things as record and paying for the same up to a point.

MS. NICHOLS: Does this mean that the Agency is then going to be responsible for producing copies of this edited transcript?

THE HEARING OFFICER: No, not as far as cost is concerned.

MR. PERSICO: No, they are to be purchased directly from the court stenographer.

MR. GITLEN: I assume that the effect of the edited version of the transcript is subject to whatever motions counsel may make.

THE HEARING OFFICER: Oh, Sure. The whole purpose of the edited transcript is to try and produce a reduced record on appeal as we go along so that at the close of the hearings, counsel can move towards the edited transcript and even further edit it or if necessary, add by appendix so that we minimize the bulk of the record in case this matter has to be appealed. It would be equivalent to certifying omission of portions of the transcript at the close of the hearing that we're going to conduct on a day by day basis.

All right. We are now officially convening the hearing scheduled for today at 11 o'clock by notice duly promulgated by the Adirondack Park Agency, dealing with public consideration of an application for a project permit for 90- and 70-meter ski jump facility and including and basically dealing with the question of conceptual plan review by the Adirondack Park Agency.

At this time, I would like to call upon Counsel for the Agency, Mr. Glennon, on the issue of notice of these proceedings.

MR. GITLEN: Excuse me, Your Honor, if I may, I'd like to, at some point, be given the opportunity to state the Department's view as to what occurred this morning and during the informal pre-hearing conference and the basis for its concern, -- since I was unable or allowed to do that earlier.

THE HEARING OFFICER: You may do so at the close of today's session to whatever length you wish to. That matter is irrelevant; it's been resolved at this time and we're going to proceed with the substance of the hearing.

MR. GITLEN: I would then like to make an objection to the manner in which it was resolved. I object to the Hearing Officer's determination that the Adirondack Park Agency has no authority to prevent the televising or broadcasting of these hearings, and submit that, in fact, the Adirondack Park Agency has the obligation as an arm of the State of New York to prevent such violations of New York State law and suggest that if the constitutional issue which the Hearing Officer has raised during the prior sessions have sufficient merit that it should properly be raised affirmatively by the objecting media and it's my position that, and it is the position of the Department that the A.P.A. is shirking its responsibility to the witnesses --

THE HEARING OFFICER: Counsellor, I'm going to cut you off at this time. I submit that your remarks up until this point have been questionably in order, but as far as the A.P.A. shirking its responsibility, they are totally out of order in view of the nature of these proceedings. They are irrelevant. The media, the electronic media are not here. There is no television broadcasting or taking of motion pictures at the present time. If you wish to make a statement with respect to the preliminary matters discussed at the pre-hearing meeting this morning and just prior to opening this session, you may do so at the close of today's session to whatever length you wish.

Now, if we may proceed, Mr. Glennon.

MR. GLENNON: Mr. Examiner, I do have documentary evidence at this point of the notice of public hearing on this application dated November 4, signed in a facsimile signature by yourself; my letters to the Lake Placid News and the Adirondack Daily Enterprise, certified mail receipts therefor asking that legal publication be made.

Appended thereto is a list of the statutorily required parties who received certified mail notice and a copy for each of them of the Postal Service

Form 3811 constituting Post Office and addressee receipts for certified mail respectively.

THE HEARING OFFICER: Counsellor, is that the regular procedure set forth in the statute and the rules for the giving of notice to hearings such as these?

MR. GLENNON: It is.

THE HEARING OFFICER: In your opinion, is service and notice complete?

MR. GLENNON: It is.

THE HEARING OFFICER: All right. Unless I hear objections to the contrary, I propose to rule that due notice has been given of these hearings in accordance with the appropriate statutes and that the items offered by counsel may be deemed marked in evidence, given the appropriate numbers in accordance with the marking system suggested in the preliminary conference.

MR. GLENNON: The certificates of publication have not yet been received from the newspapers. They were both asked today to please supply them as soon as possible. I would like the leave to supply those to the record when and if they're received.

THE HEARING OFFICER: Unless I hear

objections to the contrary, such leave will be granted and they will be deemed marked an element of this single Exhibit 1 of today.

MR. GLENNON: Mr. Examiner, at the pre-hearing conference on November 1st, a number of items were put in evidence. I have on November 3rd, sent to the persons appearing at the pre-hearing meeting of the first all the exhibits introduced at that time as well as the resolution of the Adirondack Park Local Government Review Board. Since that time, a number of items have been received. They are here.

THE HEARING OFFICER: I have no objection to proposing a ruling at this time that all those items submitted at preliminary meetings prior to today be deemed marked for identification in accordance with the numbering system we suggested at the last hearing and that in the absence of objections to their introduction into evidence at the time they are offered as evidentiary matters the -- they will all be deemed marked in evidence at the close of the hearing. In the case of objections to their introduction as items in evidence at the time they are needed, those objections will be ruled on as they occur.

MR. GLENNON: Mr. Examiner, some of them will indeed become relevant when the partyship issue is addressed. I should also point out to you that a

few phone calls have come to us, namely, from Mr. Cole of the Adirondack Mountain Club, a few written requests, namely, from Mrs. Dunn of the North Elba Planning Board, and from a Mr. John Erickson whom I understand is an adjacent landowner. The substance of all of these communications is that -- they would prefer to offer statements today as opposed to some other time with regard to the project. I advised Mr. Cole to write you. I understand that Mr. Erickson's communication has been reduced to a memorandum to you by Mr. Persico's secretary and Mrs. Dunn's letter is among these items I have referred to.

THE HEARING OFFICER: All right. I propose to rule that statements from residents of the areas under the jurisdiction of the Adirondack Park Agency shall be accepted and may be delivered either orally or in writing and I will commence the taking of such statements at 2:30 this afternoon. Prior to that time, I intend to address certain procedural matters.

MR. GITLEN: Yesterday, I received from (Mr. Glennon) a letter indicating that an attached list constituted the names of persons given notice of the hearing, and at the end of that list was a letter which you had written and attached to it a list of the landowners adjacent to the alternate Bassett Mountain site. My question is whether they were given notice by certified mail, return receipt requested?

MR. GLENNON: They were not.

THE HEARING OFFICER: All right, at

this time I wish to entertain consideration of a motion by the applicant which was submitted to me in writing prior to the hearing.

The applicant is moving for a further procedural ruling which, in substance, provides that the parties and other interested persons who wish to participate in these hearings in good faith to determine if the proposed project is environmentally appropriate, consent to abide by and be bound by the rules established at the commencement of these hearings.

The reasons set forth in the application by the applicant are, to my way of thinking, quite germane to the maintenance of the public interest in the subject matter and if all parties can agree, we could so stipulate.

The rules that were outlined prior to the formal opening of this hearing were designed to provide for a relatively smooth flow of testimony and provide for the building of a record which would provide substantial evidence for whatever decision the Agency has to make.

If the applicant wishes to make any further statement in support of its motion, I will hear it and then I would like to hear from the other parties (in the generic sense of the word "parties," not in the legal sense at this time) who are here

present and then we will proceed to the issue of party-ship and standing in this hearing.

MR. BROOKS: Would you copy it in the record?

THE HEARING OFFICER: I am going to treat this as a formal motion on papers submitted by the applicant and subject to ruling by the Hearing Officer and review thereon. I'm going to ask that it be deemed marked Motion 1, -- in this proceeding.

Formal motions which are received on papers will be so marked. Motions made orally during the course of the proceedings unless they require subsequent briefing and submissions on papers will not be so marked. They will be treated as they occur as just part of the transcript.

As far as the procedural portion thereof is concerned, I shall read that portion for the record.

(The Hearing Officer read portions of Motion Number 1.)

Back on the record, as far as the stipulation by the Town of North Elba is concerned, I will accept that stipulation, and I would like to rule in favor of that motion, although the motion is, in fact, essentially a call for a stipulation on the part of all parties which leads us to the fundamental issue. --

MR. HANNA: Have you ruled on the motion, Mr. Hearing Officer?

THE HEARING OFFICER: I can't rule on the motion yet because we have not decided the issue of parties in this proceeding at this time. That leads us to the fundamental issue of this opening day: participation in these proceedings and rulings with reference to applications for leave to intervene and leave to become parties of record within the meaning of the statute.

To that end, at this time, I intend to make the following formal proposed rulings: that pursuant to the provisions of the Executive Law, Article 27, the Adirondack Park Agency Act, I propose to rule that all those who are resident of the territory subject to the jurisdiction of the Adirondack Park Agency shall be deemed parties of right in this proceeding should they wish to assert that right.

Second, I propose to rule that all those who own property within the area subject to the jurisdiction of the Adirondack Park Agency, and I use "persons" in the general legal sense of that term to include corporate persons and other business entities who are deemed persons within the eyes of the law as generally accepted, to be parties of right subject to (participate) in these proceedings as such parties of right

I will conduct preliminary voir dire examination in the nature of an inquest on the applications of others who are not within those categories to appear as parties of right in these proceedings. If there are objections to such appearances, I will permit counsel for the parties, -- and I use "parties" now in the legal sense of that term as defined in the Adirondack Park Agency Act -- to inquire on their own as counsel as to the issue of meeting the requirements for partyship within the meaning of the statute. I will accept applications to intervene not as parties of right in three classifications --

MR. KAFIN: Mr. Hearing Officer, I'm getting confused. On November 4th, you promulgated a notice over your signature which set forth the timing and the manner in which persons desiring to become a party to this hearing shall proceed.

Are you now withdrawing your notice and making a new rule? Is this an elaboration of your old rule? The record is just getting so muddy on this issue that I just can't understand what's going on.

THE HEARING OFFICER: Counsellor, questions were raised at the last preliminary meeting as to whether or not the issues determining partyship, not in the generic sense of the term but in the legal formal procedural sense of the term as set forth in

Article 27 of the Executive Law and the rules promulgated thereunder would be determined.

MR. KAFIN: But you published this notice that explains it.

And that's fine, (so) now, it would be expeditious if we could proceed in accordance with the rules that you promulgated on November 4th, which we've all had an opportunity to read and review without this lengthily elaborate reiteration or reexplanation of the rules because the rules were filed the way you said they should do it.

THE HEARING OFFICER: All right. Does the applicant have any objections to proceeding on the question of who shall be a party with the right to conduct direct and cross examination in these proceedings as I proposed to rule in the prior preliminary meetings and by notice?

MR. KAFIN: I like your November 4th notice. Let's do what you told the whole world about, which was published in the newspaper, and get going.

THE HEARING OFFICER: There is no objection on the part of the applicant which is the only statutory party at the present time.

MR. KAFIN: No, this is fine. Let's go!

THE HEARING OFFICER: All right. We will now identify for the record, Mr. Glennon, the notice

counsel refers to of November 4th as Exhibit Number what?

MR. GLENNON: 761119:71

THE HEARING OFFICER: Mr. Glennon, as counsel for the Agency, other than the Adirondack Council, have you received, at least ten days prior to the commencement of this hearing a written statement from any party requesting the right to become a party in these proceedings?

MR. GLENNON: Allow me to riffle through all the correspondence so I won't pass anyone. First of all, at the last pre-hearing conference, the letter of Mr. Gitlen dated November 9th, which was receipted by Mr. Persico was put in evidence.

(Letter dated November 9, 1976 from Philip H. Gitlen was marked by Mr. Glennon as Exhibit No. 761119:72, this date.)

THE HEARING OFFICER: On the application of the Department of Environmental Conservation designated Exhibit Number 761119:72, unless I hear objections to the contrary, I propose to permit them to appear in these proceedings as a party as their several interests may appear.

Do I have any objections by the applicant?
(there was no response.)

All right. They shall be deemed a party; that is, a statutory party, in these proceedings. The next application, Counsel?

MR. KAFIN: Mr. Hearing Officer, just so we use the terms of art, do you mean a party as of right?

MR. GITLEN: That's what I requested in status.

THE HEARING OFFICER: I'm going to refer throughout these hearings to parties of right subject to the right to appear as parties under the specific provisions of Article 27 of the Executive Law of the State of New York ... as interpreted by rules and regulations promulgated by the Adirondack Park Agency pursuant thereto as "statutory parties" -- in quotes. I am using the phrase "parties" unless I specifically modify it by saying "statutory parties" in the conventional generic legal sense of that term as somebody who's here and has something to say but is not necessarily a statutory party.

MR. KAFIN: With all due respect to Your Honor, perhaps I wasn't clear. The statute refers to two types of parties: Parties as of right and party by permission. The reason I asked you a question was so that it's clear for the record and for everyone here which of those kinds of statutory parties the Department was. It was my understanding that they applied to be parties as of right. To that we have no objection. I just want to be sure that that's your ruling.

THE HEARING OFFICER: In the absence of objection, I will permit them to appear as parties as of right.

MR. GLENNON: I believe it is proper to associate with that exhibit, Mr. Hearing Officer, the Department's notice of intent to participate admitted as Exhibit 5 at the November first pre-hearing conference.

THE HEARING OFFICER: So designated. Mark it now Exhibit 761119:73.

(The letter of intent described above was marked by Mr. Glennon as Exhibit Number 761119:73, this date.)

MR. GLENNON: At the pre-hearing conference on the first of November, I exhibited and marked for identification as Exhibit 3A a letter from Sierra Club, Atlantic Chapter, signed by James Dumont. That letter has been furnished to the persons appearing in that proceeding. "Writing to let you know the Atlantic Chapter is planning to ask for permission to intervene." It does not appear to be a formal request for permission to intervene.

THE HEARING OFFICER: All right. I received a telephone communication yesterday from an attorney by the name of Goldsmith in Syracuse, indicating that he had just been retained by the Sierra Club, Incorporated, a non-profit public benefit corporation

duly organized and existing under and by virtue of the provisions of the appropriate sections of the Internal Revenue Code which maintains a principal place of business and headquarters outside the State of New York, indicating it intended to make an application for leave to intervene independent of the Adirondack Council.

In view of the fact that there is a preliminary appearance on behalf of that organization by the Adirondack Council and as part of the Adirondack Council's application, I advised counsel that until such time as he made such formal application, I would consider the prior application submitted in conjunction with the Adirondack Park Council's -- or the Adirondack Council's application as the application before us at this time and would review the Sierra Club's independent application at such time as it was formally made.

MR. GLENNON: Also at the November first pre-hearing meeting identified as Exhibit 3, the Adirondack Council's request for individual notice of hearing under Section 581.15 (a) (3) of our rules and regulations, signed by Mr. Jones October 26th. Thereafter, I point out to you that a number of correspondence, a modest number of letters have been received in and by which some of the constituent groups, namely, the Adirondack Mountain Club wishes to dissociate itself

THE HEARING OFFICER: Are you authorized by the organization to speak with reference to the letter that counsel just read?

MR. PETERSON: Yes, sir.

THE HEARING OFFICER: I'm asking, can we suspend on the Adirondack Council for a few minutes and take care of groups that are members of the Council but have already submitted letters on their own?

MR. HANNA: You're running the hearing here.

THE HEARING OFFICER: All right, then we will. The gentleman from the High Peaks Audubon Society: would you identify yourself for the record and come up here please?

MR. PETERSON: Yes, John C. Peterson, P-e-t-e-r-s-o-n.

THE HEARING OFFICER: Will you testify here under oath?

MR. PETERSON: Yes, I will.

JOHN C. PETERSON

called as a witness for and in behalf of the High Peaks Audubon Society, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I am presently the President of High Peaks Audubon Society, Incorporated.

DIRECT EXAMINATION
BY THE HEARING OFFICER:

Q. Is the High Peaks Audubon Society a member of the Adirondack Council?

A. Yes, it is.

Q. Has the High Peaks Audubon Society as a member of the Adirondack Council joined in the application of the Adirondack Council for leave to be permitted to appear here as a party of right in the name of the Adirondack Council?

A. That has been our intent, yes.

Q. All right; is that still your intent?

A. Our intent is also that we be allowed to represent ourselves in case at some point during the course of the hearing -- the attitude of our Board of Directors and membership may differ from the stance being taken by the Adirondack Council.

Q. Do you intend to be represented by counsel at these hearings?

A. No, we do not at these hearings.

Q. All right. Do you intend as the president of the organization, at this point, to represent the organization?

A. Either personally or through some other officer or director of the corporation.

Q. All right. Are you a resident of the area subject to the jurisdiction of the Adirondack Park Agency?

A. Yes, I'm a resident of Essex.

Q. Are all the members of your organization residents of areas subject to the jurisdiction of the Adirondack Park Agency?

A. Not all of the members. There are a small number who reside elsewhere in the State of New York or elsewhere in the United States.

Q. What is their relationship to the organization then? Do they summer here; do they own property here or do they just belong?

A. Some few of them simply belong. Mostly some are summer residents or part time residents of Essex County.

Q. All right. Have you discussed your participation in these proceedings with any representative of the Adirondack Council itself?

A. Just briefly, Your Honor.

THE HEARING OFFICER: All right, Mr. Hanna, do you have any objection on behalf of the Adirondack Council to a joint appearance by the High Peaks Audubon Society both as a member of the Adirondack Council represented by yourself as the attorney for the Adirondack Council and also independently as its interest may appear as the High Peaks Audubon Society?

MR. HANNA: Are you asking whether I as an attorney will represent the High Peaks Audubon Society?

THE HEARING OFFICER: No, I'm asking you whether you object as an attorney for the Council which is your formal appearance here today, to a dual position on the part of one of your member organizations.

MR. HANNA: Do we have any objection if

the High Peaks Audubon Society were to seek a position in this proceeding separately from our own?

THE HEARING OFFICER: Yes.

MR. HANNA: No, we have no objection.

THE HEARING OFFICER: All right, do you have any objection to representing their interest until such time as it shall be determined by the High Peaks Audubon Society that they wish to be independently represented?

MR. HANNA: Mr. Hearing Officer, we represent the Council which has a separate Board of Directors. This organization, the High Peaks Audubon Society, is one member, just as it may be a member of other organizations and other people are members. I do not see how we could have a joint representation. I intend to represent in this case the Council and that's the position I'm going to represent. I can not represent one particular member of the Council -- in a joint position. It's as if you were representing General Motors and one of the subsidiaries of some other corporation that owned stock in General Motors came in and wanted joint membership. That's the way it works.

THE HEARING OFFICER: All right. On behalf of the High Peaks Audubon Society, has your Board of Directors authorized you to appear on behalf of the organization at these hearings and participate therein?

MR. PETERSON: Yes, they have.

THE HEARING OFFICER: Do you have the

the authority to bind the organization by your own appearance and your own statements?

MR. PETERSON: I do.

THE HEARING OFFICER: All right. You have heard the stipulation proposed and the motion made by Mr. Brooks on behalf of the applicant hereto. Do you have any objections to stipulating at this time on behalf of the High Peaks Audubon to being bound by the procedural rules we have developed for the conduct of these hearings?

MR. PETERSON: No, I'm familiar with them and I have no objection.

THE HEARING OFFICER: All right. Have you attended either or both of the preliminary meetings in this matter?

MR. PETERSON: I attended the first preliminary meeting.

THE HEARING OFFICER: All right. Mr. Brooks, on behalf of the applicant, or Mr. Kafin, on behalf of the applicant, do you have any objection to permitting the High Peaks Audubon Society to appear as a party of right subject to their acceptance of that stipulation?

MR. KAFIN: Mr. Hearing Officer, as I look at this, we have an untimely application with no showing of cause for it being untimely. We have an admitted duplication of interest and number three, we have absolutely none of the showing required to make this party a party as of right under the statute and

rules, so I think --

THE HEARING OFFICER: I'm asking you only if, in view of --

MR. KAFIN: Yes, we object --

THE HEARING OFFICER: -- or in behalf of the applicant, you're willing to waive these procedural objections and permit them to intervene. If the answer is no, I will make a ruling.

MR. KAFIN: We object to the intervention for the reasons stated.

THE HEARING OFFICER: All right I will reserve decision on the application to intervene as a matter of right. Thank you very much.

(Mr. Peterson was excused.)

MR. GLENNON: Did you wish the High Peaks letter to become an exhibit, Mr. Hearing Officer.

THE HEARING OFFICER: Yes.

761119:79.

MR. GLENNON: I believe, Mr. Examiner, That completes the submission of material by anyone who might have even muttered the word "party." We have a number of people, as I did mention, that wished to submit statements. We have two in writing, one from Mr. William Roden of Diamond Point and one from Mrs. Dunn of the Planning Board, North Elba.

We have a letter from a Mr. Donald Peterson of Wilmington, President of Adirondack Forestry, who wishes to make a statement and, as I mentioned earlier, a telephone conversation related to you in a memo from Mrs. Behan of the Agency in which he requests simply to submit comments in writing.

We are continually receiving, passed up from the audience, names of individuals wishing to make statements. The list is now six or seven people.

THE HEARING OFFICER: They will be heard starting at 2:30 if they meet the residence or property-owners requirement.

All right, let's go to the Adirondack Council.

MR. GLENNON: The documents before you are 761119:76, the original October 16th, 1976 letter to Mr. Persico from the Council, also a 150 page statement attached thereto.

Two letters from the Adirondack Mountain Club, each with enclosures, 761119:76 and :77 respectively, and most recently a letter to Mr. Persico from Mr. Jones of the Council as 761119:78.

THE HEARING OFFICER: All right. I am going to rule unless I hear objections to the contrary that the application of the Adirondack Council is timely. Are there any objections to that ruling?

MR. BROOKS: No.

THE HEARING OFFICER: Mr. Gitlen, on behalf of the Department of Environmental Conservation, do you have any objections to conceding that the application of the Adirondack Council is timely?

MR. GITLEN: I have no objection now, but to save time later, I have no objection to them being admitted as a party.

THE HEARING OFFICER: Of right?

MR. GITLEN: Of right or of any other.

THE HEARING OFFICER: All right. Does the applicant have any objection to their admission as of right?

MR. BROOKS: No objection except as far as our Motion Number 1 is concerned, we believe that should be decided, and now is the time to do it.

THE HEARING OFFICER: Mr. Hanna, on behalf of the Adirondack Council, will you join in and stipulate to the motion made by the applicant?

MR. HANNA: No, Mr. Hearing Officer. As I stated earlier, I have two problems: One, of course, is that you said that you were going to put off all these rulings on this until later on. Now, if you're going to go back and reopen those rulings now, that's all right. We'll have to consider them. We are refusing this stipulation not for the purposes of

saving technical opportunities to object for later on, but because we have substantive differences with some of them and I'm not prepared here because I think there was some variation in those rulings during the course of the conversation as to what those are.

As I said, the one that I remember most particularly which I would regard as tending to preclude us from presenting evidence is the one with respect to expert witnesses. So I can not accept that ruling or that proposed stipulation as of now. I'll be perfectly happy to meet with counsel to review particular -- particular rulings that he is concerned with.

THE HEARING OFFICER: I propose, in the interests of justice and in an effort to expedite the procedural aspects of these hearings, to withdraw my mandate that all expert witnesses bring one copy of all their published papers dealing with their expertise the subject matter of these hearings.

However, as I announced at the last hearing, I intend to inquire on behalf of the Agency by way of voir dire, by way of inquest, into the professional competence of those witnesses. If they are testifying as experts in the legal sense of the term "expert" meaning one rendering opinion evidence, then one of the elements I intend to inquire into is their publication background if any. If the publications are

not made available and it comes to my knowledge that there are discrepancies between published statements and testimony, I will entertain motions to strike the testimony.

Now, with that modification, can you stipulate?

MR. HANNA: Well, as I said, I don't -- you know, you really catch me unawares.

Because you said you were going to do it later and if counsel wants to sit down with me and go through a list of what it was, what it was he wants to stipulation, I'll be glad to do that with him.

MR. BROOKS: May I make a suggestion perhaps to expedite this?

THE HEARING OFFICER: Yes, sir.

MR. BROOKS: It is my understanding that for the balance of the day, the applicant will primarily be producing testimony and exhibits with limited right to object or cross-examine from the way the evidence is supposed to go. I don't know exactly when you have rescheduled your next hearing.

THE HEARING OFFICER: We haven't yet.

MR. BROOKS: I would propose that you continue to reserve on the motion, that the counsel participate although there's no participation today, but just so he hears the evidence, that they remain in the room and at the commencement of the next hearing that

they then make their position known insofar as this stipulation is concerned.

THE HEARING OFFICER: All right. I'm going to suspend for four minutes until 2:30 and we'll take the public portion of the meeting and I'm going to reserve decision on the application of the Adirondack Council and at the close of the public participation section, we'll go back to that again.

(Whereupon a short recess was taken.)

THE HEARING OFFICER: Let the record show it's snowing. Let the record show I'm also asking for a weather report. Is it going to keep snowing?

All right, ladies and gentlemen. I understand that some of the people in the back of the room are having trouble hearing counsel. I would appreciate it if counsel would turn their microphones on. This is part of the public address system. There are no broadcast media participating.

At this time, I would like to hear from those who are residents or property owners within the area served by the Adirondack Park Agency, and I'm asking those of you who may have written statements you would like to submit for the record to come forward, identify yourself and your organization and give me a copy of those statements.

Individuals, groups, organizations.

Do you have any objections to being sworn?

MR. FRENETTE: No, sir.

JAMES FRENETTE

having been first duly sworn by the Hearing Officer, testified as follows:

THE WITNESS: My name is Jimmy Frenette. I live in Tupper Lake, New York.

THE HEARING OFFICER: You have a statement that you prepared in writing indicating that, in addition to being a lifelong resident of Tupper Lake, you're an elected official of the Town of Altamont?

THE WITNESS: Right, right, yes, sir.

THE HEARING OFFICER: Would you like to read your statement.

THE WITNESS: Yes, I would.

Good afternoon. My name is Jim Frenette. I'm a lifelong resident of Tupper Lake and so, in one sense, I'm speaking for the residents of that community. I'm an elected official of the Town of Altamont and in one sense, I'm speaking for at least a part of the electorate who agree with my views. I'm married. My wife and I have nine children. Eight of them still reside in Tupper Lake and so, in a sense, I'm speaking for my family. We all love to canoe, hunt, fish, hike.

My wife could be a 46er except that she has climbed the same mountain, Mount Arab, 46 times and it's only 2500 feet in elevation, but it's kind of a family favorite. You get a terrific view without a terrific amount of exertion.

We are also active cross country skiers. We were the first American family to win the Family Class Award in the Canadian National Ski Marathon. All of this by way of saying that we like the out-of-doors. We like quiet family type activities and we love the Adirondacks, and so in a sense, I'm speaking for those of us who have chosen to live, work, spend our lives and hope that our children will be able to spend their lives in this area if they choose to do so.

I'm not a member of the Sierra Club, but I do recommend their cup as a great way to have a hot drink without burning your lips. I pay my taxes here, eat three meals a day here, go to work every day here and so, in a sense, I'm speaking for all of those who have chosen to live here and have to find a way to pay for those three meals in order to live here.

Speaking for those people I have mentioned I would like to go on record as enthusiastically approving Lake Placid's effort to conduct a 1980 Olympics. Lake Placid is a recognized winter sports center. Its reputation does not come out of an advertising agency's

"think tank." It is not a reputation that has been inflated by anyone's hot air to enhance its chances of capturing major events. No gas-lit village here.

For more than 40 years, its reputation has grown and has become more and more established on the solid base of its ability to conduct all season sports and activities on a local, regional, state, national and even international level. Lake Placid has, indeed, moved out of the shadow of the '32 Olympics.

I'm involved in the Billy Kidd-Torger Tokle cross country ski program for youngsters over 13 years of age and we've held many races here hosted by the Lake Placid people. Not many events in the total spectrum of the events held here, but the attention given to these youngsters, to the courses, to the officiating, even at this level, has left an impression in my mind that the people of Lake Placid care. They care enough to do their very best.

To me the proof of character is how you act when no one is watching. Not many people are watching 13-year-olds ski but the character of the Lake Placid people easily passes this test. I believe people, by this I mean people of this region, people of the state and people of the country, have come to accept the concept that in an area such as this a long-established and proven winter sports center, certain facilities are necessary. They become a part of the surroundings and do not detract from the natural beauty of the area.

People expect to see them and more important, people accept them as a natural and integral part of the surroundings and, of economic interest, it is many times these facilities which attracted others to the area in the first place.

I believe the after effects of the Olympics will be of greater value than the Games themselves. The Town Board of the Town of Altamont has gone on record as favoring the Olympic Committee's plan to construct needed facilities and in particular the 70- and 90-meter jumping facilities at the Intervale site. The success of the Olympic Committee's efforts can only be viewed in a positive manner by all communities in the region. Like it or not, we are dependent on tourism and their efforts can only enhance Lake Placid's image and Lake Placid's success as success for all of us in this region. We are economically in competition with areas all over the state, the nation and, indeed, the world.

The United States is sadly lacking in adequate permanent training and competition sites for winter sports. The construction of these facilities would be of benefit not only to the region, the state but the entire United States. The potential social and economic benefits to people of all ages will be of a positive and long range nature, to the region, the state and even the country.

I believe the 90-meter jump will become a symbol to the entire world of the continuing growth and development of the United States as a leader not only in the area of sports but in human relationships as well. Contrast that with a view of those who see it only as another 26-story apartment building.

In this bicentennial year, like many of us, I'm sure I've been reading stories of our struggle to become a nation. A recurring theme is that of the vision of our forefathers, the vision of men like Jefferson, Franklin, Adams, leading us to a successful independence. It would be very tempting here to slide into a comparison of their vision and determination with that of the Olympic Organizing Committees, but nonetheless, their vision and determination, the vision and determination of this committee will lead to an-Olympics that will make all Americans proud that finally common sense, a respect for our natural heritage and pride in doing the best possible job has led to an event in which the whole world can take pride. Compare that with the vision of those who say, "They can not see the forest for the tower"

I mentioned my Sierra cup earlier and I'd like to leave you with a thought that when the coffee comes out of the cup, it's not too hot, and like the

Sierra Club, some of the things that come out of it are not too hot. Thank you.

(Applause)

THE HEARING OFFICER: Are there any other residents with prepared statements they wish to enter?

Do you have any objection to being sworn, sir?

MR. FLETCHER: No, sir.

EARL J. FLETCHER

having been first duly sworn by the Hearing Officer, testified as follows:

THE WITNESS: Earl J. Fletcher, Mayor of Tupper Lake, New York.

THE HEARING OFFICER: Mr. Fletcher, would you like to read your statement or elaborate thereon.

THE WITNESS: Yes. On behalf of the people of the Village of Tupper Lake, we fully support the plan of the 1980 Winter Olympics as it is presented by the Lake Placid Olympic Organizing Committee. Everyone knows that in order to stage these games, there has to be a certain amount of building facilities, plus the updating of the present ones.

The majority of the people in this country are in favor of the Lake Placid hosting the

1980 Olympics and believe they are very well qualified for this enormous task. The small minority of people should not be allowed to hinder or worse yet to stop the approval of this project for their own selfish gains. These gains -- these Games will definitely help our economy in this region, which is in dire need without having the adverse effect that the opponents envision. Lake Placid has always preserved the beauty of the Adirondacks and any of their doings and will continue to do so in these Olympics.

They have worked hard to secure the 1980 Games and we are urging the A.P.A. to approve the building of a ski jump without any further delay. Thank you.

THE HEARING OFFICER: Mayor Fletcher, do you have any objection to answering a few questions for the record so we can get some information from you since you are an elected official?

THE WITNESS: No, I have none.

EXAMINATION BY THE HEARING OFFICER:

Q. Mayor Fletcher, is your village actively involved in the application to the extent of supporting the application for the project permit and the subsequent holding of the 1980 Olympics?

A. We -- we have no --

Q. -- direct involvement?

A. No.

Q. All right. Have the people of your village

discussed this matter with you in your capacity as their elected Mayor?

A. Yes.

Q. Has your village gone on record with respect to this matter?

A. The Village -- our Village Board always recognized whatever I do.

Q. All right. How far is your village from the site of the proposed Olympics?

A. We're 30 miles from here.

Q. And for the record, how large is your village?

A. We're one of the largest villages in the Adirondacks and we have 5,000 people.

Q. Do you expect any direct economic impact from the 1980 Olympics on your village?

A. Yes

Q. Would you describe for the record for us the kind of economic impact you expect?

A. We expect that in the village we will have about the same amount of people that you'd have in the summer, in a busy summer so --

Q. In other words, your village economic base is primarily seasonal?

A. Yes.

Q. And it's primarily the summer season?

A. Right

Q. How many people do you normally handle during the course of the summer?

A. Oh, about 25,000, I would say.

Q. And do you expect as a result of the winter Olympics to handle that many during the winter of 1980?

A. I hope so.

Q. Now what, if any, provision has your village made to handle those winter tourists as opposed to the summer tourists? I assume there are different facilities required.

A. We handle them the way we are now.

Q. The same way you would in the summer?

A. Right.

Q. Does the Village of Tupper Lake expect to take part in any of the after use of the Olympic facilities that will be developed in the Lake Placid area?

A. No, there's nothing that we have talked about yet.

Q. Does the Village of Tupper Lake have a zoning ordinance or a master plan?

A. Yes.

Q. And when was it recently updated?

A. Oh, God, it's updated all the time.

Q. Approximately?

A. Well, it's -- I'd have to -- I'd be lying to you.

Q. Within the last few years?

A. Oh, yeah, we have a real good plan.

THE HEARING OFFICER: Are there questions from either the Department of Environmental Conservation or the applicant of Mayor Fletcher?

MR. BROOKS: None; thank you, sir.

THE HEARING OFFICER: O.K. Any questions from Mr. Hanna?

(There was no response.)

O.K. Thank you very much.

(Whereupon the witness was excused.)

MR. FRENETTE: Sir, I'd just like to add for the record that both the Village of Tupper Lake and the Town of Altamont have been invited to send and do send representatives to the Olympic Organizing Committee's monthly meetings so they're appraised of the progress.

THE HEARING OFFICER: Thank you.
Thanks very much, Mayor.

(Whereupon the witness was excused.)

THE HEARING OFFICER: Sir, do you have any objection to testifying under oath?

MR. DONALD PETERSON: Not at all,

poorest soils we do have a solid evergreen cover, but I don't believe we're talking about going that high up on the Mountain.

Q. Now, these winds you referred to as being indigenous to that area, do they occur on this northeast slope?

A. I haven't taken meteorological data. I'm only talking from the standpoint of observation. On the northwest slope, there is a terrific wind that does hit there and in the woods on the northeast slope, on the -- you do not feel the wind but you can see the tops of the trees moving and I'm basing it on this power of observation, and I'm saying that if those trees aren't there that it's -- you know, that the wind is there and it's just above the trees.

Q. Are you personally familiar with the wind to the extent of having observed it in the field during the winter?

A. Yes, I am.

Q. Are you familiar with the conditions in the northeast slope during the wintertime?

A. Yes, I am.

Q. Do you regularly visit the area during the winter?

A. Yes, it's kind of a hobby of mine to go through that.

THE HEARING OFFICER: I have no further questions. Does the applicant have any questions?

MR. BROOKS: No.

THE HEARING OFFICER: Does counsel for the Department of Environmental Conservation have any questions?

MR. GITLEN: I only have questions with respect to the procedure which we're following which seems rather unusual.

MR. GITLEN: It seems to me as though public statements ought best not be sworn and not become the fodder for cross examination that they might well become. Many statements which the witness has made with parties have and no advance knowledge of, which might be considered substantial evidence in this record.

THE HEARING OFFICER: You can recall any of the witnesses who make statements here today. We have the power to issue subpoenas. The witnesses agreed to be sworn under oath. I'm trying to expedite matters by taking certain pieces of information as we go along where the witness is qualified. I intend to continue to do that. Of course, all counsel's right to cross examine witnesses is reserved and in the case of all these witnesses, who are making statements today, I am asking them if they wish to answer some questions. If they say no, they'll be excused and their statements will be taken as statements.

Mr. Hanna, do you have any questions?

MR. HANNA: Not at this time.

THE HEARING OFFICER: Thank you very much, Mr. Peterson.

(Whereupon the witness was excused.)

THE HEARING OFFICER: Young lady, do you have any objection to being sworn?

MRS. DUNN: Not at all.

ARAXIE DUNN

having been first duly sworn by the Hearing Officer, testified as follows:

THE WITNESS: Araxie, A-r-a-x-i-e, Dunn, Lake Placid, New York. I'm Chairman of the North Elba Town Planning Board and I'm here to represent them.

I am not going to read everything that's in our statement, I'm just going to try to pick some of the highlights.

THE HEARING OFFICER: All right. I assume you wish to submit the entire memorandum?

THE WITNESS: Yes, I do.

Thank you very much.

The up-dated town plan and land use code were prepared in part based on anticipated award of the 1980 Winter Olympics to this community and with an attempt to recognize the likely impacts to be generated as a result of hosting the Winter Olympic

Games.

In particular, the updated plan and code recognized those areas in the town proposed to be utilized for facilities, specific features and have explicitly provided for these features within the framework of the plan and code. Specifically, the site of the proposed ski jumps at Intervale is located within a municipal facility district, the purpose of which is to recognize existing and provide for future public service and recreational facilities in a location and of a nature so as to best serve the long term interests of the residents and of the visitors to this community.

The town plan further considered and attempts to recognize the secondary development impacts likely to be generated by the Olympics generally and through the provisions of the land use code will give the town adequate means to evaluate and give direction to this type of activity so as to assure protection of the local interest in accord with sound land use planning principles. Specifically, the town plan considered in detail the importance of Route 73 south of the Village of Lake Placid as a principal traffic corridor and entrance to our community. South of the Intervale site, the proposed land use code provides for non-intensive residential, rural and open space uses along this corridor to protect its present character. Our

code would simply not permit strip corridor development or highway commercial uses, the inevitability of which has been suggested as a result of the Olympics generally and the location of a ski jump area in particular.

The Town Planning Board also finds the proposed construction of the 70- and 90-meter ski jump facilities including the post-Olympic use of these facilities not only consistent with but absolutely essential to the continued improvement of our recreation, resort based economy. Timely initiation of these improvements is critical not only to the successful Olympic effort in 1980, but represents an unparalleled opportunity to insure this community's place in the forefront as a winter recreation resort and athletic training center in the years following 1980.

The need for such long term impetus to the private sector of our economic base and the support and services facilities it provides is of considerable importance, is consistent with the findings of the economic evaluation undertaken by the Adirondack Park Agency staff in preparation of the updated town plan and is a legitimate and proper consideration under the criteria for project review in Section 809 of the A.P.A. Act.

The visual features accounted for are not contrary to or in conflict with any aspect of the town plan. The detailed examination of aesthetics and visual considerations as set forth in the draft environmental impact statement clearly documents the various

levels of impact from the three ranges of distance, all of which involve primarily land and water areas within the Town of North Elba.

Our updated town plan includes a detailed visual analysis section which has, in turn, been specifically reflected through the incorporation of a scenic preservation district in the zoning regulations of the land use code. This proposed facility at Intervale does not in any way conflict with or detract from our assessment of outstanding town visual assets.

Furthermore, of particular importance and underestimated in the EIS in the opinion of the Town Planning Board is the likely positive visual impact of the combined ski jumps from the standpoint of community imagery or symbolic identification and landmark or a sense of place and entry. They would stand as a majestic and legitimate symbol of the recreation resort community which is the larger Lake Placid community.

More simply, those of us who have lived and worked here and will continue to do so long after 1980 evaluating it not as an academic procedure but as something we are going to look at every day, find it not only unobjectionable but appropriate and particularly so in its proposed location. The detailed site considerations, soils, water, vegetation, wildlife, air and noise, exhibit no significant characteristic which would suffer undue adverse impact as viewed from

a townwide perspective. Adequate precaution during the detailed engineering and construction phases can and should be taken to assure minimum necessary immediate and long term site disturbance with ample provision made for such assurances under both the Adirondack Park Agency Act and the town land use code.

The ready access from an established through traffic artery, its relationship to the established center of population at the Lake Placid Village and adjoining town installations and facilities, combined with its established use, make it the logical site from a town planning perspective. In addition, the proposed after use of the ski jump facilities under the auspices of the North Elba Park District are, in the view of the Planning Board, best served by its location at Intervale for reasons of logistics, economy, overall land use compatibility. The Planning Board ---this is in relationship to the A.P.A. The Planning Board has reviewed the application now under consideration which we believe, in combination with the Olympic program and draft environmental impact statement as they pertain to the proposed Olympic ski jump facilities, represent a very complete and substantial evaluation of legitimate factors with which the Agency may rightly concern itself under the provisions of Section 809 of the A.P.A. Act and cognizant of the basis of the project being

subject to the Class A regional project provision in Section 810 of the Act. Surely they will have set forth by the conclusion of this hearing process sufficient information for the Agency to pass conclusively on the application before you.

The location of the Intervale site is in the hamlet classification of the Adirondack Park land use and development plan and the use of the Intervale area for expanded recreational purposes is consistent with the character, description and "purposes, policies and objectives" of such hamlet classification as set forth in Section 805 of the Adirondack Park Agency Act, to wit., "in these areas a wide variety of housing, commercial, recreational, social and professional needs of the Park's permanent, seasonal and transient population will be met."

The application requests that the very type of use for which the hamlet classification is intended be allowed.

In conclusion, the North Elba Planning Board finds the following considerations pertinent to the application before the Agency:

Land use: The proposal is consistent with the established character and the use of the site and adjoining public and private lands as well as the future land use and settlement pattern proposed in the town plan.

Trafficways: The proposal is well related to the established principal through travel corridor and will minimize the need for access road construction and increased traffic flow over local roads.

Economic Factors: The proposal would serve to reinforce the established recreation, resort and athletic competition facilities which are the economic life blood of the community and is attentive to the post-Olympic cost: benefit considerations of the town's Park District.

Visibility: The proposal has been properly assessed as having a minimal areawide impact while its impact locally will be positive.

Detailed Site factors: The proposal properly detailed at the engineering stage can minimize onsite and peripheral disturbances or changes. No likely significant impact has been documented or can be reasonably anticipated.

A.P.A. Act: The proposal is consistent with the current classification under the land use and development plan and would not have undue adverse impact upon the various key resources of the Adirondack Park.

Related development controls: The detailed design of the proposal and its secondary effect will remain subject to the further scrutiny of the A.P.A. and the town. The updated town land use code will provide the local direction and protection necessary

to assure compliance with the Town Plan and good site planning practices while the A.P.A. concerns itself with important regionwide implications.

Based on our assessment of these factors, we find the application for conceptual approval of the 70- and 90-meter Intervale ski jump facilities consistent with the North Elba Town Plan as independently prepared and the Board does, therefore, hereby endorse and recommend approval of the application.

THE HEARING OFFICER: Mrs. Dunn, do you have any objections to answering a few questions?

THE WITNESS: Not if I can answer them.

THE HEARING OFFICER: Remember you are represented by counsel for the township as a participant here.

So if there's any problems, don't hesitate to say no.

EXAMINATION BY THE HEARING OFFICER:

Q. Mrs. Dunn, was this memorandum prepared at the direction and request of the North Elba Town Planning Board?

A. Yes.

Q. And it's being submitted as a recommendation of the North Elba Town Planning Board?

A. Right

Q. All right, I'm going to entertain it, identify it as an exhibit for that purpose and I'm going to make a ruling that the North Elba Town Planning Board is a statutory party subject to being a party of right in this proceeding, and that this shall be identified as an exhibit in evidence subject to cross examination if such is required subsequently.

I'm going to ask the North Elba Town Planning Board to submit for us and have them marked in the next consecutive exhibit numbers, even though they are not here today, a copy of your town plan and a copy of your most recent code that enforces or implements that plan. Do you have any objection to submitting them?

A. No, only that we are just about to adopt the new ones. They'll be in effect by the end of the year. You probably would be more interested in that than our ones that we're under right now.

THE HEARING OFFICER: I'm going to ask you to produce both of them, the old and proposed, and when the proposed becomes official and adopted, then we'll substitute one for the other.

Q. Now, was your land use code developed in conjunction with the Adirondack Park Agency or any of its staff?

A. Yes. In the beginning, we were instructed

by the Town Board, let's say about four and a half years ago, that it was time to update ours. It was somewhat obsolete and we worked on it for about a year and a quarter and the A.P.A. came in existence then and they helped us a great deal with material. It delayed us but they helped us with a lot of background material on that and we worked with them maybe another year and a half.

Q. Would you tell us in laymen's terms, in your own words, what the basic policy consideration of the planning board is in terms of implementing the new plan and the new code?

What do you envision as the future of the town?

What are you planning for?

A. Well, an improved economy, but at not a loss of the rural atmosphere.

Q. Do you have a target population size?

A. Well, no, I wouldn't say we have a target, but we feel that we'll never be able to enlarge our population to what we'd like it to be.

Q. Have you considered the carrying capacity of your land and the landscape?

A. I think we are. We've done an awful lot of studying.

Q. Has this been conducted by local residents with active knowledge of the area?

A. The Planning Board has met with all different groups locally, whether it's business or campsite owners or real estate men, farmers, as well as studied what the A.P.A. has brought us, and they have given us a great deal of material, as well as what our professional consultant has also brought us.

Q. Do you believe, as Chairman of the Board, that the plan you've proposed fairly and substantially represents the intention of the people who live in the area and has broad support of various groups?

A. I think it's more popular since the A.P.A. went into existence.

Q. Are you intending to actively account for the impact of the 1980 Olympics in your new code?

A. I think we have.

THE HEARING OFFICER: I have no further questions of Mrs. Dunn.

MR. BROOKS: It is my understanding that the Town of North Elba Planning Board agrees to be bound by the stipulations set forth in Motion one.

THE HEARING OFFICER: All right.

MR. BROOKS: And we have no further questions.

THE WITNESS: Thank you.

THE HEARING OFFICER: Mr. Gitlen on behalf of the State of New York -- Department of

Environmental Conservation, do you have any questions of Mrs. Dunn at this time?

MR. GITLEN: No, I do not.

THE HEARING OFFICER: Mr. Hanna?

MR. HANNA: No questions at this time.

THE HEARING OFFICER: Thank you
(Whereupon the witness was excused.)
(Applause)

THE HEARING OFFICER: It is my intention to permit members of the general public who are residents or propertyowners to participate in these hearings and make their statements if they wish at a set time in each hearing, and I'll do this every day I conduct hearings subject, of course, to time considerations based on witnesses, and if there are any more today, I'll be happy to hear them today or when we reconvene.

All right. Mrs. Hart, do you have any objection to being sworn?

MRS. HART: No, sir, I don't.

MARY HART

having been first duly sworn by the Hearing Officer, testified as follows:

THE WITNESS: I'm Ruth Hart from Lake Placid, where I've been a resident for over 30 years. Since 1964, I have been officially concerned with zoning and planning in North Elba and I have

been Chairman of the North Elba Zoning Board of Appeals since 1967 when our zoning ordinance came into effect. We worked very closely with Mrs. Dunn and the Planning Board, I would like to point out. Since then, our board has held approximately 60 hearings on variances and special permits.

Four members of the zoning board of appeals have approved this statement. The fifth is away on vacation.

When my last term of office expired two years ago, I had absolutely no intention of serving any longer. However, since I had initially been such a vocal and enthusiastic supporter of the Adirondack Park Agency, I felt I had a responsibility both to North Elba and to the A.P.A. to serve a little longer, on the one hand to try to make the A.P.A. responsive to local needs and, on the other hand to interpret the benefits of the A.P.A. at the local level.

I feel it's been a somewhat futile and quixotic gesture.

I count myself a conservationist, as one who supports the wise use of our natural resources. I've served two terms as president of the Garden Club of Lake Placid, 15 years apart, and am now president of that organization. For three years I was president of the Essex County Adirondack Garden Club. Last year as a result of that last position, I had the honor

of being invited to be National Conservation Chairman of the Garden Club of America. Nevertheless, I declined the appointment because my capability and my interest seemed far more suited to attending to conservation matters nearer at home rather than the Alaska pipeline, California redwoods and what-have you. My comments at this hearing will be confined to the land use and zoning aspects of the project at hand with special references to two things: The standards that we as local officials must consider when dealing with variances and the standard of open space that seems to have become paramount among the standards used by the A.P.A. in deciding applications before it such as today.

When the decision is made on an application such as the one being considered today, it has to be based on certain valid assumptions. Unfortunately, in the case of the Adirondack Park, we feel that many invalid assumptions are made by complete outsiders and also by some of the very people who would plan for the Park's future. It is assumed that within the Blue line lies a vast single open space. This is simply not true despite the impression one sometimes gets driving along the Northway. The fact is that within this arbitrary Blue Line lie 107, I think it is, separate towns and villages, each with their own distinct characteristics. In between these

the newcomers wanted. That is to say, people who preferred the rural and woodsy environment of a Santa Clara or a Riparius or a Blue Mountain Lake would not deliberately choose the more developed environment of a Lake Placid and vice versa, but the choice has always been there and it has been exercised.

The Adirondack Park has thus always been a composite of a heterogeneous group of communities and wild private and public forested lands and some farms. This has been the character of the Park and if you'd look around you will have to admit that the wild areas have been magnificently protected.

Now, in the past few years we haven't been hearing so much about the beauties and strengths of this diversified Adirondack Park. Now we hear more about maintaining the open space character of the Park. Open space really seems to have become the magic words in regional land use planning and administration. But these words only portray the truth partially. They defy the history and the heritage of the Adirondack Park and the basic assumption, therefore, is partly wrong.

As far as open space goes, I should like to share an incident. Last year an Italian student, a young boy, came to spend the summer with us. Naturally we drove him around for miles to show him our beautiful mountain area. As we drove along 100 or so miles of the Northway, I said, "Guido, isn't this lovely?" "Yes, it's lovely," he replied, "Mrs.

Hart, but it's so boring." I was horrified and I was indignant. Our mountains boring? But on reflection, I concluded that this bored young man was absolutely right. It is indeed the contrast of civilization and the wildness that is the charm of the Adirondacks. But we took Route 9N home where we could see people and houses and living.

The environmental movement and the spinoffs like the A.P.A. have performed a marvelous and needed service to the environment, but to deny a ski jump in this winter sports area would be going too far. We feel that denial of this facility would cause more hurt to people and to American athletes and to the economy than good for the open space environment. One reason for the hearing today is essentially the fact that the A.P.A. has jurisdiction on structures over 40 feet tall so in essence, this is part of a variance procedure which is a procedure that our board is familiar with. To ask for a variance is not a special privilege. It is a standard legal procedure wherever land use regulations are in effect.

An applicant has a right to apply and the board or a commission has the right to grant that variance providing it meets certain standards which are universally recognized. What are these standards? Basically the following:

Is it a permitted use? Will it affect the character of the neighborhood? Would denying the variance cause unnecessary hardship? Would denying the variance cause critical difficulties and finally, though this standard no longer has the legal force it used to, it's a very useful tool. Is it a unique circumstance?

First, is a ski jump a permitted use? It most certainly is. In the recognition of ski area, the 90-meter ski jump represents the pinnacle of achievement in that sports discipline. It is necessary to the complete sports area. There are already four ski jumps of varying smaller sizes at the site now. The use is both compatible and logical and completely in keeping with the present use in the area.

Would denying the variance cause unnecessary hardship? Yes indeed. Assuming that there will be a 90-meter ski jump because it is a requisite to holding the Olympics, not to place it there would be a very real and unnecessary hardship on the Adirondack environment which would have to be disturbed elsewhere to provide, most likely in a formerly untouched area, not just a ski jump but spectator stands, official buildings, parking area, access roads, digging and grading, the supplying of electricity by means of either overhead power lines or more digging into the Adirondack soil.

Practical difficulty? I should say so. Just reflect on the difficulty and expense of planning, building and maintaining two ski jumping areas. Training people perhaps in the new community, even, or transporting the same workers endlessly back and forth and back and forth, splitting the revenues at each site. The logistics for participants, spectators and workers are too self-evident for comment. The practical difficulties are enormous!

Uniqueness: If every application for a structure qualifies as unique, the 90-meter ski jump for an Olympic Games meets all the tests. Now, our Zoning Board of Appeals at the moment can not require from its applicants studies of alternate sites excepting so far as we gently suggest or carefully cajole an applicant to consider the alternate and practical solution to his problem. But if the Park Agency and other bodies require consideration of alternate sites, I'm all for it. I think it would be a really good idea and very logical to consider alternate sites for the fisherman who is offended by this evidence of civilization in an already developed area. There must be at least 36 alternate sites for him on this very AuSable River where he can fish and not be offended by the ski jump.

There must be another 36 or '7 alternate sites right in Essex County and goodness knows how many alternate sites there are in the whole Adirondack Park and for him to fish in these alternate sites wouldn't even require an environmental impact statement. Likewise we could extend the alternate sites to the backpacking conservationist. If he is offended by the sight of an off sliver in the sky that is a ski jump, let him climb the 15 or 20 or I think 36 alternate peaks from which he can't see that sliver. His use of these alternate sites would have the added advantage of preventing further erosion to our hiking trails. Come to think of it, the backpacker might perform the greatest service to protecting our wilderness by staying out of it and becoming a ski jumper himself. What a view he'd get of his and her wilderness.

Do I take my tongue out of my cheek, Mr. Chairman, and submit that the ski jump proposal more than meets the effective standards applied to variance procedures. It is, in fact, uniquely suited to this location and to place it elsewhere would provide additional damage to the environment, not less, unless, of course, you can find an old quarry in the Adirondacks nearby, close to a road and deep enough so the top of the ski jump won't show.

Thank you.

(Applause)

THE HEARING OFFICER: Mrs. Hart, would

you mind answering a couple of questions for us?

THE WITNESS: No. I'd be glad to try.

THE HEARING OFFICER: I assume also you're represented by counsel and if there are any problems feel free to ask counsel.

EXAMINATION BY THE HEARING OFFICER:

Q. As Chairman of the North Elba Zoning Board of Appeals, you work with and in conjunction with the North Elba Planning Board?

A. We consult with each other. We are aware of what each other does.

Q. All right, and you're aware of the testimony that -- Mrs. Dunn gave, and the substance of the actions of the Planning Board with reference to their plan and proposal?

A. Yes

Q. And your agency will be the agency that will consider applications for variance from that code, is that right?

A. I believe so, yes.

Q. The principles you outlined with reference to considering variance applications: standard permitted use affecting the character - denying the variance causing hardship - practical difficulty and uniqueness of the application, are these the standards you regularly apply

and consider in your applications for zoning variance?

A. Yes, they are.

Q. And to the best of your knowledge, is that the standard group that you intend to apply in the future?

A. It depends on what the ordinance requires specifically. We would consult with that, but I don't know of a major change.

Q. Do you have jurisdiction over incorporated villages within your township or are they outside your jurisdiction?

A. No, they're outside the jurisdiction.

Q. Do you cooperate with those villages and their zoning boards of appeals or variance agencies?

A. We haven't had to; there hasn't been any.

THE HEARING OFFICER: All right.

I have no further questions. Counsel for the applica

MR. BROOKS: We have no questions and the board she represents also consents to be bound by the stipulation in Motion Number 1.

THE HEARING OFFICER: Are you appearing today officially as Chairman of the Zoning Board of Appeals?

THE WITNESS: Probably yes, they have my approval.

THE HEARING OFFICER: Counsel?

MR. BROOKS: Yes.

THE HEARING OFFICER: Mr. Gitlen, on behalf of the State, do you have any questions?

MR. GITLEN: No questions.

Delightful; delightful presentation.

THE HEARING OFFICER: Mr. Hanna?

MR. HANNA: No questions of this witness.

THE HEARING OFFICER: Thank you very much at this time.

(Whereupon the witness was excused.)

(Applause)

MR. SMITH: I have come in just during the past speech and would like to make a statement. Am I in time to do that?

THE HEARING OFFICER: Sure, come on up. Do you have any objection to testifying under oath?

MR. SMITH: No.

FAVOR RAY SMITH

having been first duly sworn by the Hearing Officer, testified as follows:

THE WITNESS: My name is Favor Ray Smith, 159 Main Street, Lake Placid, New York.

I'm appearing individually.

I wish to make a personal statement concerning the visual impact of the proposed Olympic ski jump. Because my statement is personal, I think I should tell you something about my background.

I was born in Lake Placid in 1939. I was raised on a farm located on the southern edge of the village very near the existing ski jump tower. I was away from this community between 1957 and 1968 obtaining further education, serving in the United States Army and practicing law in Albany, New York and San Francisco, California. I returned to this community in 1968. I have lived and worked in this community since 1968 and it is my intention to spend the rest of my life here.

While in California, I used and enjoyed the mountains of the San Bernardino and Sierra Nevada ranges. I gained a good deal of respect for the several conservation-minded groups based in California. I am a charter member of the Lake Placid Chapter of the Adirondack Mountain Club. I subscribe to and support the principles of the Adirondack Mountain Club. I am sincerely interested in the protection of our environment from all forms of pollution. I am not a member of the Lake Placid

Olympic Organizing Committee, nor am I a member of any of its subcommittees, nor do I hold any position in either the town or village government.

My statement has not been solicited by any individual or group. I am prompted to make this statement because I am presently building a new home located on a hillside across from the farm where I was raised. I have planned for and dreamed about this home for the past 12 years. My new home is approximately 50 percent wood and 50 percent glass. The house has a panoramic view overlooking the Plains of Abraham from Whiteface Mountain southerly to Mount Marcy. Five rooms having a total of 15 large windows will have a prominent view of the new proposed ski jump. Four additional rooms with eight additional large windows will have an oblique view of the ski jump tower.

I believe that in all probability my family and I will view the new ski jump tower more often and more prominently than any other person in this community or in the world. My family and I believe that the new proposed tower will not have any detrimental effect upon the aesthetics of the view from our homes nor are we at all troubled by what has recently been termed the visual impact of the ski jump tower. I believe that man is capable

of building beautiful structures. I believe that the Coit Tower in San Francisco is one of the most beautiful structures I've ever seen. Indeed, the City of San Francisco contains so many beautiful manmade structures that its fame and appeal are world wide.

I believe that if the proposed ski jump tower is properly designed and maintained, its presence will add to the beauty and spirit that has for so many years been associated with the community of Lake Placid.

Thank you for giving me the time to express my personal view on this subject.

THE HEARING OFFICER: Counsellor, thank you very much.

(Applause)

Do you have any objection to answering any questions from myself or any of the other attorneys?

THE WITNESS: I have no objections.

MR. BROOKS: I have no questions.

MR. GITLEN: No questions.

THE HEARING OFFICER: No questions.

Thank you again.

(Whereupon the witness was excused.)

THE HEARING OFFICER: I have here a letter dated November 18th, 1976 from the Municipal Electric Utilities Association of New York State signed by Deo B. Colburn, the Treasurer in Lake Placid. That statement is submitted "individually as the owner of the Cobble Hill and also a man with cardinal interest in Mount Whitney" and with the regrets that other business makes his presence impractical at this time. He basically supports the application.

I'm going to ask that this be deemed marked in evidence and submitted as a statement made today.

THE HEARING OFFICER: And now, if there is no objection, I would like to proceed.

MR. HANNA: Mr. Hearing Officer, are we going back to the question of partyship which was held and interrupted?

THE HEARING OFFICER: Yes, on the Adirondack Park Council application to appear as a party of right within the meaning of the statute, we were at the point where I had reserved decision on the application. If counsel wants to reconsider the question of the stipulation I have made an offer to modify one of my prior rulings in the hope that we can get a stipulation and agreement thereon and the last I heard counsel wanted time to further consider it. Do you still wish time to further consider?

MR. HANNA: No, Your Honor. I take it that the stipulation relates to a question whether the sponsors will agree to partyship as of right. That, I take it, is not a question of your consideration of the matter.

THE HEARING OFFICER: No.

MR. HANNA: I can not consider all the rulings at this time this afternoon and indeed in view of the changes in the rulings and the understanding of the rulings what I suggested before, and I repeat, is that the sponsor set forth in writing briefly their understanding of those rulings to which they wish us to stipulate and I will gladly consider them. But that is a separate issue from the question of partyship, which was presented some-time ago to the Adirondack Park Agency.

THE HEARING OFFICER: All right. The project applicant has had a copy of that application, I assume, since -- the initial meeting at which it was presented. May I ask Counsel for the applicant if they have formal objections at this time to the application made by the Adirondack Council and submitted at our opening meeting, preliminary meeting?

MR. BROOKS: Could we have a moment?

(Whereupon a short recess was taken.)

THE HEARING OFFICER: We'll reconvene, 3:56.

On the application of the Adirondack Council to intervene as a party of right, is there any objection to that application from the project applicant?

MR. BROOKS: Insofar as the project applicant is concerned, at this time we would have no objection to their being treated as a party in right with the qualification that in their statement of right or interest, previously marked, there are references to the Adirondack Mountain Club and there is also references to the Sierra Club, Atlantic Chapter, which I understand from previous statements may not be a proper part of their statement of right or interest inasmuch as those two groups may or may not have withdrawn from the Council.

I would further qualify it on the basis of the stipulation to Motion Number 1 which I understand from counsel he will investigate in a good faith effort between now and the next hearing in an attempt to review with me and with other parties here to see if he can stipulate on behalf of his client.

THE HEARING OFFICER: All right. In view of there being no objection, I will entertain the application and grant the application for leave to intervene as a party

of right by the Adirondack Council subject, however, to reconsideration of that application in the event that any of the constituent membership organizations of the Council make formal application to appear in their own right as parties of right or as intervenors. At that time we will reconsider this application.

THE HEARING OFFICER: Mr. Hanna.

MR. HANNA: We would object to that ruling. We would ask for a ruling on our application for partyship. It makes no more difference with respect to what our individual members may do in their own right any more than it does for the Town of North Elba's individual citizens if they were to come forward out of the Town of North Elba and apply for partyship as of right in this proceeding.

THE HEARING OFFICER: Mr. Brooks?

MR. BROOKS: The only other point we'd like to note for the record is that we are consenting pursuant to my previous statement just for purposes of this proceeding and it's not to be binding on any other proceedings or applications that may thereafter become necessary.

THE HEARING OFFICER: I am going to grant the Adirondack Council leave to appear as a party of right and be treated as such until such time as I hear applications for leave to appear as parties of right by its membership

organizations, at which time on my own motion I intend to reconsider this application. Note counsel's exception.

Will the attorneys for the project applicant make their direct presentation at this time as we discussed previously?

MR. KAFIN: Mr. Hearing Officer, we are going to proceed with our direct case as follows: We have prepared and presented to Your Honor and to the reporter and the other parties a series of documents which I'm going to identify and then ask that they be copied into the record as if read.

THE HEARING OFFICER: As far as I am concerned, as I indicated at the preliminary meetings on behalf of the Agency we will try to accommodate Counsel in any way possible for the conduct of these hearings.

MR. HANNA: Mr. Hearing Officer, two points: The first is that in our effort at discovery in order to speed our preparation for this matter, we have received a great deal of cooperation from the Project Sponsors' counsel. We have not gotten all the things yet we've asked for and we have not been able to make -- we have this examination scheduled for Next Monday. Without having done all of that, it's a little hard to tell how we can proceed how with what.

Secondly, we are proceeding with these proposed

dates on the basis of an April first construction beginning time and we have heard no testimony, as I understood we would hear, from the project sponsor with respect to the construction schedule and just what our time limits really were and I don't really see why we should be asked to consider these very, very short cross-examination periods until we see a little bit more about the project sponsors' problems with respect to construction.

THE HEARING OFFICER: All right. Mr. Kafin, may I ask whether or not the intention of the project sponsors is to offer any additional direct testimony other than that which is indicated as attributable to each of the witnesses named in the schedules attached and submitted today?

MR KAFIN: We have one additional piece of testimony and that relates to the construction schedule and budget and if you'd like, I could introduce that at this time.

THE HEARING OFFICER: Would you please?

MR. KAFIN: Other than that and the resumes of the experts, the entire direct case is material contained in the application which was filed on October 15th.

THE HEARING OFFICER: I'm going to make a procedural ruling at this time that when we refer to the application, we are referring to the document designated Application for Project Permit for 90- and 70-meter Ski Jump Facility,

including submission of material for Conceptual Plan Review dated October 1976.

MR. KAFIN: Very well. The material as to the construction timetable consists of a narrative statement of Ramon Lopez and I ask that it be copied in the record as if read.

THE HEARING OFFICER: All right.

MR. KAFIN: Now, Your Honor, I have two accompanying exhibits. I will mark them for identification and present them.

761119:85.

Will be the next exhibit, and this is a computer printout reflecting the construction schedule for the 70- and 90-meter ski jump.

(The computer print-out described above was deemed marked for identification as Exhibit 761119:85, this date.)

The next exhibit would be 761119:86 and it is a chart from the Gilbane Building Company reflecting the flow of the activities leading to the construction of this facility

The witness who takes responsibility for these two last exhibits and the narrative statement is Ramon Lopez. His qualifications are set forth in a previously marked exhibit, 761119:69 and he is available for cross examination at this time and if that is inconvenient, we

can make him available for cross examination at some other time as well.

THE HEARING OFFICER: All right. Let me ask the Counsel for the State of New York Department of Environmental Conservation, do you require additional time to prepare for the cross examination of Mr. Lopez with reference to the timetable for construction?

MR. GITLEN: I do not have any cross examination with respect to that, sir.

MR. HANNA: I would like additional time, but I see no reason why I can't make an effort to do that today. I would ask to take maybe a half hour adjournment to study these papers and prepare cross examination and I would then attempt to come back today in an effort to complete cross examination.

THE HEARING OFFICER: I have no objections to proceeding that way. However, if cross examination is going to the substance of the construction timetable and there is serious question as to whether or not the estimate of April first being the deadline is accurate, I'm going to suggest you reserve an entire day for that in the immediate future. I'm going to recess now for five minutes while counsel takes a look and lets us know whether or not we can do it today or not.

MR. HANNA: Your Honor, if I could just respond to that, I'm perfectly prepared to do that and I can report back at that point. We are mindful of the position that April first is a due date. I really don't think I can bind my client to cross examination dates without that cross examination and I'm perfectly prepared to come back on another day to do that.

On the other hand, I would suspect that counsel for the sponsors would not wish to put that off to, say, December 3rd or something.

THE HEARING OFFICER: No, I wouldn't put it off that far either. Let me ask this: Is it my understanding of the Adirondack Council position that there is some question that the timetable is such as to require the need to complete the hearings before January and that cross examination of Mr. Lopez is going to be directed towards that end.

(Whereupon a recess was taken until 4:20 p.m.)

THE HEARING OFFICER: After extensive off the record discussion among all the parties and their counsel with cooperation from all the technical witnesses involved, it's been determined and I assume will be stipulated now on the record that we will suspend today's hearing and reconvene on Monday, the 29th, for the following purposes: Entertaining the formal application if any is to be made

by the Sierra Club Incorporated for leave to participate in these hearings as it wishes to participate; for the presence of some member of the Adirondack Mountain Club with authority to make similar application in view of their withdrawal from representation by the Adirondack Council and for the purpose of conducting cross examination of the project applicants' witness, Mr. Ramon Lopez, on the issue of the construction timetable governing the project before us on this application and such other business as we shall determine at that time shall be relevant and necessary.

At the close of the testimony of Mr. Lopez, it is my intention to reopen the consideration of the timetable proposed by the applicant and to make a determination of the date for the next hearing today and the next date for the cross examination of witnesses.

MR. KAFIN: Mr. Hearing Officer, I don't want anyone to go to sleep on their rights here. I just want it clear that when we reconvene on the 29th, the project sponsors are going to press for immediate cross examination, that would be the end of the week on December 2nd and 3rd, at least the first witnesses on our proposed schedule, so that we don't start all over on the 29th by people saying, "Well, we didn't even look at the stuff because we didn't know when it was going to be."

THE HEARING OFFICER: it is assumed that the

timetable proposed by the applicant is still in issue and if it is established that there is, in fact, a justifiable need to follow that timetable we will adhere to that timetable. I would appreciate it if all the parties would be prepared to deal with that question. Also at this time I am going to ask preliminarily whether or not the project applicant intends to oppose the application of any of the parties for leave to intervene as parties of right in particular the Adirondack Mountain Club and Sierra Club Incorporated.

MR. KAFIN: Well, the Adirondack Mountain Club is a nearby landowner. I don't suppose they will object to that. The Sierra Club, however, is in a different category.

The specific legislative history of this Act was designed -- and I know it because I was the lawyer for the Sierra Club at the time the act was drafted -- was designed with the specific purpose of preventing the Sierra Club from cross examining in these proceedings and with that legislative history and with the desire of the project sponsor to preserve the integrity of the Adirondack Park Agency Act it can be reasonably expected that we would object to the becoming parties as of right.

As to whether they could be parties by permission, it depends on how good a showing they make at that time.

THE HEARING OFFICER: All right, I am going to rule at this time that I am going to entertain their application effective nunc pro tunc at the time that their

first member appeared at the last preliminary meeting and made known the fact that they might appear independently. That gets rid of the timeliness problem. However, I intend to inquire at length as to their interest in these proceedings before making any rulings with respect to whether or not they shall be permitted to participate in any fashion and I am calling upon them by their representatives to be ready with testimony within the guidelines set forth in the Act to support whatever position they wish to establish in these hearings and I believe that they have sufficient time to prepare therefor. I advised their counsel, Mr. Goldsmith, yesterday on the telephone that I would require such testimony and evidence and I particularly wish to caution the Sierra Club as an organization that in view of the decision of the United States Supreme Court in Sierra Club v. Morton, that I expect a substantial showing by a fair preponderance of the substantial credible evidence of the interest they intend to assert in these hearings before I make a ruling. In the absence of such evidence, I must rule in the face of opposition to their application to deny their application. If that is clear, I expect that the notice requirement will be taken care of.

MR. GITLEN: If the sponsor prevails on the 29th, the hearing will convene on the 2nd.

THE HEARING OFFICER: 2nd or preferably the 3rd.

MR. KAFIN: Since we have so many parties and lawyers and as scheduling being what it is, I would like to request at this time that the parties keep open the dates that Your Honor has indicated are open for him. Otherwise, we're going to lose the whole month of December because people's calendars have a way of filling up.

THE HEARING OFFICER: Let me give you the whole list of availability so we understand.

MR. KAFIN: And everyone should be on notice now that these are dates when we might have a hearing so they don't schedule conflicting things and we don't find ourselves being pushed back, pushed back, pushed back by people's scheduling conflicts.

THE HEARING OFFICER: All right, Monday, November 29th, we are reconvening here.

THE HEARING OFFICER: All right, then Friday, the 3rd. Monday, the 6th; I will conduct hearings on Saturday if everyone can. I would like to conduct hearings on Saturday if we have to run over from a Friday.

MR. BROOKS: That's fine with the applicant.

MR. HANNA: No problem.

THE HEARING OFFICER: The problem is going to be obtaining a reporter, but we'll work that out.

I am seriously considering at sometime conducting some hearings, if necessary, in particular now for the

opponents if there are any direct case, if necessary conducting hearings in Albany or in Lake George. In the event that weather precludes transportation to this site, I would like to arrange an alternative site in Lake George which is within the Park jurisdiction and should not be that inconvenient.

MR. BROOKS: We would object to that. If they can't come to us, we can't go there.

This is where the applicant lives.

MR. HESS: This is where his evidence is.

MR. BROOKS: And this is where the evidence is and this is where the project is going to be.

MR. KAFIN: Some of us are veterans of commuting to Lake Placid from areas south of here and we always do manage to get here notwithstanding the looks outside.

MR. BROOKS: The Highway Department of the State of New York maintains that Northway very clean and clear. They can get up here.

THE HEARING OFFICER: It's not the Northway that's the problem. All right, we'll leave the rest of the timetable and I'll come up with some more availability dates and adjust my own schedule after I get a chance to get back to my own office and dispose of some business.

Again, I wish to terminate the hearings so far as cross examination of the project sponsor is concerned by New Year's Eve, especially, and as far as an opposition

(Whereupon at 4:37 p.m. the hearing was adjourned to be reconvened on Monday, November 29, 1976 at 10 a.m.)