

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Kingwood :
Solar I LLC for a :
Certificate of : Case No. 21-117-EL-BGN
Environmental :
Compatibility and Public :
Need. :

- - -

PROCEEDINGS

before Mr. Michael Williams and Mr. David Hicks,
Administrative Law Judges, at the Ohio Power Siting
Board, 180 East Broad Street, Room 11-A, Columbus,
Ohio, called at 10:03 a.m. on Monday, April 25, 2022.

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VOLUME VIII

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APPEARANCES:

Vorys, Sater, Seymour and Pease, LLP
By Mr. Michael J. Settineri,
Ms. Anna Sanyal,
and Mr. Nathaniel B. Morse
52 East Gay Street
Columbus, Ohio 43215

On behalf of the Applicant.

Van Kley & Walker, LLC
By Mr. Jack A. Van Kley
132 Northwoods Boulevard, Suite C-1
Columbus, Ohio 43215

On behalf of the Citizens for Greene
Acres and Individual Intervenors.

Cedarville University
By Mr. John E. Hart
251 North Main Street
Cedarville, Ohio 45314

On behalf of In Progress LLC.

Ohio Farm Bureau Federation
By Ms. Amy Milam
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On behalf of the Ohio Farm Bureau
Federation.

Dinsmore & Shohl LLP
By Mr. Lee A. Slone
One South Main Street, Suite 1300
Dayton, Ohio 45402

On behalf of the Miami Township Board of
Trustees, Greene County, Ohio.

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APPEARANCES: (Continued)

Brown Law Office LLC
By Mr. Daniel A. Brown
204 South Ludlow Street, Suite 300
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On behalf of the Cedarville Township
Trustees.

Plank Law Firm, LPA
By Mr. David Watkins
and Mr. Kevin Dunn
411 East Town Street, Floor 2
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On behalf of the Xenia Township Board of
Trustees.

Frost Brown Todd LLC
By Mr. Thaddeus M. Boggs
and Mr. Jesse J. Shamp
10 West Broad Street, Suite 2300
Columbus, Ohio 43215

On behalf of the Greene County Board of
Commissioners.

Dave Yost, Ohio Attorney General
Mr. John Jones, Section Chief
By Mr. Werner L. Margard, III,
Ms. Jodi Bair,
and Mr. Shaun Lyons,
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the OPSB.

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Monday Morning Session,

April 25, 2022.

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ALJ WILLIAMS: All right. We are on the record.

We are here today in Case No. 21-117 which we will refer to as Kingwood for simplicity. We are here to resume the evidentiary hearing that was last in session on March 15 pursuant to the Bench's declaration at the close of that hearing day as well as entries of March 17 and March 23 of this year.

We will begin by taking appearances of the parties. Applicant.

MR. SETTINERI: On behalf of Kingwood Solar I, LLC, Michael Settineri, Nat Morse, and Anna Sanyal, Vorys, Sater, Seymour and Pease.

ALJ WILLIAMS: Thank you.

Citizens for Greene Acres.

MR. VAN KLEY: This is Jack Van Kley, Van Kley & Walker, 132 Northwoods Boulevard, Suite C-1, Columbus, Ohio 43235.

ALJ WILLIAMS: Thank you.

Miami Township.

MR. SLONE: Lee Slone, Dinsmore & Shohl.

1923

1 Good morning.

2 ALJ WILLIAMS: Thank you. Good morning.
3 Greene County. Xenia Township.

4 MR. WATKINS: David Watkins and Kevin
5 Dunn, Law Firm of -- Plank Law Firm, 411 East Town
6 Street, Columbus.

7 ALJ WILLIAMS: Thank you.
8 Cedarville Township.

9 MR. BROWN: Daniel Brown, Brown Law
10 Office, Dayton, Ohio.

11 ALJ WILLIAMS: Thank you.
12 In Progress.

13 MR. HART: John Hart, In Progress LLC.

14 ALJ WILLIAMS: Good morning. Thank you.
15 Tecumseh Land Trust. Farm Bureau.

16 MS. MILAM: Amy Milam on behalf of Ohio
17 Farm Bureau Federation, 280 North High Street, 6th
18 Floor, Columbus, Ohio 43215.

19 ALJ WILLIAMS: Thank you.
20 And Staff.

21 MR. MARGARD: Thank you. Good morning,
22 your Honor. On behalf of the Staff of the Power
23 Siting Board, Dave Yost, Ohio Attorney General, by
24 Assistant Attorneys General Jodi Bair, Werner
25 Margard, Shaun Lyons, 30 East Broad Street, 26th

1 Floor, Columbus, Ohio.

2 ALJ WILLIAMS: Thank you.

3 As we indicated off the record, a couple
4 of administrative matters to attend to. First, we
5 have a request that Staff had discussed or circulated
6 among the parties for correction of testimony via
7 Stipulation to Witness November. I will invite
8 Mr. Margard to clarify that for the record.

9 MR. MARGARD: Yes, thank you, your Honor.
10 Subsequent to the hearing, we discovered that the
11 testimony of Staff Witness November stated his
12 current position with the Board as a Utility
13 Specialist 2 when, in fact, his position is actually
14 Utility Analyst 2. It was his first testimony. It
15 was an inadvertent error. We asked the parties if
16 they would be willing to stipulate to changing that
17 on the record. I believe all parties have agreed,
18 but I will allow them to voice that for themselves.
19 But we would respectfully request his testimony be
20 amended from Utility Specialist 2 to Utility Analyst
21 2.

22 ALJ WILLIAMS: Thank you for that
23 request. Any of the parties have anything to add to
24 this?

25 Seeing none, we will take that request to

1 amend via stipulation of the parties. We will accept
2 that, and the testimony is deemed to be admitted.

3 MR. MARGARD: Thank you, your Honor.

4 ALJ WILLIAMS: Thank you.

5 We also have a motion by Applicant to
6 supplement one of its rebuttal witnesses, Witness
7 Kramb, to provide a resume that was filed April 20.
8 Any objections from the parties to that supplement?

9 Seeing none, that supplement will be
10 deemed admitted as well.

11 We have a motion to strike. We were
12 asked off the record to pin ruling on the motion to
13 strike until after Applicant had completed calling
14 its witnesses.

15 The Bench has agreed to do that, and so
16 with that I will invite Applicant to call its next
17 witness.

18 MR. SETTINERI: Thank you, your Honor.
19 Kingwood Solar I, LLC, would call Juliana
20 Graham-Price. That is via a subpoena that was
21 issued.

22 ALJ WILLIAMS: Good morning,
23 Ms. Graham-Price. Before you sit down, I will swear
24 you in. Would you raise your right hand.

25 (Witness sworn.)

1 ALJ WILLIAMS: Thank you. Please be
2 seated.

3 Mr. Settineri.

4 MR. SETTINERI: Thank you, your Honor.

5 - - -

6 JULIANA M. GRAHAM-PRICE
7 being first duly sworn, as prescribed by law, was
8 examined and testified as follows:

9 CROSS-EXAMINATION

10 By Mr. Settineri:

11 Q. Good morning, Ms. Graham-Price.

12 A. Good morning.

13 Q. My name is Mike Settineri. It's nice to
14 see you and meet in person. Would you please go
15 ahead and state and spell your full name and business
16 address for the record, please.

17 ALJ WILLIAMS: Mr. Settineri, I'm sorry
18 to interrupt. Maybe scoot that closer. We are
19 getting a little bit of volume there, but to the
20 extent we are going to have some protracted
21 questioning, it would be hard for them to hear.

22 Please continue.

23 A. Juliana, J-U-L-I-A-N-A, M. Graham-Price.
24 I work for the Ohio Power Siting Board at 180 East
25 Broad Street, Columbus.

1 MR. SETTINERI: And, your Honor, if I may
2 request to be able to treat this witness as if on
3 cross?

4 ALJ WILLIAMS: That's granted.

5 Q. (By Mr. Settineri) Ms. Graham-Price, did
6 you review any documents to prepare for your
7 appearance today?

8 A. I reviewed the Staff Report.

9 Q. Any other documents that you reviewed?

10 A. I think I also looked at some news
11 coverage of the hearing.

12 Q. Did you review your e-mail records to
13 prepare for your appearance today?

14 A. Yes, I did. Yes, I did.

15 Q. And what records did you review?

16 A. I reviewed the e-mails that I sent to the
17 Greene County County Commissioners as well as the
18 Township Trustees.

19 Q. While we are on that subject, in terms of
20 e-mails to the Greene County Commissioners, do you
21 recall what e-mails you sent to the Greene County
22 Commissioners?

23 A. I sent an e-mail with a -- with a link to
24 a copy of the Staff Report and that would have been
25 sent around October 29 to give them a copy of the

1 Staff Report as well as next steps in the process and
2 any upcoming dates like the public hearing.

3 Q. Any other e-mails to the Commissioners?

4 A. I may have sent them an e-mail about --
5 when the evidentiary hearing date was changed.

6 Q. Any other e-mails?

7 A. Not that I can think of.

8 ALJ WILLIAMS: Let's go off the record
9 just a minute here.

10 (Discussion off the record.)

11 ALJ WILLIAMS: Back on the record. Thank
12 you.

13 Q. (By Mr. Settineri) And I can't recall if
14 I had a question pending, so I will -- I think I know
15 what I may have asked, but when you refer to the
16 "Greene County Commissioners," would that include any
17 representative of the Greene County Commissioners?

18 A. I sent -- any e-mails I would have sent I
19 also copied to Mr. Brandon Huddleson.

20 Q. Did you send any independent e-mails,
21 separate e-mails to Mr. Huddleson about the project?

22 A. No.

23 Q. So based on your recollection, there were
24 two e-mails sent, one after the Staff Report was
25 issued and another about the evidentiary hearing.

1 A. That's right.

2 Q. What about e-mails to the Townships?

3 What e-mails did you review?

4 A. Anything I sent to the County
5 Commissioners, I would have also sent to the
6 Cedarville, Xenia, and Miami Township Trustees for
7 whom I had e-mail addresses.

8 Q. Would that have been in the same e-mail
9 as to the Commission?

10 A. It would have been the same content, yes.

11 Q. Any other separate e-mails to the
12 Townships separate and apart from the Commissioner
13 e-mails?

14 A. I did e-mail back and forth with
15 Cedarville Township Jeff Ewry when I had contacted
16 him to ask if they were going to be sending us a
17 resolution either for or against the project. He
18 said he thought the three Townships were going to be
19 working together, but he would check and e-mail me
20 with the information. He copied Mr. Dan Brown who
21 was their attorney.

22 Q. In regards to the e-mails with Mr. Ewry,
23 did you have any other -- any e-mails with any other
24 trustees of Cedarville, Miami, or Xenia?

25 A. No.

1 Q. And do you recall the approximate time
2 frame you were e-mailing Mr. Ewry?

3 A. It would have been the morning of
4 October 28 and then throughout the day.

5 Q. And I assume -- is there one e-mail with
6 a long chain of files?

7 A. Probably, yes, back and forth.

8 Q. And who wrote the first e-mail?

9 A. I don't remember. I know it started with
10 a phone call.

11 Q. Okay. Just a quick question, did you
12 review your phone log records to prepare for your
13 appearance today?

14 A. I had some scribbles, but I don't have an
15 official phone log.

16 Q. So when you say "scribbles," are those
17 just notes of calls?

18 A. Just notes.

19 Q. Going back to then you mentioned the
20 phone call to Mr. Ewry, I believe you said it was the
21 morning of October 28?

22 A. Yes.

23 Q. And you called Mr. Ewry?

24 A. Yes, I did.

25 Q. And what was the substance of your

1 conversations on that phone call, if you recall, with
2 Mr. Ewry?

3 A. I had called him to say that -- to thank
4 them for -- they had passed a resolution and filed a
5 notice to intervene but had not indicated whether
6 they were for or against the project, and if they
7 wanted to include their views in our Staff Report
8 through a resolution, we would need that by
9 October 29.

10 Q. And who directed you to make that call?

11 A. Theresa White.

12 Q. Are you aware of any communications to
13 the Greene County Board of Commissioners by any other
14 either PUCO employee or Power Siting Board Staff
15 member asking for -- whether they would pass a
16 resolution?

17 A. No, I do not.

18 Q. When did Ms. White direct you to call
19 Mr. Ewry?

20 A. It would have been the morning of, I
21 believe, the 28th.

22 Q. And do you recall the substance of your
23 conversation with Mr. Ewry?

24 A. Yes. I called him to say that we had
25 received their notice to intervene. However, they

1 had not indicated whether they were for or against
2 the project.

3 Q. And I guess I should follow up, do you
4 recall his response to you?

5 A. He said he thought the three Townships
6 were going to be putting together a joint resolution,
7 but he wasn't sure where it was in the process.

8 Q. Do you recall whether he told you whether
9 Cedarville Township Trustees support or oppose the
10 project?

11 A. He didn't say. He said that he was going
12 to talk to Mr. Brown and -- to find out whether that
13 resolution stood.

14 Q. On any -- let me ask, in any of the
15 e-mails that you received from Mr. Ewry, did he
16 indicate whether Cedarville Township would be passing
17 a resolution that would oppose the project?

18 A. He thought that there was going to be a
19 joint resolution, but we would not have it in time
20 for the Staff Report. But I believe he -- and he
21 said the Township Trustees were against the project.

22 Q. In regards to the e-mails you exchanged
23 and received from Mr. Ewry, did you forward those
24 e-mails to anybody?

25 A. I would have shared them with Theresa

1 White.

2 Q. And when do you think you would have
3 shared them with her?

4 A. Almost immediately.

5 Q. And why did you share those with her?

6 A. She had asked me to contact them to find
7 out their views.

8 Q. And when you say "them," who is the
9 "them"?

10 A. The three sets of Township Trustees and
11 Greene County Commissioners.

12 Q. So with Mr. Ewry, you had telephoned him
13 and --

14 A. IT has been working.

15 ALJ WILLIAMS: Thank you.

16 A. I should have warned you, sorry.

17 MR. SETTINERI: Off the record.

18 (Discussion off the record.)

19 ALJ WILLIAMS: Back on the record.

20 Q. (By Mr. Settineri) All right. So in
21 regards to Mr. Ewry, you had an e-mail -- e-mail
22 communication with him on the 28th.

23 A. Uh-huh.

24 Q. And you also had a phone call with him on
25 the 28th.

1 A. Uh-huh.

2 Q. Did you have any other communications
3 with Mr. Ewry about the Kingwood Solar project?

4 A. We went back and forth that day, and I
5 thanked him for the information.

6 Q. And then those communications were
7 limited to October 28.

8 A. 28th and then the 29th when I sent him a
9 copy of the Staff Report.

10 Q. And then just for the record, later then
11 you also sent an e-mail, a group e-mail, about the
12 evidentiary hearing?

13 A. Yes.

14 Q. Which probably included him.

15 A. Right.

16 Q. Now, when -- you mentioned -- I asked you
17 about who -- you know, the them, and you said the
18 three sets of Trustees and the Commissioners. So
19 let's start with Miami Township. Did you have any
20 communications with Miami Township or any
21 representative about the Kingwood Solar?

22 A. No. I left a message for them, and they
23 did not call me back.

24 Q. Do you recall what you said in the
25 message?

1 A. The -- I said that they had -- we had
2 received their notice to intervene, but they had not
3 indicated whether they were for or against the
4 Kingwood project. And we would be happy to include
5 their views, but we needed it by the 29th.

6 Q. And then any other -- now, I think you
7 testified that you also sent an e-mail that included
8 the Miami Township Trustees about the evidentiary
9 hearing as well as the Staff Report, two separate
10 e-mails.

11 A. Right.

12 Q. Did you have any other communications
13 with any other representative of Miami Township about
14 the project?

15 A. No, I did not.

16 Q. Let's turn to Xenia Township.

17 A. Okay.

18 Q. Did you have any communications with
19 Xenia Township representatives about the project?

20 A. Yes, I did.

21 Q. And when did you have those
22 communications?

23 A. On October 28 and 29.

24 Q. All right. And let's start with
25 October 28. What communications did you have?

1 A. I called Alan Stock who is with the Xenia
2 Township, thanked him for filing the notice to
3 intervene, but they had not indicated whether they
4 were for or against the Kingwood project and that we
5 would include their views, but we needed them by
6 October 29.

7 Q. And did you speak directly with him?

8 A. Yes, I did.

9 Q. And did he -- do you recall how he
10 responded to you?

11 A. He said that the three Trustees were
12 100 percent against the project but that they would
13 not be able to meet the October 29 deadline.

14 Q. And did you have any e-mails with
15 Mr. Stock?

16 A. I included him on an e-mail I sent to the
17 other Trustees.

18 Q. Those are the two e-mails referred to
19 earlier.

20 A. Correct.

21 Q. Did Mr. Stock -- did your conversation
22 include any other topics or?

23 A. No. It was fairly short.

24 Q. Did you tell anyone about your
25 conversation with Mr. Stock?

1 A. I shared that information with Theresa
2 White.

3 Q. And did you share that in an e-mail?

4 A. Yes.

5 Q. Okay. And the same -- your message to
6 Miami Township, did you communicate to anyone that
7 you left a message with Miami Township?

8 A. Yes.

9 Q. Who did you communicate with?

10 A. Theresa White.

11 Q. That was via e-mail as well?

12 A. Yes.

13 Q. Did she respond to you via e-mail with
14 those communications?

15 A. Yes.

16 Q. And how did she respond to you?

17 A. Thank you.

18 Q. Anything more than thank you?

19 A. It's -- I don't remember her exact words,
20 no, but the message was thanks for reaching out to
21 them.

22 Q. And I think we covered this already, but
23 other than the two separate e-mails, the group
24 e-mails, did you have any other conversations with
25 Mr. -- with anyone from Xenia Township other than the

1 call you just mentioned?

2 A. No, I did not.

3 Q. Did you have any -- well, strike that.
4 Hold that.

5 After -- on -- after you communicated the
6 results of your outreach, we will call it, on
7 October 28 and you communicated that to Ms. White,
8 did you have any further communications with
9 Ms. White about that outreach?

10 A. The -- just the Trustees would not have
11 anything in time for the Staff Report and that they
12 could include -- as long as we received it by the
13 evidentiary hearing, we would include whatever they
14 sent us in the case record.

15 Q. Make sure I am clear, so let me back up.
16 Did you have any in-person discussions with Ms. White
17 about your communications with the Township Trustees,
18 the representatives?

19 A. What do you mean by in person? Face to
20 face or?

21 Q. Other than e-mail.

22 A. E-mail and phone calls.

23 Q. Okay. And did you speak -- do you recall
24 if you spoke to Ms. White on October 28 about your
25 outreach?

1 A. Yes, I did.

2 Q. Okay. And what do you recall the
3 substance of that conversation?

4 A. That the Trustees were not able to meet
5 the Staff Report deadline but I let her know what the
6 status was speaking with Cedarville Trustees as well
7 as the Xenia County -- or the Xenia Township
8 Trustees.

9 Q. Okay. And did you speak to Ms. White
10 also on October 29?

11 A. I don't remember.

12 Q. Um -- go ahead.

13 A. Oh, yes. I was on a conference call with
14 other Staff members on the 29th. Theresa was on that
15 conference call.

16 Q. All right. That call was to discuss the
17 Staff Report.

18 A. Correct.

19 Q. And that was to discuss -- well, strike
20 that for now.

21 Let me ask you this, in regards to that
22 discussion, what was your role in that discussion
23 about the Staff Report?

24 A. That was -- I had only been at the Power
25 Siting Board for a little over a month, so I was

1 really more a fly on the wall. That was my first
2 Staff Report. I was just really listening in, and I
3 read the Staff Report but.

4 Q. And on that point did you provide any
5 input on the Staff Report?

6 A. Only what I told them -- told Matt
7 Butler, who wrote the Staff -- had reviewed the Staff
8 Report, as well as Theresa White about my
9 conversations with the Trustees and the
10 Commissioners.

11 Q. Did -- in terms of -- let's be clear for
12 the record, you didn't draft any language in the
13 Staff Report, correct?

14 A. No, I did not.

15 Q. All right. And you didn't provide any
16 recommended edits to the Staff Report, correct?

17 A. No. I just read it.

18 Q. Greene County Commissioners, did you have
19 any -- we covered this. I don't know if we did
20 though. Make sure we did. I think you said earlier
21 that you had sent -- you had two e-mails that went to
22 the Greene County Commission representatives. Did
23 you make any phone call to any representative of the
24 Greene County Commissioners?

25 A. I called the Greene County Commissioners

1 and asked for Brandon Huddleson, and he was not
 2 available. I spoke to his administrative assistant
 3 Vicki, and I explained why I was calling, that we had
 4 received their notice to intervene and that they
 5 hadn't weighed in either for or against the project.
 6 And if they wanted to include their views in our
 7 Staff Report, we would need to get those -- that
 8 resolution by October 29, and she put me on hold.

9 Q. And do you recall what -- did she come
 10 back off hold?

11 A. Yeah. She came back off hold and said,
 12 yes, the Commissioners are voting today on a
 13 resolution against the project and that they would
 14 file that with us, and they filed it the next
 15 morning.

16 Q. All right. And did you take any notes
 17 from that phone call?

18 A. Just that the note of who I talked to and
 19 what time.

20 Q. Okay. And then what did you do with that
 21 information? Let me stop there, back up. Did
 22 Mr. Huddleson's assistant tell you anything else?

23 A. No.

24 Q. And then what did you do with that
 25 information that you received from her?

1 A. I shared it as part of my report to
2 Theresa White.

3 Q. And when you say a "report to Theresa
4 White," what do you mean by a "report"?

5 A. Just a phone call or e-mail.

6 Q. Did you do separate e-mails after every
7 call? Would you write a quick e-mail to her?

8 A. No. These calls were fairly quick one
9 right after the other.

10 Q. And you made the call to the Greene
11 County Commissioner's Office at the request of
12 Ms. White, correct?

13 A. Correct.

14 Q. And that's the same with the Miami and
15 Xenia Township calls as well, correct?

16 A. That's right.

17 Q. Am I correct that sitting here today, you
18 don't know why Ms. White asked you to make those
19 calls?

20 A. Well, we had not received their views
21 whether they were for or against the project, and we
22 would have included those had we known them.

23 Q. Okay. And is that your belief as to why
24 Ms. White asked you to make the calls?

25 A. Yes.

1943

1 Q. Okay. I haven't asked you this, what's
2 your title of your current position?

3 A. The official title is Program
4 Administrator 3. The title I use when working with
5 local officials is Community Liaison.

6 Q. And I think you already said, who is your
7 employer?

8 A. The Public Utilities Commission.

9 Q. And who do you report to?

10 A. I report to Theresa White.

11 Q. Have you always reported to Ms. White?

12 A. Yes.

13 Q. Briefly what is your work experience
14 leading up to your current position?

15 A. My background is in communications, and
16 so I have lots of experience in community outreach,
17 working grassroots organizations, the whole gamut of
18 communications, media relations.

19 Q. And you briefly worked for PERS and STRS;
20 is that right?

21 A. I worked for the Ohio Public Employees
22 Retirement System, and before that I worked with the
23 School Employees Retirement System.

24 Q. How would you describe your current job
25 responsibility at the Ohio Power Siting Board?

1 A. I work with local officials to help them
2 through the siting process. So I attend public
3 hearings and public meetings, talk to local officials
4 on the phone, and there may be different times that I
5 am sending an e-mail or phone call, you know, here is
6 the date for the application that's just been filed,
7 dates have been set for the public hearing, those
8 kinds of communications to keep them up to date.

9 Q. And when you say public officials, what
10 types of public officials?

11 A. Almost exclusively Township Trustees and
12 County Commissioners.

13 Q. And is that outreach limited to only
14 solar projects?

15 A. Solar and wind. We've had one wind
16 project, but it has been almost exclusively solar.

17 Q. And are you aware of any -- that type of
18 outreach being conducted for a transmission line
19 application?

20 A. I don't -- I don't work with transmission
21 lines, so I'm not aware.

22 Q. And the same question for gas pipelines?

23 A. Yeah. I don't really work with any gas
24 pipeline projects.

25 Q. Is it fair to say that your

1 responsibilities are limited to renewable energy
2 projects such as solar and wind?

3 A. That is correct.

4 Q. And to be a little more precise, are
5 limited to wind and solar projects; is that correct?

6 A. Solar and wind, wind and solar, yep.

7 Q. Did you watch the live feed of the
8 Commissioners' October 28, 2021, meeting?

9 A. No, I did not.

10 Q. What was your role with regard to the
11 Kingwood Solar project?

12 A. My role was to contact the Trustees and
13 Commissioners about the -- whether they wanted to
14 include their views either for or against the project
15 in the Staff Report, and then later I attended the
16 public hearing.

17 Q. So fair to say you had a limited role.

18 A. That's correct.

19 Q. And at that time you had only been with
20 the Commission for a month.

21 A. For a month, right.

22 Q. You mentioned being in a meeting on the
23 Staff Report on October 29, correct?

24 A. Correct.

25 Q. Were you in any other meetings about the

1 Staff Report?

2 A. I don't remember. That one I remember
3 but I don't remember any others.

4 Q. Do you remember the substance of the
5 conversations in that meeting about the Staff Report?

6 A. The due date was the 29th and it was
7 making sure we had everything we needed so that it
8 would be filed in time.

9 Q. And just to be clear for the record, you
10 had indicated that I believe you attended the local
11 public hearing for the Kingwood Solar project?

12 A. That's correct.

13 Q. Did you attend any meetings in person or
14 via computer with any representatives of the local
15 public entities, the Townships and the Commissioners?

16 A. No.

17 Q. Are you familiar with Senate Bill 52?

18 A. Yes, I am.

19 Q. Would you say that's the genesis for your
20 position?

21 A. That was what prompted my hiring but I
22 don't work solely on Senate Bill 52 projects.

23 Q. And you understand -- is it your
24 understanding that the Kingwood Solar project is
25 grandfathered under Senate Bill 52?

1 A. That's correct.

2 Q. Did you review any meeting minutes from
3 the Greene County Commissioners at all about the
4 Kingwood Solar project?

5 A. No, no.

6 Q. Did you review the notices of
7 intervention for any of the Townships in the County?

8 A. I reviewed the parties of record that are
9 listed on the website.

10 Q. Let me -- so a specific question then,
11 did you review Xenia Township's notice to
12 intervene -- notice to intervene in the proceeding?

13 A. I did review before I -- quickly before I
14 called them.

15 Q. All right. And did you do the same
16 review for Miami, Cedarville, and Greene County?

17 A. That's right.

18 Q. And did you look at any of the attached
19 resolutions --

20 A. Yes.

21 Q. -- if there were any?

22 A. Yes.

23 Q. Well, did you review any drafts of the
24 Staff Report before you made your phone calls to the
25 Township Trustees?

1 A. Yes; yes, I did.

2 Q. And why did you review that?

3 A. To familiarize myself on the project
4 before I made those calls.

5 Q. Were there any particular sections that
6 you reviewed?

7 A. I looked only in the public participation
8 section.

9 Q. Now, that section -- well, strike that.

10 Now, I think -- I believe -- did you in
11 any of your communications with the Township Trustees
12 that we discussed earlier, did you inform any of them
13 that the Intervenors could testify at the public
14 hearing?

15 A. Yes, that they could testify at the
16 public hearing but members of the public would be
17 asked to testify first and Intervenors last.

18 Q. Okay.

19 A. But that did not -- they didn't have to
20 testify at the public hearing and that didn't have
21 any impact on whether or not they testified at the
22 evidentiary hearing.

23 Q. Okay. And just to walk through the list
24 then, starting with Cedarville Township and Mr. Ewry,
25 was that a telephone communication or an e-mail to

1 Mr. Ewry with that information?

2 A. It would have been part of that standard
3 e-mail.

4 Q. And how did you, I guess -- let me strike
5 that.

6 What led you to tell them -- or to inform
7 Mr. Ewry that Intervenors could testify at the public
8 hearing?

9 A. We had another case for solar where we
10 started to allow Intervenors to testify and so that
11 was something new.

12 Q. Did you pass that information on also to
13 Cedarville and Miami Townships?

14 A. Yes.

15 Q. And did you pass that on to Greene County
16 Commissioners?

17 A. Yes.

18 Q. Did you pass it on to anyone else?

19 A. I -- I don't remember if I told anyone
20 else. Farm Bureau maybe.

21 Q. Were you directed to provide that
22 information to the Township Trustees and County
23 Commissioners?

24 A. I was for the Birch project which was
25 going on at the same time, so I also provided it

1 to -- to the Intervenor in this project.

2 Q. Did you -- just to be clear for the
3 record, when you say Intervenor, the information you
4 provided about that Intervenor could testify at the
5 public hearing, you provided it to the
6 representatives of the three Townships and the
7 County.

8 A. Right.

9 Q. But you don't recall whether you provided
10 it to anyone else; is that correct?

11 A. That's right.

12 Q. All right. So, for instance, did you
13 inform Kingwood Solar representatives that that would
14 be the case, that Intervenor could testify?

15 A. No, I would not have communicated with
16 them.

17 Q. Are you aware in the past that the Board
18 has not allowed Intervenor to testify at the public
19 hearing?

20 A. Yes.

21 Q. Do you know why this practice was
22 changed?

23 A. It was to give the public an opportunity
24 to hear their testimony as well, and we do it now for
25 all of our projects.

1 Q. Let me ask you a question, why -- why
2 didn't you inform Kingwood Solar that the Intervenors
3 could testify at the public hearing?

4 A. I communicate with local officials.

5 Q. Let me ask, if you recall, did you
6 communicate with any other entities or persons about
7 the Kingwood Solar project the week of October 25
8 that are not parties to the proceeding and ignoring
9 fellow Staff members?

10 A. No.

11 Q. Did you communicate with any PUCO
12 employees that are not part of the Ohio Power Siting
13 Board Staff with the Kingwood Solar project?

14 A. No.

15 Q. Have you had any -- other than the
16 communications we've discussed today, hopefully you
17 can remember what we've covered, have you had any
18 other communications with the parties to this case
19 about the Kingwood Solar project?

20 A. No, I have not.

21 Q. Are you aware of any communications by
22 OPSB Staff members to any of the local public
23 entities that are parties in this case outside of the
24 public information meeting or public hearing?

25 A. I -- no, I am not aware of any.

1 Q. And the same question but are you aware
2 of communication by any PUCO employee who may not be
3 an OPSB Staff member to any of the local public
4 entities that are parties in this case about the
5 Kingwood Solar project?

6 A. I am not aware of any.

7 Q. Let's -- just to confirm for the record,
8 I would like you to look at some exhibits here that
9 are e-mails.

10 MR. SETTINERI: And if I may approach,
11 your Honor?

12 ALJ WILLIAMS: Please.

13 MR. SETTINERI: I will pass out some
14 copies. I haven't done this walk in a long time.

15 Q. (By Mr. Settineri) Ms. Graham-Price,
16 these are exhibits that have been admitted previously
17 in this proceeding, but I just want to verify that
18 your knowledge of these e-mails and whether these are
19 the e-mails you discussed earlier today in your
20 testimony. Let's start with Kingwood Exhibit 77.

21 A. Okay.

22 Q. Are you familiar with this document?

23 A. Yes, I am.

24 Q. Is this one of the e-mails you reviewed
25 prior to appearing here today?

1 A. Yes.

2 Q. And this is an October 29 e-mail,
3 correct?

4 A. Correct.

5 Q. And would this be the e-mail you
6 referenced in your testimony earlier about passing on
7 a link to the Staff Report to certain individuals?

8 A. Yes.

9 Q. Now I want to drill down a little bit
10 here. You mentioned earlier that you thought you had
11 informed Mr. Ewry via an e-mail about the Intervenors
12 being able to testify at the local public hearing.
13 And I just want to make it clear for the record I
14 don't see that in this e-mail so could that have been
15 via a telephone call or was there another e-mail?

16 A. You know, I thought I would have included
17 that. I don't see it here.

18 Q. Can you recall how you would have
19 communicated to him about it?

20 A. It would have been in an e-mail.

21 Q. And that would have been another group
22 e-mail?

23 A. Correct.

24 Q. And let's look at Exhibit 78. And this
25 e-mail has also been admitted. This is -- you are

1 familiar with this e-mail, correct?

2 A. Yes.

3 Q. And this is another e-mail you reviewed
4 in -- before appearing here today?

5 A. Right.

6 Q. And this e-mail actually is about the
7 evidentiary hearing and this is -- but this is
8 setting a new date, correct?

9 A. Correct.

10 Q. I should say it's an e-mail about that.
11 So we have two e-mails, 77 and 78. There may be
12 another e-mail regarding appearing -- Intervenor
13 being able to testify at the public hearing; is that
14 correct?

15 A. Yes.

16 Q. Okay. Other than let's say those three
17 e-mails, assuming the third one exists, would there
18 be any other e-mail communications to the public
19 entities that are parties in this case that you can
20 recall at this time?

21 A. Just the e-mail I had mentioned with
22 Mr. Ewry, Cedarville Township Trustee.

23 MR. SETTINERI: Thank you. Your Honor,
24 if I could just take a brief 5 minutes to go through
25 my notes here?

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1 ALJ WILLIAMS: Sure. We will go ahead
2 and go off the record.

3 (Discussion off the record.)

4 ALJ WILLIAMS: We will go back on the
5 record.

6 As we do, I note that counsel for Greene
7 County has arrived. I will invite Mr. Boggs to make
8 his appearance.

9 MR. BOGGS: Thank you very much, your
10 Honor. Thad Boggs, Frost Brown Todd, 10 West Broad
11 Street, 23rd Floor, Columbus, Ohio, for Greene County
12 Board of Commissioners.

13 ALJ WILLIAMS: Thank you, sir.

14 Mr. Settineri, any further questions?

15 MR. SETTINERI: Yes, your Honor. Thank
16 you for the time.

17 Q. (By Mr. Settineri) Ms. Graham-Price,
18 after -- I guess prior to the Staff Report being
19 issued, you didn't receive any new resolutions from
20 the three Townships, correct?

21 A. That's correct.

22 Q. In your current role, approximately how
23 many solar projects have you been involved in?

24 A. I'm not sure. I know that -- all I know
25 is five years ago we had three. Today we have over

1 50, so I would guess that I attend a public hearing
2 or public meeting maybe twice a week.

3 Q. Have you been involved in more Staff
4 Reports since the Kingwood Solar Staff Report?

5 A. Yes.

6 Q. Was Kingwood Solar your first Staff
7 Report that you were involved in?

8 A. Yes. First one I read.

9 Q. And in any of the -- and so since then,
10 you've worked on other Staff Reports, correct?

11 A. I have not written any Staff Reports.

12 Q. Have you conducted -- have you reached
13 out to any Township Trustees and Commissioners for
14 other projects about their positions on the project?

15 A. Yes.

16 Q. Okay. And do you typically do that the
17 day before the Staff Report is due?

18 A. Now it's much more -- it's proactive. As
19 part of that, I mentioned I contact Commissioners and
20 Trustees maybe eight times through a project and
21 that's one of the e-mails that I -- that I include is
22 that here are the ways you can participate in the --
23 in the process, and once deadlines are set, I share
24 that with them.

25 Q. I don't know if I asked you this

1 question, I was asking about the information about
2 the Intervenors testifying at the public hearing.
3 Did anyone direct you to provide that information to
4 the Trustees and the Commissioners about -- in the
5 Kingwood Solar project?

6 A. No.

7 Q. Now, I think you said prior to making the
8 calls to the Commissioners, you said you had reviewed
9 a draft Staff Report; is that correct?

10 A. I glanced at it, yes.

11 Q. And that -- that report had recommended
12 approval of the project, correct?

13 A. It was still in draft form. I don't know
14 where -- where it stood.

15 Q. Okay. When you say "in draft form," what
16 do you mean?

17 A. It wasn't the final report.

18 Q. If you could -- do you have a copy of
19 what's been marked as Staff Exhibit 1, the Staff
20 Report of Investigation?

21 A. I have a copy of the Staff Report, but
22 it's not -- it doesn't indicate its number. I mean,
23 it's just the Staff Report.

24 Q. Okay. And just for the record, that's
25 dated October 29, 2021?

1 A. Correct.

2 Q. If you could turn then to page 42 of the
3 Staff Report, please.

4 A. Uh-huh.

5 Q. We will wait a second for people to pull
6 it up.

7 MR. SETTINERI: When the Bench is ready,
8 I'll proceed.

9 ALJ WILLIAMS: Please proceed.

10 Q. (By Mr. Settineri) You -- what section
11 specifically did you say you reviewed of the Staff
12 Report before you made your calls?

13 A. I glanced through the beginning of the
14 Staff Report that like gives you some background on
15 the application itself.

16 Q. Okay.

17 A. And just the public interaction,
18 participation.

19 Q. Would that be starting at page 41?

20 A. Yes.

21 Q. And you may not recall this, but the last
22 paragraph before public comments, do you recall
23 whether that was in the draft when you reviewed it
24 before you made your calls?

25 A. I don't remember.

1 MR. SETTINERI: All right. I think no
2 further questions at this time, your Honor. And,
3 Ms. Graham-Price, thank you.

4 ALJ WILLIAMS: Thank you, Mr. Settineri.

5 As we were doing before, I will invite
6 what would be direct on behalf of the Citizens for
7 Greene Acres.

8 MR. VAN KLEY: We have no questions, your
9 Honor.

10 ALJ WILLIAMS: Miami Township.

11 MR. SLONE: No questions, your Honor.
12 Thank you.

13 ALJ WILLIAMS: Greene County.

14 MR. BOGGS: No questions, your Honor.

15 ALJ WILLIAMS: Xenia Township.

16 MR. WATSON: No questions.

17 ALJ WILLIAMS: Cedarville Township.

18 MR. BROWN: Yes, I have one. I am going
19 to move over here so I can see the witness.

20 ALJ WILLIAMS: Of course.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Brown:

24 Q. Good morning, Ms. Price.

25 A. Good morning.

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1 Q. I am Daniel Brown, counsel for Cedarville
2 Township. There's been questions today about your
3 communications with me on a particular day,
4 October 28, 2021. Do you remember that day and your
5 communications with me on that day?

6 A. Yes.

7 Q. I just wanted to clear it up. It got a
8 little muddled in my opinion. So I wanted to ask you
9 if you remember me sending you an e-mail on
10 October 28 that told you that at this point in time
11 counsel for Cedarville, Miami, and Xenia Township
12 Boards of Trustees plan to work with counsel for the
13 Greene County Board of Commissioners to draft and
14 file separate and/or joint written testimony in
15 opposition to the Kingwood Solar application pending
16 before the Ohio Power Siting Board? Do you remember
17 when I sent you that e-mail?

18 A. Yes, I do.

19 Q. So did you understand that the townships
20 were planning to oppose the application?

21 A. Yes.

22 MR. BROWN: Thank you.

23 ALJ WILLIAMS: Thank you.

24 In Progress.

25 MR. HART: No questions, your Honor.

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1 ALJ WILLIAMS: Farm Bureau.

2 MS. MILAM: No questions, your Honor.

3 ALJ WILLIAMS: Thank you.

4 Staff.

5 MR. MARGARD: No, thank you, your Honor.

6 ALJ WILLIAMS: Mr. Settineri.

7 MR. SETTINERI: Yeah, just to follow up
8 on that.

9 - - -

10 FURTHER CROSS-EXAMINATION

11 By Mr. Settineri:

12 Q. Mr. Brown just read you an e-mail that we
13 haven't seen, but do you recall when you received
14 that e-mail?

15 A. It would have been, I think, the 28th.
16 It was part of the e-mail chain that I referenced
17 earlier.

18 Q. Okay. And that was an e-mail chain that
19 you recall that you initiated; is that correct?

20 A. That was the e-mail chain with Mr. Ewry,
21 the Trustee with Cedarville Trustees. He had copied
22 Mr. Brown on any e-mails to me.

23 Q. Okay. And was -- no representative of
24 Kingwood Solar was on that e-mail chain, correct?

25 A. That's correct.

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1 MR. SETTINERI: No further questions,
2 your Honor. Thank you.

3 ALJ WILLIAMS: Thank you,
4 Ms. Graham-Price.

5 THE WITNESS: Okay.

6 ALJ WILLIAMS: Enjoy the rest of your
7 day.

8 THE WITNESS: Thank you.

9 ALJ WILLIAMS: We will go off the record
10 briefly.

11 (Discussion off the record.)

12 ALJ WILLIAMS: Back on the record.
13 Mr. Settineri.

14 MR. SETTINERI: Thank you, your Honor.
15 At this time given Ms. Graham-Price's testimony, we
16 would renew our motion for the appearance of Theresa
17 White through subpoena. The basis is that as you
18 heard Ms. Graham Price say that she was directed by
19 Ms. White to make these telephone calls and get that
20 information, we continue to have concerns with that
21 and believe that for the record having Ms. White
22 appear to answer questions about those communications
23 in that direction is relevant as to the Staff Report
24 itself.

25 ALJ WILLIAMS: Your motion is continuing

1 to be denied. Ms. Graham-Price didn't provide any
2 testimony that led the Bench or the parties to hear
3 anything other than she was instructed to make
4 follow-up calls as part of her job responsibilities.
5 She certainly wasn't instructed to make any changes
6 to the Staff Report of Investigation.

7 She testified that she only briefly
8 reviewed it at the outset in order to provide context
9 for those phone calls which is what she did which is
10 apparently part of her job duties. So with that,
11 your motion is denied.

12 MR. SETTINERI: Thank you, your Honor.

13 ALJ WILLIAMS: You're welcome, sir. With
14 that are you ready to proceed to rebuttal witnesses?

15 MR. SETTINERI: At this point, subject to
16 the rulings from the Bench as to what we would like
17 to do, yes, we are ready to proceed.

18 ALJ WILLIAMS: Thank you, Mr. Settineri.

19 So in addressing the motion to strike
20 filed by multiple Intervenor on March 22, I
21 believe -- it was April 20. I believe the
22 certificate of service had indicated it was March 20.

23 Be that as it may, Intervenor move to
24 strike rebuttal testimony of Witness Hobart as well
25 as portions of testimony of Dylan Stickney and the

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1 rebuttal testimony of Witness Mohammed Karim.

2 The Bench has reviewed that motion
3 together with the memoranda contra filed by the
4 Intervenors last Friday. The Bench is going to deny
5 the entirety of the motion to strike. Relative to
6 the testimony of Witness Hobart, that witness is the
7 one who conducted the public opinion poll that was
8 raised by Mr. Stickney's testimony. That public
9 opinion poll was correlated in an effort to gauge
10 local opposition and was intended to provide some
11 context or perhaps to weigh contra to the
12 interactions that were presented by multiple
13 Intervening parties relative to their impressions of
14 the public opinions in regard to the project.

15 To the extent the testimony is as a
16 measure or gauge of public opinion, it certainly has
17 relevance to the Board's consideration here, and it
18 certainly weighs into the standard under
19 4906.10(A)(6) in terms of the public interest,
20 convenience, and necessity.

21 Moreover, the Bench certainly is
22 interested in further testimony relative to polling
23 methodology that would be presented in the course of
24 that witness's testimony.

25 Moving on to Witness Stickney, there were

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1 A, B, and C to the request to strike Witness
2 Stickney's testimony. A is a strict overlay of the
3 polling issue I just addressed in some detail. B
4 would be Witness Stickney bringing forward an updated
5 economic and fiscal impact study as well as a
6 property tax estimate.

7 Those are studies that were purportedly
8 either commissioned or updated following the
9 evidentiary hearing or one of the evidentiary
10 hearings. They included additional updates relative
11 to potential good neighbor agreements, community
12 donations, township contributions, changes in tax
13 analysis as well as global economic and fiscal
14 impacts. Again, it's been described that those go
15 toward measuring the public interest as in regard to
16 this project.

17 Candidly, this was a more difficult call
18 for the Bench as that information was understandably
19 presented as part of the application, but we feel
20 that weighing this more broadly in favor of its
21 admissibility, subjecting it to cross gives the Board
22 the better opportunity to consider this information
23 as part of the totality of the evidence in this case.

24 Finally, Witness Karim testifies in
25 direct response to Witness Stickney's part B economic

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1 and fiscal impact study as well as the property tax
2 estimates. And as I've indicated, the Board feels --
3 the Bench feels those are relevant for the Board's
4 consideration as well.

5 So with all of that, the Bench does deny
6 the motion to strike, and we will invite the entirety
7 of the testimony subject to cross.

8 With that, Mr. Settineri, I will let you
9 call your next witness.

10 MR. SETTINERI: Thank you, your Honor.
11 If I may have just a moment to clear off some paper.

12 ALJ WILLIAMS: Yes.

13 MR. SETTINERI: Your Honor, at this time
14 we'll call Mr. Alex Odom to the stand.

15 (Witness sworn.)

16 MR. SETTINERI: Your Honor, at this time
17 if you would allow me to mark an exhibit.

18 ALJ HICKS: Please.

19 MR. SETTINERI: Mark as Kingwood Exhibit
20 102 rebuttal testimony of Mr. Alex Odom.

21 ALJ HICKS: It is so marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

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ALEX ODOM

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Settineri:

Q. Good morning, Mr. Odom.

A. Good morning.

Q. Do you have before you what's been marked
as Kingwood Exhibit 102?

A. Yes, I do.

Q. And could you describe that document for
the record, please.

A. This is my rebuttal testimony.

Q. Is that prepared by you or at your
direction?

A. Yes.

Q. And do you have any changes or revisions
to that testimony today?

A. Yes, I do. I have two changes.

Q. As you've done in the last hearing, if
you could carefully and slowly read those revisions
for the court reporter, please.

A. So the first revision is on page 2,
starting on line 17. So after it says "pad period,"
I would like to insert a new -- insert two sentences

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1 as follows: "Based on information from the Applicant
2 and its" --

3 ALJ WILLIAMS: Slower, please.

4 A. "Based on information from the Applicant
5 and its construction team, there should be space to
6 easily dig holes for concrete footers to place steel
7 or wooden posts around the equipment pad to support
8 the barrier."

9 Q. I am going to stop you, Mr. Odom. I want
10 you to back up and read really slow for us, please.

11 A. Okay. "Based on information from the
12 Applicant and its construction team, there should be
13 space to easily dig holes for concrete footers to
14 place steel or wooden posts around the equipment pad
15 to support the barrier."

16 Q. And I am going to have you --

17 ALJ HICKS: A little slower.

18 Q. I am going to have you do it one more
19 time.

20 ALJ HICKS: Read a few words and pause.

21 THE WITNESS: I apologize.

22 A. "Based on information from the Applicant
23 and its construction team, there should be space to
24 easily dig holes for concrete footers to place steel
25 or wooden posts around the equipment pad to support

1 the barrier. The underground electrical lines do not
2 extend in all directions around the equipment pad,
3 and the construction team will have safety protocols
4 to avoid coming in contact with the underground
5 electrical lines." That's the extent of the first
6 comment, first change.

7 MR. SETTINERI: And I will ask the Bench
8 would you like that reread again?

9 ALJ HICKS: Do you have it, Karen? If
10 anyone else needs it again.

11 Keep going.

12 A. And the second change is on page 3 on
13 line 22 where it reads "the Kingwood Solar project is
14 consistent for the Board's approach," it should
15 instead read replacing "for" with "with." So as
16 corrected, it would be "the Kingwood Solar project is
17 consistent with the Board's approach."

18 Q. Thank you, Mr. Odom. Do you have any
19 other revisions to your testimony at this time?

20 A. No.

21 Q. And if I asked you the questions in your
22 testimony today, would your answers be the same as
23 written and as you have revised?

24 A. Yes.

25 MR. SETTINERI: Thank you.

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1 Your Honor, we would move for the
2 admission of Kingwood 102, subject to
3 cross-examination, and the witness is available for
4 cross-examination.

5 ALJ HICKS: Thank you, Mr. Settineri.
6 We will start with Citizens for Greene
7 Acres.

8 MR. VAN KLEY: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Van Kley:

12 Q. Mr. Odom, let's start on page 2 of your
13 rebuttal testimony marked as Exhibit 102. And let's
14 go to answer 6 on that page. With respect to answer
15 6 including the two sentence addition that you've
16 just made today, is any of the information in that
17 answer contained in the application?

18 A. I do not recall this language appearing
19 in our application. I would have to review it
20 though.

21 Q. All right. Do you recall whether any of
22 the information in answer 6 is included in Kingwood
23 Solar's responses to Data Requests from the Staff?

24 A. I do not recall any -- any questions
25 related to this Data Request.

1 Q. Do you recall whether any of the
2 information in answer 6 is included in the Joint
3 Stipulation?

4 A. They do talk a little bit about
5 post-construction mitigation if -- if the inverters
6 selected would -- would not meet specifications of
7 the project.

8 Q. Well, is there anything in the
9 Stipulation that says that the project will ensure
10 that the concrete footings and equipment pads around
11 the inverters and substation transformer could
12 support a noise barrier wall?

13 A. No, not to my knowledge.

14 Q. Is there anything in the Joint
15 Stipulation that requires the Applicant to make sure
16 there are no other engineering constraints such as
17 underground elements that prevent new structural
18 supports for a noise barrier from being placed next
19 to the existing equipment pad?

20 A. Not the Joint Stipulation. I just meant
21 from my discussion with -- with the construction team
22 that they expected that that's normal for the design
23 for their space to allow both light vehicle
24 turnarounds and other examples of prior projects that
25 have installed structures post-construction.

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1 Q. But you don't recall there being any
2 promise in the application or the responses to Data
3 Requests to do that, do you?

4 A. No.

5 Q. Let's go to page 3 -- or 4. Let's go to
6 page 4 of Exhibit 102, answer 9. Your first sentence
7 in answer 9 states "In my experience, it is very
8 difficult to predict complaints solely based on
9 increases over the ambient level." Do you see that?

10 A. Yes.

11 Q. What in your experience has led you to
12 come to that conclusion?

13 A. I worked in a variety of projects that,
14 for example, this criteria that Mr. Rand states in
15 his testimony, L90 plus 5, I've worked on a variety
16 of projects that exceed that standard, and I am not
17 familiar with noise complaints related to that, to
18 those projects.

19 And then in more general cases, I would
20 just say that it is -- in terms of predicting a
21 complaint, it's hard -- hard to say what any given
22 person may do in their response to noise. They
23 may -- two people may equally be annoyed by the
24 sound, but only one person may complain.

25 Q. Okay. With regard to your statement that

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1 you're not familiar with complaints on specific
2 projects, what kind of survey, if any, have you done
3 for any of those projects to talk to the people
4 living around the facility about whether they have
5 any complaints?

6 A. We don't typically conduct community
7 surveys. I would say never have I conducted any
8 survey of the community. We sometimes are involved
9 with projects that are either projects that Acentech
10 conducted or projects where some other consultant
11 worked on a project or they had no consultants. And
12 so we might be brought in from -- like reach out to a
13 member of the community who has a complaint, and then
14 we may be engaged in that kind of work.

15 Q. So you have investigated some complaints
16 that have been made for noise from solar facilities?

17 A. I am aware of an Acentech project where
18 we were conducting both kind of peer review of
19 another consultant's work and then some assistance on
20 design of mitigation for a solar project, yes.

21 Q. That was a solar project?

22 A. That was a solar project.

23 Q. And you were called in to double-check
24 another acoustics consultant's work in that case?

25 A. And then also provide recommendations for

1 mitigation.

2 Q. Okay. So were there complaints about
3 noise in that case?

4 A. Yes, there were complaints. This was --

5 Q. And how loud were the noises that you
6 determined were -- were occurring from the solar
7 project, if any, during that investigation?

8 A. I am not familiar with the overall sound
9 level, but I do know that the inverter in question
10 was -- or the inverters in question were about
11 100 feet from a residential property.

12 Q. Uh-huh. From the property line or from
13 the house?

14 A. I recall from the house.

15 Q. Okay. And did you determine what the
16 noise levels were at the house?

17 A. Others at Acentech reviewed those
18 measures. I assisted in measuring -- in modeling
19 of -- of the noise barrier and determining kind of
20 the both length and height of the barrier for -- to
21 achieve required reductions which in Massachusetts
22 for this particular project was 10 dB over the L90
23 was the criteria that applied locally.

24 Q. Okay. So in this case the noise level
25 from the inverters were 10 dBA over the L90

1 background level?

2 MR. SETTINERI: Just object to the extent
3 you are mischaracterizing his testimony.

4 MR. VAN KLEY: I asked him whether my
5 understanding is correct.

6 ALJ HICKS: Overruled. You can answer.

7 A. I don't recall the exact -- exact noise
8 levels with this project. That would have been a
9 component of the compliance measures we took to get
10 it underneath that criteria.

11 Q. But do you recall that the noise level
12 was 10 decibels or 10 dBA above the L90 background
13 level, right?

14 A. I do not recall. The other kind of
15 component in Massachusetts is it's not related to
16 ambient. It's related to tonal noise and that would
17 have been the other component of the project in terms
18 of achieving compliance with the regulation.

19 Q. Okay. I couldn't hear what you said
20 there. Related to what other kind of noise?

21 A. Tonal noise.

22 Q. Tonal. Oh, okay, tonal noise. And so
23 how was the noise level related to the tonal noise in
24 that case?

25 A. So Massachusetts defines it -- a pure

1 tone based on how much sound in a given octave band,
2 band of frequencies, how it compares to the two
3 adjacent bands. And if it's 3 dB over both adjacent
4 bands, it's considered a tone, and mitigation would
5 be required. That's as measured at the residence.

6 Q. And you found that there was tonal noise
7 in the noise from the inverters in that project?

8 A. Yes, that is the case.

9 Q. All right. And what kind of mitigation
10 was ultimately required in that case?

11 A. This was noise barriers.

12 Q. Around how many inverters were noise
13 barriers placed?

14 A. They were placed around all inverters and
15 this was subtly different than the Kingwood Solar
16 project. This was a project with string inverters so
17 there was basically an inverter at the end of every
18 single solar array line. And so it was subtly
19 different in that there was -- you know, along the
20 full extent of the property line there were
21 inverters.

22 Q. So the string inverters were right on the
23 property line?

24 A. They weren't right on the property line.
25 They were probably set back some distance, but they

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1 were -- they were poorly sited. They were sited next
2 to the edge of the project as opposed to the opposite
3 side of the project where there were no residences.

4 Q. Have you investigated complaints about
5 noise from any other solar projects?

6 A. No.

7 Q. So what is it about that case that we
8 have just been discussing that in your experience or
9 that -- let me start over.

10 So was that project that we have just
11 discussed one of the projects that led you to state
12 in the first sentence of answer 9 on page 4 of your
13 testimony that in your experience, it is very
14 difficult to predict complaints solely based on
15 increases over the ambient level?

16 A. I mean, that's somewhat true in that, you
17 know, we were working with, I think, you know, one,
18 one member of the community was complaining and there
19 were other homes at similar setbacks that didn't
20 raise concerns. So but this is an example it is hard
21 to pick which given member of the community may
22 complain about noise.

23 Q. Some people are just more sensitive to
24 the same level of noise as other people, right?

25 A. That's correct.

1 Q. So am I reading that first sentence in
2 answer 9 correctly to mean that it's difficult to
3 predict complaints based only on increases over the
4 ambient level?

5 A. Yes, that is correct. You need to
6 consider a lot of different factors about both the
7 character of the noise, the environment, and the
8 particular most sensitive receptors and the people
9 who live there.

10 Q. So you would agree with me, wouldn't you,
11 that -- that increases over the ambient level are one
12 factor to consider in determining whether complaints
13 will occur?

14 A. That's fair to say.

15 Q. Now, looking further into answer 9 on
16 page 4 of your testimony, in the last sentence you
17 state that "A 5 decibel increase over the L90 when
18 ambient sound levels are higher (for example -- for
19 example, 50 dBA) may be less acceptable given the
20 overall level that results, than a 5 dB increase when
21 the ambient sound levels are lower (for example, 30
22 dBA)"; am I reading that correctly?

23 A. Yes, that's correct.

24 Q. Now, at a level of 30 dBA, are you
25 referring there to the L90 as well?

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1 A. I'm referring -- referring only to the
2 ambient, I guess -- I guess the sentence does
3 specifically call out L90, yes.

4 Q. Okay. I don't think I heard that last
5 statement. Could you repeat it, please?

6 A. Yeah. So this -- this statement does
7 refer to the L90, and so L90 of 30 dBA I am referring
8 to in this case.

9 Q. Okay. For the ambient sound level,
10 right?

11 A. For the ambient sound level.

12 Q. And you would consider that to be a quiet
13 environment, right?

14 A. Yes. I would say typical -- typical
15 rural or in some cases suburban sound level.

16 Q. And a 50 dBA ambient level is not
17 considered to be a quiet level, right?

18 A. I don't know exactly if I would say -- I
19 mean, it's on the higher end of acceptability,
20 certainly for residential use.

21 Q. Do you find in your work that people who
22 live in a quiet environment are more sensitive to
23 noise increases than those who are living in an
24 environment that's not as quiet?

25 A. That's kind of the opposite of this last

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1 sentence in answer 9 where I am kind of saying that
 2 in cases where the ambient level is very low, like
 3 30, increasing to 35 might not be as noticeable as a
 4 case where increasing sound levels from 50 to 55 or
 5 55 to 60 in an area where sound levels are already
 6 kind of borderline acceptable. Like a downtown area,
 7 increasing even more could bring it into a level
 8 that's actually intolerable, whereas, in quiet rural
 9 areas, while it is certainly a noticeable sound, it
 10 might be -- it might be still an acceptable total
 11 level of sound again at the end of them, at the end
 12 of the day.

13 Q. I mean, if the environment is quieter, a
 14 new noise that is louder would be more noticeable
 15 than a new noise in a noisier environment; isn't that
 16 the case?

17 A. In terms of talking about the same level
 18 of increase in noise, the new noise source would be
 19 just as noticeable in both situations. I think it's
 20 just a question of, you know, what does -- what does
 21 that existing ambient consist of? Does it consist of
 22 any industrial noise sources? Probably not. Or
 23 minimal noise sources at a stage? So it would be
 24 more noticing a new character of noise rather than
 25 like understanding the true increase. Like for this

1 example talking about a 5 dBA increase associated
 2 with a particular noise source, those two noise
 3 sources would be in this hypothetical equally
 4 noticeable in both environments, but obviously in a
 5 louder environment they may have also existing
 6 industrial sources. It would be one of multiple
 7 industrial sources as opposed to a rural without any
 8 existing industrial uses.

9 Q. Is the noise that you would expect from
 10 an inverter a type of noise that is different than
 11 the types of noises ordinarily experienced in a quiet
 12 rural environment?

13 A. I mean, it depends on exactly some of
 14 the -- some of the noise sources would be similar to
 15 there does exist, you know, mechanical noise sources
 16 like people's air conditioning and things like that
 17 that are mechanical do exist in rural areas.

18 Q. Let's go to answer 10 on page 4 of
 19 Exhibit 102. In lines 14 and 15, you state that
 20 in -- "in reality, either all inverters would operate
 21 at 60 percent capacity or 60 percent of all inverters
 22 would operate at 100 percent capacity" at night,
 23 right?

24 A. That's correct.

25 Q. If that's the case, then why did you

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1 model the noise for inverters at night at 100 percent
2 capacity?

3 A. We didn't have any sound data for how
4 loud an inverter is when it's running at 60 percent
5 of its capacity. And we didn't have any -- we
6 weren't familiar with any like prediction models to
7 estimate how much quieter that equipment would be
8 when it's operating at a lower mode. In general, we
9 don't have data for the way that these inverters are
10 providing reactive power.

11 Q. Can you tell me whether the inverters at
12 that project, that is, the Kingwood Solar project,
13 will never operate at 100 percent capacity at night?

14 A. I think, as I understand it, that there
15 is these two different operational modes they
16 anticipate, that it's either 60 percent or running at
17 100 percent. So in that case there would be
18 individual inverters 100 percent of their typical
19 capacity but in no scenario would all 100 percent
20 operate at 100 percent capacity.

21 Q. And what's the basis for that statement
22 that you've just made?

23 A. This is -- this is what's been described
24 to me from -- by the Applicant about that they are
25 kind of contracted to provide up to 60 percent of

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1 their capacity at night via reactive power.

2 Q. So it's your understanding based on
3 discussions with the Applicant that this is based on
4 their contractual -- anticipated contractual
5 responsibilities?

6 A. Or operational responsibilities.

7 Q. I mean, you are not aware of any
8 technical reason that it would be impossible to
9 operate it at 100 percent at night, are you?

10 A. I don't know enough about the operation
11 of reactive power to say.

12 Q. Let's go to lines 22 through 23 on page 4
13 of Exhibit 102. And I would like to refer you to the
14 sentence that reads as follows: "Per the WHO
15 nighttime noise guidelines, 40 dBA is the lowest
16 sound level at which they have observed adverse
17 effects for nighttime noise." Did I read that
18 correctly?

19 A. Yes.

20 MR. VAN KLEY: Your Honor, at this time I
21 would like to mark an exhibit as Citizens Exhibit 18
22 which is entitled "Night Noise Guidelines for
23 Europe." We earlier had circulated this exhibit as a
24 possible exhibit for Mr. Odom's first visit with us,
25 and now I don't think that we ever marked that or

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1 introduced it previously in this hearing. And we
2 would like to do that now.

3 ALJ HICKS: Okay. I will defer. I have
4 it showing as marked, but to make sure it will be
5 marked as Citizens Exhibit 18.

6 MR. VAN KLEY: All right. And just to
7 make sure I don't forget and haven't already done it,
8 we do move pending the testimony that this be
9 introduced into evidence. And I would like to
10 approach the witness, your Honor, and give him a copy
11 in paper of this document.

12 ALJ HICKS: Sure.

13 Q. (By Mr. Van Kley) All right. Mr. Odom,
14 do you have in front of you what has been marked as
15 Citizens Exhibit 18? Do you recognize this document?

16 A. Yes.

17 Q. And is Citizens Exhibit 18 the WHO
18 Nighttime Noise Guidelines to which you refer in
19 answer 10 of Exhibit 102?

20 A. Yes.

21 Q. Okay. Would you identify the page on --
22 in Exhibit 18, that is, Citizens Exhibit 18, from
23 which you obtained information in the sentence from
24 your testimony that I read to you.

25 A. Sure. One moment. I think this is on

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1 Executive Summary, page XVI.

2 Q. All right. And would you point to the
3 specific language on page XVI of the Executive
4 Summary of Citizens Exhibit 18 from which you
5 obtained the information.

6 A. Yes. So under "Recommendations for
7 Health Protection," the second paragraph, this is
8 kind of a combination maybe of the second and third
9 sentences where it reads "There is no sufficient
10 evidence that the biological effects observed at the
11 level below 40 dB L night, outside are harmful to
12 health. However, adverse health effects are observed
13 at the level above 40 dB L night, outside, such as
14 self-reported sleep disturbance, environment
15 insomnia, and increased use of somnifacient drugs and
16 sedatives."

17 Q. All right. Thank you. Now, moving on in
18 Citizens Exhibit 18 to the page with XVII which comes
19 right after the paragraph you just referred to, there
20 is a table there, right?

21 A. Yes.

22 Q. And the -- the table discusses the same
23 information that you have just read us from the prior
24 page of the WHO report, correct?

25 A. That's correct.

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1 Q. And that information is found on the line
2 that on the left-hand states "30 to 40 dB"; is that
3 correct?

4 A. Yes. Where it states "30 to 40 dB" and
5 on the right the very final sentence says "L night,
6 outside of 40 dB is equivalent to the lowest observed
7 adverse effect level."

8 Q. So would you just read for us the entire
9 passage there for "30 to 40 dB."

10 A. Sure. "A number of effects on sleep are
11 observed from this range: Body movements, awakening,
12 self-reported sleep disturbance, arousals. The
13 intensity of the effect depends on the nature of the
14 source and the number of events. Vulnerable groups
15 (for example, children, the chronically ill and the
16 elderly) are more susceptible. However, even in the
17 worst cases the effects seem modest. L night,
18 outside of 40 dB is equivalent to the lowest observed
19 adverse effect level (LOAEL) for night noise."

20 Q. Okay. Thank you. And you've been
21 reading from Table 3 on page XVII of Citizens
22 Exhibit 18, correct?

23 A. That's correct.

24 Q. All right. Now, would you go back a few
25 pages in the Executive Summary for Citizens

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1 Exhibit 18 and specifically go to the page with the
2 XIII.

3 A. Okay.

4 Q. And on XIII you will see a Table 1,
5 correct?

6 A. Yes.

7 Q. And in -- and then on the next page, page
8 with the XIV, you'll see another table, or is it a
9 continuation of Table 1 on that page?

10 A. This is a Table 2.

11 Q. Okay. And then how are Table 1 and
12 Table 2 related to each other, if at all?

13 A. Table -- they are both summary of effects
14 of noise on different health metrics, but Table 1 is
15 for effects where sufficient evidence is available,
16 and Table 2 is for effects where limited evidence is
17 available.

18 Q. Uh-huh. Then on Table 2 on page -- let
19 me ask you this, are Tables 1 and 2 related to the
20 information on Table 3 on the page with the XVII on
21 this report?

22 A. As I understand it, Tables 1 and 2 speak
23 specifically to individual effect observations and
24 associated noise levels and, you know, summarizing
25 both areas where there is sufficient evidence and

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1 limited evidence. And they also note maybe some of
 2 these sound levels are using different metrics,
 3 either outside or inside, either an Leq or an Lmax
 4 which is the maximum sound level under some duration
 5 of time. Whereas, Table -- Table 3, I think, is more
 6 of a summary of -- of WHO's findings and -- and kind
 7 of their recommendations which are distilled even
 8 further in Table 4 which is Nighttime Guidelines for
 9 Europe for 40 and then interim target 55 for other
 10 areas.

11 Q. So is the -- is the statement from the
 12 two sentences read to us on page XVI obtained from
 13 the information in Tables 1 and 2?

14 A. I mean, that's kind of the underlying
 15 basis of some of the WHO's recommendations. As I
 16 understand it, they reviewed a lot of research and
 17 then summarize that review with an actual recommended
 18 noise guideline as discussed in my testimony.

19 Q. All right. And directing your attention
 20 back then to Table 2 on page XIV, do you see where
 21 there is a row for complaints?

22 A. Yes.

23 Q. And it states there that the estimated
 24 threshold in decibels for complaints is 35 L night,
 25 outside?

1 A. Yes, I do see that.

2 Q. And that level is based on the best
3 expert judgment of the authors of this report given
4 the evidence?

5 MR. SETTINERI: Just object, calls for
6 speculation.

7 MR. VAN KLEY: I think he has probably
8 read the report, so I think he can answer the
9 question.

10 ALJ HICKS: The witness can answer.

11 A. That is what the footnote refers to,
12 that -- you know, that it's based on expert judgment
13 evidence. But the way I have used this document and
14 the way I see this document used in literature is to
15 speak to their final recommendation as opposed to the
16 basis of their limited evidence suggestions. Yeah, I
17 am not an expert in public health or in the methods
18 that they use to review the available evidence. I
19 only know that the -- that the end of the day
20 recommendation is for 40 dBA nighttime noise level.

21 Q. Okay. Go back to answer 10 on page 4 of
22 Exhibit 102, your rebuttal testimony. So going back
23 to the sentence that kicked off this discussion on
24 this topic where you state that "Per the WHO
25 nighttime noise guidelines, 40 dBA is the lowest

1 sound level at which they have observed adverse
2 effects for nighttime noise," your reference to
3 "adverse effects" mean adverse health effects,
4 correct?

5 A. Yes, and specifically it is -- I guess
6 the Executive Summary, page XVII, Table 3, that's the
7 particular language where they say L night, outside
8 of 40 dB is equivalent to the lowest observed adverse
9 effect level, so I think it is that particular
10 definition they use for this acronym LOAEL which is
11 lowest observed adverse effect level.

12 Q. Uh-huh. And those are -- that reference
13 in the WHO report you've just mentioned refers to
14 adverse health effects, correct?

15 A. I only know that there's -- if -- I think
16 a lot of the documents focus on adverse health
17 effects, but I am not sure exactly why they have
18 chosen to use the terminology lowest observed adverse
19 effect level versus health effect.

20 Q. Well, if you go back to page XVI of the
21 WHO report and specifically look at the two sentences
22 you read to me as the basis for your statement in
23 answer 10 we've been discussing, those two sentences
24 talk about biological effects that are harmful to
25 health, don't they?

1 A. Yes. Like I said, I am just trying to
2 stick to if you continue on to the third paragraph of
3 that page, they again use the lowest observed adverse
4 effect level. I am not sure of the significance of
5 the difference between adverse health effects and
6 adverse effects.

7 Q. Well, based on the statements in
8 paragraph -- in the second and third paragraphs on
9 page XVI of Citizens Exhibit 18 under the heading
10 "Recommendations for Health Protection," that whole
11 discussion is about what noise levels affect health,
12 right?

13 A. Yes.

14 Q. Okay. But you didn't use the word health
15 in your sentence on lines 22 and 23 on page 4 of your
16 testimony, did you?

17 A. No. And I guess maybe only a correction
18 to earlier where I pointed out specifically those two
19 sentences in the second paragraph on that page
20 perhaps better serves as the basis of my testimony as
21 the first sentence of the third paragraph reading
22 "Therefore, 40 dB L night, outside is equivalent to
23 the lowest observed adverse effect level."

24 Q. All right. So it's not your testimony,
25 is it, that at 40 -- at a level below 40 dBA, that

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1 there won't be any complaints about annoyance.

2 A. Yeah. I make no prediction of complaints
3 based on project noise levels.

4 Q. Based on annoyance.

5 A. Based on annoyance or other. Related to
6 noise -- noise annoyance specifically, I make no
7 prediction on community complaints.

8 Q. Okay. Let's go to page 5 of your
9 testimony in Exhibit 102. Let's start at line 3 on
10 that page where you state that you "agree with the
11 WHO nighttime noise guideline report's assumption
12 that a conservative estimate of the reduction of
13 sound levels from outside to inside is about 21 dB."
14 Do you see that?

15 A. Yes.

16 Q. Now, this reduction, if it occurs,
17 doesn't help if somebody's in their yard being
18 exposed to the noise, does it?

19 A. No. Specifically the World Health
20 Organization speaks about this number because their
21 focus of nighttime noise is on sleep so that's
22 happening indoors.

23 MR. VAN KLEY: Yeah. Okay. Thank you.

24 I have no further questions at this time,
25 your Honor.

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1 ALJ HICKS: Thank you, Mr. Van Kley.

2 Miami Township.

3 MR. SLONE: No further cross. Thank you.

4 ALJ HICKS: Green County Board of
5 Commissions.

6 MR. BOGGS: No, your Honor. Thank you.

7 ALJ HICKS: Xenia Township.

8 MR. WATSON: No, your Honor. Thank you.

9 ALJ HICKS: Cedarville Township.

10 MR. BROWN: No cross-examination.

11 ALJ HICKS: In Progress.

12 MR. HART: No, thank you, your Honor.

13 ALJ HICKS: Ohio Farm Bureau.

14 MS. MILAM: No, I don't, your Honor.

15 Thank you.

16 ALJ HICKS: Board Staff.

17 MR. LYONS: No cross, your Honor. Thank
18 you.

19 ALJ HICKS: Mr. Settineri, do you need a
20 moment?

21 MR. SETTINERI: Yeah, take a few minutes.
22 5 would be cool.

23 ALJ HICKS: Try to come back at noon?

24 MR. SETTINERI: Yeah, that works.

25 (Recess taken.)

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1 ALJ HICKS: Go ahead and go back on the
2 record.

3 Mr. Settineri, any questions?

4 MR. SETTINERI: Just a few, your Honor.
5 Thank you.

6 - - -

7 REDIRECT EXAMINATION

8 By Mr. Settineri:

9 Q. Mr. Odom, you were asked some questions
10 about your answer in answer 9, question 9 on page 4.
11 Regarding the sentence "In my experience, it is very
12 difficult to predict complaints solely based on
13 increases over the ambient level," when you say "In
14 my experience," what does that mean?

15 A. I mean, that's my general project
16 experience, my familiarity with a variety of
17 regulations and what I've learned in, you know,
18 formal education about acoustics. And I think if
19 there was a more clear marker of how to predict
20 complaints, it would be a more standardized criteria
21 applied in many different cases.

22 Q. And you were asked again questions about
23 this answer, and you discussed a project that you had
24 worked -- or a project you had worked on regarding
25 complaints. Do you recall the size of that project?

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1 A. This was much, much smaller than Kingwood
2 Solar. I don't know the exact size of it, but a lot
3 of our projects in Massachusetts are in like the 5-
4 to 15-megawatt range. And there were maybe, you
5 know, four to eight homes along -- along one edge of
6 the project where the inverters were nearest.

7 Q. And you were asked about just for the
8 record Citizens Exhibit 18.

9 MR. SETTINERI: For the record I will
10 note, your Honor, it was marked and excerpts read
11 into the record during Mr. Rand's cross-examination.

12 Q. (By Mr. Settineri) Turning to Table 2 on
13 page Executive Summary XIV, I just want to make sure
14 I read this correctly, "Table 2 Summary of effects
15 and threshold levels for effects where limited
16 evidence is available," two asterisks, that's the
17 title of that table; is that correct?

18 A. That's correct.

19 MR. SETTINERI: All right. No further
20 questions. Thank you, your Honors.

21 ALJ HICKS: Thank you, Mr. Settineri.

22 Mr. Van Kley, any?

23 MR. VAN KLEY: Yeah.

24 - - -

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RECROSS-EXAMINATION

By Mr. Van Kley:

Q. Mr. Odom, would you -- are you familiar with the Power Siting Board's rule for wind turbines with respect to how that rule treats a 5 decibel increase in the noise level above the ambient sound?

MR. SETTINERI: Just object, your Honor. That's outside my recross.

MR. VAN KLEY: It is an introductory question to another question that's going to go directly to Mr. Settineri's cross, your Honor.

ALJ HICKS: I will give a little leeway here, but if we are not getting to the point pretty quickly here, I will renew -- update my ruling.

A. I am at least familiar with the rule as I discuss it in answer 8 to my testimony.

Q. And would you regard that as a standard -- standardized limit for a 5 decibel increase?

A. It is -- it is a standard in Ohio for wind, yes.

Q. Okay. And with respect to the other solar project that you did your investigation on, how many acres were in that solar project?

A. I don't have a good gut feel for acreage.

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1 Q. Can you give me an estimate?

2 A. I don't really think in terms of acres.
3 I think feet or meters, and I have not like measured
4 the extent of that property -- that project.

5 Q. Can you tell me how many -- how the
6 acreage in that project compares to the acreage in
7 the Kingwood Solar project?

8 A. It's much, much smaller.

9 MR. VAN KLEY: All right. Nothing else,
10 your Honor.

11 ALJ HICKS: Thank you, Mr. Van Kley.

12 Mr. Odom, thank you for your testimony.

13 THE WITNESS: Thank you.

14 ALJ HICKS: Take up -- you may have
15 already moved them subject to cross, but we will go
16 ahead and let you do it again.

17 MR. SETTINERI: All right. Practice
18 makes perfect. Your Honor, at this time I would move
19 for the admission of Kingwood Exhibit 102, the
20 rebuttal testimony of Alex Odom.

21 ALJ HICKS: Any objection to its
22 admission?

23 Hearing none, Kingwood Exhibit 102 is
24 admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

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1 ALJ HICKS: Similarly, Mr. Van Kley,
2 would you like to move -- I believe you did already?

3 MR. VAN KLEY: I did, your Honor, and I
4 would renew that motion. I think there has been
5 enough testimony about this exhibit now that it would
6 be a good idea to introduce it into evidence at this
7 point.

8 ALJ HICKS: Any objections?

9 Hearing none, Citizen's Exhibit 18 is
10 admitted into evidence.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 ALJ HICKS: Okay. Mr. Settineri, please
13 go ahead.

14 MR. SETTINERI: Thank you, your Honor.
15 Just to get some paper together real quick.

16 ALJ HICKS: Sure.

17 ALJ WILLIAMS: Let's go off.

18 (Discussion off the record.)

19 ALJ HICKS: We will go back on the
20 record.

21 Mr. Settineri, please call your next
22 witness.

23 MR. SETTINERI: Thank you, your Honor.
24 At this time we will call Lynn Gresock to the stand.

25 (Witness sworn.)

1999

1 MR. SETTINERI: Your Honor, at this time
2 if we could mark Kingwood Exhibit 103, the rebuttal
3 testimony of Lynn Gresock.

4 ALJ HICKS: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 - - -

7 LYNN GRESOCK

8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Settineri:

12 Q. Good morning, Ms. Gresock.

13 A. Good morning.

14 Q. Do you have a copy before you of what's
15 been marked as Kingwood Exhibit 103?

16 A. I do.

17 Q. And could you identify that for the
18 record, please.

19 A. This is my rebuttal testimony.

20 Q. Was that prepared by you or at your
21 direction?

22 A. It was.

23 Q. And do you have any changes or revisions
24 to that testimony at this time?

25 A. I do not.

1 Q. If I asked you the questions as written
2 in that testimony today, would your answers be the
3 same today as written?

4 A. They would.

5 MR. SETTINERI: Thank you.

6 Your Honor, move for the admission of
7 Kingwood 103, subject to cross, and the witness is
8 available for cross. Thank you.

9 ALJ HICKS: Thank you, Mr. Settineri.

10 We will start with Citizens for Greene
11 Acres.

12 MR. VAN KLEY: Thank you, your Honor.

13 - - -

14 CROSS-EXAMINATION

15 By Mr. Van Kley:

16 Q. Ms. Gresock, would you go to page 2 of
17 your testimony that's been marked as Exhibit 103.
18 And let's go to the sentence that starts on line 17
19 on that page. And there you state "While red-winged
20 blackbirds, finches, and mockingbirds were not
21 observed at the time, they would be expected to be
22 common visitors to bird feeders for seed and/or suet,
23 and would be unsurprising to see in the area." Did I
24 read that correctly?

25 A. You did.

1 Q. Uh-huh. Now, the birds mentioned in this
2 sentence are common in habitat other than at bird
3 feeders, correct?

4 A. That's correct.

5 Q. So, for example, red-winged blackbirds
6 are common in wetlands, correct?

7 A. Yes.

8 Q. And finches and mockingbirds are common
9 in areas outside of feeders as well, right?

10 A. They do occur in other places, yes.

11 Q. And are there habitats in the project
12 area for Kingwood Solar that are conducive for
13 residence by finches and mockingbirds?

14 A. I wouldn't be surprised to see them in
15 the area.

16 Q. Let's go to page 3 of your testimony.
17 And we will start at the very top on page 3, line 1,
18 where you state "Ms. Adams' testimony implies that
19 the Project may impact the types of species she
20 identified as seeing near her property." Did I read
21 that correctly?

22 A. You did.

23 Q. What do you think in Ms. Adams' testimony
24 implies what you just -- what you stated there?

25 A. I could not otherwise understand why she

2002

1 was providing detailed information about the presence
2 of the species.

3 Q. Okay. All right. In that same paragraph
4 on page 3 you talk about the diversity of habitat in
5 the project area, right?

6 A. Where are you?

7 Q. The first paragraph in answer 7 on page
8 3. You talk about "low habitat diversity" there --

9 A. Right.

10 Q. -- in the project area.

11 A. I do speak to the fact active
12 agricultural row crops are not diverse habitats.

13 Q. So going on then to the second paragraph
14 on that page, there you talk about how
15 pollinator-friendly species of plants can be added to
16 the project area to increase the diversity of the
17 project area for wildlife, correct?

18 A. That's right.

19 Q. Do you know approximately how many acres
20 of pollinator habitat will be added in the project
21 area?

22 A. I do not.

23 Q. Do you know what percentage of the
24 project area will host pollinator-friendly plants?

25 A. I do not.

2003

1 Q. Do you know that the pollinator-friendly
2 plants will be around the outsides of the solar
3 arrays rather than within the solar arrays?

4 A. I know there are plans to have them
5 around the outsides. I do not know that they will
6 not be elsewhere.

7 Q. So do you know whether any pollinator
8 plants will be planted inside the solar arrays?

9 A. I do not know, but they could be.

10 Q. Do you know of anything in the
11 application that states that they will be planted
12 within the solar arrays?

13 A. The application doesn't reflect a
14 specific planting design.

15 Q. So then it's also the case, isn't it,
16 that the number of acres that will be planted in
17 pollinator-friendly plants is not committed to in the
18 application.

19 A. There are many aspects of the final
20 design that are still to be resolved.

21 Q. All right. So the answer to my question
22 is that the application does not state how many acres
23 of pollinator plants will be planted, correct?

24 A. That is correct.

25 MR. VAN KLEY: All right. I have no more

2004

1 questions, your Honor.

2 ALJ HICKS: Thank you, Mr. Van Kley.

3 Any cross from Miami Township?

4 MR. SLONE: Nothing, your Honor. Thank
5 you.

6 ALJ HICKS: Greene County Board of
7 Commissioners.

8 MR. BOGGS: No, your Honor. Thank you.

9 ALJ HICKS: Xenia Township.

10 MR. WATSON: No cross, your Honor. Thank
11 you.

12 ALJ HICKS: Cedarville Township.

13 MR. BROWN: No cross, your Honor.

14 ALJ HICKS: In Progress.

15 MR. HART: No cross, your Honor. Thank
16 you.

17 ALJ HICKS: Ohio Farm Bureau.

18 MS. MILAM: No cross, thank you.

19 ALJ HICKS: Board Staff.

20 MS. BAIR: No cross, thank you.

21 ALJ HICKS: Mr. Settineri, are you
22 prepared?

23 MR. SETTINERI: A few minutes, if I
24 could.

25 ALJ HICKS: Sure. Let's come back at

2005

1 12:20. Off the record.

2 (Discussion off the record.)

3 ALJ HICKS: Let's go ahead and go back on
4 the record.

5 Mr. Settineri, any redirect?

6 MR. SETTINERI: Yeah. Just one or two
7 questions, your Honor. Thank you.

8 - - -

9 REDIRECT EXAMINATION

10 By Mr. Settineri:

11 Q. Ms. Gresock, you were asked questions
12 about the plants within the project area. So within
13 the fence line of the project, will there be any
14 types of plantings that you are aware of for certain?

15 A. Within the fence line of the project
16 area, there will be seeding mixes used throughout the
17 footprint of the project.

18 Q. Okay. What types of seeding mixes to the
19 extent you know?

20 A. So those will be various grasses so they
21 may or may not all be pollinator seed mixes but
22 different species will be used to stabilize the soil
23 and to create diversity within the project footprint.

24 MR. SETTINERI: Okay. Thank you,
25 Ms. Gresock. No further questions.

2006

1 ALJ HICKS: Mr. Van Kley, any questions
2 based on those questions from Mr. Settineri?

3 MR. VAN KLEY: Yeah. Just real briefly.

4 - - -

5 RECROSS-EXAMINATION

6 By Mr. Van Kley:

7 Q. So with regard to the grasses that may be
8 planted within the fences of the solar arrays,
9 there's nothing in the application that states that
10 those grasses have to be pollinators, correct?

11 A. There will be pollinator species
12 throughout -- in locations in the project area. The
13 grasses that are planted throughout may be or may not
14 be pollinator species, but they will still enhance
15 diversity of the habitat as compared to row crop
16 agriculture.

17 MR. VAN KLEY: Okay. Nothing further,
18 your Honor.

19 ALJ HICKS: Thank you, Mr. Van Kley.
20 Thank you for your testimony today,
21 Ms. Gresock.

22 THE WITNESS: Thank you.

23 ALJ HICKS: Mr. Settineri, I believe,
24 already moved for the admission of Exhibit 103.

25 MR. SETTINERI: For the record I will

2007

1 move for the admission again of Kingwood Exhibit 103,
2 your Honor.

3 ALJ HICKS: Thank you very much.

4 Any objection to its admission?

5 Hearing none, Kingwood Exhibit 103 is
6 admitted.

7 (EXHIBIT ADMITTED INTO EVIDENCE.)

8 ALJ HICKS: Let's go ahead and go off the
9 record.

10 (Discussion off the record.)

11 (Thereupon, at 12:23 p.m., a lunch recess
12 was taken.)

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2008

Monday Afternoon Session,

April 25, 2022.

- - -

ALJ HICKS: Let's go ahead and go back on
the record.

And I will hand it over to Mr. Settineri
to call Applicant's next witness.

MR. SETTINERI: Thank you, your Honor.
The Applicant will call Mr. Jim Hobart to the stand,
please.

(Witness sworn.)

ALJ HICKS: Please go ahead.

MR. SETTINERI: Thank you, your Honor.

- - -

JIM HOBART

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Settineri:

Q. Good afternoon, Mr. Hobart.

A. Good afternoon.

Q. Would you please state your name and
business address for the record, please.

A. Jim Hobart, Public Opinions Strategies,
214 North Fayette Street, Alexandria, Virginia 22314.

2009

1 Q. Thank you, Mr. Hobart.

2 MR. SETTINERI: And, your Honor, we would
3 mark at this time Kingwood Exhibit 104, the rebuttal
4 testimony of Jim Hobart.

5 ALJ HICKS: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. SETTINERI: And we will provide
8 copies to the Bench as well as the court reporter,
9 and the witness has a copy as well.

10 ALJ HICKS: Please go ahead.

11 MR. SETTINERI: Thank you.

12 Q. (By Mr. Settineri) Mr. Hobart, can you
13 identify for the record what's been marked as
14 Kingwood Exhibit 104.

15 A. Yes.

16 Q. And please identify it.

17 A. Oh, yeah, my rebuttal testimony.

18 Q. Okay. That was prepared by you or at
19 your direction?

20 A. Yes.

21 Q. And do you have any changes or revisions
22 to that testimony today?

23 A. One revision.

24 Q. If you could carefully say that for the
25 court reporter.

1 A. Sure. The bottom of page 15 -- excuse
2 me, the bottom of page 5, Q15, where it says "Do you
3 agree with the conclusions about local opposition
4 presented by Mr. Zeto, Mr. Ewry, Mr. Huddleson,"
5 after "Mr. Huddleson," please add "Mr. Hollister, and
6 Mr. Combs," so it would read "about local opposition
7 presented by Mr. Zeto, Mr. Ewry, Mr. Huddleson,
8 Mr. Hollister, and Mr. Combs."

9 Q. Thank you. Do you have any other
10 revisions to your testimony at this time?

11 A. I do not.

12 Q. And if I asked you the questions as
13 written in your testimony today, would your answers
14 be the same as written as you have revised?

15 A. They would, yes.

16 MR. SETTINERI: Thank you.

17 At this time, your Honor, we would move
18 for the admission of Kingwood Exhibit 104, subject to
19 cross, and we would present Mr. Hobart for
20 cross-examination.

21 ALJ HICKS: Thank you.

22 We will begin with Citizens for Greene
23 Acres.

24 MR. VAN KLEY: All right. Thank you,
25 your Honor.

2011

1 I am going to distribute a copy of
2 Citizens Exhibit 16 which was introduced earlier in
3 this hearing. Could I approach the witness to give
4 him a copy?

5 ALJ HICKS: Certainly.

6 THE WITNESS: I have got a copy to save
7 you the walk.

8 MR. VAN KLEY: Okay. Anybody else need a
9 copy of the opinion poll?

10 ALJ HICKS: I will take one as well, the
11 Bench.

12 MR. SETTINERI: You should have a copy as
13 well, bottom page.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Van Kley:

17 Q. All right. Mr. Hobart, you have Citizens
18 Exhibit 16 in front of you?

19 A. I do, yes.

20 Q. And by virtue of the fact you took it
21 with you, I take it you know what it is.

22 A. I do, yes.

23 Q. All right. Would you just briefly for
24 the record describe what Citizens Exhibit 16 is.

25 A. It is a PowerPoint summary of the key

2012

1 findings from a survey we did in Greene County, Ohio,
2 on March 2 through 3, 2022.

3 Q. And how are you familiar with this
4 document?

5 A. The survey was conducted by my business
6 partner, Neil Newhouse, and I have -- since the
7 survey was completed, I have been fully briefed on
8 the survey. Neil and I work together quite
9 regularly, and the way he conducted the survey is
10 very similar to the way I would have conducted and
11 fully briefed on it to discuss it today.

12 Q. Okay. So you are familiar then with the
13 contents of Citizens Exhibit 16.

14 A. I am, yes.

15 Q. And Citizens Exhibit 16 pertains to the
16 opinion poll that's discussed in your testimony
17 marked as Kingwood Exhibit 104, correct?

18 A. Correct.

19 Q. Now, if you look through Citizens
20 Exhibit 16, there are a number of questions that are
21 listed in this document, correct?

22 A. Correct.

23 Q. And those are the questions that were
24 asked to the persons that responded to the poll?

25 A. They -- some of the questions, yes.

2013

1 Q. All right. Now, how do I know which
2 questions in this document were asked?

3 A. Well, all of the questions in the
4 document were asked but there are questions that were
5 asked that are not in this document, you know, at
6 least not spelled out.

7 Q. Okay. So this document does not have a
8 complete list of all the questions that were asked in
9 the poll?

10 A. Well, for example, it doesn't have the
11 demographic questions, so we don't actually write
12 down in what year were you born in this document.
13 That's in the -- what we call the interview schedule
14 and top line document which was also, I believe,
15 provided to you all.

16 Q. Where there are questions listed in
17 Citizens Exhibit 16, are those questions presented in
18 this document in the sequence in which they were
19 asked to the people being polled?

20 A. Well, yes. There were -- you know, as I
21 mentioned, there are questions that are not included
22 in this that were -- that -- for example, let's just
23 go to slide 5. Would you say -- "What would you say
24 is the most important priority that is facing Greene
25 County, that is, the issue you're most concerned

2014

1 about?" That is not the first question asked in the
2 survey. Prior to that we ask demographic and
3 screener questions.

4 Q. So if you go to slide 7.

5 A. Yes.

6 Q. The question on this page that was asked
7 in the poll was "And, do you generally support or
8 oppose gradually transitioning the country's energy
9 supply from fossil fuels like oil, natural gas and
10 coal more toward renewable energy sources like wind
11 and solar power?" Do you see that?

12 A. Correct. I do.

13 Q. That is word for word the question that
14 was asked to the people being polled, correct?

15 A. Correct.

16 Q. All right. And then if you go to the
17 next line, which is on page 8, the question asked
18 there was "How much have you seen, read or heard
19 about the Kingwood Solar plan to build a
20 utility-scale solar farm here in Greene County?"
21 That again is a word-for-word rendition of a question
22 asked to the people being polled, correct?

23 A. Correct.

24 Q. And that question was asked after the
25 question that's on page 7, correct?

2015

1 A. Correct.

2 Q. And then if you go to slide 9, the
3 question on that page is -- reads as follows: "As
4 you may know, Kingwood Solar has proposed a solar
5 project that consists of 1,200 acres of private,
6 leased land in Xenia, Cedarville, and Miami
7 townships. It is projected to provide \$1.5 million
8 annually to the local communities in Greene County
9 with the largest beneficiary being the schools. Do
10 you support or oppose this proposed Kingwood Solar
11 Farm?" Did I read that correctly?

12 A. You did.

13 Q. And that is a word-for-word rendition of
14 another question that was asked in the poll, correct?

15 A. Correct.

16 Q. Okay. And that question was asked
17 subsequent to the question that's on page 8, correct?

18 A. Correct.

19 Q. And also was read subsequent to the
20 question that is on page 7.

21 A. Correct.

22 Q. And let's go to page 14 in Citizens
23 Exhibit 16.

24 A. Well, my page 14 is blank.

25 Q. 16 -- or 14, yes, 14. Let's see here --

2016

1 oh, it looks like 13 perhaps. Looks like there may
2 be a page missing in what we were provided. Okay.
3 So you have a blank for page 14?

4 A. Right, yeah. Mine goes directly from
5 page 13 to page 15.

6 Q. Yeah, mine does too. And on page 13 on
7 the top, does it say "And, what are the most
8 important reasons why you support this proposed
9 project?"

10 A. It does, yes.

11 Q. Okay. That's the question -- that's the
12 page I wanted to ask you about.

13 A. Okay.

14 Q. All right. So these are all questions
15 asked -- or all reasons provided by people who said
16 they supported the project as reasons for their
17 support, correct?

18 A. Correct. It's what we call an open-ended
19 question. The vast majority of questions on the
20 survey with the exception of this one are what we
21 call closed-ended questions. The respondents are
22 read a list of potential answers, and then they
23 choose one. This is one of the most important
24 reasons why you support this proposed project. The
25 respondent then says literally whatever they want and

2017

1 that response is recorded verbatim; and then, you
2 know, it's the response to an open-ended question.

3 Q. Now, there were some people that said
4 they were opposed to the project when they were
5 polled, correct?

6 A. Correct.

7 Q. Were they also asked the most -- about
8 the most important reasons why they opposed the
9 project?

10 A. They were.

11 Q. Okay. Does this document include any
12 such reasons?

13 A. It does not.

14 Q. Okay. What was on page 14, if anything?

15 A. I do not recall.

16 Q. Could it be on page 14 there was a list
17 of reasons why people oppose the project?

18 A. Certainly possible.

19 Q. And why wasn't it included in this
20 document that was turned over to us?

21 MR. SETTINERI: I am going to object at
22 this time, your Honor. I think we need to go back
23 and look. This document -- it shows -- I would like
24 to take a moment to go back and look at the history
25 of the document to see whether there was an error in

2018

1 loading it on the docket or not.

2 The version I have marked has all the
3 pages in it from the hearing itself, so we need to
4 look at when it was first produced in the virtual
5 hearing just to see if there was an error.

6 ALJ HICKS: Let's go off the record.

7 (Discussion off the record.)

8 ALJ HICKS: We will go back on the
9 record.

10 We briefly went off the record with some
11 discussions to make sure that everyone was in
12 agreement and had copies of the correct Citizens
13 Exhibit 16, and it's the Bench's understanding that
14 the parties intend to stipulate as to this correct
15 version. And I will let Mr. Settineri or
16 Mr. Van Kley spell out exactly what is happening,
17 what is being stipulated to.

18 MR. SETTINERI: Go ahead.

19 ALJ HICKS: Either one.

20 MR. VAN KLEY: I'll go first. Yeah,
21 we've proposed that we enter a stipulation that the
22 corrected copy of Citizens Exhibit 16 is a true and
23 accurate copy of that exhibit and that this was the
24 exhibit that was utilized with Mr. Stickney earlier
25 in this proceeding.

2019

1 MR. SETTINERI: We will agree to that
2 stipulation.

3 ALJ HICKS: Okay. Just for the record
4 this is the version that has all pages in it, not a
5 blank page 14.

6 MR. SETTINERI: Yes. It's a document --
7 it has pages 1 through 18 with a last page that does
8 not have a page number on it that has just Neil
9 Newhouse's contact information. We will make sure a
10 complete copy is put on the docket itself with
11 correspondence, and we will also provide an e-mail
12 version to the parties and the court reporter to make
13 sure everyone has it.

14 ALJ HICKS: Okay. Any objections to
15 anyone being so stipulated? We can go ahead and move
16 forward with everyone's understanding that is the
17 correct Citizens Exhibit 16.

18 MR. VAN KLEY: Okay. Great. Thank you,
19 your Honor.

20 Q. (By Mr. Van Kley) All right. Mr. Hobart,
21 we were talking about page 14 in Citizens Exhibit 16,
22 and just to pick up where we left off, page 14 has a
23 list of the most important reasons provided by people
24 being polled as to why they support the proposed
25 Kingwood project, correct?

2020

1 A. Correct.

2 Q. And now we have -- and that's the new --
3 that's the page that was missing from the document
4 you were looking at earlier in your testimony today,
5 right?

6 A. Correct.

7 Q. All right. And page 13 which is -- which
8 has now been inserted into the paper copy as a
9 corrected page 13 also has reasons why the people
10 being polled support the project, right?

11 A. Correct.

12 Q. So we have two pages of reasons why
13 people -- that people gave for supporting the project
14 but nowhere in Citizens Exhibit 16 are there any of
15 those reasons -- or any reasons given from -- by
16 people who were polled about why they oppose the
17 project, correct?

18 A. Correct.

19 Q. All right. Let's go back to page 8 of
20 Citizens Exhibit 16. And just to make the record
21 read smoothly, this is the page that has the question
22 on it which asks as follows: And -- I'm sorry, page
23 8. You are on page 8, right?

24 A. Yes.

25 Q. That's good. That's where I asked you to

2021

1 go. I was the one on the wrong page. So the
2 question on page 8 asks as follows: Have you -- "How
3 much have you seen, read or heard about the Kingwood
4 Solar plan to build a utility-scale solar farm here
5 in Greene County?" So with regard to this question,
6 8 percent of the people answering the questions said
7 that they had a lot in response to this question,
8 right?

9 A. Correct.

10 Q. Some said some, right?

11 A. Right.

12 Q. That was 19 percent?

13 A. Correct.

14 Q. And 13 percent said not very much, right?

15 A. Correct.

16 Q. And 60 percent said nothing at all,
17 right?

18 A. Right.

19 Q. That is, since that question can be read
20 two ways, 60 percent of the people being polled said
21 that they had heard nothing at all about the Kingwood
22 Solar project, correct?

23 A. Correct, seen, read, or heard nothing at
24 all.

25 Q. Yeah. All right. So how do you -- how

2022

1 do you determine that somebody has -- had some -- had
2 heard -- had seen, heard, or read some about the
3 project?

4 A. I mean, the way the question is asked is
5 "How much have you seen, read or heard about the
6 Kingwood Solar plan to build a utility-scale solar
7 farm here in Greene County," a lot, some, not very
8 much, or nothing at all. Those responses are rotated
9 top to bottom, bottom to top, so some people would
10 have heard nothing at all, not very much, some, or a
11 lot, and they answer the question and it's recorded.

12 Q. So what's the difference between some and
13 not very much?

14 A. That's in the eye of the respondent.

15 Q. So if -- if a person had just seen the
16 name Kingwood Solar somewhere but knew nothing else
17 about it, would that classify as some knowledge or
18 not very much knowledge or what?

19 A. I cannot speak to what respondents think
20 when they are replying to a survey question.

21 Q. Well, do you describe any significance to
22 the difference between the number of people who heard
23 some and not -- and the number of people who said not
24 very much?

25 A. I'm not sure I understand your question.

2023

1 Q. Well, what -- I guess the question is
2 what kind -- what value is obtained from finding out
3 that some people heard some and some people heard not
4 very much when the answer is in the eye of the
5 beholder?

6 A. Well, it's helpful to measure the
7 awareness of the community about the project -- or
8 the County, I should say.

9 Q. So if a person responding to this poll
10 had read one sentence about the Kingwood Solar
11 project, would that person have been expected to
12 answer some or not very much or what?

13 MR. SETTINERI: Object, asked and
14 answered.

15 ALJ HICKS: So I will let the witness
16 answer this, but I think we have mined this one
17 pretty deeply here. So go ahead and answer this and
18 let's move on.

19 A. I don't have any expectation how someone
20 answers a question I ask. I just ask the question.

21 Q. Let's go back to page 9 of Citizens
22 Exhibit 16. So this is the question where the
23 actual -- the actual question here is preceded by two
24 sentences full of statements, right?

25 A. Yes.

2024

1 Q. The first sentence states that the
2 project consists of 1,200 acres of private, leased
3 land in Xenia, et cetera, right?

4 A. Xenia, Cedarville, and Miami Townships.

5 Q. Yeah. And then the second -- the second
6 statement is "It is projected to provide \$1.5 million
7 annually to the local communities in Greene County
8 with the largest beneficiary being the schools,"
9 right?

10 A. Correct.

11 Q. That's not a question, is it? It's more
12 like a statement?

13 A. It is a statement.

14 Q. Yeah. And so then the question that
15 followed after that was "Do you support or oppose
16 this proposed Kingwood Solar Farm," right?

17 A. Correct.

18 Q. Couldn't you have asked that question
19 without making the statements in the prior two
20 sentences on this page?

21 A. Yes.

22 Q. And the question that appears on page 9
23 of Citizens Exhibit 16 was the first question in the
24 poll that asks the respondents whether they support
25 or oppose the project, right?

1 A. Right.

2 Q. And then you go to page 10 and here in
3 the top of the page it says "Kingwood wins by almost
4 three to one," right?

5 A. Right.

6 Q. And it states that 63 percent support and
7 23 percent oppose; am I reading that correctly?

8 A. You are.

9 Q. So for those people who answered the poll
10 at this point in time, the 60 percent of the
11 respondents who had heard nothing about the project
12 prior to answering the question on page 9 knew only
13 the information about the project that your pollsters
14 had provided them in this poll, right?

15 A. Correct.

16 Q. Are you familiar with a polling project
17 done by your consulting firm concerning the use of
18 photo enforcement in Arizona?

19 A. No.

20 Q. No?

21 A. No. I mean -- well, no is the answer.
22 We do in excess of a thousand projects every year,
23 the firm, so I am not familiar with every survey that
24 we do.

25 Q. Okay.

1 A. Not that one.

2 Q. So you are not familiar with a polling --
3 an opinion poll conducted by your firm in Arizona to
4 find out whether the people favored photo enforcement
5 using red light cameras?

6 A. It sounds extraordinarily vaguely
7 familiar, but I would know absolutely no details
8 about that survey.

9 Q. Has your consulting firm ever been
10 accused of conducting opinion polls in a -- in a way
11 whereby -- let me start over.

12 Has your consulting firm ever been
13 criticized for providing information about a project
14 that your -- your firm's clients supported in a
15 manner in which the people being polled were first
16 told favorable information about the project and then
17 asked whether they favored it or opposed it?

18 A. I would say just like any polling company
19 in the country, our firm has been criticized by
20 people who do not like the results of our surveys.

21 Q. So is the answer to my question yes?

22 MR. SETTINERI: Object, asked and
23 answered.

24 MR. VAN KLEY: No, he didn't. He just
25 said they have been criticized. He didn't say they

2027

1 were criticized for asking --

2 ALJ HICKS: The witness can answer.

3 MR. SETTINERI: Can we have that question
4 reread for the witness's benefit?

5 ALJ HICKS: Sure.

6 (Record read.)

7 A. Yes, that is something we've been
8 criticized for.

9 Q. Does your profession have a code of
10 ethics or a code of best practices?

11 A. Yes.

12 Q. And where does that code come from? Is
13 it a particular association or organization that
14 provides such a code?

15 A. Sure. We adhere to standards set by the
16 American Association of Public -- of Public Opinion
17 Research also known as AAPOR.

18 Q. Okay. And isn't it true that the -- and
19 that's -- that's like a list of best management
20 practice, right?

21 A. I -- I cannot confidently say what
22 exactly that is.

23 Q. Does that code of practice contain advice
24 that a pollster should not attempt to influence the
25 outcome of the poll by providing information prior to

1 asking the questions in the poll that would tend to
2 bias the respondent to give the answers that the
3 pollster wants to receive?

4 A. I do not have the standard from AAPOR, so
5 I don't know.

6 Q. Well, based on your experience in your
7 profession, do you think that is a -- a valid
8 practice to follow, that is, to stay away from giving
9 information that would bias the answers to the
10 questions that you are about to ask?

11 A. Our goal is always to give clients the
12 most accurate information possible regardless of
13 whether it is in their favor or not in their favor.

14 Q. Okay. Do you have in front of you --

15 MR. VAN KLEY: Your Honor, could we mark
16 the next exhibit Citizen Exhibit 20 which is a Greene
17 County, Ohio, Survey Questionnaire Draft Final,
18 March 2 to 3, 2021.

19 ALJ HICKS: So marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 A. I'm sorry. It's March 2 to 3, 2022.

22 Q. Yes, correct. Thank you. Okay. And do
23 you recognize this document?

24 A. I do.

25 Q. Okay. What is it?

1 A. It is the questionnaire, survey
2 questionnaire.

3 Q. Okay. This is the questionnaire that the
4 people doing the -- the people asking the questions
5 in the poll that we have been discussing utilized in
6 order to ask those questions, correct?

7 A. That is correct.

8 Q. And are the -- is this a complete list of
9 all the questions that they asked?

10 A. Yes.

11 Q. Okay. And are the se -- is the sequence
12 of the questions in Citizens Exhibit 20 provided in
13 the same order as they were -- as those questions
14 were asked during the poll?

15 A. The one thing I would note, it has it in
16 the instructions, but questions 9 and 10 bottom of
17 the page, I am not sure what page it is, but
18 questions 9 and 10 were rotated, so half the
19 respondents received question 10 first; half the
20 respondents received question 9 first.

21 Q. Okay. So other than that exception,
22 the -- the sequence of questions as asked during the
23 opinion poll is the same as the sequence in Citizens
24 Exhibit 20?

25 A. Yes.

1 Q. So did the people conducting the poll
2 that we've been describing inform the respondents
3 that solar projects produce noise?

4 A. No.

5 Q. Did they tell the respondents that the
6 land in this project, if approved, would take all of
7 that land out of food production for 35 to 40 years?

8 A. Question 10 does detail that if you knew
9 that 1,200 acres of land will be used by the solar
10 project provides less than 1 percent of all
11 agricultural land in the county, would you favor or
12 oppose this project, so agricultural land is
13 mentioned, yes.

14 Q. But it didn't state in that question that
15 the land would be taken out of food production for 35
16 to 40 years, did it?

17 A. It did not.

18 Q. Did -- were the respondents to the poll
19 informed that this project could be as close as
20 250 feet from neighbors' houses?

21 A. It did not.

22 Q. Were the respondents told that this
23 project could be as close as 25 feet away from
24 neighbors' property lines?

25 A. They were not.

1 Q. Who commissioned this opinion poll?

2 A. Vesper Energy.

3 Q. And who specifically from Vesper Energy
4 commissioned it?

5 A. I'm -- I cannot recall the -- our primary
6 contact there.

7 Q. Was it somebody employed by Vesper -- by
8 Vesper Energy or --

9 A. Yes.

10 Q. -- or was it somebody who worked for
11 Vesper as a contractor or -- or --

12 A. I should say to the best of my knowledge,
13 someone employed by Vesper.

14 Q. Do you know when the project was
15 commissioned to be performed?

16 A. I would imagine -- well, no I'll say.

17 Q. Not exactly.

18 A. Not exactly.

19 Q. Let's go to page 5 of your written direct
20 testimony marked as Kingwood Solar Exhibit 104.

21 A. Yes.

22 Q. And we are going to go to answer 13 on
23 that page.

24 A. Yep.

25 Q. And your answer says "Among the

1 40 percent of voters who had heard about the project
2 prior to the poll, 63 percent support the project and
3 30 percent are opposed," correct?

4 A. Correct.

5 Q. All right. So that 40 percent that you
6 reference in this answer who had heard about the
7 project prior to the poll includes all those people
8 who had just heard some or had just heard not very
9 much, correct?

10 A. Yeah. It is -- let me flip to that page.
11 Yeah, if you look at page 8 of, what is it,
12 Exhibit 16, it's 8 plus 19 plus 13, that's 40.
13 That's 8 percent heard a lot, 19 percent heard some,
14 13 percent heard not very much, and that adds up to
15 40 percent.

16 Q. Uh-huh. Okay. So since you don't know
17 what the people who answered your poll actually knew
18 about the project, for example, what someone who
19 answered some knew about the project, how do you
20 ascribe any importance about the fact that they
21 favored the project even though they had heard
22 something about it?

23 MR. SETTINERI: Just object. Asked and
24 answered. I believe we are back to a line of
25 questioning from earlier. I think we went through

1 this earlier.

2 MR. VAN KLEY: No. I think it's related
3 to his answer 13. I am trying to figure out what the
4 significance of that answer is.

5 ALJ HICKS: I will overrule the
6 objection. To the extent he can explain in this
7 question 13, I believe Mr. Van Kley is asking about
8 the 40 percent, so I will let the witness answer.

9 A. Sure. This is, you know, what we call an
10 awareness question which was this is a question we
11 ask on polls all the time and it's always important
12 to know what people who are the most aware of,
13 whether it's a project, whether it's a candidate, you
14 name it, it's important to know where they stand on
15 an issue and what we see is the people who are most
16 informed about this support it 63 percent to
17 30 percent.

18 Q. And why is it important?

19 A. Because it typically, you know, is a
20 harbinger of what would happen if 100 percent knew
21 something. You know, if you -- if you are in a
22 political campaign and you are -- you know, and there
23 is someone who knows who both candidates are and
24 that's what we call an opinion of both and you are
25 winning with the opinion of both people, that means

1 you are probably going to do pretty well as voters
2 get to know more about both candidates. Similarly
3 here given that the people have heard a lot, some, or
4 not much about this project are supportive of it.
5 They are aware of it. That suggests when the other
6 60 percent learns more about the project, that they
7 will -- that they will also be supportive.

8 Q. So somebody who answered not very much to
9 that question on page 8 and who had only read one
10 sentence about the project, you still ascribed
11 importance to that person being in the 40 percent
12 that you are referring to in answer 13 of your
13 testimony.

14 A. Yeah. They are someone who has heard
15 about the project.

16 Q. Even if they had only heard the name of
17 the project.

18 A. They are someone who has heard about the
19 project.

20 Q. Okay. Well, can you tell me of those
21 persons who are stated on page 8 of Citizens
22 Exhibit 16 to have heard a lot about the project, how
23 many of those people supported the project?

24 A. Just 8 percent of a 350 sample is not --
25 is not large enough to be at all statistically

1 significant.

2 Q. Oh, well, go back to my question. How
3 many of those people supported the project?

4 A. I do not have that information in front
5 of me.

6 MR. VAN KLEY: I have no more questions,
7 your Honor.

8 ALJ HICKS: Thank you, Mr. Van Kley.
9 Go next to Miami Township.

10 MR. SLONE: Nothing from Miami Township.

11 ALJ HICKS: Greene County.

12 MR. BOGGS: Nothing, your Honor.

13 ALJ HICKS: Xenia Township.

14 MR. WATSON: Nothing, your Honor.

15 ALJ HICKS: Cedarville Township.

16 MR. BROWN: I have a few questions, your
17 Honor.

18 ALJ HICKS: Okay.

19 MR. BROWN: I am going to move.

20 ALJ HICKS: Certainly.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Brown:

24 Q. Good afternoon, Mr. Hobart.

25 A. Good afternoon.

1 Q. I'm Daniel Brown for Cedarville Township.
2 I am going to try not to step on some of the same
3 questions that Jack asked but give me some leeway
4 here. I will see if I can step through and miss the
5 ones that have already been asked and answered.

6 So I read your rebuttal testimony and
7 just want to rephrase. It seems like your direct
8 testimony -- rebuttal testimony asserts there were
9 350 registered voters that were interviewed by phone;
10 is that right?

11 A. That is correct.

12 Q. Okay. A larger percentage by cell and a
13 smaller percentage by landline; is that right?

14 A. Let me just be 100 percent certain on
15 that. Yes, that's correct.

16 Q. All right. How do you decide when you
17 get your list of people to call -- you know, is there
18 a protocol for how many that are going to be landline
19 versus cell?

20 A. Generally what we are doing now in the
21 vast majority of our work is 40 percent landline, 60
22 percent cell phones --

23 Q. All right.

24 A. -- approximately.

25 Q. Based on your experience in the industry,

1 which has been quite a long time, and before cell
2 phones were, you know, in everybody's pocket, how has
3 that distribution between landline and cell phones
4 changed over time?

5 A. It has increased. When I started in the
6 business in 2007, we were still calling 100 percent
7 landlines, and it is -- then we went to 20, 40, and
8 now we are at 60.

9 Q. All right. Is that part of the quota
10 that you talk about in your testimony?

11 A. Correct.

12 Q. So you are trying to get a 60/40 type
13 split on cell phone and landline?

14 A. Yeah. Really what -- what it's gone to
15 now is minimum of 60 percent. Sometimes it is --
16 it's even more than that.

17 Q. So when -- when the calls go out and the
18 interviewer is ready to answer -- ask the questions,
19 how many of those calls go unanswered?

20 A. Oh, well, the easiest way to say it is
21 that depending on the area or the district -- or
22 let's just say the area of the country, we typically
23 need to make what we call our sample ratio, between
24 70 to 100 to 1. So in order to get one completed
25 interview, we need to make between 75 and 100 calls.

1 Q. Okay. Just based on your experience, is
2 there a demographic that typically answers the phone
3 versus doesn't answer the phone?

4 A. The people who most frequently answer the
5 phone are older people. That's why we set when we
6 call age quotas. That's why you will see in the
7 question one of the first questions we ask what year
8 were you born. If we did not ask that question, you
9 know, I would end up with 80 to 85 percent of my
10 responses being age 65 plus because they are the most
11 likely to pick up the phone. Because we know that we
12 set age quotas and so there is only so many 65 plus
13 year olds that we interview in any survey because,
14 you know, obviously Greene County is not 85 percent
15 age 65 plus.

16 Q. I looked at the survey questions that
17 Jack asked you about. I did not see a question about
18 the residents, the Township residence of the
19 interviewee. Was there a question on which Township
20 do you reside in?

21 A. That's not necessary because we have --
22 that's listed on the voter file that we acquire --
23 that we acquire the phone numbers from. So we
24 know -- if it's a landline respondent, we know where
25 the person is because the landline is tied to a

1 physical address. When it's a cell phone, we say in
2 which county in Ohio do you currently live because,
3 you know, as we all know, you can have a cell phone
4 area code that's different from where you actually
5 live. So question B on page 1 of the questionnaire
6 is how we are checking to make sure that the cell
7 phone resident lives in Greene County.

8 Q. I saw that. So you definitely know if
9 they are in Greene County. If they are not in Greene
10 County, you just terminate the interview because you
11 are not interested in that person's.

12 A. That's right.

13 Q. But there isn't a question about, okay,
14 now that we know you live in Greene County, which
15 township do you reside in?

16 A. There is not a question but that's listed
17 on the voter file so we know that.

18 Q. Okay. Even if the cell phone is from
19 another area code or whatever, you know that from the
20 voter file.

21 A. Yeah. And it is not 100 percent
22 accurate, but it's fairly accurate.

23 Q. All right. On line 19, page 4, of your
24 direct testimony, you talk about the quotas for the
25 persons who get these calls.

1 A. I'm sorry. Where are you in my direct
2 testimony?

3 Q. I had it at page 4, line 19.

4 A. Yeah, got it.

5 Q. It says "Public Opinion Strategies set
6 quotas by age, gender, and region to ensure a
7 representative sample based on the makeup of the
8 registered voters in the electorate."

9 A. Correct.

10 Q. So you talked already about age because
11 there is a question about age and gender. So what
12 about region? How do you know that you've canvassed
13 the entire Greene County in a representative fashion?

14 A. Well, because we look at the list of
15 Greene County voters and we say, okay, how many live
16 in this Township, how many live in that Township, and
17 then we are doing a survey of 350 people, so you just
18 do -- I mean, let's make the math easy, right? If
19 10 percent lived in Hobart Township -- I know there
20 is not a Hobart Township. That's my last name. If
21 10 percent live in Hobart, we are doing a survey of
22 350 people, we will make sure we have 35 respondents
23 in Hobart Township.

24 Q. All right. So you have a chart in -- in
25 the 20-page report that we've been talking about,

1 right? And it's -- I want to look at page 12. Page
2 12.

3 A. Yep.

4 Q. This is the chart that shows -- well, I
5 am going to try to interpret it, and you tell me if I
6 am right or wrong.

7 A. Okay.

8 Q. Starting at the left you've got
9 Beaver creek.

10 A. Right.

11 Q. Is that the City of Beaver creek or the
12 Township of Beaver creek?

13 A. I would have to check on that. I'm not
14 certain.

15 Q. All right. And how about Fairborn, is
16 that a city or township?

17 A. Same answer.

18 Q. I'm sorry?

19 A. Same answer. I would have to
20 double-check.

21 Q. All right. Well, then we know Xenia
22 City, that's the City of Xenia, right?

23 A. Right.

24 Q. All right. Then Sugarcreek. Do you know
25 that to be a -- is that a town or a township?

1 A. I would have to check how we are coding
2 that.

3 Q. All right. Is it left to right the
4 35 percent for Beavercreek, 19 percent for Fairborn,
5 are you just starting on the left with the most
6 percentage? Is that how that is? The most
7 percentage of people who answered the phone --

8 A. Yeah.

9 Q. -- it was 35 percent?

10 A. It's not the percentage of people that
11 answered the phone because we are setting quotas,
12 right? So we didn't take whoever picked up. We knew
13 that Beavercreek was 35 percent of the Greene County,
14 you know, 35 percent of Greene County registered
15 voters, so we said, okay, we have 35 percent of the
16 interviews in Beavercreek.

17 Q. Okay. So that 35 percent isn't really
18 related to the polling. It's related to the number
19 of registered voters in the pool that you started
20 with?

21 A. Well, it's related to the polling that
22 it's representative of Greene County.

23 Q. All right. So Beavercreek is 35 percent
24 of Greene County --

25 A. Approximately.

1 Q. -- is what you are saying. All right.
2 Well, I am curious because now that I understand that
3 you can tell where the people picking up the phone
4 live based on the voter registration, it looks like
5 the only township on here is Sugarcreek Township.
6 That's -- that's an urban Township in Greene -- of
7 Greene County. But none of the other Townships are
8 broken out for this -- this graph. So my question is
9 why not break out the way you did here the
10 percentages for Cedarville Township, Miami Township,
11 and Xenia Township, the three Townships that were
12 clearly identified as the ones that this project
13 would most -- mostly affect?

14 A. Well, you know, in terms of how you
15 choose to show data, you are making decisions, you
16 know, regularly. You know, this is just the way we
17 chose to show this data. And then the other thing
18 that's important to note is that we -- you know, in
19 most cases we try to show data that is of a
20 sufficient sample size to be statistically
21 significant. Even something like Sugarcreek, it's
22 7 percent, is pretty small. You know, Beavercreek,
23 Fairborn, Xenia City, and then what we call the
24 balance, the other Townships, those are a little
25 higher.

1 Sometimes people might say why don't you
2 show data by 18- to 24-year-old females? Well, we
3 wouldn't show that because that's a very, very small
4 portion of the survey. Similarly here, you know, we
5 are choosing to show it by what we would call region
6 based on, you know, a couple things. One, the
7 biggest thing is to make sure that we are showing a
8 decent number of places in the County. You know,
9 there's -- similar to if I was doing a statewide poll
10 in Ohio, right? Typically what I do I show it by
11 media market. Are there other ways you could show
12 statewide results in Ohio? Sure. But media market
13 is the one that we typically use.

14 Q. All right. Well, would it surprise you
15 to know there is 13 Townships in Greene County?

16 A. That sounds about right. I believe I
17 have heard that.

18 Q. All right. And then most of the chart
19 here is made up of Cities, not the Townships. You
20 can see that, right?

21 A. Yeah.

22 Q. And you realize that the Townships are
23 the ones who have the burden of a facility like this,
24 not the people in the City?

25 A. Sure, yeah.

1 Q. So Beaver Creek 35 percent, Fairborn
2 19 percent, Xenia, you know, you are talking about,
3 you know, 60 percent of all these people you are
4 talking to, they are in a City. They are not being
5 affected by what's happening in the rural Townships
6 of Cedarville, Miami, and Xenia Township, right?

7 MR. SETTINERI: Object, lack of
8 foundation.

9 ALJ HICKS: Any response?

10 MR. BROWN: Straightforward question. I
11 am asking -- he is telling me why they didn't put the
12 Townships on this chart, because it was a
13 professional decision, and I am asking him why is it
14 appropriate to show all of the people in the Cities
15 and they are not -- they are not the ones that are
16 burdening -- having the burden?

17 A. It's likely because of the sample size in
18 those three Townships.

19 Q. All right. Can you tell me how many of
20 these phone calls went to people in Cedarville
21 Township?

22 A. I have that information but not in front
23 of me.

24 Q. Do you know how many went to people in
25 Miami Township?

1 A. The -- again, a representative sample
2 would have gone. I don't have the exact number, but
3 it's a survey of Greene County, right? And so we are
4 not going to -- to be a representative sample of
5 Greene County, it has to be based on where people
6 live in Greene County. It was not a survey of the
7 Townships that you are mentioning.

8 Q. All right. So in your professional
9 opinion as a pollster, it's not really important to
10 know if you are talking to people who are nearby or
11 directly burdened by the project. Those people's
12 perspective no different than anyone else in Greene
13 County is what you are saying, right?

14 A. The purposes of the survey is to gauge
15 the opinion of a representative sample of voters in
16 Greene County. That is what the goal of the survey
17 is. I am not speaking to the importance of whose --
18 whose -- whose opinion isn't important. The purpose
19 of the survey is to gauge the opinions of people in
20 Greene County, a representative sample of registered
21 voters in Greene County.

22 Q. And so final question really is about
23 the -- the same chart on page 12, the people who have
24 heard a lot or some, the separation between those who
25 support and those who oppose is much smaller than --

1 would you agree much smaller than the Cities you are
2 reporting here?

3 A. It's lower. I don't know if I would use
4 the word "much." It's still 56/35.

5 Q. But just as Jack asked earlier, if you
6 drop off some and just heard a lot, any idea what
7 that percentage would be?

8 A. No. But again, it's a very, very small
9 number of respondents. I mean, it's 8 percent of 350
10 samples, so you are talking about less than 35
11 respondents. It's just not statistically meaningful.

12 Q. But that's only because that's the only
13 people you wanted to talk to from that -- from
14 that -- from those places, right?

15 A. No. The only people I wanted to talk to
16 were a representative sample of Greene County voters.
17 I have no control over who I am talking to. It's
18 just who picks up the phone and who matches the --
19 you know, the quotas that we have set.

20 Q. Okay. But then that kind of qualifies
21 what you first said. You said you have no control
22 over it, but the quota does control who you talk to,
23 right?

24 A. I mean, the quotas control that I am
25 talking to a representative sample of Greene County

1 voters which is the only thing. You know, I would
2 never want to talk to an unrepresentative sample of
3 people. Then you are not doing a poll.

4 Q. If you get to the point in the quota
5 where you have got enough people who have responded
6 to satisfy the quota, there is no more calls to that
7 area then, right?

8 A. Correct.

9 Q. So, for example, a small rural Township
10 like Cedarville, if you multiply the percentages out,
11 your quota may say just call five people there,
12 that's it. And once you get your five, you don't
13 need to hear from any of those other people.

14 A. That's right. That's a representative
15 sample of the people there in terms of the percentage
16 of the population they are in Greene County.

17 Q. All right. So would you agree with me
18 this is a solid representation of the people in
19 Greene County based on the quota that you set but
20 it's not a representation of the people that this
21 project is going to directly affect?

22 A. This is a representative sample of voters
23 in Greene County. I can't speak to who the project
24 will and will not directly affect.

25 MR. BROWN: Thank you very much. That's

1 all I have.

2 ALJ HICKS: Thank you.

3 Any cross from In Progress?

4 MR. HART: Actually, yes, thank you.

5 ALJ HICKS: Please go ahead.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Hart:

9 Q. Good afternoon, Mr. Hobart. John Hart,
10 In Progress, LLC. Just a couple of questions as
11 well. Was there any explanation when the calls were
12 made that this survey was commissioned by Vesper --

13 A. No.

14 Q. -- to those who were -- all right. And
15 then if you will go with me to your summary chart on
16 page 7. The -- I'm presuming, you can correct me if
17 I am wrong, the two lines at the top of that page,
18 "More than two-thirds of Greene County voters support
19 transitioning the country's energy supply to
20 renewables," that is your -- your words, survey
21 words, but not the question that was asked; is that
22 correct?

23 A. The question that was asked is what's in
24 italics, correct.

25 Q. And in the italics it -- those were

1 verbatim the words that were asked in the surveys; is
2 that correct?

3 A. That's correct.

4 Q. And is this the only place in the survey
5 where the word "country" was used instead of the word
6 "county"?

7 A. I believe so.

8 Q. All right. And the question before on
9 page -- page -- let's see, page 6, the word "county"
10 is used in the -- in your header description, right?

11 A. We are talking about page 6?

12 Q. Yes.

13 A. Yeah, that's right.

14 Q. In your header description. All right.
15 And then the following -- and then the following on
16 page 8, it was about the "county" as well and
17 actually in the italicized question; is that correct?

18 A. Yep.

19 Q. Okay. Page 9, the heading starts off
20 "When told about the Kingwood Solar project." What
21 does the words "when told" mean?

22 A. It means that they were read what's in
23 italics, "As you may know, Kingwood Solar," et
24 cetera.

25 Q. Were there any other editorial questions

1 or statements made in that survey question, in that
2 question particularly?

3 A. No. Everything that was read is on page
4 9.

5 Q. All right. Thank you. But I am asking
6 was there anything that was not in italics that was
7 also communicated or said by the pollster?

8 A. Like -- we asked other -- I am a little
9 confused. We asked other questions in the survey.

10 Q. With regard to this question, was there
11 any other prefatory remarks?

12 A. Oh, just double-check here. No. That
13 was it. "As you may know" starts right there.

14 Q. So then "As you may know," was there any
15 explanation as to what knowledge that was that
16 provided them the ability to answer "As they may
17 know"?

18 A. Well, quite honestly, "As you may know"
19 is a pretty common intro to a question in survey
20 research so as not to offend people, right? So if
21 you had answered a lot or some in question 6 and then
22 I just said, you know, Kingwood is proposing blah,
23 blah, blah, it is like, yeah, I know a lot about it,
24 so it's more just to keep people on the phone and not
25 to offend them, if anything else.

1 Q. If somebody had answered not very much or
2 not at all, would you still use the phrase "As you
3 may know"?

4 A. Yeah. Everybody is told "As you may
5 know."

6 Q. Then the next line "consists of
7 1,200 acres," where did that number come from?

8 A. That would have come likely either from
9 the client directly or from information that they
10 sent us.

11 Q. Not yours independently.

12 A. You know, sometimes we -- you know, the
13 client says just Google it so maybe that's how we got
14 it but, you know, it's not something I knew about. I
15 was commission -- I shouldn't say I know. It's not
16 something that the firm just knew about before we
17 were commissioned to do the surveys, so we got it
18 from somewhere.

19 Q. I guess I will dive in on that question a
20 little bit. Do you recall or know you actually did
21 perform additional research besides accepting on the
22 face value by the client?

23 A. I was not involved in the drafting of
24 this question, so I cannot speak to that.

25 Q. Well, that's the last question on this,

1 the "\$1.5 million annually," any knowledge as to
2 where that information or that number came from or
3 what it included?

4 A. That is not something -- I mean, I have
5 my assumptions, but it is not something I can speak
6 to directly.

7 Q. Two last questions, one, are there
8 additional information questions that were asked
9 besides the ones that are on the other exhibit about
10 your survey form that set out the script for the
11 survey? Are there any other questions that were
12 asked beyond that -- those list of questions?

13 A. I'm not entirely sure. Are you talking
14 about Citizens Exhibit 20?

15 Q. The Greene County, Ohio, Questionnaire
16 Draft Final.

17 A. Yeah. There are no questions that were
18 asked that are not listed. This is a -- the complete
19 questionnaire.

20 Q. So there were no questions that were
21 asked that solicited the reasons why people would be
22 opposed.

23 A. No, there were. I mean, if you look at
24 Q8, it says what are the most important reasons why.
25 And then you said if you answered support, you would

1 have been asked what are the most important reasons
2 why you support this proposed project. And then if
3 you answered opposed, you would have been answered
4 [sic] what are the most important reasons why you
5 oppose this proposed project.

6 Q. Are there other points in this survey
7 instrument or on the phone when you were soliciting
8 the information or additional comments are made or
9 received that are not recorded in the survey
10 instrument?

11 A. No.

12 MR. HART: I have nothing further. Thank
13 you.

14 ALJ HICKS: Thank you. Any questions
15 from Ohio Farm Bureau?

16 MS. MILAM: No, your Honor.

17 ALJ HICKS: Any questions from Board
18 Staff?

19 MR. MARGARD: Just a couple, thank you,
20 your Honor.

21 - - -

22 CROSS-EXAMINATION

23 By Mr. Margard:

24 Q. Sir, you indicated you do your poll of
25 registered voters.

1 A. That's correct. This poll was done for
2 registered voters, that's correct.

3 Q. Those were the lists that were readily
4 available to you?

5 A. Well, that's a good question. It is the
6 decision we made in consultation with the client.

7 Q. You didn't do any polling at all of none
8 registered voters.

9 A. No. No one who was not registered to
10 vote would have been polled in this survey.

11 Q. On the bottom of page 4 of your
12 testimony, you indicate there were approximately
13 120,000 registered voters in Greene County, correct?

14 A. Correct.

15 Q. Do you know how many voter eligible
16 residents there are in Greene County?

17 A. I do not.

18 MR. MARGARD: That's all I have. Thank
19 you.

20 ALJ HICKS: Thank you, Mr. Margard.

21 I believe the Bench has a few questions
22 before we continue.

23 ALJ WILLIAMS: Thanks, Judge.

24 - - -

25

EXAMINATION

By ALJ Williams:

Q. Mr. Hobart, who prepared the list of questions that you used in your polling?

A. Neil Newhouse in consultation with the client.

Q. That was over the course of a phone call or?

A. Likely phone calls, e-mails, Zooms probably these days.

Q. Now, it appears as though 75 percent, plus or minus, of the people polled were in Beavercreek, Fairborn, Xenia City, or Sugarcreek; is that a fair recap of slide 12?

A. Let me just double-check. Yep, that's correct.

Q. Do you know the proximity between Beavercreek, Fairborn, Xenia City, Sugarcreek, and the project area? How far away they are?

A. I do not.

Q. Would it stand to reason if you were potentially closer to the project area, you might be more inclined to be adverse to the project?

A. I can't speak to that.

Q. So in going through some of the questions

1 that were asked, and I'm at Citizens Exhibit 20, the
2 question 4, "Thinking just about Greene County, do
3 you believe that Greene County is doing well
4 economically," and that's roughly a 50/50 split. Do
5 you have some baseline data you would have expected
6 that split to be?

7 A. No. You know, without having done a
8 survey in Greene County, you know, previously, it's
9 difficult to say. You know, as we say, hey, if we
10 had an idea what it was going to be, we wouldn't need
11 to do the poll, right? That's why we ask the
12 questions.

13 Q. Do you know what that number would be
14 across Ohio or the midwest or United States
15 generally?

16 A. No, but I would love for someone to hire
17 me to find out. I mean, it's -- you know, especially
18 statewide in Ohio there may be some publicly
19 available data that asks a similar question, so it
20 may be out there but it -- you know, similarly we do
21 national research. We ask people how they think the
22 economy is doing as do other pollsters. So that data
23 is out there. You know, as it compares to Greene
24 County, I am not sure.

25 Q. Then on question 5 it asks whether the

1 person being polled or interviewed generally favors
2 transitioning from fossil fuels to renewable energy.
3 Similar question, do you have any idea what that
4 number might be across Ohio regionally?

5 A. I don't. It's not something I've done a
6 survey. You know, I have not asked that question in
7 Ohio recently nor have I seen publicly available data
8 on that question.

9 Q. Question 7 then is the last question
10 before you ask the person being interviewed whether
11 they are for or against the project. In that
12 question then you referenced it's 1,200 acres of
13 private, leased land, and it's going to give
14 \$1.5 million to the local communities, correct?

15 A. Correct.

16 Q. There are no potentially negative aspects
17 to the project that are raised to the person being
18 interviewed, are there?

19 A. It is just what's there. You know,
20 question 7, I think they are both factual statements.
21 You know, whether or not you would perceive that as a
22 positive or negative would be up to the individual
23 respondent.

24 Q. Giving \$1.5 million to the local
25 government would be seen as positive, wouldn't it?

1 A. Sure, but, you know, to take the
2 contrary, if I am 75 and I don't have any grandkids
3 and I hear largest beneficiary being the schools,
4 that may be a negative to me.

5 Q. Now, you were involved in preparing the
6 questions, correct?

7 A. I was not involved in the drafting of the
8 questions, no.

9 Q. Do you know if there was discussion about
10 possibly including some of the aspects from page 42
11 of the Staff Report and those include concerns
12 regarding decommissioning, impacts to wildlife and
13 the environment, impacts to drinking and groundwater,
14 impacts to property value, impacts to aesthetics and
15 viewshed, impacts to fencing and vegetative
16 screening, impacts to glare? Do you know if any of
17 those issues were considered for inclusion as
18 background information for this poll?

19 A. I do not know.

20 Q. Now, your opinion is because we have
21 120,000 registered voters in Greene County and we
22 talked to 350, therefore, we have a probative or a
23 value worthy representative sample, correct?

24 A. That's correct.

25 Q. And there's no consideration of how far

1 away from the project area a person might be who is
2 interviewed and providing the answer.

3 A. The sample frame is a reg -- a sample of
4 registered voters in Greene County so that is not
5 something that -- I mean, that's just what it is.

6 Q. If you were asking voters in a County
7 150 miles to the northeast what they thought of a
8 project in this County, would you expect that their
9 opinions would be more in support of the project?

10 A. It depends on the County. I mean, I
11 could -- you know, I would bet I could name a County
12 that it would be very supportive of it, and I bet I
13 could name a County that would be probably not as
14 supportive just depending on a whole host of factors.

15 Q. You are familiar with the concept not in
16 my backyard, yes?

17 A. Yes.

18 Q. It wouldn't surprise you persons further
19 away from the project might have a viewpoint more
20 supportive of this?

21 A. Again, I think that you would -- that's
22 very dependent on a lot of factors, right? I mean,
23 just to use an example, okay, what if I went and did
24 this poll in southeast Ohio where it's heavy coal
25 industry? They would probably say, hey, you know,

1 yeah, it's not close to me, but I am not supportive
2 of more solar because my industry is already
3 struggling. So, you know, I'm not going to be
4 supportive of this even though it is not going to
5 directly affect me because five years down the road
6 maybe it does.

7 Q. Outside of a coal community, any other
8 areas you can think of that would generally not be
9 supportive?

10 A. I mean, typically I don't think it's a
11 secret that based on public opinion research, more
12 republican-oriented voters tend to be less supportive
13 of alternative sources of energy than
14 democratic-oriented voters.

15 Q. Okay. So the questions that got to the
16 ultimate conclusion were do you feel we need more
17 jobs, should we be transitioning to renewables, would
18 you like to see more money given to the County and
19 the schools. And then question 11 do you feel
20 property owners have the right to control who and how
21 they lease and if we should have diminished state and
22 local government? Is that a fair recap of the
23 background that was provided to the --

24 MR. SETTINERI: I will object. I want to
25 note for the record the questionnaire has been marked

1 as an exhibit so that's not an accurate
2 representation of the questions that were asked.

3 ALJ WILLIAMS: Okay. I will let him
4 answer my question. He can expand upon it if he
5 wants.

6 A. So 7 is the crux of the survey, right?
7 It's what we think of as the ballot. It says where
8 voters are. You know, 63/23. Question 9 through 11,
9 those questions are a little bit different. What
10 they are designed to do is see what type of
11 statements about the project resonate the most with
12 voters in the County.

13 ALJ WILLIAMS: Okay. That's all I have.
14 Thank you.

15 ALJ HICKS: Mr. -- I am going to assume
16 you need a few minutes, Mr. Settineri.

17 MR. SETTINERI: There is a lot to unpack
18 there but if I could have no more than 10 minutes,
19 your Honor.

20 ALJ HICKS: Let's go off the record. We
21 will come back at 3:05.

22 (Recess taken.)

23 ALJ HICKS: Let's go back on the record.

24 I will now turn it over to the Applicant
25 if they have any redirect.

1 MR. SETTINERI: Just some questions here,
2 your Honor.

3 - - -

4 REDIRECT EXAMINATION

5 By Mr. Settineri:

6 Q. Mr. Margard at the very end asked you
7 some registered versus unregistered voters. In your
8 experience in polling, do you see differences in the
9 results from registered voters versus unregistered
10 voters?

11 A. Differences, yes, but they are very, very
12 small. You are typically only talking 1 to 2 points
13 in either direction. A sample of adults tends to be
14 a little more democratic leaning than the sample of
15 registered voters.

16 Q. You were asked questions about question 9
17 of the survey. And you can either -- turn to either
18 exhibit, I think Citizens Exhibit 20 or 16. And, in
19 fact, I will turn to Citizens Exhibit 20 to look at
20 the exact question. Let's see here -- oops. I'm
21 sorry, wrong question. Let me see here. Question 7
22 of Citizens Exhibit 20 which references 1,200 acres
23 and \$1.5 million annually. Do you believe that is a
24 valid polling question for this survey?

25 A. Yes.

1 Q. And why is that?

2 A. It is two factual statements about the
3 project in -- you know, voters are regularly given
4 information when -- when they are asked their opinion
5 on things. You know, if you look at a local
6 referendum or something like that, voters are -- they
7 are not just asked would you vote yes or no on
8 proposition 1. They were told what proposition 1 is.
9 When they are asked to vote on two candidates, the
10 party labels, republican, democrat, independent, et
11 cetera, give voters information -- additional
12 information as well. It's not just two names. Here
13 again, this is just giving voters additional
14 information about the Kingswood Solar project -- or
15 Kingwood Solar project in Greene County.

16 Q. And this -- was this a Countywide poll?

17 A. It was.

18 Q. And was the purpose to be a Countywide
19 poll?

20 A. Yes.

21 Q. And why not do -- why didn't you do a
22 poll -- let me ask it this way, could a poll be done
23 as to the three Townships specifically?

24 A. A telephone poll cannot be done of the
25 three Townships because, you know, I touched on

1 earlier, you know, our -- what we call our sample
2 ratios. We need 75 to 100 unique phone numbers for
3 one completed interview. So that means that, for
4 example, to get to 350 interviews, I would need
5 approximately 35,000 phone records. You know, I
6 obviously wouldn't be able to get access to that many
7 phone records. They probably don't even exist in
8 geography this small as those three Townships.

9 Q. If you could turn to -- let me see,
10 Citizens Exhibit 16 on page 12. Tell me when you are
11 there.

12 A. Yes.

13 Q. What's the -- what is the purpose of this
14 page?

15 A. It is to show that the support for the
16 project is -- is widespread across the County -- I
17 mean, the headline, as we call it, "Voters across the
18 county support it," it's designed to show just that.

19 Q. And in terms of the respondent's survey,
20 did you have any respondents that resided in say, for
21 example, in Xenia Township that you are aware of?

22 A. Yes.

23 Q. Okay. Where would they be reflected on
24 this page to the extent you know?

25 A. In what we call the balance, those are

1 essentially the respondents that weren't in either
2 Beaver creek, Fairborn, Xenia City, or Sugarcreek.

3 MR. SETTINERI: One moment, your Honor.

4 No further questions, your Honor. Thank
5 you.

6 ALJ HICKS: Thank you, Mr. Settineri.

7 We will go back to Citizens for Greene
8 Acres. Mr. Van Kley, if you have any questions.

9 MR. VAN KLEY: Yeah, I guess so.

10 - - -

11 RECROSS-EXAMINATION

12 By Mr. Van Kley:

13 Q. So am I understanding your testimony
14 correctly that you are -- that your position is that
15 you can give information about a project that's only
16 favorable and even though the majority of the
17 respondents to your poll have never heard of the
18 project before, you still expect that those answers
19 are going to be meaningful?

20 A. Again, I think it is in the eye of the
21 beholder whether the statements provided are
22 favorable. They are factual statements about the
23 project. Some people are going to like them more
24 than others.

25 Q. Isn't it true that when -- when your

1 company and Kingwood Solar or Vesper got together to
2 list all of its questions, that the aim of those
3 questions was to just provide information favorable
4 to the project that would produce the outcome for the
5 poll that you wanted it to be?

6 A. We -- we never designed a survey to get a
7 certain outcome. That's just not what we do.

8 Q. And you didn't do that in this case; is
9 that what you are saying?

10 A. No, no.

11 Q. Oh, okay. When you put the poll
12 together, you knew -- or your firm knew that Vesper
13 wanted the outcome to favor the facility, right?

14 A. Yeah. I mean, I would think that that
15 would be -- yes.

16 Q. And when you did the poll, did you know
17 that the -- or when your firm did the poll, did you
18 know the poll was going to possibly be used in a
19 public manner that the results would be made public?

20 A. That decision was always up to the
21 client. You know, the vast, vast, vast, vast, vast
22 majority of the surveys that we do are never released
23 publicly. But after they complete the survey, it's
24 the -- it's the property of the client. They can ask
25 us to release it publicly. They can ask us to not

1 to. They can not ask us and release it publicly.
2 It's their property after we finish the survey.

3 Q. Did your -- did your firm know that
4 Vesper intended to use the results of this poll in
5 this proceeding?

6 MR. SETTINERI: Objection, asked and
7 answered. And I also say he is outside the scope of
8 my recross.

9 ALJ HICKS: I will overrule the objection
10 for now, but I think we are straying a little bit
11 here. So either rein it back in or we'll move on.

12 A. I cannot speak to that. I'm not sure.

13 MR. VAN KLEY: Okay. I have no more
14 questions.

15 ALJ HICKS: Thank you, Mr. Van Kley.
16 Any recross from Cedarville Township?

17 MR. BROWN: No, thank you, your Honor.

18 ALJ HICKS: Any recross, In Progress?

19 MR. HART: Just one.

20 - - -

21 RECROSS-EXAMINATION

22 By Mr. Hart:

23 Q. The survey form, the Greene County survey
24 form, this is descriptive questions -- I'm sorry.
25 The survey form that listed the list of questions

1 said in the introduction statement "Talking with
2 people in Ohio today, we would like to ask you a few
3 questions on a confidential basis."

4 A. Right.

5 Q. So wouldn't a person reasonably expect
6 that their answers and their polling survey results
7 would be made public?

8 A. Well, when we say confidential basis,
9 what it means we can't say, hey, this is what Jim
10 Hobart said. You know, that their responses are just
11 anonymized essentially.

12 MR. HART: Thanks.

13 ALJ HICKS: Any questions from Staff?

14 MR. MARGARD: No. Thank you, your Honor.

15 ALJ HICKS: Thank you for your testimony
16 today, Mr. Hobart.

17 THE WITNESS: Thank you.

18 ALJ HICKS: Take up exhibits.

19 Mr. Settineri has already moved for the admission of
20 Exhibit 104. Is there any objection to its
21 admission?

22 Hearing none, it is admitted.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 MR. SETTINERI: Your Honor, we would also
25 move for the admission of Citizens Exhibit 20.

1 ALJ HICKS: Any objections to the
2 admission of Citizens Exhibit 20?

3 Hearing none, it is admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 MR. SETTINERI: And again, for the record
6 we will -- I will work with Mr. Van Kley to make sure
7 we have a corrected version of Exhibit 16. Give it
8 to the parties and court reporter and also put on the
9 docket.

10 ALJ HICKS: Thank you, Mr. Settineri.

11 Whenever you are ready, you can call your
12 next witness.

13 MR. SETTINERI: Your Honor, at this time
14 we would call Mr. Andrew Lines to the stand.

15 (Witness sworn.)

16 ALJ HICKS: Thank you.

17 Go ahead when you are ready,
18 Mr. Settineri.

19 - - -

20 ANDREW LINES, MAI

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Settineri:

25 Q. Good afternoon, Mr. Lines.

1 A. Good afternoon.

2 Q. Would you please state your name and
3 business address for the record, please.

4 A. Andrew Lines, L-I-N-E-S. My business
5 address is 200 South Wacker Drive, Suite 2600,
6 Chicago, Illinois.

7 MR. SETTINERI: And, your Honor, at this
8 time I would mark as Kingwood Exhibit 105, the
9 rebuttal testimony of Andrew Lines.

10 ALJ HICKS: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. (By Mr. Settineri) Mr. Lines, can you
13 identify what's been marked as Kingwood Exhibit 105,
14 please.

15 A. This is my rebuttal testimony.

16 Q. That was prepared by you or at your
17 direction?

18 A. It was.

19 Q. And do you have any changes or revisions
20 to that testimony today?

21 A. I do.

22 Q. And if you could just identify those
23 revisions for the court reporter, please.

24 A. Sure. On page 1, lines 2 and 3, there is
25 an additional numerical No. "3" and then the

1 following line there is a numerical No. "4." I don't
2 know what is going on there. So those are deleted.

3 And then the top of page 3, line 2, where
4 it says "General Appraisal Licenses with the state of
5 Ohio," I need to remove "of Ohio" and replace with
6 the words "in which they are licensed."

7 Q. All right. Do you have any other
8 revisions to your testimony at this time?

9 A. I do not.

10 Q. If I asked you the questions in your
11 rebuttal testimony today, would your answers be the
12 same today as you have revised and written?

13 A. Yes; yes, they would.

14 MR. SETTINERI: Your Honor, we'll move
15 for admission of Kingwood Exhibit 105, subject to
16 cross-examination, and present the witness for
17 cross-examination.

18 ALJ HICKS: Thank you, Mr. Settineri.
19 We will start with Citizens for Greene
20 Acres.

21 MR. VAN KLEY: All right. Thank you,
22 your Honor.

23 - - -

24

25

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Good afternoon, Mr. Lines.

A. Good afternoon. Pleasure to be in your presence again.

Q. Yes. It's been entirely too often, hasn't it?

Let's go to page 6 of your testimony. Let's talk a little bit about this property over at 10200 367th Street in North Branch, Minnesota. Are you familiar with that property?

A. Yes, sir.

Q. What kind of property is it?

A. It's a residential property, sir.

Q. And you state in this answer that -- in line 14 that it "was sold and resold, actually sold again on January 31, 2022," right?

A. That's correct.

Q. Do you know whether any of those sales were made to employees of the solar farm that was nearby?

A. I do not believe that particular house was owned by any of the employees working for the solar farm.

Q. What do you base that belief on?

1 A. It was a different property.

2 Q. What was a different property?

3 A. It had a different address.

4 Q. Okay. So was there a property nearby
5 that was sold to an employee of the solar farm?

6 A. That's correct.

7 Q. And was that property used in the paired
8 analysis, or was it used in any paired analysis that
9 was included in any of the studies that you relied
10 on?

11 A. So that house was specifically noted
12 within my report which is attached to my direct
13 testimony and that sale was excluded from
14 consideration.

15 Q. But with regard to the -- the property
16 here that you state was sold and resold and actually
17 sold again, do you know that none of those sales were
18 made to an employee of the solar farm?

19 MR. SETTINERI: Object, asked and
20 answered.

21 MR. VAN KLEY: I think he said he
22 believed he knew, but I am asking whether he actually
23 knows.

24 ALJ HICKS: The witness can answer.

25 A. If you hand me a copy of my report, I can

1 go to the detail within the report to give you a more
2 affirmative answer.

3 Q. Okay. What investigation did you
4 personally do as to the sales that you mentioned in
5 your testimony at lines 13 through 18 on page 6 of
6 your testimony?

7 A. I looked at a real estate database online
8 and looked for additional sales in the area of the
9 solar farm and identified this one that sold which I
10 knew and was familiar with having looked at some
11 sales and resales of it prior. And I was amazed to
12 see that the sale price went very high and reflected
13 in a very, very strong annual appreciation year
14 review and surveyed what I knew to be the FHFA House
15 Price Index for the same area indicating that the
16 fact that it had solar in four directions did not
17 impair its market value.

18 Q. Did you call any of the real estate
19 brokers involved in any of those sales to obtain any
20 information about the sales?

21 A. My team contacted one of the brokers that
22 was associated with some of these sales, yes. I
23 personally did not talk to that broker.

24 Q. Did your team contact at least one broker
25 involved in every one of the sales that you mentioned

1 in this answer?

2 A. For North Branch we made a lot of phone
3 calls so I am going to go ahead and say, yes, we --
4 for almost all the sales that we looked at in North
5 Branch, that we spoke to a broker or someone involved
6 with the transaction, almost every one.

7 Q. Yeah. With regard to all of the paired
8 analyses that you're relying on in your testimony,
9 has -- have either you or someone from your team
10 contacted a real estate broker to discuss every one
11 of those sales?

12 A. To the best of our ability.

13 Q. Meaning?

14 A. Sometimes folks don't call you back.

15 Q. All right. Let's talk a little bit about
16 Spotsylvania Solar staying on page 6 and going into
17 page 7 of your testimony. And let's start on page 7,
18 lines 2 and 3. Can you tell me the date in which the
19 solar farm plans were announced?

20 A. Question, is that before or after the
21 plans started and stopped and started again because
22 of some agential decisions? So which one are you
23 referring to?

24 Q. The earlier one.

25 A. The earliest, I believe, was 2015.

1 Q. And then there was a drop in price from
2 2015 to 2017; is that right?

3 A. That's correct.

4 Q. Let's go to Sunshine Farms at the bottom
5 of page 7 of your testimony. All right. So in lines
6 21 and 22, you say that "Ms. Clay is actually using
7 lot sales next to the solar farm prior to the solar
8 farm being approved," right?

9 A. That's correct.

10 Q. Okay. Why is that a bad thing?

11 A. It would depend on her point of view of
12 the analysis, so if you are going to use test sales
13 and say that these are target sales and compare them
14 to control sales, the fact that the lots themselves
15 had no solar farm next to them in that particular
16 period of time when they transpired would not be good
17 test sale data to use.

18 Q. So are you saying that the test sales
19 should not include any sales prior to the time that
20 the solar farm was approved?

21 A. Well, they don't have any influence.

22 Q. Why not?

23 A. Because it's not there.

24 Q. Well, do you know in the case of the --
25 the Sunshine Farms here, when was -- when did the

1 solar farm's intention of putting a solar farm there
2 become public knowledge?

3 A. I don't know the specific date.

4 Q. I mean, essentially the public would know
5 about plans to put in a solar farm -- to put in a
6 solar farm prior to the time that the approval from
7 the government occurred, right?

8 A. At some point in time, I would believe
9 so. As to the length of that time, I wouldn't know.

10 Q. Yeah. So you don't know whether the
11 public knew about the solar farm's plans to build in
12 this area had been made public prior to the time of
13 Ms. Clay's test sales, right?

14 A. I'm not sure.

15 MR. VAN KLEY: Okay. All right. I have
16 nothing more at this time, your Honor.

17 ALJ HICKS: Thank you.

18 Any questions from Miami Township?

19 MR. SLONE: No, your Honor. Thank you.

20 ALJ HICKS: Greene County.

21 MR. BOGGS: No, your Honor. Thank you.

22 ALJ HICKS: Xenia Township.

23 MR. WATSON: No, your Honor. Thank you.

24 ALJ HICKS: Cedarville Township.

25 MR. BROWN: No, your Honor. Thank you.

1 ALJ HICKS: In Progress.

2 MR. HART: No, sir. Thank you.

3 ALJ HICKS: Ohio Farm Bureau.

4 MS. MILAM: No, your Honor. Thanks.

5 ALJ HICKS: Board Staff.

6 MS. BAIR: No questions. Thank you.

7 ALJ HICKS: Mr. Settineri.

8 MR. SETTINERI: Just a few minutes, your
9 Honor. We'll be back.

10 ALJ HICKS: We will go off the record.
11 Try to get back by 3:35, 3:36.

12 (Recess taken.)

13 ALJ HICKS: Let's go ahead and go back on
14 the record.

15 I will hand it off to Mr. Settineri for
16 any redirect.

17 - - -

18 REDIRECT EXAMINATION

19 By Mr. Settineri:

20 Q. Just to clean up the record, Mr. Lines,
21 you were asked a question about your report, and you
22 indicated an answer that it was attached to your
23 direct testimony. Am I correct that actually was
24 included in the application of this proceeding?

25 A. That's correct.

1 MR. SETTINERI: No further questions.

2 Thanks.

3 ALJ HICKS: Thank you, Mr. Settineri.

4 Mr. Van Kley, I won't assume anything.

5 Do you have any questions based on that clarifying
6 question?

7 MR. VAN KLEY: Had you assumed, you would
8 have been correct in your assumption, yes.

9 ALJ HICKS: Thank you.

10 No questions, Judge Williams?

11 Thank you for your testimony, Mr. Lines.

12 THE WITNESS: Thanks so much.

13 ALJ HICKS: Mr. Settineri has already
14 moved for the admission of Kingwood Exhibit 105. Any
15 objections to its admission?

16 Hearing none, it is admitted.

17 (EXHIBIT ADMITTED INTO EVIDENCE.)

18 ALJ HICKS: Mr. Settineri, whenever you
19 are ready, you can call your next witness.

20 MR. SETTINERI: Will do. At this time we
21 will call Mr. John Nealon to the stand, Dr. John
22 Nealon, please.

23 ALJ HICKS: Please go ahead whenever you
24 are ready, Mr. Settineri.

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JOHN S. NEALON, Ph.D.

being first duly sworn, as prescribed by law, was
examined and testified as follows:

DIRECT EXAMINATION

By Mr. Settineri:

Q. Dr. Nealon, if you could just state and
spell your name and business address for the record,
please.

A. John Nealon, N-E-A-L-O-N, 1398 Cox
Avenue, Erlanger, Kentucky.

MR. SETTINERI: Your Honor, at this time
we will mark as Kingwood Exhibit 106, the rebuttal
testimony of Dr. John S. Nealon.

ALJ HICKS: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Mr. Settineri) Dr. Nealon, do you
have a copy in front of you of Kingwood Exhibit 106?

A. I do.

Q. And can you identify that for the record,
please.

A. This is my rebuttal testimony.

Q. And was that prepared by you or at your
direction?

A. Yes, sir.

Q. Do you have any changes or revisions to

1 that testimony today?

2 A. I do not.

3 Q. If I asked you the questions in that
4 testimony as written, would your answers be the same
5 as written today?

6 A. Yes, sir.

7 MR. SETTINERI: All right. Your Honor,
8 we move for the admission of Kingwood Exhibit 106,
9 subject to cross-examination, and the witness is
10 available.

11 ALJ HICKS: Thank you.

12 We will start with Citizens for Greene
13 Acres.

14 MR. VAN KLEY: Thank you, your Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Van Kley:

18 Q. Would you turn to page 3 of your
19 testimony, please. Let's go to answer 11 on that
20 page. The first sentence in answer 11 states "Yes,
21 water can migrate to the ground surface around a pile
22 if a drain tile is broken by the pile." Do you see
23 that sentence?

24 A. Yes, sir.

25 Q. And here you are talking about water that

1 could rise from a broken tile up to the surface of
2 the ground, right?

3 A. Yes, sir.

4 Q. And you are saying here that the water
5 can come up to the surface around the pile itself,
6 right?

7 A. Yes, sir.

8 Q. So let's go then to page 4 of your
9 testimony. And I would like to look at the sentence
10 that starts on line 6 which states "Regarding the
11 potential for the backed-up water to migrate down the
12 pile shaft, instead of upwards to the ground surface,
13 it is my opinion that pile set will largely preclude
14 this from occurring." Do you see that?

15 A. Yes, sir.

16 Q. So can you explain to me why water can
17 travel up around the pile and not down around the
18 pile?

19 A. A couple of reasons. One -- one is that
20 at the time a pile would be driven and would strike a
21 drain tile, pile set would not have occurred yet. So
22 water is free to come up.

23 The second reason is -- is that in the --
24 in the -- in the zone of soil near the surface that
25 is the disturbed plow zone is subject to freeze and

1 thaw. You don't count on pile set occurring anyway.
2 We discount that from the geotechnical perspective,
3 so it is feasible that if the pile intercepted a
4 drain tile during driving, that water could come up.

5 Q. Okay. Pile set does not occur in the
6 plowed zone?

7 A. I don't believe so.

8 Q. But pile set will -- will occur in a clay
9 zone that's below the plow zone?

10 A. Yes.

11 Q. Would pile set occur if a hole for a pile
12 was drilled instead of the pile being pounded into
13 the clay?

14 A. Not likely.

15 Q. Now, if -- if a pile was inserted in a
16 drilled hole and then the hole around the pile was
17 filled with concrete, would there be any pile set
18 that would apply to that situation?

19 A. Pile set occurs because the driving
20 action of the pile or any other factor that would
21 displace the soil would cause an increase in the
22 pressure of the porewater in the pore spaces. If --
23 if the hole were drilled deep enough that the fluid
24 weight of concrete could exert such a pressure, then
25 pile set could occur that way as well. Once a --

1 once a member is in the ground, whether it be driven
2 or whether -- whether it be drilled and then filled
3 with concrete, you do have vertical and horizontal
4 stresses in the ground that will still tend to grip
5 that member or consolidate around it.

6 The process of pile set is one where that
7 consolidation and gripping action occurs specifically
8 because you've generated excess pressure in the soil
9 by displacing it, and when those pressures go away,
10 consolidation occurs.

11 Q. And what do you mean by consolidation?

12 A. If you -- if you have a -- if you have a
13 clay soil and there's pore space in it, whether it be
14 filled with air or water, if you stress that and
15 displace it, you will increase the pressure in that
16 pore. Once the pressure has -- as the pressure
17 dissipates, the soil closes the pore up or compresses
18 it and that is consolidation.

19 Q. Okay. How deep does a hole have to be
20 when filled with concrete in order to have any pile
21 set occur in that hole?

22 A. I honestly don't know. Intuitively the
23 deeper the hole the greater the possibility, but we
24 install -- we install deep foundations by drilling
25 and filling with concrete and if there's -- whether

1 there is pile set there or not. We don't count on it
2 in design, so the extent to which it occurs I don't
3 know.

4 Q. Yeah. In an instance where the pile is
5 12 feet below the surface, would you expect any pile
6 set to result from filling that hole with concrete?

7 A. I couldn't say for sure, but it -- I
8 don't think that would be likely.

9 Q. Okay. Does any pile set occur if you're
10 pounding a pile into bedrock?

11 A. You don't drive piles into bedrock.

12 Q. No? What if you drill a hole into
13 bedrock and put a pile in it? Would any pile set
14 occur in that situation?

15 A. The only situation I could think of where
16 it might would be if -- if the bedrock you drilled
17 through was a clay shale, that has a propensity to
18 swell when it gets wet. If the moisture in the
19 concrete or if moisture in the ground were to
20 saturate that shale as a -- as a part of installing
21 that member, then it would swell around the pile.
22 But we -- we don't -- we don't consider pile set in
23 the case of bedrock.

24 Q. In the borings that were conducted in the
25 project area for Kingwood Solar, was any clay shale

1 discovered?

2 A. Yes.

3 Q. How prevalent was that?

4 A. Well, we encountered -- I believe we
5 encountered bedrock in nine of the borings. Some had
6 shale. Some had dolomite. I don't remember the
7 distribution of it. The geologic maps indicate there
8 are areas that are underlain by shales at the
9 surface, but I don't know how prevalent that is.

10 Q. Do you have Appendix L of the application
11 available where you are sitting?

12 A. It is not in front of me, no.

13 MR. VAN KLEY: Your Honor, I have some
14 copies of Appendix L. I can give one to the witness
15 and others.

16 ALJ HICKS: Sure.

17 Q. (By Mr. Van Kley) Do you recognize the
18 document I have given you as Appendix L from the
19 application in this case?

20 A. Yes, sir.

21 Q. All right.

22 MR. SETTINERI: Your Honor, Mr. Van Kley,
23 just note for the record I don't believe this is the
24 entire copy of Appendix L just for the record.

25 MR. VAN KLEY: Yeah. It's just the text.

1 It doesn't have the attachment to it.

2 MR. SETTINERI: Thank you.

3 Your Honor, if I may, I would like -- may
4 I give the witness the full copy of the application
5 so he has the entire appendix in front of him?

6 ALJ HICKS: Sure.

7 Q. (By Mr. Van Kley) All right. Would you
8 turn to page 6 in Appendix L, Table 1. All right.
9 So in Table 1 we have a list of the borings that
10 encountered bedrock, right?

11 A. Yes, sir.

12 Q. And there were 11 borings in which
13 bedrock was discovered?

14 A. There were 11.

15 Q. Out of 30 borings total, right?

16 A. Yes.

17 Q. And Table 1 shows the depth in the second
18 column at which the bedrock was first encountered?

19 A. Yes, sir.

20 Q. And those depths range from 2 feet below
21 the surface to 12 feet below the surface, right?

22 A. Yes, sir.

23 Q. And if you now go to page 16 of Appendix
24 L -- I'm sorry, not 16. Let's go to 12. All right.
25 And let's go to the second to the last paragraph on

1 that page. And I would like to direct your attention
2 to the fourth line and there is a sentence starting
3 on that line that states "Where the bedrock occurs at
4 shallow depths (see Table 1), we expect that the
5 piles will not attain the depths required in order to
6 resist lateral and uplift loads." Do you see that
7 sentence?

8 A. Yes, sir.

9 Q. What's meant by the reference to
10 resisting lateral and uplift loads?

11 A. When -- when a pile supports a
12 compressive load such as the weight of the structure,
13 it is able to derive support both from skin friction
14 and from end bearing. It sits on -- whether it's
15 sitting on a stiff soil or it's sitting on the
16 bedrock, the pile tip bears on something that can --
17 that has capacity to help support the load.

18 If you put an uplift load on the pile
19 such as a wind load, that tends to lift up the
20 material at the pile tip, cannot resist that because
21 it's not attached to it.

22 In the case of a lateral load such as the
23 wind load blowing against the building, the same
24 thing occurs, the material that the tip is sitting on
25 has no capacity to resist the lateral load. If you

1 wanted to resist lateral loads or axial loads in
2 bedrock, you would have to drill into the bedrock,
3 extend the pile into that unit, and then place
4 concrete in the hole.

5 Q. Okay. And if I don't do that, then there
6 is the danger that the pile would tip over to the
7 side?

8 A. Correct. All you would have to resist
9 that load is the material that is on the side of the
10 pile.

11 Q. Okay. So in the next sentence it is
12 recommended that drilling be done instead of driving
13 the piles into the bedrock, right?

14 A. If you wanted to resist lateral and axial
15 loads in the bedrock, yes.

16 Q. I thought earlier you stated that you
17 would not be able to drive a pile into the bedrock.
18 Did I misunderstand that?

19 A. You can. You understood correctly. You
20 would have to drill a hole into the rock, extend the
21 steel pile into it, and then backfill with concrete.

22 Q. So in a situation like that, let's say,
23 for example, as shown in Table 1 on page 6, you have
24 bedrock encountered 2 feet down, and you put your
25 pile into a drilled hole at that location and fill it

1 with concrete around the pile. Then would that pile
2 have -- or would the -- the installation or the
3 drilling or anything else associated with the
4 installation of that pile create any pile set?

5 A. It would not -- it would not create pile
6 set. What you would -- what you would have occur is
7 that the -- the concrete being placed in the hole has
8 a fluid. It would form perfectly to the shape of the
9 hole.

10 Q. And for the type of bedrock you have
11 discovered in the borings in the project area, can
12 water move through that bedrock from the surface?

13 A. Vertically through the bedrock?

14 Q. Yes.

15 A. Bedrock will have -- it will have
16 vertical permeability if it is -- if it has an open
17 bore structure such as a sandstone would allow that,
18 or if the rock were vertically fractured, then water
19 could move through it. But in -- in most geologic
20 media, the vertical permeability tends to be a good
21 deal less than the horizontal permeability.

22 Q. So with horizontal permeability, you
23 would have cracks in the bedrock that run to the side
24 instead of run downward?

25 A. Correct.

1 Q. How -- do you know how groundwater
2 recharge is accomplished in the project area?

3 A. Typically -- typ -- typically groundwater
4 recharge would occur from rain or snowmelt. Any
5 water that falls on the ground, a certain percentage
6 of it will infiltrate into the ground. And after
7 that, if -- if it's infiltrated at high elevations,
8 it will tend to move outward to lower elevations.

9 Q. Is there any particular type of geologic
10 structure such as soils or bedrock or anything else
11 in the project area in which groundwater recharge
12 occurs?

13 A. Could you rephrase the question, please?

14 Q. Yeah. What kind of -- what geologic
15 conditions in the project area are conducive to
16 groundwater discharge?

17 A. Groundwater discharge to the surface?

18 Q. I mean -- I'm sorry. I blew the
19 question. I have to start over.

20 What kind of geologic conditions in the
21 project area are conducive to groundwater recharge?

22 A. The -- the entire area as far as the
23 borings show is covered by a plow zone that is
24 unconsolidated. It's of lower density. It is
25 subject to freeze and thaw. So if any rainwater or

1 snow that falls on the ground is going to infiltrate
 2 it, once water infiltrates the ground surface, it
 3 will move -- it will move downward. If there is
 4 permeability there, it will move downward.
 5 Topographically it will move horizontally in response
 6 to zones of pressure that want to be equilibrated by
 7 water moving out.

8 Q. Does groundwater recharge in the project
 9 area occur, at least in part, from water running from
 10 the surface through the bedrock to get to lower
 11 depths?

12 A. I assume it does.

13 Q. Let's go to page 16 of your -- of
 14 Appendix L. All right. And also while you are
 15 there, let's also take a look at page 6 of your
 16 testimony which I believe is marked as Kingwood Solar
 17 Exhibit 106. And on page 6 of your testimony, you
 18 discuss the potential for the corrosion of the piles
 19 for the solar arrays, right?

20 A. Yes, sir.

21 Q. And basically you conclude in your
 22 testimony that corrosion of those piles is of minimal
 23 concern. Would that be an accurate reflection of
 24 your testimony?

25 A. Yes, sir.

1 Q. Now directing your attention to page 16
2 of Appendix L, let's go to the paragraph that's been
3 labeled "6.7 Soil Corrosive -- Corrosivity." Looking
4 at the third line of that paragraph, do you see where
5 it says "the overburden soils are considered
6 moderately corrosive to steel at the project site.
7 We recommend that measures to mitigate long-term
8 corrosion of steel elements be considered in design."
9 Do you see that?

10 A. Yes, sir.

11 Q. So the soils in the project area are
12 considered to be moderately corrosive to steel,
13 right?

14 A. Yes, sir.

15 Q. And are the piles for the solar project
16 going to be made of steel?

17 A. Yes, sir.

18 Q. Do you know whether there is anything in
19 the application in this proceeding that promises to
20 utilize measures to mitigate long-term corrosion of
21 steel elements for the piles?

22 A. I have not seen the final design, so I
23 don't know that they have considered it or they
24 haven't. The statement that we recommend that
25 measures to mitigate be considered, we make as a rule

1 because we are not structural engineers or corrosion
2 engineers, so we -- we do the corrosivity testing at
3 a client's request. If we see soils that the test
4 results are moderately corrosive or corrosive, we
5 recommend that mitigation measures be considered.
6 That doesn't -- I don't know that the structural
7 engineer or the corrosion engineer would agree that
8 they are corrosive or not. It's not my expertise.

9 Q. But there is no final design for the
10 project in the application, is there?

11 A. Final design, not that I know of.

12 Q. Yeah. So and you are not aware of any
13 promises made in the application to utilize measures
14 to mitigate long-term corrosion of the steel elements
15 in the piles for this project, right?

16 A. I am not aware of that, no.

17 MR. VAN KLEY: All right, your Honor.
18 That's it for me.

19 ALJ HICKS: Thank you, Mr. Van Kley.
20 Miami Township.

21 MR. SLONE: No questions, your Honor.

22 ALJ HICKS: Greene County.

23 MR. BOGGS: No questions, your Honor.

24 ALJ HICKS: Xenia Township.

25 MR. WATSON: No questions, your Honor.

1 ALJ HICKS: Cedarville Township.

2 MR. BROWN: No questions, your Honor.

3 ALJ HICKS: In Progress.

4 MR. HART: None, thank you.

5 ALJ HICKS: Ohio Farm Bureau.

6 MS. MILAM: No cross. Thank you.

7 ALJ HICKS: Board Staff.

8 MS. BAIR: No questions.

9 ALJ HICKS: Mr. Settineri, do you need a
10 few minutes?

11 MR. SETTINERI: Yeah. We'll take 5.
12 That will be good.

13 ALJ HICKS: Let's just come back at 4:15.
14 (Recess taken.)

15 ALJ HICKS: Okay. Let's go ahead and go
16 back on the record.

17 I will hand it over to Mr. Settineri if
18 he has any redirect.

19 MR. SETTINERI: Yes, just a few
20 questions, your Honor. Thank you.

21 - - -

22 REDIRECT EXAMINATION

23 By Mr. Settineri:

24 Q. Dr. Nealon, you were asked some questions
25 about drilling piles and backfilling with concrete.

1 In a situation -- first of all, if you have to drill
2 bedrock and backfill with concrete for a pile, would
3 the concrete be backfilled to the surface or where
4 would it stop?

5 A. I would -- well, I would backfill it to
6 the surface or to the -- at least to the base
7 elevation of a foundation that it was going to
8 connect to if it was.

9 Q. In that instance would you expect surface
10 water to be able to migrate around the pile itself
11 between the pile and the concrete?

12 A. I would not.

13 Q. And same question, would you expect
14 surface water to be able to migrate around the
15 concrete down?

16 A. No.

17 Q. And why not?

18 A. Because you poured the concrete when it
19 was fluid and it would perfectly fit the -- the space
20 that it was poured into.

21 Q. You were asked some questions about I
22 think -- I can't remember if it was recharging the
23 groundwater; is that the right phrase?

24 A. Yes.

25 Q. All right. Within the project area.

1 Would that recharging the ground -- recharging
2 groundwater be occurring today in the project area?

3 A. Yes.

4 Q. Okay. And after the project is built,
5 would that continue to occur?

6 A. Yes, sir.

7 Q. Okay. And you mentioned that you were
8 asked a question about groundwater in the project
9 area going -- I will paraphrase, going through the
10 bedrock, but you said assume -- you said assume it
11 does -- assume it does. Can you elaborate on that
12 answer?

13 A. Water that is migrating downward through
14 an overburden soil, whether it's clay or whether it's
15 sand, for instance, eventually will -- if it
16 encountered the bedrock, if the bedrock is porous, it
17 could infiltrate into the rock. If it is fractured,
18 it can infiltrate into the rock. If the rock is a
19 shale that is not fractured, then it could move along
20 the shale surface with minimal infiltration. It is
21 also possible for the groundwater regime in the
22 bedrock to be just completely separate from that in
23 the overburden soils if it's recharged from outside
24 the project area.

25 Q. You were also asked some questions about

1 page 16 of the geotech report, Appendix L of the
2 application. That sentence "We recommend that
3 measures to mitigate long-term corrosion of steel
4 elements be considered in design." What is the
5 purpose of mitigating -- of the mitigation you
6 reference there in that sentence?

7 A. What is the purpose of mitigation? The
8 purpose of mitigation would be that if -- if any
9 corrosion does occur, it would not affect the
10 structural integrity of the pile.

11 MR. SETTINERI: No further questions,
12 your Honor. Thank you.

13 ALJ HICKS: Thank you.

14 Mr. Van Kley, any recross?

15 MR. VAN KLEY: Yes.

16 - - -

17 RECROSS-EXAMINATION

18 By Mr. Van Kley:

19 Q. So when bedrock is drilled to put in a
20 pile, does the drilling process add cracks or
21 fractures to the bedrock around it?

22 A. I don't believe so.

23 Q. No? Why don't you believe so?

24 A. You -- if you are going to -- if you are
25 drilling into the bedrock for the purpose -- for the

1 purposes of -- let me start over again.

2 If I am going to install a deep
3 foundation, I will want the -- I will want the area
4 that the deep foundation is in to be in competent
5 bedrock below its weathered zone. It may already be
6 fractured. It may not. But I would expect the --
7 the drilling process based on my experience to give
8 you a relatively smooth bore and not disturb the --
9 the perimeter of that excavation.

10 MR. VAN KLEY: Okay. I have nothing
11 else, your Honor.

12 ALJ HICKS: Thank you, Mr. Van Kley.
13 Doctor, we thank you for your testimony
14 today.

15 MR. SETTINERI: Your Honor, I don't know
16 if you asked other parties if they had any recross.
17 My apologies if you did.

18 ALJ HICKS: I'm sorry?

19 MR. SETTINERI: I'm sorry, your Honor.
20 Just for the record I just want to make sure if other
21 parties had any recross. I don't know if you checked
22 on that.

23 ALJ WILLIAMS: We've really only been
24 taking recross from those that actually did cross.

25 MR. SETTINERI: Okay. Thank you.

2101

1 ALJ HICKS: Take up exhibits. I believe
2 Mr. Settineri has already moved Kingwood Exhibit 106.
3 Any objections to its admission?

4 Hearing none, it is admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 ALJ HICKS: Let's go off the record.

7 (Discussion off the record.)

8 (Thereupon, at 4:23 p.m., the hearing was
9 adjourned.)

10 - - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Monday, April 25, 2022,
and carefully compared with my original stenographic
notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7273)

- - -

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in

Case No(s). 21-0117-EL-BGN

Summary: Transcript in the matter of the Kingwood Solar I LLC hearing held on
04/25/22 - Volume VIII electronically filed by Mr. Ken Spencer on behalf of
Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.