

BEFORE THE OHIO POWER SITING BOARD

- - -

In the Matter of the :  
 Application of :  
 Angelina Solar I, LLC : Case No. 18-1579-EL-BGN  
 for a Certificate of :  
 Environmental :  
 Compatibility and Public :  
 Need. :

- - -

PROCEEDINGS

before Patricia A. Schabo, Administrative Law Judge,  
 at the Public Utilities Commission of Ohio, 180 East  
 Broad Street, Room 11-A, Columbus, Ohio, called at  
 10:00 a.m. on Monday, August 12, 2019.

- - -

VOLUME III

- - -

ARMSTRONG & OKEY, INC.  
 222 East Town Street, Second Floor  
 Columbus, Ohio 43215-5201  
 (614) 224-9481 - (800) 223-9481

- - -

1 APPEARANCES:

2 Vorys, Sater, Seymour & Pease, LLP  
 3 By Mr. Michael J. Settineri  
 and Mr. MacDonald W. Taylor  
 4 52 East Gay Street  
 Columbus, Ohio 43215

5 On behalf of Angelina Solar I, LLC.

6 Dave Yost, Ohio Attorney General  
 John H. Jones, Section Chief  
 7 By Ms. Jodi J. Bair  
 Senior Assistant Attorney General,  
 8 Public Utilities Section  
 30 East Broad Street, 16th Floor  
 9 Columbus, Ohio 43215

10 On behalf of the Staff of the Ohio Power  
 Siting Board.

11 Van Kley & Walker, LLC  
 12 By Mr. Jack A. Van Kley  
 132 Northwoods Boulevard, Suite C-1  
 13 Columbus, Ohio 43235

14 On behalf of the Concerned Citizens of  
 Preble County, LLC.

15 Ohio Farm Bureau Federation  
 16 By Ms. Amy M. Milam  
 280 North High Street, 6th Floor  
 17 Columbus, Ohio 43215

18 On behalf of the Ohio Farm Bureau  
 Federation.

19 Bricker & Eckler, LLP  
 20 By Mr. Dylan F. Borchers  
 100 South Third Street  
 21 Columbus, Ohio 43215

22 On behalf of the Preble County  
 Commissioners.

23  
 24  
 25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES: (Continued)

Preble County Prosecutor's Office  
By Mr. Martin Patrick Votel  
Prosecuting Attorney,  
and Ms. Kathryn M. West  
Assistant Prosecuting Attorney  
101 East Main Street  
Eaton, Ohio 45320

On behalf of the Preble County Engineer,  
Preble County Planning Commission, Preble  
County Soil and Water Conservation  
District, the Board of Trustees of Israel  
Township, and the Board of Trustees of  
Dixon Township, and the Preble County  
Commissioners.

- - -

1	INDEX		
2	- - -		
3	WITNESS		PAGE
4	Rachael Vonderhaar		
	Direct Examination by Mr. Van Kley		333
5	Voir Dire by Mr. Settineri		339
	Cross-Examination by Mr. Settineri		353
6	Redirect Examination by Mr. Van Kley		396
	Recross-Examination by Mr. Settineri		414
7	Further Redirect Examination by Mr. Van Kley		419
8	Marja Brandly		
	Direct Examination by Mr. Van Kley		422
9	Cross-Examination by Mr. Taylor		423
	Redirect Examination by Mr. Van Kley		426
10	Recross-Examination by Mr. Taylor		428
11	Walter Mast		
	Direct Examination by Mr. Van Kley		430
12	Cross-Examination by Mr. Settineri		448
	Redirect Examination by Mr. Van Kley		470
13	- - -		
14	STAFF EXHIBITS	IDENTIFIED	ADMITTED
15	1 Staff Report of Investigation	II-284	333
16	- - -		
17	CCPC EXHIBIT	IDENTIFIED	ADMITTED
18	2 Direct Testimony of Rachael Vonderhaar	334	421
19			
20	3 Supplemental Direct Testimony of Rachael Vonderhaar	334	421
21			
22	4 Direct Testimony of Marja Brandly	422	429
23			
24	5 Direct Testimony of Walter Mast	431	478
25			
	6 Supplemental Direct Testimony of Walter Mast	431	478
	- - -		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX (Continued)

- - -

COMPANY EXHIBIT	IDENTIFIED	ADMITTED
17 Ohio Secretary of State Documents Regarding Concerned Citizens of Preble County, LLC	360	421
18 The Register-Herald Article	463	478

- - -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Monday Morning Session,  
August 12, 2019.

- - -

ALJ SCHABO: Let's go on the record.

The Ohio Power Siting Board has assigned  
for hearing at this time and place Case No.  
18-1579-EL-BGN being in the Matter of the Angelina  
Solar I, LLC, for a Certificate of Environmental  
Compatibility and Public Need.

My name is Patricia Schabo, and I am the  
Administrative Law Judge assigned by the Board to  
hear this case. This is day three and we've had an  
intervening week so let's go ahead and start with  
appearances.

MS. BAIR: Thank you, your Honor. On  
behalf of the Staff of the Ohio Power Siting Board,  
Dave Yost, Attorney General, Jodi Bair, Assistant  
Attorney General, 30 East Broad Street, Columbus,  
Ohio 43215.

MR. SETTINERI: Good morning, your Honor.  
On behalf Angelina Solar I, LLC, Mike Settineri and  
MacDonald Taylor for the law firm Vorys, Sater,  
Seymour and Pease, 52 East Gay Street, Columbus Ohio  
43215.

MR. VAN KLEY: Good morning. I'm Jack

1 Van Kley. I represent the Concerned Citizens of  
2 Preble County and their citizens, their members. My  
3 address is Van Kley & Walker, 132 Northwoods  
4 Boulevard, Suite C-1, Columbus, Ohio.

5 MS. WEST: Yes, your Honor. Katie West  
6 representing the Preble County Prosecutor's Office --  
7 for the Preble County Prosecutor's Office,  
8 representing the Preble County Planning Commission,  
9 Preble Soil and Water Conservation District, Preble  
10 County Engineer, the Dixon Township Trustees, and the  
11 Israel Township Trustees, co-counsel for the Preble  
12 County Commissioners, address 101 East Main Street,  
13 Eaton, Ohio 45320.

14 MR. BORCHERS: Good morning, your Honor.  
15 On behalf of the Preble County Commissioners, Dylan  
16 Borchers, the law firm of Bricker & Eckler, 100 South  
17 Third Street, Columbus, Ohio 43215.

18 ALJ SCHABO: Thank you. Ms. Bair, I  
19 believe you had an issue you wanted to address.

20 MS. BAIR: Yes, thank you, your Honor. I  
21 would like to move the Staff Report of Investigation  
22 marked as Staff Exhibit 1 into the record.

23 ALJ SCHABO: Are there any objections?

24 Hearing none, Staff Exhibit 1 will be  
25 admitted.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ SCHABO: Mr. Van Kley, I believe your case is up for presentation today.

MR. VAN KLEY: Yes, thank you, your Honor. Our first witness will be Rachael Vonderhaar.

ALJ SCHABO: Good morning.

MS. VONDERHAAR: Good morning.

ALJ SCHABO: Raise your right hand.

(Witness sworn.)

ALJ SCHABO: Thank you. You can sit and just state your name for the record, please.

THE WITNESS: Rachael Vonderhaar.

ALJ SCHABO: Mr. Van Kley.

- - -

RACHAEL VONDERHAAR

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

DIRECT EXAMINATION

By Mr. Van Kley:

Q. Ms. Vonderhaar, what is your address?

A. 4636 State Route 725 West, Camden, Ohio 45311-9610.

MR. VAN KLEY: All right. At this time, your Honor, we would like to mark two exhibits and copies of the exhibits are on the bench there for you



1 and the copies for the witness are on the front.  
2 We've already handed out copies to other counsel.

3 ALJ SCHABO: Okay.

4 MR. VAN KLEY: The first exhibit we would  
5 like to mark is CCPC Exhibit 2 which is the direct  
6 testimony of Rachael Vonderhaar. And then the next  
7 exhibit we would like to mark is CCPC Exhibit No. 3  
8 which is the supplemental direct testimony of Rachael  
9 Vonderhaar.

10 ALJ SCHABO: The exhibits will be so  
11 marked.

12 (EXHIBITS MARKED FOR IDENTIFICATION.)

13 Q. (By Mr. Van Kley) Ms. Vonderhaar, could  
14 you identify Exhibit No. 2.

15 A. Exhibit 2 is my direct testimony to the  
16 Power Siting Board.

17 Q. Okay. And could you identify CCPC  
18 Exhibit No. 3.

19 A. Exhibit 3 is my supplemental direct  
20 testimony.

21 Q. Were Exhibits 2 and 3 prepared by you or  
22 under your direction?

23 A. Yes.

24 Q. Do you have any corrections to CCPC  
25 Exhibit No. 2?

1           A.    I do.  Line 25, that should read "299 of  
2    which is tillable" and that change is due to we have  
3    our homesite where our son lives is 19 acres, a  
4    homesite that is right at the corner of 725 and  
5    Fairhaven College Corner Road that makes up 26 acres,  
6    and then the rest is wooded.

7           Q.    Okay.  Do you have any other changes to  
8    CCPC Exhibit No. 2?

9           A.    I do.  Page 3, line 20, I wanted to add  
10   "except the Johnsons' home" --

11          Q.    Where are you adding that now?

12          A.    Page 3, line 20.

13          Q.    Yes.

14          A.    Where it discusses the map that we put  
15   forward with the homes of the members of the group.

16          Q.    Yes.  Are you adding the new language at  
17   the end of that sentence which currently ends in the  
18   word "parcel period"?

19          A.    Yes.

20          Q.    Okay.  And what words are you going to  
21   add there?

22          A.    "Except that the Johnsons' home is not  
23   marked on the map" as far as the map we submitted.

24          Q.    Okay.  And do you have any other changes  
25   to CCPC Exhibit No. 2?

1           A.    I do.  And that is on page 12 striking  
2 question 28 with its answer.

3           Q.    Okay.  And why are you striking that  
4 question and answer?

5           A.    Because the law reverted back on the  
6 language for PILOT when the budget bill was passed in  
7 July so the PILOT -- the PILOT breakdowns go back to  
8 what traditionally the percentages were with property  
9 tax breakdowns.

10          Q.    Okay.  And then directing your attention  
11 back to CCPC Exhibit 3, do you have any changes or  
12 corrections to that exhibit?

13               ALJ SCHABO:  I am so sorry to interrupt  
14 your flow, but I want to make sure, the entirety then  
15 of question 28 and answer 28 is being taken out?

16               MR. VAN KLEY:  Yes.

17               ALJ SCHABO:  Okay.  Thank you.  And,  
18 again, sorry for interrupting you.

19               MR. VAN KLEY:  That's okay.

20          Q.    (By Mr. Van Kley) Directing your  
21 attention to CCPC Exhibit No. 3, do you have any  
22 corrections or changes to that exhibit?

23          A.    I do not.

24               MR. SETTINERI:  Can I, if I may, just so  
25 I understand the deletion of the answer, just to be

1 clear, was that page 12, lines 9 through 18 and  
2 that's CCP Exhibit 2?

3 MR. VAN KLEY: Yes. Page 12, lines 9  
4 through 18, are struck.

5 MR. SETTINERI: And I will just ask the  
6 question now, will -- as well what -- page 6, lines  
7 10 through 14. Again, that's page 6, lines 10  
8 through 14.

9 MR. VAN KLEY: Yes.

10 Q. (By Mr. Van Kley) Ms. Vonderhaar, would  
11 you go to page 6 of CCPC Exhibit No. 2 and tell me  
12 whether you would like to delete lines 10 through 14.

13 A. Yes, I would.

14 Q. Okay.

15 MR. SETTINERI: One last question, I may  
16 have missed it, the reference, Jack, to the name that  
17 was added to CCP Exhibit 2, did I hear that properly,  
18 the name was Johnson?

19 MR. VAN KLEY: Jackson -- or Johnson.

20 A. It's Johnson. So on the solar array map  
21 it is -- that is put forward by Open Roads, it is  
22 underneath the array. The Johnson family has made it  
23 clear to me they should not be in the array and they  
24 want to make sure it was noted that it made our map  
25 and it wasn't on our map as far as the Citizens

1 group. We didn't get them marked.

2 MR. SETTINERI: Your Honor, to protect  
3 the record I will have to move to strike the entirety  
4 of that answer. It was based on hearsay and  
5 unsolicited.

6 ALJ SCHABO: Yeah. I mean, you can  
7 explain that in response to questions but not when we  
8 are striking testimony, so we will strike that.

9 Q. (By Mr. Van Kley) All right. With regard  
10 to CCPC Exhibits 2 and 3, if you were to be asked the  
11 same questions today that you were asked at the time  
12 you wrote and prepared this testimony, would your  
13 answers be the same today?

14 A. Yes.

15 MR. VAN KLEY: At this time, your Honor,  
16 the witness is ready for cross-examination.

17 ALJ SCHABO: Thank you, Mr. Van Kley.

18 Mr. Settineri, would you like to begin?

19 MR. SETTINERI: Yes, I would like to,  
20 thank you, your Honor. First thing I would like to  
21 do is some brief voir dire because we do have a  
22 pending motion to strike. Some of that motion is no  
23 longer relevant given the withdrawal of certain  
24 pieces of the testimony, but if I may conduct a brief  
25 voir dire, please.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ALJ SCHABO: Yes.

- - -

VOIR DIRE

By Mr. Settineri:

Q. Good morning, Ms. Vonderhaar.

A. Good morning.

Q. You have no formal training in biology, correct?

A. Correct.

Q. And you have no formal training in criminology, correct?

A. Correct.

Q. You have no formal training in environmental science, correct?

A. Correct.

Q. And you attended college for one year but have no degree post high school, correct?

A. No degree.

Q. And you are not testifying as an expert in this case, correct?

A. Correct.

Q. You have not taken any classes on tax law, correct?

A. Correct.

Q. You have never worked in the solar

1 industry, correct?

2 A. Correct.

3 Q. You don't know whether EMF will impact  
4 the GPS on the farm equipment, correct?

5 A. Well, in the past week I've reached out  
6 to an expert who has explained to me that it will,  
7 Dr. Fulton at Ohio State, so he has gone over what  
8 the impact will be to our farming operation. It's  
9 new information to me but -- but that's where I have  
10 gained my knowledge from in the last week.

11 Q. Okay.

12 MR. SETTINERI: Your Honor, I would move  
13 to strike that answer in its entirety given that it  
14 was based entirely on hearsay.

15 ALJ SCHABO: Your voir dire isn't  
16 evidence, so we will let it stand.

17 MR. SETTINERI: Thank you.

18 Q. (By Mr. Settineri) As of -- you recall  
19 being deposed, correct --

20 A. Correct.

21 Q. -- previously? And you recall being  
22 deposed in June of this year, correct?

23 A. Yes.

24 Q. And you recall as of the date of that  
25 deposition, you did not know whether EMF will impact

1 the GPS on your farm equipment, correct?

2 A. My understanding it would. I just didn't  
3 understand how, so I tracked down an expert to answer  
4 my questions.

5 Q. Okay. You are not an expert on whether  
6 EMF will affect cellphone reception, correct?

7 A. No.

8 Q. And you don't know what components of the  
9 solar panels will emit EMF, correct?

10 A. So it was explained to me that any energy  
11 project puts off electromagnetic forces and the  
12 larger it is the stronger the force is and that it  
13 should be a simple equation that should be able to be  
14 put forward to us to let us know what the radial  
15 impact would be.

16 As far as in our area, we are able to use  
17 our precision agriculture equipment to farm and it  
18 requires a minimum of a 3G signal and we barely get  
19 that now along with the radio frequencies of 400 to  
20 450 megawatts -- megahertz to 900 megahertz and so  
21 that there would be impact to those signals with the  
22 EMF is what Dr. Fulton at Ohio State explained to me.

23 And then as technology upgrades, we will  
24 be forced to those upgrades in our equipment and have  
25 to have a strong enough signal to match the upgrade



1 of the technology as it takes place.

2 Q. Going back to my question, you don't know  
3 what components of the solar panel emit EMF, correct?

4 A. Correct.

5 MR. SETTINERI: Thank you. Now, that  
6 concludes my voir dire, your Honor.

7 ALJ SCHABO: Thank you, Mr. Settineri.

8 MR. SETTINERI: Go back to my pending  
9 motion to strike, if I may.

10 ALJ SCHABO: You may.

11 MR. SETTINERI: As you -- as we have  
12 previously filed, we would move to strike certain  
13 portions of Ms. Vonderhaar's testimony starting with  
14 CP -- CCP Exhibit 2. First motion to strike would be  
15 at answer 13, page 5, lines 13 to 17. If you look at  
16 this statement, it is clearly presenting a conclusion  
17 that "The application fails to adequately evaluate  
18 and protect against adverse effects of  
19 electromagnetic fields from the solar equipment."  
20 Ms. Vonderhaar though on -- we saw on voir dire could  
21 not identify what parts of the solar panels, if any,  
22 emit EMF. She also is clear she is not qualified to  
23 opine on EMF, and she stated also she is not an  
24 expert. Therefore, that this language here should be  
25 stricken.

1 I would also note regardless that the  
2 very -- page 4 top at line 2 states "We are concerned  
3 about a number of issues, including the following."  
4 Regardless that it says "we are concerned," this  
5 testimony contains a clear conclusion that could be  
6 used on brief. And so to protect the record, because  
7 it is a conclusion, it should be stricken because she  
8 is not qualified to give that opinion.

9 ALJ SCHABO: Mr. Van Kley.

10 MR. VAN KLEY: Yes, your Honor. As  
11 counsel has just admitted, the preface of answer 13  
12 is that the Concerned Citizens are concerned about a  
13 number of issues that include the issue in sub-answer  
14 m about EMFs, so it's not offered as an expert  
15 opinion. It's simply offered as -- as a concern by  
16 the Citizens concerning the project and its effects  
17 on them.

18 MR. SETTINERI: Your Honor, if I may.

19 ALJ SCHABO: You may.

20 MR. SETTINERI: I would just note that  
21 that answer at line 13 says "protect against adverse  
22 effects of electromagnetic fields." It clearly  
23 assumes a foundation there are adverse effects of  
24 electromagnetic fields in the equipment. So, again,  
25 it is a conclusion, regardless of the preface to the

1 question. These are issues; for example, if you look  
2 at the top of page 5 part h there is a statement that  
3 "The Project will displace deer and other wildlife."  
4 That's more than -- that's a statement and  
5 conclusion, not a concern.

6 MR. VAN KLEY: Well, if you read the  
7 preface together with the -- with m, that's not what  
8 it's saying. It says we are -- basically it says we  
9 are concerned that the application fails to  
10 adequately evaluate and protect against EMFs. It's  
11 just expressed as a concern and the -- the Board can  
12 admit it for limited purposes -- for the limited  
13 purpose of simply expressing the Concerned Citizens'  
14 concern rather than admitting it for its value as an  
15 expert opinion and if -- if the ruling is based on --  
16 on that grounds, then it's admissible for that  
17 limited purpose.

18 MR. SETTINERI: Your Honor, if I may, the  
19 key phrase at the line 2, page 4 is "We are concerned  
20 about a number of issues." What are the issues? The  
21 issues are presented. So the issues in here is  
22 clearly a conclusion so that's why it should be  
23 stricken. She is just not qualified. If they wanted  
24 to put an expert on, they could have got an expert,  
25 and they didn't.

1 ALJ SCHABO: Is your concern that it's  
2 stated in a -- as an observational conclusion?

3 MR. SETTINERI: It's stated as a  
4 conclusion, that is correct. Yes, that is very much  
5 my concern.

6 ALJ SCHABO: Okay. But the Rules of  
7 Evidence allow a layperson to express their own  
8 observational conclusions.

9 MR. SETTINERI: But she's made no  
10 observational conclusion here.

11 ALJ SCHABO: It is an illustrious --  
12 motion to strike is denied. I think it's an  
13 illustrative list of the worries of the Concerned  
14 Citizens. It may be stated in a conclusory fashion,  
15 but I don't think it's stated as an expert  
16 conclusion. You know, to the degree briefing would  
17 set that out as a legal conclusion, the Commission  
18 can recognize that error and treat it as such. But I  
19 won't strike that portion of the testimony.

20 MR. SETTINERI: Your Honor, excuse me,  
21 moving on the second part that same answer we have a  
22 similar concern at page 6, lines 6 to 7, where,  
23 again, we have testimony that presents a conclusion  
24 with no foundation. It states "The application does  
25 not evaluate and protect against increased

1 temperatures resulting from the Project's solar  
2 panels." So, again, we are assuming a foundation  
3 that there will be increased temperatures resulting  
4 from the project panels. She's not qualified to make  
5 that foundational observation by any means. And,  
6 again, it's more than a concern. It's a concern  
7 about an issue that's being presented as there will  
8 be increased temperatures resulting from the  
9 project's solar panels with no foundation. She's not  
10 familiar. She doesn't have the expertise. That  
11 sentence should be stricken.

12 ALJ SCHABO: Mr. Van Kley.

13 MR. VAN KLEY: Our response to this part  
14 of the motion to strike is the same as our response  
15 to the last part of the motion to strike.

16 ALJ SCHABO: I think based on the same  
17 reasons, that this motion to strike will also be  
18 denied. Again, I'll just caution all parties not to  
19 use this in your brief as some kind of legal  
20 conclusion that the Board is somehow obligated to  
21 accept, but it certainly stays in as one of the  
22 concerns of the intervenor.

23 MR. SETTINERI: Moving on, your Honor, we  
24 would withdraw the part of our motion to strike that  
25 was previously -- as to the testimony on the PILOT

1 that was withdrawn.

2 ALJ SCHABO: Okay.

3 MR. SETTINERI: The last motion to strike  
4 I have here, and that was listed in our brief, I am  
5 going to modify it slightly, your Honor.

6 ALJ SCHABO: Okay.

7 MR. SETTINERI: If we turn to -- this  
8 will be the supplemental testimony CCP Exhibit 3.  
9 There we would withdraw our motion to strike the  
10 answer 7 up until the -- close to the end of line 5,  
11 page 5, but we would continue our motion to strike  
12 the sentence that begins at the end of line 5  
13 continuing to the -- through line 8 and that sentence  
14 starts with "Fourth," in its entirety reads "Fourth,  
15 because the county lacks the funding necessary to  
16 hire the deputies necessary to patrol the Project  
17 Area, the Applicant should be required to provide the  
18 county with the funding necessary to hire a deputy  
19 for that purpose."

20 Specifically as to that answer, your  
21 Honor, there has been no foundation the county lacks  
22 the funding necessary. Nowhere in the testimony does  
23 she mention that, and she also doesn't mention  
24 anywhere in the testimony about having experiences  
25 with the EMS. So, therefore, it would be based on

1 speculation and should be stricken.

2 ALJ SCHABO: Mr. Van Kley.

3 MR. VAN KLEY: Yes, your Honor. I think  
4 it's telling that counsel did not do any voir dire on  
5 Ms. Vonderhaar with respect to this portion of the  
6 answer on page 5 of the supplemental testimony  
7 because she does have the background necessary to  
8 testify about the subject matter of the testimony  
9 that is sought to be struck.

10 She's a member of a local community.  
11 She's very much involved in a local community. She  
12 is familiar with emergency services in the local  
13 community. And she -- she has the information that  
14 provides her with the background necessary to make  
15 the statement that is the subject of this motion to  
16 strike.

17 The fact that counsel did not ask her any  
18 questions in an attempt to show that she had no  
19 background is -- is pretty revealing because counsel  
20 took Ms. Vonderhaar's deposition concerning this  
21 exhibit and, as a result, knows that she has the  
22 requisite information, background to issue this  
23 testimony.

24 MR. SETTINERI: Your Honor, No. 1, I  
25 strongly disagree with that last representation about

1 what I know and don't know. Counsel is not  
2 testifying. It was the obligation for the witness to  
3 have that background in that testimony. It is a  
4 speculative statement. There is -- nowhere in the  
5 testimony mentions that she has any knowledge of the  
6 funding and what's necessary. Therefore, the burden  
7 was on them. They didn't do it. It should be  
8 stricken.

9 ALJ SCHABO: You're moving to strike the  
10 entirety of the sentence.

11 MR. SETTINERI: Just that -- yes.

12 ALJ SCHABO: What if the clause bracketed  
13 by commas is stricken but the statement that "Fourth,  
14 the Applicant should be required to provide the  
15 county with funding necessary to hire a deputy  
16 period" was to remain?

17 MR. SETTINERI: I'm fine with that.

18 ALJ SCHABO: Mr. Van Kley?

19 MR. VAN KLEY: Your Honor, that certainly  
20 is a worthy compromise, but Ms. Vonderhaar does know  
21 that the county lacks the funding necessary to hire  
22 the deputies necessary to patrol the project area.  
23 That is a fact that is extremely well known in that  
24 community because it is already true that the  
25 deputy -- that if you make an emergency call in the



1 area around the project area, it takes a really long  
2 time to respond. Ms. Vonderhaar knows that from her  
3 personal experience; and, therefore, she is qualified  
4 to -- to make -- make the statement in the first half  
5 of that sentence as counsel well knows because she  
6 made the same statement in her deposition last week.

7 MR. SETTINERI: I disagree.

8 ALJ SCHABO: Ms. Vonderhaar, do you work  
9 for the county?

10 THE WITNESS: I do not.

11 ALJ SCHABO: Are you familiar with the  
12 treasurer's books and balances?

13 THE WITNESS: As far as recently, the  
14 Commissioners had denied the funding to be available  
15 to hire additional officers. We currently have two  
16 on the road at any one time.

17 ALJ SCHABO: And they -- they denied the  
18 funding in what context?

19 THE WITNESS: For picking up an  
20 additional officer earlier this summer. So for us  
21 incidents where there is traffic incidents that  
22 are -- for us specifically we had an incident where  
23 we waited 45 minutes for someone to show up to direct  
24 traffic while we were helping someone whose tire came  
25 off their truck. That is what they are referencing

1 from the deposition. And with that we were on a  
2 state route at the base of a hill, people coming  
3 south could not see us, the gal was from Michigan  
4 with two children in the truck and a horse trailer,  
5 and I called in on the non -- nonemergency number  
6 waiting for assistance to help with traffic. 45  
7 minutes passed, still didn't have assistance. My  
8 husband is laying in the road working on the truck.

9 I called his college roommate who is the  
10 park ranger over Hueston Woods and other parks. He  
11 gets me a park ranger to come and direct traffic for  
12 us. And at that point the park officer shows up and  
13 he can't believe what he is seeing and that there has  
14 not been an officer out to help us to this point and  
15 he starts yelling into his radio for assistance to  
16 help direct traffic.

17 So that's just one incident. I can give  
18 you more.

19 MR. BORCHERS: Your Honor, if I may, just  
20 for consideration of this motion, the Commissioners  
21 did agree to hire two new deputies in the last couple  
22 of weeks so that, in our mind, is a pertinent fact  
23 for you when you are considering this motion.

24 MR. VAN KLEY: Well, that's not evidence  
25 at all so.

1 ALJ SCHABO: Well, neither is our  
2 arguments on objections so.

3 MR. BORCHERS: It's in the context of  
4 considering this motion, not for evidentiary.

5 ALJ SCHABO: Thank you.

6 MR. VAN KLEY: It has nothing to do with  
7 the motion.

8 ALJ SCHABO: So I am going to offer my  
9 compromise once more, and then I am going give my  
10 ruling.

11 MR. SETTINERI: Compromise is fine.

12 ALJ SCHABO: Do you take the compromise,  
13 Mr. Van Kley, or would you like my specific ruling?

14 MR. VAN KLEY: I would like your specific  
15 ruling, your Honor.

16 ALJ SCHABO: Okay. I will strike the  
17 clause "necessary to patrol the area" -- I'm sorry,  
18 "necessary to patrol the Project Area" and "for that  
19 purpose." So the sentence now reads "Fourth, because  
20 the county lacks the funding necessary to hire the  
21 deputies, the Applicant should be required to provide  
22 the county with the funding necessary to hire a  
23 deputy." There has been no foundation that deputies  
24 are needed to patrol the project area.

25 MR. VAN KLEY: Okay. Thank you.

1 ALJ SCHABO: You're welcome.

2 Mr. Settineri, was that the end of your  
3 motions to strike?

4 MR. SETTINERI: That's the motions to  
5 strike, your Honor. Thank you very much.

6 ALJ SCHABO: So we are ready to begin  
7 cross-examination?

8 MR. SETTINERI: Yes, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Settineri:

12 Q. Starting my cross-examination,  
13 Ms. Vonderhaar, you are aware that representatives of  
14 the county are present in this room today, correct?

15 A. I am.

16 Q. And are you aware that the county has  
17 represented today that funding has been approved to  
18 hire two new additional deputies for the area?

19 MR. VAN KLEY: Objection, your Honor.  
20 There is no factual foundation for the premise of  
21 this question. Just because there is a statement  
22 made in voir dire as a representation of counsel  
23 doesn't make it a fact that can be presumed in a  
24 question asked of this witness. There has been no  
25 testimony with respect to this so-called fact.

1           If -- if the local governments had wished  
2 to get that fact into evidence, they should have  
3 presented a witness to that effect. And they have  
4 not done so, so we would object to the premise, that  
5 this question is lacking foundation.

6           ALJ SCHABO: I have to agree with that.  
7 I'll sustain that objection.

8           Q.     (By Mr. Settineri) You're concerned about  
9 funding of deputies, correct?

10          A.     Yes.

11          Q.     All right. Are you aware that -- do you  
12 know whether the county has approved funding for two  
13 additional deputies?

14          A.     So I am now -- from the beginning of the  
15 summer, it was a no and there was a battle within the  
16 Commission. So apparently within recent time they  
17 have accomplished that. Not any different than the  
18 PILOT changing at the Statehouse in the last two  
19 weeks.

20          Q.     And the funding of two additional  
21 deputies would definitely be a benefit to the county,  
22 correct?

23          A.     Well, we will see. We were short staffed  
24 before. I don't know that this gets us to where we  
25 need to be.

1 Q. Thank you. So you have no formal  
2 training in biology, correct?

3 A. No.

4 Q. And you have no formal training in  
5 criminology, correct?

6 A. Correct.

7 Q. And you have no formal training in  
8 environmental science, correct?

9 A. Correct.

10 Q. You attended college for one year but  
11 have no degree post high school, correct?

12 A. Yes.

13 Q. You are not testifying as an expert in  
14 this case, correct?

15 A. Correct.

16 Q. Never worked in the solar industry,  
17 correct?

18 A. Correct.

19 Q. If you could turn to page A3 of your  
20 direct testimony -- answer A3 which is CCP Exhibit 2,  
21 please.

22 A. I'm sorry. You said page 3?

23 Q. I'm sorry, answer 3 --

24 A. Answer 3.

25 Q. -- in the direct testimony. There you

1 are -- so you are offering testimony on behalf of the  
2 Concerned Citizens of Preble County, LLC, Robert  
3 Black, Margo Brandly, Campbell Brandly Farms, LLC,  
4 Michael Irwin, Kevin and Tina Jackson, the Vonderhaar  
5 Family ARC, LLC, and Vonderhaar Farms Inc., correct?

6 A. Marja Brandly.

7 Q. Marja.

8 A. But correct.

9 Q. And prior to filing your direct testimony  
10 in CCP Exhibit 2, you did not review your testimony  
11 with Robert Black, Marja Brandly, Campbell Brandly  
12 Farms, Michael Irwin, Kevin and Tina Jackson,  
13 correct?

14 A. Correct.

15 Q. And turning to CCP Exhibit 3, line 22,  
16 it's listed at Q2 but that would, I assume, be answer  
17 2, there it states you are offering testimony on  
18 behalf of the Concerned Citizens of Preble County,  
19 LLC, Robert Black, Marja Brandly, Campbell Brandly,  
20 Campbell Brandly Farms, Michael Irwin, Kevin and Tina  
21 Jackson, Vonderhaar Family ARC, LLC, and Vonderhaar  
22 Farms Inc.; is that correct?

23 A. Correct.

24 Q. And prior to filing this testimony, you  
25 had not reviewed your testimony with Robert Black,

1 Marja Brandly, Campbell Brandly Farms, LLC, Michael  
 2 Irwin, Kevin and Tina Jackson, correct?

3 A. Correct.

4 Q. You reside approximately 2 miles from the  
 5 project area; is that correct?

6 A. Correct.

7 Q. At page A7 of CCP Exhibit 2 -- I should  
 8 say, sorry, page 2 of CCP Exhibit 2, answer 7 you  
 9 note there are 67 members that I guess -- strike  
 10 that.

11 The question at line 12 is "How many  
 12 people and companies are members of the Concerned  
 13 Citizens," and you note "67 members."

14 A. Yes.

15 Q. Okay. How many companies are members of  
 16 the Concerned Citizens?

17 A. I don't have an exact number off the top  
 18 of my head.

19 Q. Okay. And of the 67 members, some reside  
 20 near the Alamo project, correct?

21 A. Correct.

22 Q. Now, Concerned Citizens of Preble County,  
 23 LLC, is a for profit entity, correct?

24 A. Correct.

25 Q. And do you know what an LLC is?



1           A.    A limited liability corporation.

2           Q.    And do you have -- so, for instance,  
3 Vonderhaar Family ARC, LLC, is that a limited  
4 liability corporation?

5           A.    Yes.

6           Q.    Okay.  And who owns Vonderhaar Family  
7 ARC, LLC?

8           A.    I do.

9           Q.    And do you have an operating agreement  
10 for your LLC?

11          A.    I do.

12          Q.    And did you sign the operating agreement?

13          A.    Yes.

14          Q.    Okay.  Does Concerned Citizens of Preble  
15 County, LLC, have an operating agreement?

16          A.    Yes, it does.

17          Q.    And who signed that operating agreement?

18          A.    The six trustees that organized it.

19          Q.    Okay.  And if I asked you who owns  
20 Concerned Citizens of Preble County, LLC, what would  
21 your answer be?

22          A.    The members.

23          Q.    And who -- and -- so did all of the 67  
24 members sign the operating agreement?

25          A.    All of the 67 members agreed to the

1 organization of it but there weren't 67 at the time.  
2 The six trustees set the entity up, and then members  
3 were added to it.

4 Q. When you say members were added to it,  
5 how were they added to it?

6 A. We believe that anyone that feels  
7 impacted has the right to participate, and membership  
8 is what you can afford.

9 Q. Do they sign the operating agreement when  
10 they join the LLC?

11 A. They do not. By paying their membership  
12 money, they become a member of the LLC.

13 Q. So they don't own the LLC.

14 A. Our membership is set up that we all do,  
15 and the officers are the ones who operate it.

16 Q. Can you own an LLC without signing the  
17 operating agreement to your knowledge?

18 MR. VAN KLEY: Objection, calls for a  
19 legal conclusion.

20 ALJ SCHABO: Answer to your knowledge.

21 A. I would consult with my attorney and  
22 that's who I consulted with to set up the LLC.

23 MR. SETTINERI: Your Honor, we may -- we  
24 would like to mark an exhibit for the record Company  
25 Exhibit 17. May I approach, your Honor?

1 ALJ SCHABO: You may.

2 MR. SETTINERI: Your Honor, at this time  
3 I would like to mark as Company Exhibit 17 a State of  
4 Ohio certificate for Concerned Citizens of Preble  
5 County, LLC.

6 ALJ SCHABO: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 Q. (By Mr. Settineri) Ms. Vonderhaar, would  
9 you agree with me these are the articles of  
10 organization for Concerned Citizens of Preble County,  
11 LLC?

12 A. Yes.

13 Q. Okay. And if you turn to page 2 of the  
14 document, do you see the box checked No. 1 Articles  
15 of Organization for Domestic For-Profit Limited  
16 Liability Company?

17 A. Yes.

18 Q. You can set that aside, please. Okay.  
19 At page 3 of CCP Exhibit 2, answer 7 -- answer 11,  
20 I'm sorry, you list certain members of Concerned  
21 Citizens that live on properties adjacent to the  
22 project area, correct?

23 A. Yes.

24 Q. Am I correct that those members reside in  
25 the aggregate five houses adjacent to the project

1 area?

2 A. Yes. And the Johnson family should be  
3 included in that list.

4 Q. Okay. And so then that list would  
5 consist of Ms. Brandly and Mr. Irwin's house.

6 A. Yes.

7 Q. Ms. Ridenour's house.

8 A. Yes.

9 Q. Earl and Shane Strang's house.

10 A. Stang.

11 Q. Stang, thank you. Steven Wyatt and  
12 Stephanie Longworth's house.

13 A. Yes.

14 Q. And the house your son Adam Vonderhaar  
15 currently lives in that is owned by Vonderhaar Family  
16 ARC, LLC, correct?

17 A. Yes.

18 Q. And you mentioned also that the Johnsons'  
19 have a house adjacent to the project area, correct?

20 A. Yes. They are right in the center.

21 Q. As to the house your son lives in, that's  
22 set back from the road, correct?

23 A. A little bit.

24 Q. And approximately 500 feet or so?

25 A. Probably.

1 Q. And the project area would be on the  
2 other side of the road from the house, correct?

3 A. Correct. The view from the house will be  
4 all solar panels.

5 MR. SETTINERI: I just move to strike  
6 that extraneous part of the answer, your Honor. The  
7 question was answered before the witness expanded on  
8 her answer about the view. I didn't ask about the  
9 view.

10 ALJ SCHABO: Sustained.

11 Q. (By Mr. Settineri) Now, Steven Wyatt and  
12 Stephanie Longworth's house is currently surrounded  
13 on three sides by active agriculture, correct?

14 A. Yes.

15 Q. Okay. Earl and Sharon Stang's house is  
16 bordered by State Route 177 and active agriculture,  
17 correct?

18 A. It is across the road from the array,  
19 yes.

20 Q. The answer to my question is "yes."

21 A. Yes.

22 Q. Thank you. And the northern most end of  
23 the project area would be across the street from the  
24 Stang's house, correct?

25 A. Yes.

1 Q. And Ms. Ridenour's house would be across  
2 Fairhaven College Road from the proposed project  
3 area, correct?

4 A. Correct. Right now, next to our  
5 schoolhouse, our property wraps her on the northeast  
6 and south and then the array is on her west.

7 Q. Okay. So her house is adjacent to active  
8 agriculture as well, correct?

9 A. Yes.

10 Q. You consider your farming operation a  
11 business, correct?

12 A. Correct.

13 Q. Your business uses combines and tractors  
14 during the day and at night in the fields, correct?

15 A. As long as we're planting or harvesting  
16 it.

17 Q. Do you spread manure in any of the  
18 fields?

19 A. Just at the home farm.

20 Q. Your business operates a grain dryer,  
21 correct?

22 A. Correct.

23 Q. And that dryer may run at least two  
24 months of the year both at day and night, correct?

25 A. Possibly could. Didn't run at all last

1 year.

2 Q. And your farming operations create noise  
3 both during the day and night, correct?

4 A. In the center of the 200 plus acres, yes.

5 Q. You can hear trains in the project area,  
6 correct?

7 A. We can. That's how far sound travels.  
8 The trains are approximately 4 miles away.

9 Q. In fact, you can hear the train from  
10 Camden over what else is taking place in your area so  
11 there is not the necessity to mitigate sound for  
12 farming operations, correct?

13 A. The train you can hear when it's a still  
14 night. It's not something we hear continuously when  
15 it passes through.

16 Q. Ms. Vonderhaar, do you remember being  
17 deposed last Friday?

18 A. Yes.

19 Q. And you were under oath at that  
20 deposition, correct?

21 A. Yes.

22 MR. SETTINERI: Your Honor, if I may  
23 approach the witness, I would like to present a  
24 deposition transcript to her.

25 ALJ SCHABO: You may.

1           Q.     (By Mr. Settineri) Ms. Vonderhaar, I have  
2 presented you with a copy of your deposition  
3 transcript from last Friday. If you could, please  
4 turn to page 34. And that would be of the actual  
5 deposition transcript because I have four pages per  
6 page.

7           A.     Okay.

8           Q.     If you look at line 13 of the deposition  
9 transcript.

10          A.     Okay.

11          Q.     You see the question line 13, "I am not  
12 asking about the sound. Just in general from your  
13 farming operation, do you mitigate sound? Do you  
14 take actions to mitigate sound from your farming  
15 operations?

16                   "Answer: There's no need to because we  
17 are not emitting this type of sound. We can hear the  
18 train from Camden over what else is taking place in  
19 our area so there's not the necessity to mitigate  
20 sound." Did I read that correctly?

21          A.     So I believe -- this is my first time to  
22 see it since Friday, but it sounds familiar. And for  
23 me as far as us as a family farm and where our grain  
24 dryer is located and the sound that's out in the  
25 area, for us our dryer is located in the center of



1 our -- our home farm. And you leave our property;  
2 you don't hear it. But at our home farm, you can  
3 hear the train at the same time, so I guess the  
4 equipment is not as loud if I still hear the train  
5 and I hear the equipment at the same time.

6 MR. SETTINERI: Your Honor, I move to  
7 strike that answer. I simply asked if I read the  
8 question correct -- and answer correctly. It can be  
9 addressed on redirect, if you would like.

10 ALJ SCHABO: Yeah. Sorry. Was that a  
11 motion to strike?

12 MR. SETTINERI: Yes, that was a motion to  
13 strike.

14 ALJ SCHABO: Motion is granted. Try your  
15 best to stick to answering the question that is  
16 actually asked.

17 THE WITNESS: Okay.

18 ALJ SCHABO: And if there is additional  
19 information that your attorney would like to elicit  
20 from you, he will have that opportunity after  
21 Mr. Settineri is done with his cross-examination.

22 THE WITNESS: Okay.

23 ALJ SCHABO: Thank you.

24 Q. (By Mr. Settineri) Ms. Vonderhaar,  
25 farmers in the area use fencepost pounders, correct?

1           A.    Yes.  Some do who install fence.

2           Q.    And that's used -- in fact, fencepost  
3   pounders are used to generally install wood posts in  
4   your area, correct?

5           A.    Yes.

6           Q.    All right.  And when you use a fence  
7   pounder to drive a wood post, you are going to hear  
8   the sound for quite a distance, correct?

9           A.    I don't know the distance.  I just know  
10   when I am standing next to it and we are pounding it.

11          Q.    So the answer to my question is  
12   "correct"?

13                   MR. VAN KLEY:  I am going to object to  
14   the --

15                   ALJ SCHABO:  Would you like the question  
16   reread to you?

17                   THE WITNESS:  Is he asking me how far you  
18   can hear that sound?

19                   ALJ SCHABO:  No.

20                   MR. SETTINERI:  I will just pull the  
21   deposition.  That's fine.  We can reread it to her.

22                   ALJ SCHABO:  Let's reread the question.

23                               (Record read.)

24           A.    Sure.

25           Q.    Just a month and a half ago, you hand

1       pounded in some metal fence posts, correct?

2             A.     Correct.

3             Q.     That is quite loud too, correct?

4             A.     While I was installing them, yes, it was  
5 quite loud.

6             Q.     Now, you remember being deposed in June.  
7 We've established that. As of that time, you did not  
8 have any concerns about noise from the actual  
9 operation of the solar project, correct?

10            A.     No. We had concerns from the beginning  
11 related to the noise from the project. And so with  
12 the application itself and then listening to  
13 Mr. Hessler's expert testimony, the sound of the  
14 posts being put in by either the pounding or the  
15 screwing is concerning to us either way. Both of  
16 them are 84 decibels, just one is impulsive and one  
17 is broadband, so I think we have general concern  
18 about -- sound has always been our concern.

19                   MR. SETTINERI: Your Honor, if I may  
20 approach the witness, I would like to review a  
21 deposition transcript. I have another deposition  
22 transcript.

23                   ALJ SCHABO: Is it her deposition  
24 transcript?

25                   MR. SETTINERI: Yes.

1 ALJ SCHABO: You may.

2 MR. SETTINERI: Yes, it is hers.

3 THE WITNESS: Deposed twice.

4 ALJ SCHABO: Okay.

5 Q. (By Mr. Settineri) So, Ms. Vonderhaar, do  
6 you recall being deposed twice in this case, correct?

7 A. Yes, I remember the hours.

8 Q. The first deposition was on June 11,  
9 correct, of this year?

10 A. Sounds right.

11 Q. Okay. And you were under oath at that  
12 deposition, correct?

13 A. Yes.

14 Q. Okay. And so I've handed you your  
15 deposition transcript. Do you have that before you?

16 A. I do.

17 Q. If you could turn to page 106 of that and  
18 tell me when you are there, please. In fact, we will  
19 start at page 105, line 22. Are you there?

20 A. So page 106, line 22?

21 Q. I'm sorry, 105.

22 A. 105.

23 Q. Just look at that. Do you see the  
24 question line 22 "Do you have any concerns with noise  
25 from the actual operation of the solar project?"

1                   "Answer: From what I've researched I  
2 don't know that there necessarily would be. I think  
3 of it -- I think if it was windmills, I might have a  
4 different concern.

5                   "Question: So your concerns with noise  
6 are really limited to the construction piece of it?

7                   Answer: Yes."

8                   Did I read that correctly?

9                   A. You did read that correctly, and I've had  
10 additional time since then and listened to your  
11 expert present.

12                  Q. And has that changed your opinion?

13                  A. It has definitely made my opinion much  
14 more concerned about the noise.

15                  Q. Both construction and operations.

16                  A. Yes.

17                  Q. You have no training in acoustics though,  
18 right?

19                  A. I do not, but listening to your expert  
20 explain and then comparing it to sounds and decibels,  
21 I now realize what that impact will be.

22                  Q. Okay.

23                  MR. SETTINERI: Your Honor, I would just  
24 move to strike everything "but" and forward.

25                  MR. VAN KLEY: I think her answer, all of

1 it, was directly responsive to his question, your  
 2 Honor.

3 ALJ SCHABO: Motion denied.

4 MR. SETTINERI: Okay.

5 Q. (By Mr. Settineri) In your farming  
 6 operations, you store gasoline on site, correct?

7 A. Correct.

8 Q. You also store diesel on site, correct?

9 A. Correct.

10 Q. And you store pesticides and herbicides,  
 11 correct?

12 A. For the minimum holding days, correct.

13 Q. As a farmer, you would expect other  
 14 farmers in the area to also store diesel, gasoline,  
 15 pesticides, and herbicides on their farm, correct?

16 A. I can't say what other farmers do.

17 Q. In your general experience would you  
 18 expect farmers to store diesel, gasoline, pesticides,  
 19 and herbicides on their farms?

20 A. It depends on what they're equipped to  
 21 store.

22 Q. Is it normal for a farmer to have diesel  
 23 tanks and gasoline tanks on site?

24 A. Some, some may.

25 Q. Okay. Let's turn to your CCP Exhibit 2.

1 If you could turn to page 9, answer 21. Are you  
2 there?

3 A. Yes.

4 Q. So I will paraphrase but you indicate  
5 that the intersection in that answer of State Route  
6 177 and Tony Lynbrook Road is a busy intersection and  
7 especially dangerous. 177 has a 55 mile an hour  
8 speed limit. Do you consider State Route 177 to be a  
9 heavily traveled road in the county?

10 A. One, I would like to say it's Toney  
11 Lybrook Road. I missed that spelling in there. Two,  
12 it is 55 mile an hour. You mainly have grain haulers  
13 that are going up and down there and then the traffic  
14 if there's -- if there's traffic of type, it's  
15 between Richmond and Hamilton. So that intersection  
16 specifically as I was looking at the pictures that  
17 had been uploaded by Open Road to the application,  
18 the most dangerous part of that intersection is when  
19 you are going straight across 177 to cross, if you  
20 were headed east and it's the point in that field and  
21 being able to see the traffic that's coming from the  
22 south that's headed north.

23 Q. Going back to my initial question though,  
24 do you consider State Route 177 to be a heavily  
25 traveled road?

1           A.    Not as heavily traveled as I would say  
2    725 is but, I mean, that's opinion so.

3           Q.    Okay.  Now, some farmers in the area  
4    plant corn right up to the edge of the road  
5    right-of-way, correct?

6           A.    Up to the perimeter of the ditch of the  
7    easement, yes.

8           Q.    Okay.  And corn at full height can  
9    sometimes block intersections as well, correct?

10          A.    For a, what, two-month period if someone  
11    plants up into that area.

12          Q.    You are aware that solar panels are  
13    installed on houses and schools throughout Ohio,  
14    correct?

15          A.    I am aware that some are installed.

16          Q.    Now, regarding the -- strike that.

17                    Grass or any kind of plant can slow down  
18    surface water runoff, correct?

19          A.    Correct.

20          Q.    Turning to page 11 of your testimony, and  
21    this is CCP Exhibit 2, answer 26, at lines 17 to 18,  
22    you state "replacing tiles requires a considerable  
23    amount of effort using heavy tile installation  
24    equipment that takes considerable space."  Do you see  
25    that?



1           A.    Yes, I do.

2           Q.    Now, you use -- you have used a Gold  
3 Digger plow pulled behind a tractor to replace tile,  
4 correct?

5           A.    Yes.

6           Q.    That's the tiling plow that is part 19 of  
7 your answer, correct?

8           A.    Yes.

9           Q.    And that plow is an attachment to the  
10 back of the tractor, correct?

11          A.    Correct.

12          Q.    Okay. And the attachment itself is not  
13 that long; it may extend 2 to 3 feet behind the  
14 tractor?

15          A.    No. The width of it is that. The  
16 distance of it is 24 feet. And so then the tile plow  
17 itself when you do its wheelbase is 12 foot wide.

18          Q.    So let me ask you this, so that  
19 dimension, 24 foot long by 12 foot wide, is that both  
20 the tractor and the plow?

21          A.    No. That's -- that's the plow. Sorry.  
22 I am comparing it to something else in my mind right  
23 now.

24          Q.    Take your time.

25          A.    Yeah, I think that might have been the

1 two together.

2 Q. Now, you know what a mini excavator is,  
3 correct?

4 A. I do.

5 Q. And that can be used to replace tile,  
6 correct?

7 A. Yes.

8 Q. And if I was to describe a mini excavator  
9 for someone who has never seen one, is it a fair  
10 description to say it's like a mini backhoe?

11 A. That's fair to say.

12 Q. Okay. And a mini excavator can be 4 to 5  
13 foot in width, correct?

14 A. Correct.

15 Q. And shovels can be used to replace tiles  
16 in the field, correct?

17 A. Correct.

18 Q. Now, you are familiar with Ohio Utilities  
19 Protection Service, correct?

20 A. Yes.

21 Q. Okay. And prior to doing any kind of  
22 tile work in your field, you call the Ohio Utilities  
23 Protection Service, correct?

24 A. Correct.

25 Q. And the acronym we all use for Ohio

1 Utilities Protection Service is OUPS, O-U-P-S,  
2 correct?

3 A. Correct.

4 Q. And by calling OUPS, that they could  
5 avoid an incident like hitting an underground gas  
6 line, correct?

7 A. Correct.

8 Q. And anyone digging must contact OUPS at  
9 least 48 hours, excluding weekends and legal  
10 holidays, prior to beginning work, correct?

11 A. Correct.

12 Q. And failure to contact OUPS could result  
13 in fines or penalties for your business?

14 A. Or death for the individual.

15 Q. Right. Now, you detect drainage issues  
16 generally by finding sinkholes, blowholes, or you may  
17 find ponding in the field, correct?

18 A. Correct.

19 Q. For all of us here can you just -- what  
20 is a sinkhole?

21 A. So a sinkhole is just essentially where  
22 it's sucking in, so the dirt goes down in, and it's  
23 creating another pathway. A blowhole it is backed  
24 up. It is pushing the dirt up and out depending upon  
25 what's going on with the tile as to which one you are

1 going to get.

2 Q. Now, if a crop is planted and a drainage  
3 issue arises after planting, you may not go over the  
4 crop to make the repair, correct?

5 A. We have gone over crop depending upon how  
6 bad the situation is. It's all about the choice of  
7 the landowner.

8 Q. And so you may go over a crop, for  
9 example, if the hole was enough to be a concern for  
10 the equipment going into harvest, correct?

11 A. Correct.

12 Q. And that's exercised, for example, where  
13 the hole is big enough the track could potentially --  
14 the wheel could go into the hole, create a serious  
15 incident.

16 A. Correct. Or if you think it's going to  
17 end up being an impact to a larger part of the crop.  
18 Protect the crop as best you can.

19 Q. Now, some of your neighbors don't go over  
20 the crop to repair tile, correct?

21 A. It's all personal choice.

22 Q. And depending upon which crop they have  
23 in the field, some will put wheat in for the winter  
24 so they can tile through the summer, correct?

25 A. That is a common practice and then that

1 gives you the summer for the tiling purpose.

2 Q. Okay. And --

3 A. Generally that's done when you are going  
4 to install a system. It gives you the full field.

5 Q. And some will clear a field harvest in  
6 September-October, start tilling and start the week  
7 after Thanksgiving as soon as all the crop is off and  
8 then tile until the ground is so frozen that they  
9 can't tile, correct?

10 A. Well, nobody is going to till the field  
11 before -- after they harvest in order to tile but.

12 Q. Let me rephrase the question then.  
13 Some -- rather than going over a crop some will clear  
14 a field after harvest and then make repairs that need  
15 to be done after Thanksgiving after harvest.

16 A. That's common.

17 Q. Now, you recently had a drainage issue  
18 with one of the drainage mains on a property you  
19 farm, correct?

20 A. Correct.

21 Q. That issue ended up -- it actually ended  
22 up being a plugged tile on an adjacent landowner's  
23 property, correct?

24 A. Correct.

25 Q. That may have been caused by silt and an

1 animal actually got in the tile and died, correct?

2 A. Right.

3 Q. And you discovered the issue in early  
4 March of this year, and the tile was repaired at the  
5 end of March, correct?

6 A. Correct.

7 Q. The timing of the tile repair can depend  
8 on the circumstances, correct?

9 A. Correct.

10 Q. And that can -- that can include the time  
11 of year, correct?

12 A. Correct.

13 Q. And tile repair can be as short as 3 or 4  
14 feet depending on the situation, correct?

15 A. Correct.

16 Q. And do you schedule drainage repairs  
17 depending upon the greatest risk which creates the  
18 order for the repairs in your farm operation,  
19 correct?

20 A. Correct.

21 Q. If you could turn -- I think up there  
22 next to you should be what was previously marked as  
23 Joint Exhibit 1. That is the Stipulation in this  
24 matter. When you have that, just let me know,  
25 please. Do you have that before you?

1           A.    I do.

2           Q.    Turn to condition 16 of the Stipulation,  
3 please. Tell me when you're there.

4           A.    I'm there.

5           Q.    Okay. You will see a phrase down the  
6 page, unfortunately we don't have line numbers on  
7 this, but you will see a sentence that starts  
8 "Damaged field tile systems shall be promptly  
9 repaired no longer than 30 days after such damage is  
10 discovered, and be returned to at least original  
11 conditions or their modern equivalent at the  
12 Applicant's expense." Do you see that?

13          A.    I do.

14          Q.    Okay. Now, the phrase "promptly  
15 repaired" to you means as soon as the opportunity  
16 exists, correct?

17          A.    It does.

18          Q.    Okay. And you consider a deadline -- an  
19 outside deadline of 30 days to be reasonable,  
20 correct?

21          A.    I do.

22          Q.    Okay. Now, as a general matter, grass  
23 fires can occur on farms, correct?

24          A.    Fires can occur at a lot of places, but  
25 yes.

1           Q.    And serious injuries can occur during  
2 farming operations, correct?

3           A.    Correct.

4           Q.    And that could include injuries from  
5 electrocution depending what's going on at the  
6 farming operations at the time, correct?

7           A.    Correct.

8           Q.    Farming operations involve a lot of  
9 equipment stored in barns and outbuildings, correct?

10          A.    Correct.

11          Q.    Farmers -- you are aware that some  
12 farmers maintain crop insurance, correct?

13          A.    Correct.

14          Q.    Is that a general practice within farming  
15 operations?

16          A.    I would think so.

17          Q.    And you have -- your farming operation  
18 has farm insurance, correct?

19          A.    Yes.

20          Q.    You submitted a claim this year for crop  
21 insurance after you elected to not plant a crop on a  
22 field because of excessive rain, correct?

23          A.    After excessive rain prevented us from  
24 planting a crop, we did.

25          Q.    And that claim was approved.



1 A. It was.

2 Q. Now, is that field near Hueston Woods  
3 State Park?

4 A. Where our preventive planting claim was?

5 Q. Yes.

6 A. Yes.

7 Q. Okay. And there is an existing main  
8 coming off that field that goes into the Hueston  
9 Woods State Park, correct?

10 A. Correct.

11 Q. And you believe that main, which is an  
12 existing perforated poly tile main, is plugged with  
13 roots in the adjoining Hueston Woods State Park,  
14 correct?

15 A. Correct.

16 Q. And you intend to install a new main that  
17 would go pretty deep into the state park, correct?

18 A. Our hope is that the landowner and the  
19 state park come to some sort of agreement on what's  
20 going to take place related to that main.

21 Q. Okay. And if that main is installed,  
22 that would result in additional water flow into the  
23 state park watershed, correct?

24 A. You mean it would accept the water that's  
25 passing through the neighboring property as required

1 by law?

2 Q. I am saying it would increase the water  
3 flow -- let me strike that. Let me ask this --

4 A. You mean it will take it back to the  
5 water flow it was originally when there was a main in  
6 place that was working.

7 Q. Let me ask it this way, currently when  
8 the new main is installed, you will see an increase  
9 in water being discharged into the state park area,  
10 correct? Because currently water is not flowing  
11 there because the main is plugged, correct?

12 A. So it will take it back to its original  
13 water flow, yes.

14 Q. Now, let's turn to your CCP Exhibit 3,  
15 your supplemental testimony, page 4, please. Are you  
16 there?

17 A. Page 4 of supplemental.

18 Q. Supplemental testimony.

19 A. Okay.

20 ALJ SCHABO: Lines 7 to 9.

21 A. Okay.

22 Q. There you state at line 7 "Seventh, the  
23 Stipulation fails to account for the reality that  
24 some of the tiles in the Project Area may have  
25 reached or are close to reaching their life

1     expectancy and need to be replaced completely." Do  
2     you see that?

3             A.     I do.

4             Q.     All right. Now, when you use the word  
5     "some" in the phrase "some of the tiles," you don't  
6     know what some represents in terms of a measurement,  
7     correct?

8             A.     Correct. We know the tile exists because  
9     the land was tiled in order to drain it so that  
10    people could farm it and then that brings us back to  
11    the age of the tile that's in there and what needs to  
12    happen with that tile.

13            Q.     Okay. You don't know the extent of how  
14    much clay tile and new tile is installed in the  
15    project areas as of today, correct?

16            A.     Correct. That's the point.

17            Q.     Okay. But you are aware of some fields  
18    in the project area that have systematically tiled  
19    recently, correct?

20            A.     Correct.

21            Q.     Okay. And you would expect that a field  
22    that has been systematically tiled to have good  
23    records on the installed tile location, correct?

24            A.     I would agree with that.

25            Q.     Now, you are also aware there are

1 existing drainage issues in some of the fields, at  
2 least one field in the project area, correct?

3 A. Correct.

4 Q. And, in fact, on the Chapin Farm there is  
5 a big hole and a ditch that was historically a county  
6 ditch, correct?

7 A. Correct.

8 Q. So you would agree -- so if drainage is  
9 improved within the project area, that would benefit  
10 the community, correct?

11 A. I would agree with that statement with  
12 best management practices used. I am concerned with  
13 the language that is inside the whole paperwork that  
14 is in the website about the swales and the movement  
15 of surface water during construction and prior to  
16 grass being seeded and which way those -- water is  
17 going to be directed and what that plan looks like  
18 because surface water is going to be more damaging to  
19 the crop that's adjacent on a quicker flooding basis  
20 and so what way exactly is that water going to be  
21 directed.

22 MR. SETTINERI: Your Honor, I just move  
23 to strike everything about "I am concerned." She  
24 answered the question and went into an area that was  
25 not related to the question at all.

1 MR. VAN KLEY: Your Honor, I disagree.

2 MR. SETTINERI: It was about drainage,  
3 not surface water runoff.

4 MR. VAN KLEY: I disagree completely.  
5 She needed to qualify her answer to make sure it was  
6 accurate in response to his question.

7 ALJ SCHABO: Can you read the question  
8 back, please.

9 (Record read.)

10 ALJ SCHABO: I will grant your motion.  
11 It's something you can pull out on redirect, Mr. Van  
12 Kley.

13 MR. SETTINERI: And could I have the  
14 answer read up until the testimony was stricken.

15 (Record read.)

16 Q. (By Mr. Settineri) Ms. Vonderhaar, I  
17 would like to direct you to the deposition transcript  
18 that I handed you previously. It's been previously  
19 handed out. As you noted before, you recall being  
20 deposed last Friday, so you are going to be looking  
21 at the deposition transcript for August 9, 2019.

22 A. Okay.

23 Q. And if you have it in front of you, turn  
24 to page 79. Are you there?

25 A. Almost. Okay.

1           Q.   Turning your attention this -- question  
2 starting at line 14, answer ending at line 17  
3 "Question:  There's -- you would agree with me,  
4 wouldn't you, that if drainage is improved within the  
5 project area, that would benefit the community?

6                     "Answer:  It would."

7                     Did I read that correctly?

8           A.   But there's no plan put forward that  
9 tells me that it improved the drainage of the  
10 community.  That is what the concern is.

11                    MR. SETTINERI:  Your Honor, I just move  
12 to strike the answer as nonresponsive.  I simply  
13 asked if I read the question correctly.

14                    MR. VAN KLEY:  No.  I guess, your Honor,  
15 I would object to even citing this testimony.  It  
16 has -- it's a different topic.

17                    ALJ SCHABO:  Can you redirect me to where  
18 we are?

19                    MR. SETTINERI:  Yeah.  Page 79 of the  
20 deposition transcript, lines 14 to 17; and, your  
21 Honor, that is the deposition dated August 9, 2019.

22                    ALJ SCHABO:  Okay.

23                    MR. SETTINERI:  And it's page 79,  
24 question 14, answer ending at line 17.  The answer  
25 "It would."

1 ALJ SCHABO: Okay. Mr. Van Kley, you  
2 disagreed?

3 MR. VAN KLEY: Yeah. It's not the same  
4 question as the question he is trying to impeach the  
5 answer for. The question that he asked was  
6 whether -- whether improving -- or whether fixing a  
7 drainage tile that's currently broken on the project  
8 area would improve drainage in the area. And the  
9 question and answer that he's reading on page 79 of  
10 the transcript simply asks whether as a general  
11 matter if drainage is improved in a project area,  
12 that would benefit the community. They are not the  
13 same.

14 MR. SETTINERI: I can represent, Mr. Van  
15 Kley, that I believe I did basically ask essentially  
16 the same question from the same deposition.

17 MR. VAN KLEY: I'm sorry. I didn't hear.

18 MR. SETTINERI: I believe I can represent  
19 to you I asked the same question from the deposition.  
20 All I am asking is if I read that correctly.

21 MR. VAN KLEY: Again, your Honor, it's  
22 improper impeachment. It's a different top --  
23 different answer, different question.

24 ALJ SCHABO: It was the same question.  
25 Your motion to strike is granted.

1 Do your best to stick to answering the  
2 question asked. Your attorney can take care of the  
3 rest.

4 Q. (By Mr. Settineri) So, Ms. Vonderhaar, I  
5 am going to repeat the question I asked you, again at  
6 page 79 of the deposition transcript, where you were  
7 under sworn oath, line 14, "Question: There's -- you  
8 would agree with me, wouldn't you, that if drainage  
9 is improved within the project area, that it would  
10 benefit the community," and your answer at the  
11 deposition in line 17 was "It would," correct?

12 A. Yes.

13 Q. And if there was -- for example, if the  
14 hole in the Chapin farm was fixed and that main  
15 repaired, that would benefit the community as well,  
16 wouldn't it?

17 A. Yes.

18 Q. Your expectation here in this case is  
19 that the Ohio Power Siting Board should not rule on  
20 the application in this case until it has the final  
21 engineering drawings for the project and that all  
22 plans have been submitted for review by the Board,  
23 correct?

24 A. And the opportunity for public comment,  
25 then yes.



1 Q. Now, as a general matter, you oppose the  
2 project as presented, correct?

3 A. Correct.

4 Q. And you also -- you oppose putting solar  
5 panels on agricultural land, correct?

6 A. On -- large scale arrays, yes.

7 Q. But you would not oppose the project area  
8 in this case for being used for a large residential  
9 development, correct?

10 A. That's not an option in our community.  
11 Our land use management plan wouldn't allow it.

12 Q. I am going to go back to my question, you  
13 would not oppose the project area being used for a  
14 large residential development, correct?

15 A. I believe I said that in my deposition at  
16 one point. I'm from Butler County, and I would not  
17 have that issue.

18 Q. You have not conducted any economic  
19 studies on the impact of the project on the  
20 community, correct?

21 A. Correct.

22 Q. Now, one of your concerns about this  
23 project is if the project is built, that agricultural  
24 land in the project area would not be available for  
25 sale to young farmers, new farmers, or any existing

1 farmers in the area, correct?

2 A. Not just the area. The state of Ohio at  
3 a time where there's a House Bill that was moving  
4 through for the purpose of encouraging agricultural  
5 land to transfer within agriculture and people  
6 retiring out to then offer a benefit if they sell to  
7 a young and beginning farmer, it just seems like a  
8 counterview for the state of Ohio to be encouraging  
9 or pushing one side of it and then taking land out on  
10 the other side of it.

11 Q. Going back to my question though, again,  
12 one of your concerns about this project is that if  
13 it's built, that agricultural land in the project  
14 would not be available for sale to young farmers, new  
15 farmers, or any existing farmers in the area,  
16 correct?

17 A. Correct. Once that land is removed it  
18 doesn't come back.

19 Q. And you are an existing farmer in that  
20 area, correct?

21 A. I am.

22 Q. And the land in the project area is  
23 adjacent to the land your farming business owns and  
24 land that your farming business rents, correct?

25 A. Correct.

1 Q. Now, you don't consult with your adjacent  
2 landowners for every tile repair you make, correct?

3 A. For those that impact them, we do.

4 Q. Well, so my answer -- let me ask the  
5 question again. You don't consult with your adjacent  
6 landowners for every tile repair you do is your  
7 answer --

8 A. Correct.

9 Q. -- correct? And whether you consult with  
10 adjacent landowners depends on the type of repair,  
11 correct?

12 A. Correct.

13 MR. SETTINERI: Your Honor, if I may take  
14 a quick 5-minute break, water break as well, that  
15 would be great.

16 ALJ SCHABO: Yeah. Let's go off the  
17 record for approximately 5 minutes.

18 (Recess taken.)

19 ALJ SCHABO: Let's go back on the record.  
20 Mr. Settineri.

21 MR. SETTINERI: Thank you, your Honor.

22 Q. (By Mr. Settineri) Ms. Vonderhaar, we've  
23 previously -- you testified previously here today  
24 that I believe you have some concerns about  
25 operational noise, correct?

1           A.    Correct.

2           Q.    Now, you reside -- you reside well over 2  
3 miles from the project area, correct?

4           A.    Correct.

5           Q.    So specifically as to your house, would  
6 you have any concerns to operational noise on the  
7 project?

8           A.    I do, just how sound travels and the  
9 conversation -- well, listening to Mr. Hessler speak  
10 has created some concern for me but not just where I  
11 live but then also my son and then the homesite that  
12 we have located on the property that's adjacent. So  
13 according to the land use management plan, for our  
14 county generally it's 40 acres or more without  
15 special zoning permission to build a home, so it's  
16 pretty special to have that additional homesite that  
17 we do on our property that's adjacent to the project  
18 area.

19          Q.    That's where your son currently resides,  
20 correct?

21          A.    Our son resides but we also have an  
22 additional homesite.

23          Q.    And the homesite has no home currently on  
24 it, correct?

25          A.    Correctly -- correct.

1           Q.    I have to ask what specific concern do  
2 you have with operational noise?

3           A.    So after Mr. Hessler spoke and he talked  
4 about the sound emitted from a single inverter and  
5 then 40 inverters would be inside the project area  
6 along with the string inverters and then what sound  
7 level that that's going to take our background sound  
8 to in the community, I have some concerns related to  
9 it.

10                   And then as he presented that, when he  
11 did his study, he located his mic over next to  
12 Mr. Giffin's house which is across from the  
13 substation that had been updated and so that's  
14 already creating a -- what I would say is a raising  
15 the value of the background sound that wasn't really  
16 present for the rest of the community to begin with  
17 with that microphone being located closer to the  
18 substation. So with that I am curious now what is  
19 considered the new acceptable sound by Open Road  
20 standard to the community going forward.

21           Q.    Are you also curious as to what would be  
22 the acceptable sound level generally in a community?

23           A.    Well, with that forest our community is  
24 relatively quiet and so to have to place the mic  
25 there specifically and that direction to get that

1 sound impact is more of the concern we have as a  
2 community because it's not really representational of  
3 the whole area if you have to stick the mics closer  
4 to the substation to get the background sound level  
5 going forward.

6 Q. Is it your expectation that the  
7 background level in the community, whether it's an  
8 LEQ level or L90 level should remain as is?

9 A. It's part of why we've chosen to live  
10 where we do. I just happen to have a daughter who is  
11 more sensitive to background noise than others, and  
12 so it sticks out for us related to what background  
13 sound is. And -- and my understanding working with a  
14 speech pathologist over the years related to her, so  
15 background sound is something I am more aware of than  
16 most just because of going through that situation.

17 MR. SETTINERI: Thank you, Ms.

18 Vonderhaar.

19 No further questions, your Honor.

20 ALJ SCHABO: Thank you, Mr. Settineri.

21 Mr. Van Kley?

22 MR. VAN KLEY: Were there any other  
23 people who wanted to cross?

24 MS. WEST: No, your Honor.

25 ALJ SCHABO: I'm sorry.

1 MS. BAIR: No, your Honor.

2 ALJ SCHABO: I am forgetting everybody  
3 again.

4 Mr. Van Kley.

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

6 - - -

7 REDIRECT EXAMINATION

8 By Mr. Van Kley:

9 Q. Ms. Vonderhaar, let's just take our  
10 redirect questions in basically the same order as we  
11 heard the cross-examination questions. So I am going  
12 to start off with a question or two concerning  
13 emergency services in the area. The first question  
14 is with regard to your statement that you are now  
15 aware that two deputies will be hired. What was the  
16 basis of that understanding?

17 A. Do you mean the -- it's been put forward  
18 by Assistant Prosecutor Katie West today that two  
19 will be hired in the future. As far as what that  
20 start date is, I do not know the start date.

21 Q. Okay. So other than the statement of one  
22 of the attorneys in this -- this proceeding, do you  
23 have any independent information that additional  
24 deputies will be hired?

25 A. It's been the ongoing battle of our

1 commissioners for the summer, so I appreciate to have  
2 learned that here today that two will be hired and  
3 look forward to that for our community.

4 Q. Well, the question was do you have any  
5 independent knowledge other than the statements made  
6 by an attorney today that two deputies will actually  
7 be hired?

8 A. I do not.

9 Q. Okay. You were asked about the  
10 organization of the Concerned Citizens of Preble  
11 County and the membership of the county so let me ask  
12 you a few questions about that topic. With regard to  
13 your expressions of your -- with regard to your  
14 testimony about the concerns of the Concerned  
15 Citizens of Preble County and Robert Black, Marja  
16 Brandly, Campbell Brandly Farms, Michael Irwin, Kevin  
17 and Tina Jackson, Vonderhaar Family ARC, and  
18 Vonderhaar Farms, what's the source of your  
19 information concerning what their concerns are?

20 A. So we held a series of meetings  
21 through -- as soon as we could form with the short  
22 notice that we had to put the citizens group together  
23 I guess should be where we start where we were  
24 playing catch up to begin with. And so with that  
25 locating an attorney to work with and then getting



1 our group set up legally so that we could move  
2 forward, we then held a series of meetings where we  
3 narrowed down what our concerns are.

4 At that point we had already hired Jack,  
5 and Jack gave us homework to think about and figure  
6 out what our priorities are. And so as a group, we  
7 spent several meetings having that discussion about  
8 what are our priorities, what are we concerned about.  
9 And reigning in that number of people over those  
10 meetings to come up with that list was a little bit  
11 of work, but I appreciate the input and -- and really  
12 good group of people to work with, and I have to say  
13 it's been the one blessing that's come out of this  
14 situation is the group that has come together.

15 Q. You were asked some questions about  
16 locations of the homes of the Concerned Citizens who  
17 are named as intervenors in this proceeding so let me  
18 ask you a question or two about that topic. With  
19 regard to your son's home --

20 A. Yes.

21 Q. -- where is that located? And if you  
22 want to, you can -- you can point to its location on  
23 Exhibit A of CCPC Exhibit 2.

24 A. So he is right here.

25 Q. All right. You are going to have to

1 identify the location.

2 A. So on Fairhaven College Corner Road and  
3 he is directly across the road from the solar array  
4 which would be the property of Bormins, Givens, and  
5 Jacksons that's in the solar array.

6 Q. Is the location of the home he is located  
7 in marked on Exhibit A?

8 A. Yes.

9 Q. And okay. And how is it?

10 A. As Adam Vonderhaar.

11 Q. With an arrow to the location where the  
12 home is?

13 A. Yes.

14 Q. All right. And you are familiar with  
15 that home?

16 A. Yes, I am.

17 Q. How are you familiar with that home?

18 A. So it's a 200 year old house that is  
19 located on a setback driveway there, and when you  
20 look at the project area, it is the furthest house  
21 that sets back from the adjacent homes just to give  
22 you an idea of distance. With that the home, like I  
23 said, is 200 years old, 200 plus, and the second  
24 President Harrison actually stayed there while he  
25 courted his wife Caroline Scott, the daughter of the

1 president of Miami University at that time.

2           And so with that you go next to Shara  
3 Ridenour's house. And so just to give you a history  
4 of that property, Shara's house is the next one to  
5 the north, and it is the original home that the  
6 school teacher lived in for the Swamp College  
7 Schoolhouse that still stands on our property just on  
8 the north side of Shara's house. They are right next  
9 to each other. So then you go further north --

10           Q. Okay. Before you go there, going back to  
11 the questions that I was asking you about, the home  
12 that Adam is living in --

13           A. Yes.

14           Q. -- what's your relationship with regard  
15 to the ownership of that house?

16           A. I own the house.

17           Q. Okay. And have you also been inside the  
18 house?

19           A. Yes.

20           Q. Okay. Have you been to -- how many  
21 floors are in that house?

22           A. It's a two story farmhouse.

23           Q. Okay. Have you been to the second floor  
24 of that house?

25           A. Yes.

1           Q.    Okay.  Have you looked out from the  
2           second floor of that house to the project -- the area  
3           where the project area is?

4                   MR. SETTINERI:  Your Honor, at this time  
5           I would just object.  This is way outside the scope  
6           of my cross.  I asked about the setback distance to  
7           the house.  I did not get into a description of the  
8           view she had or anything else from the house.  I have  
9           been patient, but at this point we are outside the  
10          scope of my cross.

11                   MR. VAN KLEY:  Well, not really.  
12          Obviously he is asking about the setback in order to  
13          argue later or try to argue later that you can't see  
14          the project area from -- from this house and the  
15          other houses owned by the Concerned Citizens in the  
16          area, so it's directly related to the question that  
17          he asked.

18                   MR. SETTINERI:  At least I have a brief  
19          writer for me now.

20                   ALJ SCHABO:  A little bit of latitude and  
21          with the line of questioning as long as we reign it  
22          in.

23                   So you may answer the question.

24           A.    So from the family room of the house has  
25          the full view of the driveway which then goes

1 straight over to direct view of the solar array and  
2 that's on the first floor. On the second floor, the  
3 west bedroom has a full view of the solar array. So  
4 currently from the second bedroom you can see all the  
5 way over to the substation in Indiana across the  
6 line.

7 Q. Okay. Moving on to a different topic  
8 then, let's talk a little bit about noise issues.  
9 You were asked some questions about equipment that  
10 you use in your farming operations. So let's start  
11 with the grain dryer. You were asked about whether  
12 you have a grain dryer on the property that -- the  
13 land that you farm. How would you compare the  
14 potential noise impacts from the grain dryer as you  
15 operate it to the potential noise from the  
16 construction or operation of the solar project?

17 MR. SETTINERI: Object. There is no  
18 foundation made that she is aware of the level of  
19 noise from the construction of the solar project  
20 versus the level of the grain dryer.

21 ALJ SCHABO: Can you rephrase your  
22 question, Mr. Van Kley?

23 MR. VAN KLEY: Yeah, sure.

24 Q. Let's just break this down a little bit.  
25 What's the duration of the period in which you

1 operate the grain dryer?

2 A. Maybe October, November, if that.

3 Q. Okay. And does it operate continuously  
4 during those months or so?

5 A. Depends on the season.

6 Q. Okay. And what's the -- what's the --  
7 how far away can you hear the grain dryer when it's  
8 operating?

9 A. As far as you can't hear it off of our  
10 property, if that's what you are asking.

11 Q. All right. Does the operation of the  
12 grain dryer involve any pounding noises?

13 A. No.

14 Q. What about the operation of your farm  
15 equipment for harvesting or planting? Does that --  
16 does that involve any pounding noises?

17 A. No. As far as you are talking about the  
18 tractors and the combine specifically?

19 Q. Yes.

20 A. Okay. Then no.

21 Q. Okay. With regard to pounding in  
22 fenceposts, what kind of fenceposts -- what's the  
23 makeup of those fenceposts that you ordinarily  
24 install?

25 A. So we have used a pounder for wood posts

1 before as far as a Danuser attachment to a skid  
2 loader. But we -- that's been several years ago.  
3 Mostly we are using just a metal -- they call it a  
4 pounder, but it's basically cylinder with two handles  
5 on it, and then you're hand pounding metal posts into  
6 the ground with it.

7 Q. Okay. So how often does your farming  
8 operation pound metal posts into the ground?

9 A. Not very often. Once you've built your  
10 fence, you're not generally building it again.

11 Q. So within -- within let's say the last  
12 five years, on how many instances have you pounded  
13 metal posts into the ground for fences?

14 A. Probably three.

15 Q. Okay. And what was the duration of the  
16 time that you pounded those fenceposts into the  
17 ground?

18 A. A day, a temporary fence.

19 Q. Temporary --

20 A. A day each time, it was just temporary  
21 fence.

22 Q. Okay. And with regard to wooden -- to  
23 the other fences, were those made out of wood, the  
24 fenceposts?

25 A. Yes.

1           Q.    And how many instances over the last five  
2 years have you installed wooden posts?

3           A.    Zero.

4           Q.    Zero?

5           A.    Zero.

6           Q.    Okay.  Now, how does the sound level of  
7 your farm equipment such as grain dryers and plows  
8 and planters and other equipment compare to the sound  
9 level of the train in Camden as heard from your land?

10           MR. SETTINERI:  I would just object to  
11 the phrase -- use of the term sound level.  It hasn't  
12 been established she knows what the sound level is of  
13 the grain dryer or the train.  It's a measurement.

14           MR. VAN KLEY:  I am just asking her  
15 observations with how loud it was whether one was  
16 louder than the other.

17           ALJ SCHABO:  You can answer.

18           A.    I would say generally -- well, usually  
19 when we can hear the train, it's usually more towards  
20 summer when there's -- or spring when there is no  
21 crop or after there's crop.  So, yeah, I don't -- I  
22 don't know that -- I guess maybe the grain dryer is  
23 louder.

24           Q.    All right.  Let me ask you about  
25 intersections.  You were asked a question about corn



1 being grown at intersections. Let me ask you this,  
2 have there been any problems that you personally  
3 noticed resulting from corn near intersections?

4 A. Have there been accidents related to corn  
5 at intersections is the question?

6 Q. Well, not exactly. Let me rephrase the  
7 question. Has -- have there been any instances in  
8 which corn grown near intersections have caused you  
9 difficulty in seeing traffic coming from another  
10 direction?

11 A. So -- well, by the project array there is  
12 really just two points that there doesn't even have  
13 to be corn. It's just hard to see. And so that has  
14 to do with the intersection of Toney Lybrook and 177.  
15 And if you are coming from the west and you are  
16 headed east, it is just hard to see crop or no crop  
17 when you're making either the turn or the straight  
18 ahead.

19 And then when you are at Fairhaven  
20 College Corner Road and State Route 725, if you are  
21 headed south on Fairhaven College Corner Road towards  
22 College Corner, and you are either going to go across  
23 the road or turn out to go east, it is hard to see to  
24 the right crop or no crop. It's just difficult  
25 intersections.

1 Q. All right. You were asked a question  
2 about whether solar panels are installed on schools.  
3 Based on your personal observations what have been  
4 the relative number of panels that you've seen  
5 installed on schools compared to the number of panels  
6 that are planned for the Angelina project?

7 A. So I have personally not seen solar  
8 panels on schools, so I can't really say one way or  
9 the other. I was -- that was a statement made by  
10 Mr. Settineri. And so with that I personally have  
11 not seen solar panels on schools, but I have not been  
12 on their rooftops either so.

13 Q. Okay. Let's talk about tiles for  
14 draining fields. You personally have experience with  
15 drain tile repair/replacement?

16 A. Yes.

17 Q. Okay. And what's the -- what experience  
18 do you personally have?

19 A. I drive the tractor that pulls the tile  
20 plow and install the tile.

21 Q. Okay. And do -- whose equipment do you  
22 use for that purpose?

23 A. Our equipment.

24 Q. Okay. And how large is that equipment?

25 A. So it's a John Deere 8530 pulling the

1 Gold Digger tile plow behind it. It is quite  
2 sizable. Sometimes if it's a wetter area, we will  
3 attach a 9410 John Deere in front of it with  
4 four-wheel drive for additional pulling power to go  
5 through an area.

6 Q. Okay. And what are the widths of each of  
7 those pieces of equipment?

8 A. I would have to go back and look at my  
9 testimony off the top of my head, but they are quite  
10 sizable, and it allows us to efficiently install tile  
11 even through the toughest of areas.

12 Q. Now, how does the size of your equipment  
13 compare to the equipment that Mr. Settineri referred  
14 to as the mini excavator?

15 A. So you could put tile in with a mini  
16 excavator, and even a shovel was done historically  
17 40, 50 years ago. As technology has improved,  
18 thankfully we have a much quicker and more precise  
19 way of doing that. And so when we are installing, we  
20 are using RTK real-time connection off of the Corp.'s  
21 network which is a combination of cell signal and  
22 radio technology to then not only read our GPS  
23 location but the topography that goes with it to make  
24 sure that we're installing precisely where we want to  
25 be which is then off of the map that we design

1 through our ag leader software which I have designed  
2 the maps myself before to make sure we are putting in  
3 good runs.

4 So with that that is part of my concern  
5 related to the project area is the lack of water  
6 management plan to be put forth. So in agriculture  
7 water is a huge concern for us, and with that seeing  
8 the plan ahead of time would definitely alleviate  
9 heartburn as we have the discussions related to water  
10 management and the use of swales for guiding water as  
11 part of that conversation.

12 Q. Okay. So with regard to the relative  
13 sizes of the -- of the equipment that you use versus  
14 the mini excavator, how would you describe the  
15 relative size?

16 A. So essentially my husband digs the  
17 back -- with a backhoe a start hole that I drop the  
18 plow into. So the backhoe alone that opens the  
19 ground where the tile plow starts is probably four  
20 times the size of the mini excavator, and with that  
21 then I drop the boot down into the hole. It opens  
22 and closes the ground as we go. And I can install a  
23 full run of tile, a full a thousand feet at a time.  
24 It takes me minutes.

25 Q. Okay. Do you have any concerns about

1 the -- the speed with which hand digging or a mini  
2 excavator could be used to repair tile lines?

3 A. So with that I do have some concerns,  
4 especially when we are talking about situations where  
5 we might need a problem fixed quickly but the way --  
6 I don't know what you do with an obstacle course like  
7 the solar array compared with tile and how that's  
8 going to impact the farmers around it and that is  
9 part of the concern about wanting to see a tile plan  
10 and how that will be managed going forward.

11 Q. You were asked about the repair of a tile  
12 on your farm in March. Was that March of this year?

13 A. Yes.

14 Q. Okay. Was there a crop on the -- on the  
15 field at that time where --

16 A. No.

17 Q. -- the tile was repaired?

18 A. No.

19 Q. Now, have you had experience with  
20 farmland flooding due to tile issues?

21 A. Yes.

22 Q. Okay. Can you tell me what happens to a  
23 crop if a tile is not functioning correctly and  
24 it's -- it's not -- it's not fixed?

25 A. So a crop generally does not withstand

1 sitting in water 24 to 48 hours. It suffocates it,  
2 or if it is still a seed, it's going to completely  
3 rot it. It's not going to grow at all. You do have  
4 viable plants, suffocation of the roots or  
5 suffocation of the plant all together is a concern.

6 Q. Okay. Now, when you state that you  
7 believe that -- and I would quote Mr. Settineri,  
8 "outside deadline" of 30 days to be reasonable, what  
9 did you mean by that statement?

10 A. So we're pretty reasonable neighbors in  
11 our community. As far as when it comes to water and  
12 tile issues and working those conversations out  
13 between neighbors and understanding what a threat or  
14 an impact situation is and how quickly something  
15 needs to be fixed and the benefit of -- of living  
16 next door to each other gives us the chance to have  
17 those conversations. When we are talking about  
18 dealing with an entity that is not going to own or  
19 operate the project, the certificate is the  
20 accountability that we have to look to for addressing  
21 the situation related to water concerns. It creates  
22 more of an issue for us in the community about how we  
23 get those problems solved when we don't know who  
24 those people will be that we need to contact in the  
25 future.

1           Q.    Okay.  So with regard to your agreement  
2 with Mr. Settineri that an outside deadline of 30  
3 days is reasonable, what did you mean by that?

4           A.    It depends on the issue.  So there are  
5 some issues where you can look at it and say, yeah,  
6 we are having a weather -- weather issues, and we  
7 understand it might take a little longer to get  
8 something fixed.  And but if the relationship is not  
9 in place to have those conversations to talk about  
10 what the issue is to begin with and how quickly it  
11 needs to be fixed or what the impact is to it, then  
12 it just creates more issues going forward.

13                So, one, identifying what the problem is,  
14 who is going to identify what that problem is, and  
15 then who is going to have the discussion about when  
16 it's getting fixed and how it's getting fixed and  
17 what the impact is when we are talking about all  
18 possibilities because we don't know who is going to  
19 own or operate it, who is going to be responsible for  
20 the issues, and who we contact to have those  
21 conversations, and who is the one that's out there  
22 monitoring what those problems are as they become --  
23 come to light.

24           Q.    Was your agreement with that statement  
25 meant to imply that it is always okay to take as much

1 as 30 days to fix a tile?

2 A. My agreement to the statement was we are  
3 reasonable people, and if it's something that doesn't  
4 need to be fixed immediately, up to 30 days is not  
5 something we will loss sleep over if it's not  
6 directly impacting the crop that's present at that  
7 point.

8 Q. Okay. You were asked some questions  
9 about crop insurance. First of all, what expenses,  
10 if any, are covered by crop insurance?

11 A. Crop insurance barely covers your inputs  
12 to carry you on to the next year.

13 Q. What do you mean by your inputs?

14 A. So your seed, your fertilizer, any type  
15 of tools you've used to prepare the ground for  
16 farming.

17 Q. Now, does crop insurance cover flooding  
18 damage from broken tiles?

19 A. No.

20 Q. You were asked about a tile that's broken  
21 on the Chapin farm. Do you have any concerns about  
22 that broken -- about that tile if Angelina fixes the  
23 tile?

24 A. It would be nice to have it fixed but  
25 there's no plan that says that it's going to get



1 fixed or how it's going to get fixed. And so, I  
2 mean, depends on what the definition of fixed is. I  
3 guess would be -- it would be nice for it to be fixed  
4 to the standard of what the community thinks it  
5 should be in good practices.

6 MR. VAN KLEY: I have no further  
7 questions.

8 ALJ SCHABO: Mr. Settineri, do you have  
9 recross?

10 MR. SETTINERI: Yes, thank you, your  
11 Honor.

12 - - -

13 RE-CROSS-EXAMINATION

14 By Mr. Settineri:

15 Q. Ms. Vonderhaar, how do you know that  
16 flood insurance doesn't cover flooding from damaged  
17 tiles in the field?

18 A. Because the crop insurance -- flooding  
19 insurance or crop insurance?

20 Q. Crop insurance does not cover flooding  
21 caused by damaged field tile?

22 A. So crop insurance covers our risk related  
23 to weather events.

24 Q. Are you aware of whether you can have  
25 different levels of coverage under crop insurance?

1 A. Yes.

2 Q. If you could turn in the application to  
3 Figure 11. You were asked some questions about your  
4 son's house. Let's take a look at Figure 11 of the  
5 application. It's an 11 by 17 sheet, please.

6 A. And which?

7 Q. Sorry. It's going to be sheet 1 of 2.

8 A. Here at the beginning?

9 Q. Yes, towards the front of the book. Just  
10 let me know when you are there.

11 ALJ SCHABO: Mr. Settineri, is there any  
12 way you can approach the witness?

13 MR. SETTINERI: I would be glad to, your  
14 Honor.

15 A. It says 1 of 2.

16 ALJ SCHABO: Confirm she is where you  
17 would like her to be.

18 Q. Figure 11.

19 A. Did you say Figure 11?

20 Q. Yeah. Yeah. I am looking at Figure 11.

21 A. This one?

22 Q. Sheet 2. Sheet 2. Do you have that?

23 Sheet 2 of 2, Figure 11 in front of you,

24 Ms. Vonderhaar?

25 A. Yes.

1 Q. Now, you mentioned that your son lives in  
2 a house near the project area and there was some  
3 questions about that and you discussed how that --  
4 being set back from the road, et cetera. If I look  
5 at sheet 2 of 2, is that house located on that sheet?

6 A. Yes.

7 Q. Okay. And am I -- it's going to be hard  
8 to identify it, but I guess I will just ask you the  
9 question generally, am I correct that that house that  
10 your son lives in has active agricultural land  
11 between the house and the road?

12 A. On the sides of the driveway.

13 Q. Correct. And then across -- the driveway  
14 goes to the road, and across the road would be the  
15 project area, correct?

16 A. Correct.

17 Q. Okay. You can put that to the side.  
18 Regarding -- there was some questions about the tile  
19 plow.

20 A. Okay.

21 Q. Now, am I correct that you use your tile  
22 plow with the tractor to install long runs of tile?

23 A. Yes.

24 Q. Okay. And if you were going to make a  
25 small repair of 3 to 4 feet, what equipment would you

1 use?

2 A. We would use a backhoe.

3 Q. And that would be -- could you use a mini  
4 excavator?

5 A. You could.

6 Q. Your backhoe, is it a mini excavator?

7 A. No.

8 Q. Okay. It's a full size backhoe?

9 A. Yes.

10 Q. Okay. Have you generally ever used a  
11 shovel to dig up and repair tile?

12 A. As we get close to the tile, yes, but not  
13 from the tile.

14 Q. Ms. Vonderhaar, you also expressed some  
15 concerns -- there was some questions about not having  
16 a contact for the company regarding drainage repairs,  
17 things of that nature, issues, correct?

18 A. Correct.

19 Q. If you could turn to page 33 of the  
20 application for me. You reviewed the application in  
21 this case, correct?

22 A. I have.

23 Q. Okay. Would you have then reviewed also  
24 the last -- starting with the last paragraph of 33  
25 carrying over to the section right above insurance on

1 page 34 of the application which is Company  
2 Exhibit 1?

3 A. Sorry. What was your question?

4 Q. Sure. So you reviewed the application;  
5 we established that, correct, previously?

6 A. Yes.

7 Q. So looking at -- I will turn your  
8 attention to page 34, the paragraph right above the  
9 heading "Insurance."

10 A. Okay.

11 Q. All right. Do you see that?

12 A. Uh-huh.

13 Q. Do you see the sentence that notes  
14 "Applicant will also require that information be  
15 posted to provide the public with contact information  
16 to submit complaints, concerns, or comments regarding  
17 operation and that a prompt response be made to any  
18 for which a response either is requested or clearly  
19 implied." Do you see that sentence?

20 A. I do.

21 Q. Now, is that address -- would that give  
22 you a point of contact for any drainage issues that  
23 arise if that was --

24 A. No.

25 Q. -- followed through on?



1 raising or the genetics of the corn. So you could  
2 have a real range depending upon anywhere from a  
3 sweet corn-type product which would be shorter and be  
4 probably more of like 6 feet tall while all the way  
5 up to probably a good 7 foot.

6 Q. If you -- if you're on the second floor  
7 of your son's house, can you see over the top of the  
8 corn?

9 A. Oh, yeah. You can see all the way to  
10 Indiana --

11 Q. Okay.

12 A. -- at this point.

13 MR. VAN KLEY: No further questions.

14 MR. SETTINERI: No questions.

15 ALJ SCHABO: Thank you, Ms. Vonderhaar.  
16 You may step down. Thank you.

17 THE WITNESS: Do you need those documents  
18 put back in any way?

19 ALJ SCHABO: Just leave them right there.

20 MR. VAN KLEY: We would call Marja  
21 Brandly.

22 ALJ SCHABO: Do you want to address your  
23 exhibits?

24 MR. VAN KLEY: Oh, yes. We would move  
25 for the admission of CCPC Exhibits 2 and 3.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ALJ SCHABO: Any objection?

Hearing none, they will be admitted.

(EXHIBITS ADMITTED INTO EVIDENCE.)

ALJ SCHABO: Mr. Settineri.

MR. SETTINERI: Yes, your Honor.

Angelina Solar would move for the admission of  
Company Exhibit 17.

ALJ SCHABO: Is there any objection?

MR. VAN KLEY: No objection.

ALJ SCHABO: All right. Company  
Exhibit 17 will also be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ SCHABO: And now we will welcome  
Ms. Brandly to the stand.

MR. SETTINERI: Off the record, your  
Honor.

(Discussion off the record.)

(Witness sworn.)

ALJ SCHABO: State your name for the  
record.

THE WITNESS: Marja Brandly.

- - -



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MARJA BRANDLY

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

DIRECT EXAMINATION

By Mr. Van Kley:

Q. Ms. Brandly, would you tell us both of your addresses where you live.

A. My legal address is 2274 Vienna Parkway, Dayton, Ohio 45459. My farm property that pertains to this project is located at 6812 Fairhaven College Corner Road, Camden, Ohio 45311.

MR. VAN KLEY: Your Honor, at this point we would like to mark our next exhibit which will be marked as CCPC Exhibit No. 4 which is the direct testimony of Marja Brandly.

ALJ SCHABO: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Mr. Van Kley) Ms. Brandly, do you have Exhibit 4 in front of you?

A. Yes.

Q. Okay. Can you identify that.

A. It is my direct testimony.

Q. Okay. Do you have any corrections to make to that testimony?

A. Question 1, A1, I previously made the

1 correction College Corner, Ohio, should read Camden,  
2 Ohio 45311.

3 Q. Do you have any other corrections?

4 A. No.

5 Q. Okay. Was this testimony prepared by you  
6 or under your supervision?

7 A. Yes.

8 Q. If you were to be asked the same  
9 questions today, would your answers be the same?

10 A. Yes.

11 MR. VAN KLEY: Okay. At this time, your  
12 Honor, the witness is ready for cross-examination.

13 ALJ SCHABO: So I don't forget later,  
14 does anybody else have cross-examination?

15 MS. WEST: No, your Honor.

16 MS. BAIR: No, your Honor.

17 ALJ SCHABO: All right. Mr. Taylor.

18 MR. TAYLOR: Thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Taylor:

22 Q. Ms. Brandly, you used your 2274 Vienna  
23 Parkway address in Dayton as the mailing address for  
24 your federal tax return, correct?

25 A. That is correct.

1 Q. And you consider your 2274 Vienna Parkway  
2 to be your primary address?

3 A. I consider it to be my legal residence.

4 Q. And, Ms. Brandly, you were -- you gave a  
5 deposition in this case; is that correct?

6 A. Yes.

7 Q. And you were under oath at that  
8 deposition?

9 A. Yes.

10 MR. TAYLOR: Your Honor, may I approach  
11 the witness?

12 ALJ SCHABO: You may.

13 Q. And, Ms. Brandly, could you please turn  
14 to page 61 I just handed you. Excuse me. It's  
15 actually the last line on page 60 so that will be  
16 line 25, page 60. The question is asked there  
17 "Question: What address do you use for your personal  
18 federal tax return?

19 "Answer: 2274 Vienna Parkway, Dayton.

20 "Question: Okay. That's the Dayton  
21 address then?

22 "Answer: Yes.

23 Finally "Question: Do you consider that  
24 your primary residence?

25 "Answer yes."

1           Did I read that correctly?

2           A.    Yes.

3           Q.    Okay.  Ms. Brandly, you can put that  
4   aside for a moment.  And, Ms. Brandly, your other  
5   address which is the 6812 Fairhaven College Corner  
6   Road, that's located over a quarter mile from the  
7   closest area in which the solar panels might be  
8   constructed; is that correct?

9           A.    Excuse me.  Did you say one quarter mile?

10          Q.    I did.

11          A.    It is located approximately -- one  
12   quarter mile would entail going south on Fairhaven  
13   College Corner Road and then west.  I haven't  
14   measured that distance precisely but that's a good  
15   approximation.

16          Q.    So it is over one quarter mile to the  
17   closest area the panel is to be constructed as the  
18   crow flies?

19          A.    As the crow flies.

20          Q.    Thank you.  And, Ms. Brandly, assuming  
21   Angelina Solar were to be constructed on the property  
22   where it's proposed, you would not oppose the project  
23   if the landowners on the project area would allow  
24   Angelina Solar to pour about 2 feet of concrete so  
25   they wouldn't have to dig down and damage aquifers;

1 is that correct?

2 A. It is my opinion that that would not  
3 damage the field tiles that pile driving posts might.  
4 Whether or not that would be environmentally sound or  
5 not is not for me to say.

6 MR. TAYLOR: Okay. Ms. Brandly, no  
7 further questions.

8 Your Honor, no further questions for this  
9 witness.

10 ALJ SCHABO: Mr. Van Kley?

11 MR. VAN KLEY: Yes.

12 - - -

13 REDIRECT EXAMINATION

14 By Mr. Van Kley:

15 Q. Ms. Brandly, do you spend any of your  
16 time at the property located near the project area?

17 A. I spend most of my time at the property  
18 located near the project area.

19 Q. Do you stay there overnight?

20 A. Yes.

21 Q. Can you see the project area from that  
22 house?

23 A. Yes.

24 Q. You were asked about whether putting in  
25 concrete would address your concern about the

1 project, would it address all of your concerns about  
2 the project?

3 A. No.

4 Q. What -- what other concerns do you have  
5 that would not be addressed by putting in concrete?

6 A. Could you -- so that I understand the  
7 last part of your question, could you repeat that  
8 question?

9 Q. Yeah. Sure. What other concerns do you  
10 have which would not be satisfactorily addressed by  
11 putting in concrete?

12 A. The environmental impact of having a  
13 major power facility in the midst of an agricultural  
14 community that relies on groundwater and soil to grow  
15 our food, that would be one concern.

16 The second would be the noise because it  
17 would still be a noisy installation pounding all day  
18 long.

19 The third would be the live -- not  
20 livestock but rather wildlife. This is definitely  
21 going to cause the farmers in the area crop damage  
22 from compacting all of the wildlife in the area  
23 causing them to migrate off of the property where the  
24 project is being installed and onto our farm where  
25 they already consume a great deal of our corn in the

1 summertime.

2 I'm also concerned about the crime that  
3 this project will attract as we have previously  
4 stated and as everyone knows. We only have two  
5 deputy sheriffs to control 400 square miles of a  
6 large rural county. The opioid addicts have already  
7 set fire to and burglarized one of my properties.  
8 They continue to do so. Padlocks and chain link  
9 fence are meaningless to them. So I'm concerned that  
10 with all the copper wiring and all that this project  
11 will be bringing into the neighborhood will create an  
12 attractive nuisance and bring more crime into our  
13 neighborhood.

14 MR. VAN KLEY: All right. Thank you very  
15 much. No further questions, your Honor.

16 ALJ SCHABO: Recross?

17 MR. TAYLOR: We have a couple of  
18 questions, your Honor.

19 - - -

20 RECROSS-EXAMINATION

21 By Mr. Taylor:

22 Q. Ms. Brandly, do you prepare your own  
23 taxes?

24 A. No.

25 Q. Who prepares them for you?

1           A.    Kirsch CPA Group in Oxford, Ohio.

2           Q.    And, Ms. Brandly, do you tell your tax  
3 preparer that you spend the majority of your time at  
4 the Preble County home?

5           A.    Yes.

6           Q.    Okay.  And you use the Dayton mailing  
7 address for your federal tax return.

8           A.    Yes.

9           MR. TAYLOR:  No further questions, your  
10 Honor.

11           ALJ SCHABO:  Thank you.  Ms. Brandly, you  
12 may step down.  Thank you.

13                    Let's go off the record for a moment.

14                    (Discussion off the record.)

15           ALJ SCHABO:  Let's go back on the record.  
16 Mr. Van Kley.

17           MR. VAN KLEY:  I would like to move the  
18 introduction of CCPC Exhibit No. 4.

19           ALJ SCHABO:  Any objection?  Hearing  
20 none, it will be admitted.

21                    (EXHIBIT ADMITTED INTO EVIDENCE.)

22           ALJ SCHABO:  We will now take a break  
23 until 1:30 for lunch.  Thank you very much.

24                    (Thereupon, at 12:34 p.m., a lunch recess  
25 was taken.)



1 Monday Afternoon Session,  
2 August 12, 2019.

3 - - -

4 ALJ SCHABO: Mr. Van Kley.

5 MR. VAN KLEY: Thank you, your Honor. We  
6 would call Walter Mast as our next witness.

7 ALJ SCHABO: Good afternoon.

8 (Witness sworn.)

9 ALJ SCHABO: Thank you very much. Have a  
10 seat and please state your name for the record.

11 THE WITNESS: My name is Walter Mast.

12 ALJ SCHABO: And if you could spell it  
13 for the record too, just your last name, please.

14 THE WITNESS: M-A-S-T.

15 ALJ SCHABO: Thank you.

16 - - -

17 WALTER MAST

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

20 DIRECT EXAMINATION

21 By Mr. Van Kley:

22 Q. And what's your address, Mr. Mast?

23 A. 7919 State Route 177, Camden, Ohio 45311.

24 MR. VAN KLEY: At this time, your Honor,  
25 we would like to mark our next two exhibits. The

1 first of those exhibits will be CCPC Exhibit No. 5  
 2 which is the direct testimony of Walter Mast, and the  
 3 next exhibit will be CCPC Exhibit No. 6 which is the  
 4 supplemental direct testimony of Walter Mast.

5 ALJ SCHABO: Those exhibits will be so  
 6 marked.

7 (EXHIBITS MARKED FOR IDENTIFICATION.)

8 Q. (By Mr. Van Kley) Mr. Mast, do you have  
 9 CCPC Exhibit No. 5 in front of you?

10 A. Yes, I do.

11 Q. Would you identify that.

12 A. Yes. It's my direct testimony.

13 Q. And do you have CCPC -- Exhibit No. 6 in  
 14 front of you?

15 A. Yes, I do.

16 Q. And what is that?

17 A. Supplemental direct testimony.

18 Q. Is it yours?

19 A. Yes.

20 Q. All right. Do you have any changes to  
 21 either one of these documents?

22 A. On the direct testimony on page 12, line  
 23 6.

24 Q. Okay. This is on CCPC Exhibit 5?

25 A. Exhibit 5, page 12.

1 Q. What page number?

2 A. Page 12.

3 Q. Okay.

4 A. Line 6 should be "delapidated." My spell  
5 correct put the wrong word in so. Can't trust  
6 computers.

7 Q. All right. Is that all of your  
8 corrections?

9 A. Yes.

10 Q. Were Exhibits -- CCPC Exhibits 5 and 6  
11 prepared by you or under your direction?

12 A. Yes.

13 Q. If you were to answer the questions in  
14 these exhibits today, would your answers be the same?

15 A. Yes.

16 MR. VAN KLEY: At this time, your Honor,  
17 the witness is ready for cross-examination.

18 ALJ SCHABO: Thank you.

19 Ms. Bair?

20 MS. BAIR: I have no questions.

21 ALJ SCHABO: Ms. West?

22 MS. WEST: No, your Honor.

23 ALJ SCHABO: Mr. Settineri?

24 MR. SETTINERI: Yes, your Honor, and one  
25 thing I would like to do at this time, I do have a

1 motion to strike parts of the testimony. I recognize  
2 you had previously asked for motions to be filed  
3 prior to the hearing. I would ask for your  
4 permission to put forth the motion to strike certain  
5 pieces of this testimony based on hearsay and  
6 speculation, so I will leave that to your discretion.

7 ALJ SCHABO: Yeah. Go ahead. Proceed.

8 MR. SETTINERI: Thank you, your Honor.  
9 So the motion to strike is based on hearsay, and I am  
10 going to identify certain portions of this testimony  
11 I believe are based on hearsay and inadmissible. I  
12 will start with page 4.

13 THE WITNESS: On the direct testimony?

14 MR. SETTINERI: You don't have to say  
15 anything. You can, if you want, but I am talking  
16 to -- I'm sorry. I am talking to everyone here. No  
17 questions for you, Mr. Mast. Page 4 of the direct  
18 testimony, lines 8 to 9, your Honor, the sentence "I  
19 have read diaries stating flood waters were 10 feet  
20 and 20 feet above the floor on separate occasions."  
21 I would move that is hearsay being offered based on  
22 written documents written by other folks that are  
23 asserting the level of flooding that occurred in that  
24 building. It's hearsay.

25 The next hearsay, and I will just go

1 through all of them, would be page 10, lines 22 to  
2 23. And, again, I'm sorry, this is for CCPC Exhibit  
3 5.

4 ALJ SCHABO: Page 10?

5 MR. SETTINERI: Yes. The next one is  
6 page 10, lines 21 to 23. You will see a sentence  
7 "The sheriff called several weeks ago to share his  
8 discussion with the county prosecutor and the  
9 difficulty of finding laws in unincorporated villages  
10 to help address some of our issues." I would move to  
11 strike the phrase "and the difficulty of finding laws  
12 in unincorporated villages to help address some of  
13 our issues" as clearly based on the discussion that  
14 this is being represented occurred between the  
15 sheriff and the prosecutor and it's hearsay.

16 The last one, let's see, yeah, last would  
17 be page 13, lines 1 through 14. There is a sentence  
18 that states "Even when the treasurer requests the  
19 prosecutor address these properties, it takes a major  
20 effort by the prosecutor's office to force the  
21 properties to a sheriff's sale. The legal paperwork  
22 is daunting and extremely time consuming." Prior to  
23 that beginning of line 1 "I also spoke with the  
24 prosecutor and others in the prosecutor's office."  
25 The -- from the remainder of line 1 through where the

1 phrase "time consuming" clearly relates to the  
2 discussions and information from the prosecutor and  
3 others in the prosecutor's office, so I would assert  
4 that is hearsay and inadmissible.

5 ALJ SCHABO: Those are your three?

6 MR. SETTINERI: Those are my three  
7 hearsays.

8 ALJ SCHABO: Okay. Mr. Van Kley.

9 MR. VAN KLEY: Yes, your Honor.

10 ALJ SCHABO: Take your time.

11 MR. VAN KLEY: Starting on page 4 with  
12 respect to the sentence that is subject to the motion  
13 to strike, I believe that those diaries would fall  
14 within the hearsay exception for historic records.

15 With regard to page 10, my understanding  
16 is that the motion to strike is just for that second  
17 half of that sentence, is that correct, starting with  
18 the words "and the difficulty"?

19 MR. SETTINERI: Through the word  
20 "issues," correct.

21 MR. VAN KLEY: Okay. I -- I would concur  
22 that that's hearsay. However, hearsay is admissible  
23 in administrative hearings, and they are -- they are  
24 admissible for -- for -- and they are given whatever  
25 weight the testimony based on the hearsay is entitled

1 to. So I don't agree that simply because it's  
2 hearsay it's -- it should be struck. And the same  
3 thing would apply to the motion to strike the two  
4 sentences on page 13 -- well, actually I don't agree  
5 on 13 that's hearsay. I don't think that those two  
6 sentences subject to the motion to strike are  
7 necessarily based solely on the conversation with the  
8 prosecutor. It doesn't indicate that they are.

9 And I think it's common knowledge that  
10 it -- that legal paperwork for forcing properties to  
11 sheriff's sale is extremely time consuming and  
12 daunting. I think that's common knowledge. It would  
13 fit within his knowledge.

14 ALJ SCHABO: Mr. Settineri.

15 MR. SETTINERI: I would disagree as the  
16 diaries being historical records, and then the rest  
17 is hearsay. It should be stricken. I don't see a  
18 reason to allow it in the record, especially on this  
19 issue that's being raised seems to be a central issue  
20 for Mr. Mast and others so.

21 Nothing more from me, your Honor.

22 ALJ SCHABO: Let's go -- let's go off the  
23 record for just a minute so I can read the  
24 surrounding testimony.

25 (Discussion off the record.)

1 ALJ SCHABO: We can go back on the  
2 record.

3 Mr. Mast, what is this -- what -- the  
4 diaries that are referenced in the first motion, are  
5 those family recordings?

6 THE WITNESS: Yes. These are recordings  
7 of the person who owned the house or family owned the  
8 house for 99 years.

9 ALJ SCHABO: Of your family.

10 THE WITNESS: Not my family. But the  
11 people that owned it let me see the diaries. And 10  
12 inches and 20 inches, not 10 feet and 20 feet.

13 MR. SETTINERI: Thank you for clarifying  
14 that. I saw it in writing.

15 ALJ SCHABO: As a practice, I have to say  
16 that I -- hearsay is not broadly just admissible in  
17 administrative proceedings. We are still informed by  
18 the Rules of Evidence. That said I am going to deny  
19 the motion to strike with regard to the diary  
20 sentence. I will grant the motion to strike with  
21 regard to the sentence on page 10. So that will now  
22 read "The sheriff called several weeks ago to share  
23 his discussion with the county prosecutor."

24 THE WITNESS: Your Honor?

25 ALJ SCHABO: Hold on just a second, sir.



1 And I will grant the motion on page 13 as well. And  
2 I will ask for the sake of not having a dangling  
3 record if you would like to extend that through "And  
4 for what, a dollar."

5 MR. SETTINERI: Correct, your Honor. I  
6 would clean it up.

7 ALJ SCHABO: Let's go off the record for  
8 just a moment.

9 (Discussion off the record.)

10 ALJ SCHABO: Let's go back on the record.  
11 Mr. Settineri, did you have any other  
12 motions to strike?

13 MR. SETTINERI: I do, your Honor. This  
14 motion is based on certain portions of his testimony  
15 that are based on speculation and conjecture.

16 I would like to start first lines 3  
17 through 6 of page 7 starting with "The criminals are  
18 opportunists" through the end of that sentence at  
19 line 6. I would also move to strike in that same  
20 paragraph "However, experience suggests the petty  
21 theft and property damage incidents totaling less  
22 than \$5,000 and the suspicious event data are  
23 drastically underreported, perhaps by a factor of up  
24 to 10."

25 And as to that specific sentence, there

1 is no foundation laid for that as well.

2 MR. VAN KLEY: Where is that?

3 ALJ SCHABO: Where are you?

4 MR. SETTINERI: I'm sorry, page 6, line  
5 22 through page 7, line 1, through the word "10."  
6 "However, experience suggests" through "factor of up  
7 to 10." And then the first line -- first sentence I  
8 referenced -- sentences page 7, lines 3, "The  
9 criminals are opportunists" all the way through the  
10 end of that paragraph at the end of line 6 with the  
11 word "etc."

12 Continuing on at page 8, line 5, there is  
13 a phrase "She finally had enough and moved to  
14 Camden." I would move to strike "finally had enough"  
15 from that sentence.

16 Turning to page 9, line 12, the word  
17 "quickly" I would move to strike. I would also move  
18 to strike in line 13 carrying into 14 the phrase  
19 "into undistinguishable forms of recycling" -- or  
20 "for recycling" as well as "If there is something  
21 that can be recycled inside and an opportunity  
22 presents itself, ever so briefly, things will come up  
23 missing."

24 ALJ SCHABO: And that's based on what?

25 MR. SETTINERI: Speculation, conjecture,

1 no foundation laid he has been present during a  
2 crime, and I am certain he wouldn't be there so.

3 Continuing on line -- page 10, line 23,  
4 the sentence saying "The criminal element knows this,  
5 so it seems they seek the sanctuary of small,  
6 isolated, unincorporated villages in the heart of  
7 farm country in which to reside."

8 Move to strike that as speculative, no  
9 basis.

10 And that's it, your Honor.

11 ALJ SCHABO: That's it for speculation,  
12 conjecture, or that's the conclusion of your motions?

13 MR. SETTINERI: That's the end, yes.

14 ALJ SCHABO: Okay. What order would you  
15 like to address?

16 MR. VAN KLEY: I think start from the  
17 beginning and work our way through.

18 ALJ SCHABO: Okay. I'll follow you.

19 MR. VAN KLEY: Okay. I think we start on  
20 page 6 with the sentence at the bottom of that page  
21 going up to the next page. And then we also have  
22 part of the motion to strike on the next page, 7,  
23 starting with "The criminals are opportunists" going  
24 through the end of that paragraph on line 6. I will  
25 address those together.

1 ALJ SCHABO: Okay.

2 MR. VAN KLEY: There's been ample  
3 foundation set forth in the witness's testimony  
4 concerning his experience with criminal activities  
5 stemming from his leadership of the neighbor watch  
6 and his comprehensive involvement with it as well as  
7 his regular communications with law enforcement in  
8 the community as part of those responsibilities as  
9 well as his personal experience with some of the  
10 crime that has occurred in that community.

11 It's a small community. Fairhaven is a  
12 small community. When somebody is a victim of crime,  
13 the rest of the community knows about it, and he's  
14 well familiar with the crime in that area. So I  
15 don't think there is anything speculative about any  
16 of the testimony that is subject to the motion to  
17 strike on pages 6 and 7.

18 If anything, much of it is common  
19 knowledge. For example, we all know that criminals  
20 are opportunists that seek out the most vul -- well,  
21 including the age and other folks who -- who are  
22 categorized there. With regard to the stats in the  
23 sentence that starts on the bottom of page 6 and goes  
24 up to page 7, those are based on the witness's  
25 familiarity with the crime stats for that area as

1 stated at the beginning of that sentence where it  
2 says that his experience suggests that this is the  
3 case. So that's all based on his personal knowledge  
4 concerning crime statistics that he has reviewed in  
5 his capacity as the head of the neighborhood watch in  
6 that community.

7 ALJ SCHABO: Do you want to continue to  
8 go through, or do you want to give Mr. Settineri the  
9 ability?

10 MR. VAN KLEY: We might as well handle  
11 them one at a time.

12 MR. SETTINERI: That's fine. The  
13 specific testimony specific to the township, it's not  
14 a general statement about crime. It's very specific,  
15 and we are -- the bound here is the testimony is what  
16 is in the document. It is not what a lawyer may  
17 think of what the person will say on the stand or  
18 what the person may know. We are looking what -- how  
19 the testimony is written, and this testimony without  
20 foundation says experience suggests blah, blah, blah,  
21 totaling less than 5,000.

22 As well, it gives a specific statement  
23 that "The criminals are opportunists," but  
24 speculating as to exactly what this group is within  
25 the township. Because it is specific that's why I

1 see it as speculative and as well, regarding the  
2 experience piece, that's without foundation.

3 So that's where I stand.

4 MR. VAN KLEY: Well, if it's descriptive  
5 of what's happening in the neighborhood, then it's  
6 even more within his purview as the head of the  
7 neighborhood watch because he -- he knows what crimes  
8 are being committed in that area. He has the stats  
9 necessary to establish this information as well as  
10 the experience as the head of neighborhood watch to  
11 know that what he is saying in these sentences is  
12 accurate with respect to that community.

13 ALJ SCHABO: Mr. Settineri, I see -- I  
14 see where -- where you are coming from. All the  
15 same, I am going to deny that motion to strike for  
16 both of those sentences. So the testimony from the  
17 bottom of page 6 to the top of page 7 and the last  
18 two full sentences and so lines 3 through 6 will  
19 remain in the record.

20 Which takes us to --

21 MR. VAN KLEY: Page 8, I believe.

22 ALJ SCHABO: Yes. Page 8.

23 MR. VAN KLEY: In line 5, Applicant seeks  
24 to strike the words "finally had enough" and I think  
25 that this is -- information is based on -- on the

1 witness's familiarity and interaction with the -- the  
2 woman who is referenced in this sentence, so I  
3 believe that that is competent testimony and that  
4 should remain.

5 ALJ SCHABO: Mr. Settineri.

6 MR. SETTINERI: Yes, your Honor. That's  
7 pure speculation. There is nothing in this document,  
8 I believe, that talks -- gives any foundation of his  
9 interactions with this person whatsoever. So it's  
10 speculation. She is not here to say why she moved to  
11 Camden. That's why it should be stricken.

12 ALJ SCHABO: But it's also his  
13 observation of the situation, so I am going to let it  
14 stand.

15 MR. SETTINERI: Okay.

16 ALJ SCHABO: The motion will be denied.

17 MR. VAN KLEY: The next part of the  
18 motion concerns language on page 9 with regard to the  
19 request that the word "quickly" in line 12 be struck.  
20 The first part of that sentence says "Bolt cutters  
21 quickly dispatch with locks and fencing," and the  
22 Applicant wants to strike the word "quickly." I  
23 think that the fact that burglars can quickly cut  
24 through locks and fencing is within the witness's  
25 experience as the head of neighborhood watch, and I

1 also think that it's general knowledge that you can  
2 cut through locks and fencing quickly with bolt  
3 cutters. I don't think that's any surprise to  
4 anybody.

5 MR. SETTINERI: It would be to me.

6 ALJ SCHABO: And the sentence regarding  
7 "recycled inside and an opportunity presents itself."

8 MR. VAN KLEY: Those again, your Honor,  
9 are well within the witness's experience as the head  
10 of neighborhood watch. As the head of neighborhood  
11 watch, he is responsible for -- for knowing how  
12 criminals work and in this case burglars work and to  
13 know about the recycling activities that they engage  
14 in because those recycling activities inform the  
15 crimes that are being committed. So I don't think  
16 this is at all speculative. I think it's well within  
17 his knowledge about the crime in the community.

18 ALJ SCHABO: Mr. Settineri.

19 MR. SETTINERI: Yes, your Honor. The  
20 question is what means criminals in the township, and  
21 I will paraphrase, use to gain access. Unless he is  
22 there watching he does not know how long a criminal  
23 or someone doing that to steal something, how quickly  
24 that person will dispatch with locks and fencing so  
25 clearly speculation. As well, cutting torches are



1 utilized to cut some items. And then it's pure  
2 speculation that he would know -- he would be able to  
3 say they are cut into undistinguishable forms for  
4 recycling. And, again, unless he is there observing  
5 it, unless he is going to find the parts in  
6 recycling, that's pure speculation on his part. We  
7 are fine with leaving "the bolt cutters" and  
8 "dispatch with locks and fencing" but anything that's  
9 speculative here we would like to see stricken.

10 ALJ SCHABO: Well, I am going to deny  
11 that motion.

12 MR. VAN KLEY: The next portion of the  
13 motion to strike concerns language at the bottom of  
14 page 10 and the top of page 11. And, again, this is  
15 information within the witness's experience as the  
16 head of neighborhood watch and his constant  
17 interaction with events dealing with crimes in this  
18 particular -- in this situation involving this  
19 isolated, unincorporated village of Fairhaven. So,  
20 again, this is within his knowledge.

21 MR. SETTINERI: Your Honor, if I may.

22 ALJ SCHABO: You may.

23 MR. SETTINERI: It relates to the -- back  
24 to the sentence that was previously stricken as  
25 hearsay. And so then he is obviously then

1 speculating that the criminal element knows the  
2 difficulty of finding laws, so they seek the  
3 sanctuary. So it's pure speculation, and it's based  
4 on the prior testimony that was stricken. So he is  
5 speculating as to what the criminal element knows and  
6 thinks, and he can't do that. Moreover, that  
7 speculation is based on hearsay that was stricken.

8 ALJ SCHABO: I'll grant this motion. So  
9 the sentence at the bottom, sentence starting on line  
10 23, page 10, with "The criminal element" will be  
11 stricken. So that the first remaining sentence on  
12 page 11 will be "The sheriff and the sheriff's  
13 department."

14 MR. SETTINERI: For the record, your  
15 Honor, it was CCPC Exhibit 5 that we were discussing.

16 ALJ SCHABO: Thank you for that  
17 clarification. So with the motions to strike taken  
18 care of --

19 MR. SETTINERI: No more motions to  
20 strike.

21 ALJ SCHABO: -- your cross-examination.

22 MR. SETTINERI: Yes, thank you, your  
23 Honor.

24 - - -  
25

CROSS-EXAMINATION

1  
2 By Mr. Settineri:

3 Q. Good afternoon, Mr. Mast.

4 A. Good afternoon.

5 Q. How are you today, sir?

6 A. Fine. Thank you.

7 Q. Good. Now, at page 3 of your direct  
8 testimony which is CCPC Exhibit 5.

9 A. Uh-huh.

10 Q. Page 3, yes, answer 10, you state, yes,  
11 you are a member of the Concerned Citizens of Preble  
12 County, LLC, correct?

13 A. Yes, uh-huh.

14 Q. How did you become a member of the  
15 Concerned Citizens of Preble County, LLC?

16 A. The first meeting we had and I signed up.

17 Q. How did you sign up?

18 A. There was a sign-up sheet.

19 Q. Okay. And did you sign anything else?

20 A. No.

21 Q. Did you -- have you made any -- did you  
22 pay any money to sign up?

23 A. Yes.

24 Q. How much money did you pay, sir?

25 A. I don't remember how much it was.

1 Q. Okay. Do you know what an LLC is? What  
2 does LLC stand for?

3 A. Limited liability corporation.

4 Q. You didn't sign an operating agreement  
5 for the LLC, correct?

6 A. No, I did not.

7 Q. Okay. Now, in answer 3 of CCP Exhibit 5,  
8 answer 3, on page 1, you are offering testimony --  
9 are you there?

10 A. I am on page 1.

11 Q. Page 1, answer 3, line 27.

12 A. 27, okay.

13 Q. It notes there, and I will paraphrase --  
14 I am paraphrasing, you are offering testimony on  
15 behalf of the Concerned Citizens of Preble County,  
16 Robert Black, Marja Brandly, Campbell Brandly Farms,  
17 LLC, Michael Irwin, Kevin and Tina Jackson,  
18 Vonderhaar Family ARC, LLC, and Vonderhaar Farms  
19 Inc., correct?

20 A. Correct.

21 Q. Okay. And prior to filing your  
22 testimony, you did not review that testimony with  
23 Robert Black, Marja Brandly, Campbell Brandly Farms,  
24 LLC, Michael Irwin, Kevin and Tina Jackson,  
25 Vonderhaar Family ARC, LLC, and Vonderhaar Farms

1 Inc., correct?

2 A. I attended a meeting and reviewed the  
3 safety issues, and then I had the neighborhood watch.  
4 I sent my testimony, my direct testimony to the  
5 neighborhood watch group which includes a number of  
6 these people.

7 Q. Does it include all of those people?

8 A. That I don't know.

9 Q. And with that same group of people that I  
10 went through, did you also review your supplemental  
11 testimony with them prior to filing it?

12 A. Not all of them. I did with some of  
13 them.

14 Q. Now, you don't have any experience  
15 constructing a solar farm, correct?

16 A. I have built a solar panel, and I was the  
17 first experimental still in Ohio, ES-1, and to make  
18 ethanol so I have constructed them and I know how  
19 they -- and I had trained on them. So as far as the  
20 farm, you know, large farm, 100 acres, I have not  
21 done that.

22 Q. And -- and we will say a large solar  
23 farm, we will call that utility scale.

24 A. Correct.

25 Q. You never designed a utility-scale solar

1 farm, correct?

2 A. That is correct.

3 Q. In fact, you've never designed a solar  
4 farm, correct, other than your one panel that you put  
5 in your backyard?

6 A. I worked on a design for Procter & Gamble  
7 when I worked there to look at installing solar  
8 energy on a warehouse to keep the warehouse at a  
9 certain temperature in the wintertime, and so we did  
10 some design work on that and basically feasibility  
11 studies.

12 Q. Okay. On the economic feasibility.

13 A. Feasibility studies and initial one --  
14 initial work.

15 Q. That project did not go forward, correct?

16 A. Exactly like this project, had to have  
17 federal funding before it would be final, and it  
18 wasn't viable then.

19 Q. You have never been near a utility-scale  
20 solar farm, correct?

21 A. No, I have not.

22 Q. And you are not familiar with any solar  
23 farms, correct?

24 A. Correct.

25 Q. And you don't know what material is in a

1 solar panel, correct?

2 A. I know that there are some materials,  
3 some chemicals in it according to your literature and  
4 some of -- most can be recycled in landfills which  
5 implies others cannot be recycled in landfills.  
6 That's the data that your -- information your panels  
7 provided me so that's all -- that's what I have.

8 MR. SETTINERI: Your Honor, at this time  
9 if I may approach the witness?

10 ALJ SCHABO: You may.

11 Q. Mr. Mast, do you recall being deposed by  
12 me last Friday?

13 A. Yes.

14 Q. And you were under oath during that  
15 deposition, correct?

16 A. That's correct.

17 Q. I am going to hand out a copy of your  
18 deposition transcript, sir. Do you have your  
19 deposition transcript in front of you?

20 A. Yes.

21 Q. Okay. If you could please turn to page  
22 41 of your transcript, please. I am going to direct  
23 your attention on page 41. When you are there --

24 A. Yes.

25 Q. -- line 13 through line 15, you will see

1 a question "But sitting here today, can you tell me  
2 what would be in a solar panel?"

3 Your answer was "No," correct?

4 A. Other than what I just shared, your data.

5 Q. Repeat my question. Let me ask it this  
6 way, in last Friday's deposition, I asked you a  
7 question "But sitting here today, can you tell me  
8 what would be in a solar panel," and your answer was  
9 "No." Did I read that correctly?

10 MR. VAN KLEY: Your Honor, I am going to  
11 object because counsel is reading only a selective  
12 part of the testimony on pages 41 and 42 that  
13 provides a misleading conclusion if only part of it  
14 is read that is not warranted by the entire context,  
15 especially if you would go down to page 41, line 23,  
16 through page 42, line 2.

17 So I would ask that if counsel is going  
18 to read from the deposition, that he read -- read the  
19 entire context for the questions so that the  
20 witness's answer can be judged by what he actually  
21 said rather than by part of what he actually said.

22 MR. SETTINERI: Your Honor, that's  
23 certainly a topic he can address in redirect. I am  
24 simply looking at what the witness testified to in  
25 his deposition, and I would like to finish that



1 question and answer simply to acknowledge for the  
2 record that there was a question, and he gave an  
3 answer.

4 MR. VAN KLEY: Well, we are looking at  
5 exactly what he said in his deposition, but counsel  
6 is only reading part of it in order to provide a  
7 misleading viewpoint as to what Mr. Mast actually  
8 testified about.

9 MR. SETTINERI: And I strongly disagree  
10 with his characterization as misleading.

11 ALJ SCHABO: Whether or not he is being  
12 properly impeached is a really good question for the  
13 Commission to consider. So, Mr. Settineri, I believe  
14 he answered your question but if you would --

15 MR. SETTINERI: I just want to simplify  
16 it and close it out, your Honor.

17 Q. (By Mr. Settineri) Mr. Mast, at line 13,  
18 you will see "Question: But sitting here today, can  
19 you tell me what would be in a solar panel?"

20 15, "Answer: No."

21 Did I read that correctly, sir?

22 MR. VAN KLEY: Again, I would object,  
23 your Honor, on the same grounds.

24 ALJ SCHABO: I note your objection, and I  
25 repeat that whether or not this is proper impeachment

1 is a decision for the Commission to make. But, right  
2 now, I think he can answer a question of is that what  
3 is read there. Go ahead and answer.

4 A. Okay. On line 11, I said I cannot --  
5 "you tell" -- line 10, "you tell me the panel, and I  
6 can go do some research" and tell you what's in the  
7 panel. But they didn't tell me the panel so sitting  
8 here today, I don't know what panel they are planning  
9 to use. And, therefore, I cannot tell them what's in  
10 the material. In the context of what he asked me, I  
11 need to know the panel before I can answer the  
12 question. I mean, come with the panel.

13 ALJ SCHABO: That's his answer,  
14 Mr. Settineri.

15 MR. SETTINERI: Thank you, your Honor.

16 Q. (By Mr. Settineri) You don't know what  
17 the spacing will be between the panel rows for the  
18 project, correct?

19 A. That's correct.

20 Q. Solar panels are used on top of houses in  
21 Ohio, correct?

22 A. Correct.

23 Q. And solar panels are also present in  
24 schools in Ohio, correct?

25 A. Correct.

1           Q.    You don't know whether there will be  
2    vegetation planted within the project area after its  
3    built, correct?

4           A.    That's correct.

5           Q.    A field that has vegetation on it will  
6    have less runoff than the same field without  
7    vegetation, correct?

8           A.    Depends on the time of year.

9           Q.    So --

10          A.    Wintertime it doesn't make much  
11    difference.

12          Q.    And that's because the ground is frozen.

13          A.    Ground is frozen, yeah.

14          Q.    If it's not frozen and has vegetation,  
15    what would be --

16          A.    It would tend to absorb the material;  
17    but, again, it depends.  Bare ground absorbs a lot of  
18    water too; so, I mean, it's really -- I am not sure  
19    it makes that much difference between the two.

20          Q.    Okay.  Your house is located  
21    approximately 1-1/2 miles from the nearest -- what  
22    you think may be the nearest solar panel location,  
23    correct?

24          A.    Correct.

25          Q.    And you made that determination by

1 looking at the application, correct?

2 A. Yes.

3 Q. Did you review the application in this  
4 proceeding?

5 A. I saw the map that they passed out at  
6 the -- the meeting, the first meeting back in Preble  
7 County.

8 Q. Okay.

9 A. And I know based on that. I drove the  
10 distance and marked the odometer, came up 1.5 miles.

11 Q. Did you review any other parts of the  
12 application in this case?

13 A. I've seen bits and pieces of anything. I  
14 have never seen the entire documentation for the  
15 project.

16 Q. All right.

17 A. I can tell you what ones I have seen and  
18 which ones I haven't.

19 Q. When you say bits and pieces, were they  
20 solely maps that you reviewed?

21 A. Whatever you passed out at the Eaton  
22 meeting, I read that information.

23 Q. Okay. But in regard to the application  
24 that was filed in this case, you only reviewed a map  
25 for the application to your understanding, correct?

1           A.    I read through the testimony.  I read  
2 through the testimony that was provided on both  
3 sides.

4           Q.    Okay.  All right.

5           A.    But I am not sure if that's the total.  I  
6 have no idea how much information is out there.

7           Q.    Let me direct your attention to the  
8 notebook next to you that's Company Exhibit 1.  Are  
9 you familiar with that document that's in that  
10 notebook?

11          A.    No, no, I have not.

12          Q.    You have not reviewed it.

13          A.    I didn't have access to it.

14          Q.    Do you have computer and internet at your  
15 house?

16          A.    Yes -- well, no, I don't, not internet.

17          Q.    Do you go to the library?

18          A.    Yes.

19          Q.    Your house is approximately 10,000 square  
20 foot, correct?

21          A.    Correct.

22          Q.    And it's located right next to a road,  
23 correct?

24          A.    Correct.

25          Q.    A picture of your house is in the back of

1 your testimony, correct?

2 A. Yes.

3 Q. Okay. The last time you had anything  
4 stolen from your property was seven or eight years  
5 ago and that was outdoor lawn furniture, correct?

6 A. Correct. I also had my truck keyed a  
7 couple months ago.

8 Q. Okay. And where was your truck located  
9 at the time?

10 A. At my property.

11 Q. Okay. You recently went on a 10-day  
12 vacation, and nothing was stolen from your property,  
13 correct?

14 A. Correct.

15 Q. Now, you have no proof that there is a  
16 drug lord residing in Fairhaven, correct?

17 A. I just talked to a convicted felon  
18 yesterday for an hour, and he offered to sell me some  
19 manhole covers. If I needed some manhole covers, he  
20 had some but, you know, he -- I see the police  
21 reports and there are drugs at the one -- drug  
22 arrests two months ago at the one house at the other  
23 end of town. And two doors down from me two years  
24 ago a young man died of drug overdose. The other end  
25 of town two years ago a young woman died of a drug

1 overdose. And in the back alley a person died of a  
2 drug overdose, took him to the hospital.

3 MR. SETTINERI: Your Honor, I move to  
4 strike the entirety of the answer. That can  
5 certainly be explored on redirect but it was  
6 unresponsive to the question I asked which was you  
7 have no proof there is a drug lord residing in  
8 Fairhaven.

9 ALJ SCHABO: If you are not going to  
10 object on redirect that it's outside the scope of  
11 your cross, I am happy to leave it to redirect, so  
12 you kind of just opened your door there.

13 MR. SETTINERI: I did. I will withdraw  
14 that motion.

15 ALJ SCHABO: Okay.

16 Q. (By Mr. Settineri) Mr. Mast, you have no  
17 proof there is a drug lord residing in Fairhaven,  
18 correct?

19 A. There are deaths in the area. There are  
20 drug arrests. And the Butler County Sheriff, Preble  
21 County Sheriff knows drugs are coming into town. I  
22 don't know what you would call a drug lord, somebody  
23 that brings drugs in and redistributes in the area.  
24 It was a well known location for drugs in  
25 southwestern Ohio.

1           Q.    Are you aware that the County  
2 Commissioners approved funding for two new positions  
3 in the sheriff's office?

4           A.    Yes.

5           Q.    Were you aware of that before this  
6 hearing today?

7           A.    Yes.

8           Q.    Thank you.

9           A.    And I --

10          Q.    Are you happy with that?

11          A.    The issue is that one of them is going to  
12 be a corrections officer, and the other one is going  
13 to be, I am sure, to cover overtime.  When I was  
14 talking to the deputy chief sheriff and the  
15 prosecutor to help get some additional people on the  
16 streets, the prosecutor said he could get -- perhaps  
17 direct some drug money to the sheriff's department  
18 and the chief deputy said that he wasn't even sure  
19 with people working so much overtime he could even  
20 get any volunteers to sign up for the overtime.

21                    So my suspicion is the second person is  
22 going to be to just help cover the overtime because  
23 the chief deputy and the sheriff are out on patrols  
24 at times and extremely shortly staffed so.

25                   MR. SETTINERI:  Your Honor --



1 Q. Are you done?

2 A. Yeah. I was just trying to explain why I  
3 know.

4 MR. SETTINERI: Your Honor, I move to  
5 strike starting with "When I was talking to." It's  
6 all based on hearsay at that point.

7 MR. VAN KLEY: Well, his question called  
8 for hearsay. He asked the witness -- basically asked  
9 the witness to testify as to what the witness heard  
10 about the two positions. So counsel opened the door  
11 in that regard.

12 MR. SETTINERI: That door was never  
13 opened.

14 MR. VAN KLEY: The only way he could have  
15 known any information about it is through hearsay.

16 ALJ SCHABO: Could you just reread the  
17 original question where he asked if he is aware.

18 (Record read.)

19 ALJ SCHABO: Motion to strike overruled.  
20 Denied. Thank you.

21 Q. (By Mr. Settineri) Mr. Mast, are you  
22 familiar with The Register-Herald?

23 A. Yes.

24 Q. Do you subscribe to The Register-Herald?

25 A. No, I do not.

1 Q. Is that a local newspaper?

2 A. Yes.

3 MR. SETTINERI: Your Honor, may I  
4 approach?

5 ALJ SCHABO: You may.

6 MR. SETTINERI: I would like to mark as  
7 Company Exhibit 18.

8 ALJ SCHABO: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 MR. VAN KLEY: Your Honor, while he is  
11 doing that, what was the ruling on the last  
12 objection?

13 ALJ SCHABO: It was overruled.

14 MR. SETTINERI: May I approach, your  
15 Honor?

16 ALJ SCHABO: You may.

17 Q. (By Mr. Settineri) Mr. Mast, I have  
18 handed you what has been marked as Company  
19 Exhibit 18. You are familiar with The  
20 Register-Herald, correct?

21 A. Yes.

22 Q. This is an article online from The  
23 Register-Herald marked as Company Exhibit 18. I  
24 would like to direct your attention to the back page.  
25 I will wait until you are ready. You'll see a

1 paragraph that says "Before voting, Day did want to  
2 be clear this would be an annual increase for Preble  
3 County to increase services and protection. While  
4 they are decreasing overtime, they will not be saving  
5 money-it will still be an increase." Do you see  
6 that?

7 A. Yes, yes.

8 Q. Overall, you see the addition of a new  
9 position as a benefit to the community, correct?

10 A. Yes.

11 Q. And you see the addition of a new  
12 corrections officer as a benefit to the community,  
13 correct?

14 A. Yes.

15 Q. And for you this would be a positive step  
16 forward to addressing some of the issues that you are  
17 experiencing in Israel Township per your testimony,  
18 correct?

19 A. No.

20 Q. You don't think it would be a good first  
21 step?

22 A. This is -- I support what the sheriff is  
23 doing. He is trying to get somebody in the  
24 corrections area to help out inside the building. It  
25 is not going to put anybody else in the field, and

1 the overtime is going to be reduced and that also is  
2 not going to put anyone else in the field.

3 Q. That's your opinion, correct?

4 A. Well, that's what the paper said. I  
5 read -- I read the paper and that's what they said  
6 they were going to do.

7 Q. You also see though that in the third  
8 paragraph that starts "These new positions," you also  
9 see that these --

10 A. Wait. Where are you?

11 Q. Back page, back page. There do you see  
12 the sentence that says "These new positions will come  
13 at a cost of approximately \$200,000. This cost  
14 includes salaries, benefits, and a patrol car. This  
15 is not the annual cost, as the deputy's car is  
16 included and is a one time cost," correct?

17 A. Right, uh-huh.

18 Q. So, now, how many patrol cars will there  
19 be then for the sheriffs? Do you know?

20 A. No.

21 Q. Okay. Logical to assume that the new  
22 officer would be in the new patrol car?

23 A. That would be hearsay. I have no idea.

24 Q. Okay.

25 A. Could be one overaged being replaced.

1           Q.    All right.  You can put that aside,  
2  Mr. Mast.  Now, there are only a few individuals in  
3  Fairhaven that you believe are causing almost all the  
4  trouble, correct?

5           A.    Well, they -- some number of people in  
6  Fairhaven but they bring a lot of people from the  
7  outside.

8           Q.    Okay.  So, in fact, at your page 10 at  
9  line 14, starting at line 13 to 15, you state that  
10 "All the farmers and village residents in the  
11 township" --

12          A.    I'm sorry.  Where are you at now?

13          Q.    Sure.  CCPC Exhibit 5.

14          A.    Okay.

15          Q.    Lines 13 to 15.

16          A.    On page 1?

17          Q.    Sorry, CCPC Exhibit 5, page 10, lines 13  
18 to 15.

19          A.    Okay.

20          Q.    Answer 20.  You state "All the farmers  
21 and village residents in the township are honest,  
22 hard-working individuals; except for a few  
23 individuals in Fairhaven who are causing almost all  
24 of the trouble."

25          A.    That's correct.  And that's what I said.

1 They bring other people in so.

2 Q. You have no plans as of today to move out  
3 of Fairhaven, correct?

4 A. No. It's my home.

5 Q. Now, you've had flooding issues at your  
6 property for years, correct?

7 A. Oh, I have had -- while I have owned it,  
8 it has never flooded but it has come within a half  
9 inch of coming in the building, but it is close.  
10 This year three times it came close to the building  
11 and flooded across the street as well.

12 Q. And you believe that 150 acres of the 934  
13 acre overall project area will drain into Four Mile  
14 Creek, correct?

15 A. Correct.

16 Q. And that 150 acres drains into Four Mile  
17 Creek as of today, correct?

18 A. Correct. That's -- 150 acres is the  
19 number Doug gave me, so I have -- other than that I  
20 don't know how -- I haven't verified the number  
21 myself.

22 Q. And Four Mile Creek is the creek that  
23 runs by your property, correct?

24 A. Correct.

25 Q. Now, you have not conducted any drainage

1 calculations for the project, correct?

2 A. Correct.

3 Q. And you have not conducted any studies on  
4 the impact of the project on flooding at your  
5 property, correct?

6 A. Correct.

7 Q. Do you carry flood insurance on your  
8 property?

9 A. No, I do not.

10 Q. Now, you don't oppose solar as a source  
11 for energy as a general proposition, correct?

12 A. No, no.

13 Q. And you agree that every project has  
14 risk, correct?

15 A. Correct, uh-huh.

16 Q. And as to the Angelina project, you would  
17 like somebody to review the project risk and, if  
18 necessary, mitigate the risk, correct?

19 A. Yes. What I would like to have is an  
20 unbiased third-party opinion come in and assess all  
21 the risk and then look at the plans that you have and  
22 make sure that all the risks are adequately reviewed,  
23 whether it be a third-party independent resource  
24 pulling together the risk assessment and then  
25 comparing that with what it is, and if the plans

1 aren't acceptable, sufficient, why then do what you  
2 have to do to make them to comply.

3 Q. And that independent third party could be  
4 the Ohio Power Siting Board, correct?

5 A. I would go for an outside mutually  
6 selected group and that would not be a group I would  
7 select. I mean, for -- I worked at Procter & Gamble.  
8 When we went to the Food and Drug Administration, we  
9 didn't have another part of our company provide an  
10 unbiased third party. It was a completely  
11 independent company, and they would provide whatever  
12 they saw the data to be and it was presented to the  
13 FDA and the FDA then has a group approved by the FDA  
14 and so as we as the Concerned Citizens would like to  
15 be a part of that selection of that group.

16 MR. SETTINERI: If I could have just a  
17 moment, your Honor.

18 ALJ SCHABO: You may.

19 MR. SETTINERI: Thank you. All right.  
20 Your Honor, at this time I have no further questions  
21 of Mr. Mast. Thank you.

22 ALJ SCHABO: Thank you, Mr. Settineri.  
23 Mr. Van Kley.

24 MR. VAN KLEY: Yes, thank you.

25 - - -



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## REDIRECT EXAMINATION

By Mr. Van Kley:

Q. Mr. Mast, let's first talk about your process for writing your testimony with respect to the questions that you were asked by counsel for the Applicant.

Let's start first with your process for collecting information about the issues. You indicated that you've attended meetings of the Concerned Citizens of Preble County in your responses to Mr. Settineri's questions. During those meetings, did you obtain information from that group as to the issues that concerned them?

A. Yes.

Q. Okay. And did you use that information that you collected during those meetings with the group in order to identify the issues you would address in your testimony?

A. Yes, I did.

Q. Now, if you did not review the entire application, how did you obtain the information you needed for writing your testimony?

A. I attended the meeting in Preble County and heard some of the issues there. I also just from the neighborhood watch standpoint and knowing the

1 what -- from the safety standpoint all the criminal  
2 issues I was -- knowing that anyone coming in like  
3 that would increase the potential risk for crime in  
4 the area, so it was pretty logical to -- to include  
5 crime and then flood waters as well and putting all  
6 those panels in is going to increase the amount of --  
7 is going to reduce the amount of water that can be  
8 absorbed by the soil.

9           And so it's logical I'm living right next  
10 to the flooded creek, and having a Master's degree in  
11 engineering it's pretty easy to see that we're at  
12 risk for flooding as well, and the whole site  
13 clearance thing, the whole site clearance, and Katie  
14 West has been helping us for years trying to get some  
15 of these buildings site cleared. And a facility like  
16 this there is no clear plan how to get the -- you  
17 know, the building returned to farmland after its  
18 use.

19           I am concerned with that and then some  
20 chemicals in the documents indicate there could be  
21 some groundwater contamination. And our well waters,  
22 water for my well is 100 feet from the creek and the  
23 whole Village of Fairhaven is, you know -- runs out  
24 of water sometimes, some portions. People have their  
25 wells and fields right next to their homes, right

1 next to this solar field, then chemicals get in the  
2 water, it will be directly into that.

3 So my engineering background, my  
4 neighborhood watch, and Marja and Rachael are members  
5 of the neighborhood watch group, so we have been  
6 working together for a long period of time, so we  
7 know what the issues are in our community.

8 Q. Okay.

9 A. There probably is -- from the  
10 neighborhood watch standpoint, there is -- you know,  
11 that just shows that to have a neighborhood watch  
12 group takes a lot of effort and a lot of people's  
13 commitment. And it implies or indicates that we have  
14 a serious crime here, serious problem, and we are  
15 looking to do our best to try to find that. And so  
16 we have come together as a community to try to work  
17 together and address all those problems. So that's  
18 why we are able to know pretty well where the people  
19 are at. I have access to internet that I do send --  
20 every month I send neighborhood watch information to  
21 our group and keep them abreast of what's going on  
22 so.

23 Q. How long have you lived in the area?

24 A. I bought the property 22 years ago, and I  
25 have been there since 2004.

1 Q. Has that provided you with familiarity  
2 with the project area?

3 A. Yes, uh-huh.

4 Q. With regard to your testimony about  
5 flooding, where did you obtain that information  
6 without reading the -- without reading the entire  
7 application?

8 MR. SETTINERI: Object,  
9 mischaracterizing. Without reading the entire  
10 application, the witness testified he had not read  
11 the application at all.

12 MR. VAN KLEY: No. He said he had read  
13 parts of it.

14 MR. SETTINERI: Read a map and he later  
15 said he didn't read it.

16 MR. VAN KLEY: No.

17 ALJ SCHABO: Thank you for the  
18 clarification. He can answer the question.

19 A. I did not see this entire book, but I did  
20 read all the documents that you provided. I read the  
21 testimony that was provided by the folks, and so I  
22 have some understanding of where the project is going  
23 and the number of acres. I have driven the land, so  
24 I know what -- the way the land slopes. I know where  
25 the water drains. And so I have a very clear

1 understanding. And having an engineering background  
2 with piping, plumping, surface water runoff, farmer  
3 almost all my life, you know, I have a lot of  
4 experience in water and living next to the creek.  
5 Next to the creek for 22 years, I know probably as  
6 well as anybody what that creek -- how it responds to  
7 floods and rains, it floods.

8           If there is really heavy rain, the water  
9 is on top of us immediately. This property is about  
10 a mile and a half away, and the creek runs about 4  
11 miles an hour. When it's reading plus or minus, in  
12 15 minutes the water will be on top of us. And it  
13 doesn't -- it doesn't flow into the ground if there  
14 is a really heavy rain. Some does. If there is a  
15 deluge, water hits the creek, immediately the creek  
16 rises very, very quickly and within an hour.

17           And then other times it's a long steady  
18 rain, over seven days, five, seven days, and then the  
19 tile helps out to get the water away, but the tile is  
20 mostly helpful to get the water -- that soil dry so  
21 when it does rain, it absorbs the water but, you  
22 know, when it -- when we get a deluge of water, it is  
23 on top of us in no time.

24           The time I was trapped in my home there  
25 was a heavy rain and I was watching the creek and the

1 first water came over the road and blocked me from my  
2 access. The reason it came over the road is because  
3 the culvert coming across -- under 177, the creek  
4 backed it up, and so it didn't have total flow. And  
5 it was -- over the years the state highways keep  
6 being raised in elevation and acts as a dam.

7 So -- so I know how the creek responds,  
8 and I know what the impact is on the community. It  
9 floods the whole town. It's not just my property.

10 Q. Did you review any documentation, any  
11 written documentation concerning information that  
12 informed your testimony about flooding in the project  
13 area?

14 A. I use -- Einstein used thought  
15 experiments on -- rather than actual experiments, so  
16 I use thought experiments. You see, you can measure  
17 that, so I use thought experiments. And what happens  
18 if you have a panel in the field, it's not going to  
19 get saturated below the panel. And if -- depending  
20 which way the wind is coming, it's going to directly  
21 block. And we are counting on the soil underneath it  
22 to absorb as much water as possible.

23 So I did a lot of that type of analysis,  
24 and it's the winds -- if the collections are pointing  
25 toward the sun, the rain eventually comes from the

1 south, a good part of the area is going to be  
2 blocked.

3 Q. Did you review any flood plan maps?

4 A. Yes, uh-huh. I have those.

5 Q. With regard to your vacation that you  
6 just returned from, did you take any precautions  
7 before you left to safeguard your property from  
8 criminals?

9 A. Yes. I have security cameras, a number  
10 of security cameras. I have alarm sirens. I had  
11 people coming over every day to feed my animals. I  
12 had the neighbors watching, and we watch each other's  
13 property every day. I go through town, and when  
14 people are working, I observe what's going on in  
15 town. And anything strange I report it, and they do  
16 likewise for me.

17 Q. Now, you were asked about chemicals in  
18 panels, in solar panels. And I want to make sure  
19 that your answer in that regard was clear. What  
20 information would you need to know in order to  
21 identify what, if any, chemicals are contained in the  
22 solar panel?

23 A. That's where the unbiased third-party  
24 expert would be needed. You know, I am not an expert  
25 in that area and what I like to have there's -- you

1 know, during all those testimonies there has been a  
2 number of safety and health issues brought up and  
3 it's hard to sort fact from fiction and that's why  
4 it's important to get a third-party unbiased group to  
5 look at all the data that's out there and figure out  
6 what is fact and fiction and make an assessment based  
7 on that.

8           So I am not -- I am not -- you know, I am  
9 not qualified to do that and that's why we need  
10 third-party unbiased experts to do that, and they  
11 need to know -- and if it -- I understand at this  
12 point in time it is probably not going to identify  
13 the exact panel, but two or three of them looking at  
14 using, evaluate all three of them, and what's going  
15 to be installed here may be different than what goes  
16 in schools and so forth. So what's -- what's out  
17 there now, the technology changes, and so we just  
18 need to know what is going to be -- what panel is  
19 going to be used, or which ones, and have the risk  
20 assessment based on that.

21           MR. VAN KLEY: Okay. I have no further  
22 questions.

23           ALJ SCHABO: Do you have any recross?

24           MR. SETTINERI: No, no recross, your  
25 Honor.



1 ALJ SCHABO: Thank you, Mr. Mast. You  
2 may step down.

3 THE WITNESS: Thank you, your Honor.

4 MR. VAN KLEY: Your Honor, what was the  
5 exhibit number for the newspaper article?

6 ALJ SCHABO: That was Company Exhibit 18,  
7 Mr. Van Kley.

8 MR. VAN KLEY: Yes. We would move into  
9 evidence CCPC Exhibit 5, CCPC Exhibit 6, and Company  
10 Exhibit 18.

11 ALJ SCHABO: Any objections?

12 MR. SETTINERI: No. Sorry. What was --  
13 did you say Company Exhibit 18?

14 MR. VAN KLEY: Yes, your newspaper  
15 article.

16 MR. SETTINERI: That's fine with me. I  
17 support that one.

18 ALJ SCHABO: All right.

19 Hearing no objections, CCPC 5 and 6 and  
20 Company 18 will be admitted into the record.

21 (EXHIBITS ADMITTED INTO EVIDENCE.)

22 ALJ SCHABO: Does that conclude your case  
23 in chief?

24 MR. VAN KLEY: Yes, it does.

25 ALJ SCHABO: All right. Let's go off the

1 record for just a moment.

2 (Discussion off the record.)

3 ALJ SCHABO: Let's go back on the record.

4 We just had a brief discussion off the  
5 record about the timing of rebuttal testimony.

6 Rebuttal testimony will be due to be filed on or  
7 before August 23, and we will look at September 9 and  
8 10 as our preferred dates to get back together to  
9 take that rebuttal testimony, but an entry will be  
10 forthcoming for that final date.

11 With that we are adjourned. Thank you.

12 (Thereupon, at 2:49 p.m., the hearing was  
13 adjourned.)

14 - - -

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

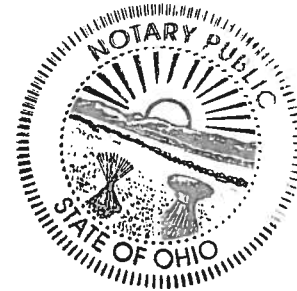
CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, August 12, 2019, and carefully compared with my original stenographic notes.

Karen Sue Gibson  
Karen Sue Gibson, Registered Merit Reporter.

(KSG-6793)

---



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/26/2019 9:49:30 AM**

**in**

**Case No(s). 18-1579-EL-BGN**

Summary: Transcript Volume III - In the Matter of the Application of Angelina Solar I, LLC for a Certificate of Environmental Compatibility and Public Need, hearing held on August 12th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.