

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Nestlewood :
Solar I LLC for a :
Certificate of :
Environmental :
Compatibility and Public : Case No. 18-1546-EL-BGN
Need to Construct an :
Electric Generating :
Facility in Brown and :
Clermont Counties, Ohio. :

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PROCEEDINGS

before Ms. Anna Sanyal, Administrative Law Judge, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-D, Columbus, Ohio, called at
10:01 a.m. on Wednesday, February 26, 2020.

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VOLUME III

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Wednesday Morning Session,
February 26, 2020.

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ALJ SANYAL: Let's go on the record.

The Ohio Power Siting Board has called
for hearing Case No. 18-1546-EL-BGN which is
captioned as in the Matter of the Application of
Nestlewood Solar I LLC for a Certificate of
Environmental Compatibility and Public Need to
Construct an Electric Generating Facility in Brown
and Clermont Counties, Ohio.

My name is Anna Sanyal, and I am the
Administrative Law Judge assigned to this matter.
Before we do appearances, I would like to note for
the record that on February 4, 2020, Nestlewood and
the Ohio Farm Bureau filed a joint motion to reopen
the hearing record so that the parties could further
inform the Board regarding certain aspects of the
Application and the record -- and supplement the
record in the matter.

The parties along with Staff also filed a
supplement to the Stipulation which was originally
filed on June 12, 2019, and then the Stipulation was
filed on February 4, 2020.

The Board has granted the parties'

1 motion, and this hearing was scheduled to take the
2 testimony of the witnesses.

3 So at this time I will start with
4 appearances. We'll go with the Company first.

5 MR. SETTINERI: Good morning, your Honor.
6 On behalf of the Nestlewood Solar I LLC, Mike
7 Settineri and MacDonald Taylor with the law firm of
8 Vorys, Sater, Seymour and Pease, 52 East Gay Street,
9 Columbus, Ohio 43215.

10 ALJ SANYAL: We'll just go around the
11 room and take...

12 MR. LINDGREN: Thank you, your Honor. On
13 behalf of the Board Staff, Ohio Attorney General Dave
14 Yost by Thomas G. Lindgren, Assistant Attorney
15 General, 30 East Broad Street, 16th Floor, Columbus,
16 Ohio 43215.

17 ALJ SANYAL: Thank you, Mr. Lindgren.

18 MS. MILAM: Good morning, your Honor.
19 Amy Milam on behalf of Ohio Farm Bureau Federation,
20 280 North High Street, Columbus, Ohio 43215.

21 ALJ SANYAL: Thank you. And, ma'am, were
22 you counsel?

23 MS. GRESOCK: No.

24 ALJ SANYAL: Thank you.

25 And, Mr. Settineri, you may proceed

1 whenever you are ready.

2 MR. SETTINERI: Thank you, your Honor.
3 At this time we would call Mr. Joe Jordan to the
4 stand.

5 ALJ SANYAL: And thank you, Mr. Jordan,
6 for being prepared. If you will raise your right
7 hand.

8 (Witness sworn.)

9 ALJ SANYAL: Okay.

10 MR. SETTINERI: Your Honor, at this time
11 we would like to proceed with marking a series of
12 exhibits.

13 ALJ SANYAL: Sure.

14 MR. SETTINERI: I would note for the
15 record Mr. Jordan's testimony is -- we would like to
16 mark that as Company Exhibit 11.

17 ALJ SANYAL: So I have a quick question.
18 So back when we had our first hearing, I left off at
19 Exhibit 8 for the Company.

20 MR. TAYLOR: That's correct, and then the
21 August hearing were Exhibits 9 and 10.

22 ALJ SANYAL: Okay. Thank you.

23 MR. SETTINERI: So, your Honor, again, we
24 would like to mark his testimony as Company
25 Exhibit 11.

1 ALJ SANYAL: So that's the supplemental.

2 MR. SETTINERI: That would be the
3 supplemental direct testimony of Mr. Jordan.

4 ALJ SANYAL: Okay.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. SETTINERI: And I would note for the
7 record that his testimony attaches a number of other
8 exhibits that for the record I would like to mark as
9 well even though they are attached.

10 ALJ SANYAL: Sure.

11 MR. SETTINERI: So the first -- the next
12 exhibit is Company Exhibit 12, I would like to mark
13 that, and that is titled "Nestlewood Solar Complaint
14 Resolution Program."

15 ALJ SANYAL: That's marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. SETTINERI: And next would be Company
18 Exhibit 13 titled "Vegetation Management Plan."

19 ALJ SANYAL: That is so marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. SETTINERI: I would next mark as
22 Company Exhibit 14 a screening simulation. And
23 that's a series of pages.

24 ALJ SANYAL: That one is marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. SETTINERI: I would mark as Company
2 Exhibit 15 a screening layout. And all of those
3 documents are attached to Mr. Jordan's prefiled
4 testimony.

5 ALJ SANYAL: Okay. Thank you.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. SETTINERI: We'd also like to mark as
8 Exhibit 23 a map that is titled "Updated Figure 08-8
9 Ecological Impact." This document, as Mr. Jordan
10 will cover in his testimony today, replaces an
11 attachment to the Vegetation Management Plan which
12 has been marked as Exhibit 13 and that attachment
13 would be -- this Company Exhibit 23 will replace the
14 figure that is attached to Appendix 1 of the
15 Vegetation Management Plan. Again, that is Company
16 Exhibit 23.

17 ALJ SANYAL: Okay. That one is marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 MR. SETTINERI: And, lastly, we would
20 mark as -- well, two more, Joint Exhibit 2, a
21 Supplement to the Joint Stipulation and
22 Recommendation.

23 ALJ SANYAL: That one is marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MR. SETTINERI: And we would mark as

1 Company Exhibit 21, this item has not been filed in
2 the docket, this would be Responses to Staff's
3 February 19, 2020, Data Requests.

4 ALJ SANYAL: 2020?

5 MR. SETTINERI: Yes, February 19, 2020,
6 Data Requests from Staff.

7 ALJ SANYAL: Okay. That one is marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 MR. SETTINERI: All right.

10 - - -

11 JOSEPH JORDAN

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

14 DIRECT EXAMINATION

15 By Mr. Settineri:

16 Q. Good morning, Mr. Jordan.

17 A. Good morning, Mr. Settineri.

18 ALJ SANYAL: Before you begin do you have
19 a copy for me of Mr. Jordan's?

20 MR. SETTINERI: It should be on the --
21 right there in front of you, your Honor. We've
22 handed out copies to the Bench and the Court
23 Reporter.

24 ALJ SANYAL: Thank you. Go ahead.

25 Q. (By Mr. Settineri) Mr. Jordan, could you

1 please state your -- again for the record your name
2 and business address.

3 A. Joe Jordan, 3131 McKinney Avenue, Suite
4 502, Dallas, Texas 75204.

5 Q. And on whose behalf are you testifying
6 today?

7 A. On behalf of the Applicant.

8 Q. Okay. And you previously testified in
9 this matter, correct?

10 A. Yes, I did.

11 Q. And you were previously the project
12 manager for this project.

13 A. That's correct.

14 Q. And what is your current role with the
15 project today?

16 A. I am advising the current project manager
17 on the development of the project.

18 Q. All right. And that will be an ongoing
19 responsibility?

20 A. Correct.

21 Q. All right. Mr. Jordan, I would like to
22 go through and identify the exhibits that we just
23 went through and marked. If we could start first,
24 and before you you have the exhibits, if you could
25 look at Company Exhibit 11 which is your --

1 A. Oh, my testimony, correct.

2 Q. And could you just identify that for the
3 record.

4 A. Yes. Company Exhibit 11 is my direct
5 testimony.

6 Q. And that was prepared by you or at your
7 direction?

8 A. It was.

9 Q. Okay. So let's go through the
10 attachments to your testimony next, Mr. Jordan. If
11 you could turn to Company Exhibit 12 which is
12 attached to your testimony. And could you identify
13 that document attachment for the record, please.

14 A. Yes. This is the updated Nestlewood
15 Solar Complaint Resolution Program that is for both
16 construction and operation of the project.

17 Q. And were you involved in the preparation
18 of this program?

19 A. I was.

20 Q. If you could turn two pages to Company
21 Exhibit 13, please. Could you identify that for the
22 record.

23 A. This is the project Vegetation Management
24 Plan.

25 Q. And were you involved in the drafting and

1 development of that plan?

2 A. I was.

3 Q. And if you could turn on that plan to
4 page 5, Appendix 1, please.

5 A. Yes.

6 Q. This is a figure attached to Appendix 1,
7 correct?

8 A. That's correct.

9 Q. That's Figure 08-8?

10 A. Correct.

11 Q. If you could please find there what's
12 been marked as Company Exhibit 23, please.

13 A. Yes.

14 Q. And could you identify that for the
15 record, please.

16 A. Yes. Company Exhibit 23 replaces this
17 appendix for the Vegetation Management Plan to
18 reflect the footprint modification that was completed
19 in August of 2019.

20 Q. Okay. And just to be clear, for the
21 record the Vegetation Management Plan Appendix 1 will
22 have Company Exhibit 23 attached to it.

23 A. Correct.

24 Q. And then if you could please turn to
25 Company Exhibit 14 which is also attached to your

1 testimony. Do you have that before you?

2 A. Yes.

3 Q. All right. And this consists of a series
4 of pages, correct?

5 A. Correct.

6 Q. Could you identify this for the record.

7 A. Yes. These are screening simulations
8 that were completed for the project.

9 Q. Okay. And were these prepared at your
10 direction?

11 A. Yes.

12 Q. If you could then continue, please, to
13 turn to Company Exhibit 15 also attached to your
14 testimony. Do you have that before you?

15 A. I do.

16 Q. Okay. Could you please identify this for
17 the record.

18 A. This is the screening layout that was
19 completed for the project.

20 Q. All right. Were you involved in the
21 development of the screening layout?

22 A. Yes, I was.

23 Q. Okay. Then two more, please. If you
24 could turn to Joint Exhibit 2.

25 A. Yes.

1 Q. And identify that for the record, please.

2 A. This is the Supplement to the Joint
3 Stipulation and Recommendation.

4 Q. And were you involved in the development
5 of this supplement which contains a new condition?

6 A. I was.

7 Q. And is it your understanding that this
8 condition is an amendment to the Stipulation will be
9 added to the Stipulation?

10 A. Yes.

11 Q. Could you then turn lastly to Company
12 Exhibit 21.

13 A. Yes.

14 Q. And could you please identify that for
15 the record.

16 A. These are responses to Data Requests from
17 OPSB staff.

18 Q. And were you -- were you involved in the
19 preparation of these responses?

20 A. Yes.

21 Q. Thank you. Mr. Jordan, turning to your
22 supplemental direct testimony, do you have any
23 revisions to that testimony at this time today?

24 A. I do.

25 Q. And could you please read those carefully

1 for the court reporter.

2 A. Yes. First, on page 8 on line 16,
3 starting at the point after "utility, the Federal,"
4 striking from "the Federal" to the end of that
5 sentence. And so the line 16, the sentence would end
6 with a period after "utility."

7 Q. Any other revisions to your testimony,
8 Mr. Jordan?

9 A. Yes, I do.

10 Q. And please go ahead.

11 A. Page 15, line 10, replace "is attached to
12 my testimony" with "has been identified."

13 Q. All right. Do you have any other
14 revisions to your testimony at this time?

15 A. I do not.

16 Q. And if I asked you the questions in your
17 direct testimony today as you have revised, would
18 your answers as you have revised be the same?

19 A. Yes.

20 Q. Mr. Jordan, a few additional questions.
21 Now, you regular -- regularly review the case docket;
22 is that true?

23 A. Yes.

24 Q. Okay. Are you aware there was a public
25 comment filed in the docket yesterday?

1 A. I am.

2 Q. Okay. What was the nature of the public
3 comment that was filed?

4 A. The public comment was filed by a
5 nonparticipating landowner who lives next door to the
6 project site expressed several concerns and
7 questions.

8 Q. And have you had any prior conversations
9 with that landowner?

10 A. I have.

11 ALJ SANYAL: Just for the record may we
12 just note who this person is so we know which
13 comment. I think it's Ms. Kate Powers, correct?

14 THE WITNESS: Correct.

15 ALJ SANYAL: Thank you.

16 MR. SETTINERI: Thank you, your Honor.

17 Q. (By Mr. Settineri) Mr. Jordan, just to
18 refresh, have you spoken to this landowner
19 previously?

20 A. I have.

21 Q. Okay. And could you just generally
22 describe the nature of your conversations when those
23 occurred.

24 A. Yeah. I spoke to her following the
25 public hearing that was held in May for about half an

1 hour. She and her son expressed a number of concerns
2 primarily about potential environmental impacts from
3 the project. I gave her my business card and told
4 her that she could contact me any time. I also
5 followed up the week after that with a phone call. I
6 left a voicemail on her -- on her answering machine.

7 Q. And did you receive a call back from the
8 landowner?

9 A. I did not.

10 Q. Now, is Ms. Powers' residence near the
11 project area?

12 A. It is.

13 Q. And can you generally describe the
14 location?

15 A. Sure. It's -- it's next door.

16 Q. Okay. And will there be screening
17 installed near that project? And if so, can you
18 please describe it?

19 A. Sure. We are proposing medium screening
20 next to her residence that would be on the property
21 leased by the project and that would be comprised of
22 shrubs and trees.

23 Q. Now, you said medium screening. Is that
24 identified on the screening plan in your testimony?

25 A. It is.

1 Q. And is there an example of what medium
2 screening would consist of also attached to your
3 testimony?

4 A. Yes, it is. It's contained in the
5 simulations.

6 Q. Okay. Now, tree clearing will be
7 necessary for the project, correct?

8 A. It will be.

9 Q. And you are aware that Ms. Powers
10 expressed concerns about the Asian Longhorned Beetle?

11 A. She did. The site is under quarantine
12 from USDA. During construction we would have our
13 construction contractor comply with all -- all laws
14 pertaining to containment of this invasive species.
15 An example of how we could deal with this would be
16 chipping the wood on-site from tree clearing.

17 Q. Now, you mentioned that the site is under
18 quarantine. Is it more accurate to say that the
19 general area where the project is located?

20 A. Correct. The area where the project is
21 located is under a quarantine for this invasive
22 species.

23 Q. Okay. I know one of the comments also
24 expressed confusion over the project schedule. I
25 think the comment was 10 months versus 2 years. Can

1 you just give an update on the project schedule time,
2 please.

3 A. Sure. From the point we get the
4 certificate, it will take about a year to put in
5 place detailed design engineering and obtain
6 financing. And then once that occurs, active
7 construction would be approximately 10 months so
8 approximately 2 years from the time we obtain the
9 certificate.

10 Q. Okay. I know her public comment also
11 raised questions about emergency response training.
12 Did you review that -- those comments as well?

13 A. I did.

14 Q. All right. Just for the record, I may
15 have asked this, you've reviewed the entirety of her
16 comments, correct?

17 A. I have.

18 Q. All right. Just a couple of questions on
19 that. For the record how near is the closest fire
20 station?

21 A. There are two fire stations within a
22 10-minute drive from the project site.

23 Q. Okay. And has the Company started
24 developing the Emergency Response Plan?

25 A. We have. We have an outline, and the

1 outline consists of the steps that will be taken as
 2 the design of the project moves forward and the
 3 detailed locations of major components are located.
 4 The outline includes having two meetings initially,
 5 one at the commencement of construction that would be
 6 managed by our construction contractor who would have
 7 control of the site during construction and then a
 8 meeting with the first responders at commencement of
 9 operation which would be done by us because control
 10 of the site would transfer from our construction
 11 contractor to us.

12 Also within this response plan, we would
 13 update it every year, and if warranted, if things
 14 changed, we would hold additional training as
 15 necessary with local first responders.

16 Q. And you used the word "meetings." Would
 17 those meetings be considered training sessions?

18 A. Yes.

19 Q. I know in her comments, I believe, she
 20 also expressed a concern or referenced a study that,
 21 in her words, "Large solar power plants would
 22 increase local temperatures." Do you agree with her
 23 concern as to that?

24 A. I don't agree with it.

25 Q. And why not?

1 A. So I reviewed the study, and the study
2 was conducted on the conversion of desert wildlands
3 to solar PV. And I would just note that this site is
4 not a desert, and it's not wildland. It is actively
5 farmed ground that is in an area with high
6 participation and dense vegetation.

7 Q. And I think you said "participation."
8 Did you mean precipitation?

9 A. Precipitation, sorry.

10 Q. Will there be vegetation as well at the
11 solar site once it's completed?

12 A. Yes. There will be grass underneath the
13 panels.

14 Q. Do you believe that this site is
15 distinguishable from the site that was in the study
16 in the desert?

17 A. I think this -- this site, Nestlewood, is
18 on a site that's completely different from that which
19 was studied in the study referenced by Ms. Powers.

20 Q. Okay. And regarding that study itself,
21 did it make any statements about the applicability of
22 that study to areas where you have natural vegetation
23 similar to this area that are converted to a solar PV
24 site?

25 A. Correct. The study references that, you

1 know, different environments would yield different
2 outcomes.

3 Q. And you've been in the industry for some
4 time, correct?

5 A. I have.

6 Q. Okay. And are you -- and do you attend
7 industry conferences?

8 A. I do.

9 Q. Do you keep up on industry trade
10 journals?

11 A. I do.

12 Q. And based on your experience, do you
13 see -- have you seen concerns raised within the
14 industry about solar panels increasing ambient
15 temperatures?

16 A. No.

17 Q. Now, I know the public comment also
18 raised concerns about solar waste, wildlife. Does
19 the application address those issues?

20 A. Yes. The Application and the testimony
21 addresses those concerns.

22 MR. SETTINERI: Okay. All right. Thank
23 you, Mr. Jordan.

24 At this time I have no further questions
25 for Mr. Jordan, and he is available for

1 cross-examination.

2 ALJ SANYAL: Thank you.

3 Any cross from the AG or the Farm Bureau?

4 MR. LINDGREN: I do have one, your Honor.

5 ALJ SANYAL: Sure.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Lindgren:

9 Q. Mr. Jordan, you made a correction on page
10 8 of your testimony on line 16 and 17 to delete the
11 references to rules and regulations of the Federal
12 Energy Regulatory Commission and the North American
13 Electric Reliability Corporation. Can you explain
14 why you made that change or correction?

15 A. Sure. There's no direct specific
16 regulations regarding vegetation, although
17 availability is addressed. So it would be an
18 indirect -- there's an indirect connection but there
19 is not a direct rule about vegetation or lack thereof
20 that we were able to find.

21 MR. LINDGREN: I see. Thank you. No
22 further questions, your Honor.

23 ALJ SANYAL: Ms. Milam.

24 MS. MILAM: No, your Honor.

25 - - -

EXAMINATION

By Alj Sanyal:

Q. I have a few questions.

A. Okay.

Q. So let's just -- I am going to be jumping all around your testimony. So with regard to Company Exhibit 14, which is the explanation of the different types of screening options, I have two questions.

First, how -- what is the Company's proposal to communicate this plan to neighboring property owners?

MR. SETTINERI: Your Honor, if I may just for the record, were you referring to Company Exhibit 14 which are the simulations or the landscaping plan that I believe -- the screening plan that is attached as Company Exhibit 15? And I know the numbers are very small in the upper right-hand corner.

ALJ SANYAL: I am looking at Company Exhibit 14 which gives us the screenings simulations of the tall, medium, and light.

MR. SETTINERI: Thank you, your Honor.

Q. (By Alj Sanyal) And again, my question, Mr. Jordan, is how -- how do you propose to communicate this to property holders? And also if could you explain how you've kind of determined what

1 area -- what boundary line is appropriate for what
2 screening solution.

3 A. Sure, sure. So to start with, in terms
4 of communication, what we propose is once the
5 certificate is issued, we would work with the
6 landowners to show them what we've selected to be
7 near their houses.

8 On the next -- regarding your question
9 about how -- how we determined where to put these, we
10 looked at the locations of nonparticipating
11 landowners' occupied residences and that's where we
12 focused the screening.

13 And then in terms of determining medium,
14 light, or heavy screening, we looked at a couple of
15 things, just the distances the houses were at plus
16 incorporating concerns about shading of the panels.
17 So the actual screening, for instance, we put on the
18 northern boundary of the project because there is not
19 as much of a concern about shading of the panels on
20 that northern boundary.

21 Q. So will homeowners have an option to pick
22 which screening, or are you really giving them
23 suggestions based on their proximity to the project
24 location?

25 A. That's right, we're looking at the

1 proximity, and we propose putting these -- these
2 different screening plans in at certain locations.
3 We are more than happy to accept input from
4 landowners but this is what we proposed as a starting
5 point.

6 Q. And are you communicating to them via
7 phone calls or letters? What is the median?

8 A. Once the certificate is issued, we would
9 propose communicating with them by both phone and by
10 letter. As we mentioned, we reached out to folks
11 after the public information hearing. I did not
12 receive any callbacks subsequent to the public
13 information hearing. But we have -- both myself and
14 the current project manager have been passing out our
15 business cards and offering to answer any questions
16 any time from both landowners and also community
17 leaders from both townships.

18 Q. Okay. And turning to Company Exhibit 12,
19 which is the Complaint Resolution Program, I
20 understand that this was previously submitted in
21 another form as Appendix D to the Application. So
22 what are the -- are there any major changes that we
23 should be aware of?

24 A. No.

25 Q. Or substantially the same?

1 A. It's substantially the same. All we
2 added was that -- the different contact information
3 going from construction to operation.

4 Q. Okay. So going to page 14, which is
5 question 20, so you talk about the drain tile here.
6 I actually had a question about if there is any
7 damage to roads surrounding the project.

8 A. Right.

9 Q. Who would be responsible for those costs?

10 A. The project would, and we've talked to
11 the township trustees about how that would work and
12 at what point a Transportation Management Plan would
13 be created during detailed design along with
14 pre-construction surveys to determine a baseline for
15 how the roads are and what kind of service they
16 provide and then anything -- any damage attributed to
17 the project and construction traffic would be picked
18 up by the project.

19 Q. Okay. And then turning to page 13,
20 question 19, for my personal education, what is the
21 difference between agricultural district land and
22 agricultural land?

23 A. So agricultural district land, I believe,
24 is something that's defined from a policy perspective
25 in the State of Ohio versus land that's used for

1 agriculture.

2 Q. Okay. So it's -- it's specifically land
3 that is currently used for agriculture or any --

4 A. Yeah.

5 Q. If there is another witness better suited
6 to answer my question, I can reserve that question
7 for later. It looks like there may be another
8 witness.

9 MR. SETTINERI: Yeah, I would say
10 Ms. Gresock may be able to address that specifically
11 and give you information on that.

12 ALJ SANYAL: Perfect.

13 Q. (By Alj Sanyal) And then going back to
14 your testimony about your review of Ms. Powers'
15 comments that was filed yesterday, just a
16 clarification question, does the project in any way
17 hamper a first responder's ability to reach their
18 intended destination? Are there any concerns? Is it
19 blocking a road?

20 A. No.

21 ALJ SANYAL: Okay. Thank you. I don't
22 have any other questions. Does -- are there any
23 questions based on the questions I've asked?

24 MR. LINDGREN: No, thank you, your Honor.

25 MR. SETTINERI: No, your Honor.

1 ALJ SANYAL: Okay. That's all I have.
2 Thank you, Mr. Jordan.

3 THE WITNESS: Thank you.

4 ALJ SANYAL: You may step down.

5 MR. SETTINERI: Your Honor, at this time
6 we would move the admission of Company Exhibit 11 --

7 ALJ SANYAL: And --

8 MR. SETTINERI: -- 12, 13, 14, 15, Joint
9 Exhibit 2, and Company Exhibit 23.

10 ALJ SANYAL: And 23 perhaps?

11 MR. SETTINERI: And Company Exhibit 21 as
12 well which are the Data Responses.

13 ALJ SANYAL: What about 23?

14 MR. SETTINERI: Yes, 23, that's correct.

15 ALJ SANYAL: Any objections to those
16 being admitted?

17 MR. LINDGREN: No objections.

18 ALJ SANYAL: Hearing none, those are
19 admitted.

20 (EXHIBITS ADMITTED INTO EVIDENCE.)

21 MR. SETTINERI: Thank you, your Honor.
22 At this time we would like to call John Soininen to
23 the stand, please.

24 (Witness sworn.)

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JOHN SOININEN

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

DIRECT EXAMINATION

By Mr. Settineri:

Q. Good morning, Mr. Soininen. How are you?

A. Good. How are you?

MR. SETTINERI: At this time we would
like to mark as Company Exhibit 22 an e-mail from
Mr. John McManus to Mr. Soininen. Give you a copy.
Copies have been handed out to the parties as well,
your Honor.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Mr. Settineri) Mr. Soininen, could
you please state your name and business address for
the record, please.

A. Yes. It's John Soininen, and I work for
Lendlease Energy Development, LLC.

ALJ SANYAL: You probably have to spell
your name.

THE WITNESS: Sure. It's -- the last
name is S-O-I-N-I-N-E-N.

ALJ SANYAL: And I'm sorry I interrupted
you so.

Q. (By Mr. Settineri) That's good advice she

1 just gave you. All right.

2 A. The Company address, do you want me to
3 finish that?

4 Q. Yes, please.

5 A. It's 909 Lake Carolyn Parkway, Suite 260,
6 Irving, Texas 75039.

7 Q. And on whose behalf are you testifying
8 today?

9 A. I'm testifying on behalf of the Applicant
10 Nestlewood Solar I LLC.

11 Q. And what is your current role as to
12 the -- as to Nestlewood Solar?

13 A. I am the development manager for this
14 project.

15 Q. And how long have you been in that
16 position?

17 A. I've been involved with this project
18 since the beginning of the year.

19 Q. Okay. And can you just for the record
20 give us a general background experience for you?

21 A. Sure. I've been with Lendlease for just
22 about two years as a development project manager
23 focused exclusively on utility-scale solar projects.
24 Prior to my position at Lendlease, I worked for a
25 company called Walden Green Energy and was involved

1 in the development of utility-scale solar projects
2 for about a decade.

3 Q. Okay. Do you have in front of you what's
4 been marked as Company Exhibit 22?

5 A. Yes, I do.

6 Q. And can you please identify that for the
7 record, please.

8 A. This is an e-mail communication between
9 John McManus from the Clermont Soil and Water
10 Conservation District and myself.

11 Q. Okay. And can you just generally
12 describe what that communication is and what it
13 transmits to you.

14 A. Yes. We were working on an Amended
15 Stipulation for the project and this is the
16 communication between John McManus and myself
17 relative to the specific language of that
18 Stipulation.

19 Q. And was the final language of that
20 amendment to the Stipulation acceptable to
21 Mr. McManus per his e-mail?

22 A. Yes, it was, and he clarifies that very
23 clearly at the top of the e-mail.

24 Q. And, in fact, did Mr. McManus have input
25 in the drafting of that new condition?

1 A. Yes. He had several comments.

2 Q. And those were incorporated?

3 A. Yes, they were.

4 Q. Thank you. Just a few other questions.
5 Since you've assumed your role as project manager,
6 have you met with local officials?

7 A. Yes, I have.

8 Q. And can you -- can you generally describe
9 those meetings, please.

10 A. Sure. So I have toured the project area
11 several times, and I have met with township trustees
12 in both Tate Township and in Clark Township.

13 Q. And just for the record where -- what
14 building did you meet them in?

15 A. We met in both instances in the local
16 fire stations.

17 Q. Okay. And did -- in those meetings did
18 you have a chance to meet members of the local fire
19 department, police?

20 A. Yes, absolutely. So in -- specifically
21 in the meeting with Tate Township, it was a public
22 meeting that was attended by the police chief, mayor,
23 and a number of township officials, first responders,
24 and the like.

25 Q. Did you have an opportunity to have some

1 one-on-one type discussions with those first
2 responders?

3 A. We talked in the meeting specifically
4 about emergency response protocols and processes for
5 a project such as this.

6 Q. Okay. And do you have experience with
7 working with local emergency responders as to
8 renewable energy projects?

9 A. Yes, I have done that numerous times,
10 typically takes place once a contractor has been
11 selected for the project, final design is in place,
12 and more specific details relative to the
13 construction of timetable are established.

14 Q. Okay. And can you just -- based on your
15 experience just kind of give an oversight of what
16 those meetings would consist of, training sessions?

17 A. Absolutely.

18 Q. Walk us through the process, please.

19 A. Yes. Typically those meetings are
20 sitdowns with local officials to talk about the
21 equipment being installed in the project, the nature
22 of the activities on-site, what will be occurring at
23 what time frames, communication, any hazardous
24 substances, any special protocols, any training that
25 would be required, any unique circumstances, focused

1 on environmental health and safety, dealing with
2 personnel on the site, emergency situations, and the
3 like.

4 Q. Okay. And that would occur both during
5 construction and prior to commencement of operations;
6 is that correct?

7 A. That's correct. Activities are obviously
8 different. There's a lot of people on-site during
9 the construction and much less so during operations.
10 So typically as the project is getting close to
11 construction would be the time we would develop a
12 detailed Emergency Response Plan in coordination with
13 the local first responders.

14 MR. SETTINERI: All right. Thank you,
15 Mr. Jordan -- I'm sorry, Mr. Soininen. No further
16 questions.

17 ALJ SANYAL: Any cross-examination?

18 MR. LINDGREN: No questions, your Honor.

19 MS. MILAM: None, your Honor.

20 ALJ SANYAL: Okay. Well, first of all,
21 for the record I would like to note that
22 Mr. Soininen -- I can't pronounce your name.

23 THE WITNESS: You did it perfectly.

24 ALJ SANYAL: His testimony was not
25 prefilled, but we are waiving that rule for the

purposes of the hearing.

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EXAMINATION

By Alj Sanyal:

Q. I do have a few questions. So the Supplemental Stipulation, which has only one condition, it refers to the Clermont County Building Inspection Department and Brown County Soil and Water Conservation District, but then your response has Clermont Soil and Water Conservation District. So could you just explain that discrepancy.

A. Yes. I will certainly try.

Q. And if not, I could ask that question for -- to another witness.

A. My understanding is that John McManus participated in the approval of the project review process previously and had raised some questions about the jurisdiction for further stormwater permitting. And so part of the discussion in detail with Mr. McManus was relative to who, in fact, had jurisdiction over stormwater permitting for the project.

The determination ultimately was made that it was Ohio EPA, and so Ohio EPA is the authority having jurisdiction and the information

1 relative to the applications and approval process
2 will be provided then to the relevant county
3 entities, and so those entities are defined in the
4 Amended Stipulation which is the Building Inspection
5 Department in Clermont County and the Soil and Water
6 Conservation District of Brown County.

7 Q. Okay.

8 A. So ultimately Ohio EPA has authority and
9 jurisdiction over the review and approval of
10 stormwater permits but that information will be
11 provided to --

12 Q. The counties?

13 A. -- the counties.

14 ALJ SANYAL: Okay. I believe counsel has
15 a follow-up.

16 MR. SETTINERI: Well, let's see if this
17 witness is the right witness for the question, but
18 the distinction here is you have the Clermont County
19 Building Inspection Department. At one point
20 Mr. McManus was with, I believe, the Clermont County
21 Soil and Water Conservation District. Why is the
22 information going to the --

23 ALJ SANYAL: To the Brown County.

24 MR. SETTINERI: -- Building Inspection
25 Department? I'm sorry. Did I get that wrong?

1 ALJ SANYAL: You know, the condition --

2 MR. SETTINERI: I didn't hear your

3 question.

4 ALJ SANYAL: Condition states Clermont
5 County Inspection Department and then Brown County
6 Soil and Water Conservation District, but it appears
7 that Mr. McManus is with the Clermont County Soil and
8 Water Conservation District, so I am just trying to
9 understand.

10 MR. SETTINERI: Are you trying to
11 understand -- is the discrepancy that you have Mr. --
12 Mr. McManus with Clermont only commenting --

13 ALJ SANYAL: Correct.

14 MR. SETTINERI: -- versus Brown County?

15 ALJ SANYAL: And why does the Stipulation
16 not mention both, I guess?

17 MR. SETTINERI: You mean his department
18 specifically?

19 ALJ SANYAL: Right.

20 MR. SETTINERI: Okay. I don't know if
21 you know the answer and whether it's the fact that
22 normally stormwater permits would go through the
23 Building Department, but his department has
24 interactions with that. And maybe Ms. Gresock would
25 be able to address that later, but it's the process

1 and so.

2 ALJ SANYAL: I can ask the more
3 appropriate witness.

4 MR. SETTINERI: And maybe Mr. Marquis
5 would be better to follow the stormwater but there is
6 an answer to your question.

7 ALJ SANYAL: Okay. Perfect. I have no
8 other questions in that case. Thank you.

9 MR. SETTINERI: Your Honor, at this time
10 we would like to move for the admission of Company
11 Exhibit 22 into the record, please.

12 ALJ SANYAL: Are there any objections?

13 MR. LINDGREN: No objections.

14 ALJ SANYAL: Okay. That is admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 MR. SETTINERI: All right. Your Honor,
17 at this time we'll call Lynn Gresock to the stand.

18 (Witness sworn.)

19 MR. SETTINERI: And, your Honor, just to
20 be clear, I may have not heard you, you did admit
21 Company Exhibit 22 into the record?

22 ALJ SANYAL: I did.

23 MR. SETTINERI: Just making sure. All
24 right. Your Honor, at this time I would like to mark
25 as Company Exhibit 16 the supplemental direct

1 testimony of Lynn Gresock.

2 ALJ SANYAL: This has been marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 - - -

5 LYNN GRESOCK

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

8 DIRECT EXAMINATION

9 By Mr. Settineri:

10 Q. Good morning, Ms. Gresock.

11 A. Good morning.

12 Q. Could you please state your name and
13 business address for the record, please.

14 A. My name is Lynn Gresock. My business
15 address is 3 Bedford Farms Drive, Suite 301, Bedford,
16 New Hampshire 03110.

17 Q. Okay. And on whose behalf are you
18 testifying today?

19 A. On behalf of the Applicant.

20 Q. And you previously testified in this
21 proceeding, correct?

22 A. I have.

23 Q. Okay. And you have before you what's
24 been marked as Company Exhibit 16?

25 A. I do.

1 Q. And could you please identify that for
2 the record, please.

3 A. That is my supplemental direct testimony.

4 Q. And that was prepared by you or at your
5 direction?

6 A. It was.

7 Q. And do you have any changes to your
8 testimony at this time today?

9 A. I do not.

10 Q. If I asked you the questions in your
11 testimony today, would your answers be the same as
12 written?

13 A. They would.

14 MR. SETTINERI: Okay. Your Honor, at
15 this time the witness is available for
16 cross-examination.

17 ALJ SANYAL: Questions?

18 MR. LINDGREN: No questions, your Honor.

19 MS. MILAM: No, your Honor.

20 - - -

21 EXAMINATION

22 By Alj Sanyal:

23 Q. Okay. I have a couple. So let's turn to
24 page 2 and 3 of your testimony. So on line 23 and
25 that goes into line 1 on page 3, you have a reference

1 to "substantial, direct ground disturbance." If you
2 could just explain what that means. And take your
3 time --

4 A. Where are you at?

5 Q. -- review the sentence.

6 A. The concern relative to the potential for
7 archeological resources is to make sure there's
8 nothing below the surface that would exist that would
9 be disrupted or over which significant weight would
10 be placed that would cause an effect in that way. So
11 by reviewing where within the site the actual
12 facilities will be placed we'll be able to work with
13 the Ohio Historic Preservation Office to develop the
14 right type of plan for investigating subsurface
15 conditions to confirm that archeological resources
16 would not be affected.

17 Q. Okay. And then what in your mind
18 constitutes "substantial, direct ground disturbance"?

19 A. Substantial, direct ground disturbance
20 would be activities such as digging trenches to put
21 underground utilities, constructing roads, and the
22 Ohio Historic Preservation Office really hasn't come
23 to a formal determination whether they consider
24 driving the supporting piles as direct effect but
25 that's something that over time they'll be

1 determining as they review more of these projects.

2 Q. Okay. Thank you. And then I believe you
3 are the witness who is going to help me understand
4 the difference between agricultural land and
5 agricultural --

6 A. I can do that. So obviously when
7 considering potential effect to agriculture, it's
8 important to consider land that's used for
9 agricultural purposes, but agricultural districts are
10 properties where the landowner has a large enough
11 property that they have determined that they will
12 commit to agricultural uses such that they have it
13 specially designated as an agricultural district.

14 So when we are looking for that
15 information for application purposes, we typically
16 find that in the county tax information. I am not
17 entirely sure all the benefits they derive, but I
18 assume there are some tax benefits that they receive
19 from having made that commitment to place it in an
20 agricultural district. So other land can certainly
21 be used for agricultural purposes, and it is just a
22 special classification.

23 ALJ SANYAL: That's all.

24 THE WITNESS: I hope that helps.

25 ALJ SANYAL: Any questions based on my

1 questions?

2 MR. SETTINERI: Just one follow-up.

3 - - -

4 REDIRECT EXAMINATION

5 By Mr. Settineri:

6 Q. Is it true that there is very little
7 agricultural district land in this area?

8 A. That's correct.

9 Q. Do you know approximately how much it is?

10 A. I don't have that information.

11 Q. If not, that would be in the Application.

12 A. It is in the Application.

13 MR. SETTINERI: Thank you.

14 ALJ SANYAL: And I believe it's in
15 Mr. Jordan's testimony. Any other questions?

16 MR. LINDGREN: None, your Honor.

17 ALJ SANYAL: Okay. You may step down.

18 Thank you.

19 MR. SETTINERI: Your Honor, at this time
20 then we would move for the admission of Company
21 Exhibit 16 into the record, please.

22 ALJ SANYAL: Any objections?

23 MR. LINDGREN: No objections.

24 ALJ SANYAL: It is admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 MR. SETTINERI: Your Honor, at this time
2 we will continue to proceed, and we would like to
3 call Tricia Pellerin to the stand, please.

4 (Witness sworn.)

5 MR. SETTINERI: Your Honor, if I may, at
6 this time I would like to mark as Company Exhibit 17
7 direct testimony of Tricia Pellerin.

8 ALJ SANYAL: It is so marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 - - -

11 TRICIA PELLERIN

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

14 DIRECT EXAMINATION

15 By Mr. Settineri:

16 Q. Good morning, Ms. Pellerin.

17 A. Good morning.

18 Q. Starting first could you please state
19 your name and business address for the record,
20 please.

21 A. Yes. My name is Tricia Pellerin, and I
22 work for Tetra Tech located at 160 Federal Street in
23 Boston, Massachusetts.

24 Q. And on whose behalf are you testifying
25 today?

1 A. On behalf of the Applicant.

2 Q. And do you have before you what's been
3 marked as Company Exhibit 17?

4 A. Yes.

5 Q. And can you identify that for the record,
6 please.

7 A. That is my direct testimony.

8 Q. And do you have any changes or revisions
9 to your testimony today?

10 A. No, I do not.

11 Q. And it was prepared by you or at your
12 direction?

13 A. Yes, it was.

14 Q. And if I asked you the questions today in
15 your testimony, would your answers be the same?

16 A. They would, yes.

17 MR. SETTINERI: Thank you. At this time,
18 your Honor, the witness is available for
19 cross-examination.

20 MR. LINDGREN: No questions, your Honor.

21 MS. MILAM: None, your Honor.

22 ALJ SANYAL: And I have no questions for
23 you, so you may step down. Thank you for traveling.

24 MR. SETTINERI: All right. Your Honor,
25 then at this time we would move for the admission of

1 Company Exhibit 17, the direct testimony of Tricia
2 Pellerin, please.

3 ALJ SANYAL: Okay. Any objections?

4 MR. LINDGREN: No objections.

5 ALJ SANYAL: Okay. It is admitted.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 MR. SETTINERI: Thank you, your Honor.

8 At this point in time I am going to hand off some
9 witnesses to Mr. Taylor who will be proceeding next.

10 MR. TAYLOR: And thank you, your Honor.

11 The Applicant would like to call Mr. Andrew English
12 to the stand.

13 (Witness sworn.)

14 MR. TAYLOR: And, your Honor, I would
15 like to begin by marking an exhibit. Company
16 Exhibit 18 is the direct testimony of Andrew English.

17 ALJ SANYAL: It is so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 - - -

20 ANDREW ENGLISH

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

23 DIRECT EXAMINATION

24 By Mr. Taylor:

25 Q. Mr. English, if you could just begin by

1 stating your name and business address.

2 A. Yes. My name is Andrew English. I work
3 for a company called PLANIT Studios. It's
4 P-L-A-N-I-T. We're located at 500 Wilson Bridge
5 Road, Suite 314, Worthington, Ohio.

6 Q. And, Mr. English, on whose behalf are you
7 testifying today?

8 A. On behalf of the Applicant.

9 Q. And could you please identify what's been
10 marked as Company Exhibit 18, please.

11 A. That's my direct testimony.

12 Q. And was this prepared by you or at your
13 direction?

14 A. It was.

15 Q. And do you have any corrections or
16 additions to that testimony?

17 A. I do. Page 3, line 3, where it states
18 "Attachment 1," that should be changed to "Attachment
19 A."

20 Q. Okay. Thank you. Do you have any our
21 additional corrections?

22 A. I do not.

23 Q. And if I asked you the questions in
24 Company Exhibit 18 today, would your answers be the
25 same with that correction?

1 A. Yes, they would.

2 MR. TAYLOR: Your Honor, no further
3 questions. The witness is available for
4 cross-examination.

5 MR. LINDGREN: None, your Honor.

6 MS. MILAM: None, your Honor.

7 - - -

8 EXAMINATION

9 By Alj Sanyal:

10 Q. Okay. I just have one question. So I
11 asked Mr. Jordan the same question but if you could
12 help me understand how you kind of determine what
13 areas of the boundaries would have the specific
14 screening options.

15 A. Yeah. So what we do typically in this
16 type of situation there's a lot of factors involved,
17 you know, existing vegetation, the views that, you
18 know, are important to screen, things like that. And
19 then basically what we'll do is in this case we had
20 three separate options, tall, a medium, and a low
21 screen. And what we'll do is based on that
22 vegetation, we'll come up with options and picking
23 plant material that would fit those, you know, those
24 different areas.

25 And then through that we'll develop those

exhibits that you see that, you know, that basically represent what that would look like in those different areas.

ALJ SANYAL: Okay. Any questions based on my one question?

MR. LINDGREN: None, your Honor.

ALJ SANYAL: Okay. You may step down. Thank you.

MR. TAYLOR: And, your Honor, we would ask that Company Exhibit 18 be admitted into the record, please.

ALJ SANYAL: Okay. It is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

MR. TAYLOR: And, your Honor, we would next like to call Mr. Matt Marquis to the stand.

(Witness sworn.)

ALJ SANYAL: Okay. You may be seated.

MR. TAYLOR: And, your Honor, a little bit out of order but I would like to have marked Company Exhibit 20 which is the direct testimony of Mr. Marquis.

ALJ SANYAL: It is so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

ALJ SANYAL: Thank you.

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MATT MARQUIS

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

DIRECT EXAMINATION

By Mr. Taylor:

Q. And, Mr. Marquis, could you please state
your name and business address for the record,
please.

A. Yeah. My name is Matthew Marquis, last
name spelled M-A-R-Q-U-I-S. I work at Hull &
Associates, Inc., at 6397 Emerald Parkway, Suite 200,
Dublin, Ohio 43016.

Q. And on whose behalf are you testifying
today?

A. The Applicant.

Q. And could you please identify what's been
marked as Company Exhibit 20, please.

A. My direct testimony.

Q. And this was prepared by you or at your
direction?

A. Yes.

Q. And do you have any corrections to that
testimony at this time?

A. I do not.

Q. And if I asked you the same questions in

1 Company Exhibit 20 today, would your answers be the
2 same?

3 A. Yes, they would.

4 Q. And, finally, Mr. Marquis, you were here
5 for Mr. Soininen's testimony; is that right?

6 A. Yes.

7 Q. And you heard the question that the
8 Administrative Law Judge had for him.

9 A. Yes.

10 Q. Could you just clarify in Joint Exhibit
11 2, the supplemental condition, why it refers to the
12 Clermont County Building Department when Mr. McManus
13 works for the Clermont Soil and Water Conservation
14 District, please?

15 A. Sure. I would like to clarify I haven't
16 had direct conversation with Mr. McManus myself, but
17 typically the county when each county, municipality
18 has their own process for submitting permits and, for
19 example, in the City of Cleveland it's the Building
20 and Housing Department that you would submit a permit
21 for construction activities, but the people reviewing
22 the permit do not necessary have all the technical
23 knowledge, and so they will rely on other agencies.

24 In the case of City of Cleveland, for
25 instance, they will rely on the Cuyahoga Soil and

1 Water Conservation District do the review for like
2 Stormwater Pollution Prevention Plans or H&H or
3 hydrology -- hydrologic and hydraulic studies and
4 other, you know, engineering studies like that.

5 So it's not -- it doesn't surprise me
6 they would have selected the Clermont County Building
7 Inspection Department for the submission of those
8 calculations. They would likely be submitted to
9 Mr. McManus, you know, for the actual review but
10 that's the process that they probably have, those
11 calculations submitted directly to the Building
12 Department.

13 Q. Okay. And in terms of the inclusion of
14 Brown County, the project is in both Clermont and
15 Brown County; is that correct?

16 A. Yes.

17 MR. TAYLOR: I have no further questions.
18 The witness is available for cross-examination.

19 ALJ SANYAL: Okay.

20 MR. LINDGREN: No questions, your Honor.

21 ALJ SANYAL: No questions?

22 MS. MILAM: None, your Honor.

23 - - -

EXAMINATION

By Alj Sanyal:

Q. Okay. Thank you for clearing up that confusion regarding where the information was submitted.

A. Sure.

Q. I am going I have a few questions for you. So turning to page 4 of your testimony, so basically in answer 9 and answer 10, you talk about -- you explain the OEPA General Permit.

A. Yes.

Q. Can you help me explain when the Company -- in the project timeline when this permit will be applied for?

A. Sure. This permit is applied for once you have final design completed for a construction project.

Q. Okay.

A. It's applied for projects that disturb more than 1 acre of land or part of a larger development that would involve at least 1 acre of land being disturbed over the course of the whole project. And so once you get to the final design stage, you have your final construction drawing specifications, your Erosion/Settling Control Plans

1 in place, you would develop your Stormwater Pollution
2 Plan that meets the requirements of the General
3 Permit from the Ohio EPA. And at that time you would
4 submit Notice of Intent to have coverage under that
5 General Permit and your Stormwater Pollution
6 Prevention Plan and associated construction drawings
7 to support that plan are all completed at the time
8 you submit your Notice of Intent.

9 Q. So do you know from when once -- when the
10 Company receives the certificate, how soon after you
11 get that permit? And you may not know this answer.

12 A. Well, it depends on when the final design
13 is completed, but the NOI, for example, is submitted
14 21 days before the construction would begin, so you
15 would have to have your Stormwater Pollution
16 Prevention Plan, you know, final design construction
17 drawings in place at that time.

18 ALJ SANYAL: Okay. I think those are all
19 the questions I have. Any questions based on mine?

20 MR. TAYLOR: No.

21 ALJ SANYAL: Okay. You may step down.
22 Thank you very much.

23 MR. TAYLOR: And, your Honor, we would
24 ask that Company Exhibit 20 be admitted into the
25 record.

1 ALJ SANYAL: Hearing no objection, it's
2 admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. TAYLOR: Thank you. And, your Honor,
5 the Applicant would like to call Mr. Mark Bonifas to
6 the stand.

7 (Witness sworn.)

8 MR. TAYLOR: And, your Honor, we would
9 like to mark for identification what's been marked as
10 Company Exhibit 19, please, which is the direct
11 testimony of Mr. Mark Bonifas.

12 ALJ SANYAL: That is so marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 - - -

15 MARK J. BONIFAS

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

18 DIRECT EXAMINATION

19 By Mr. Taylor:

20 Q. And, Mr. Bonifas, would you please state
21 your name and business address for the record,
22 please.

23 A. Mark Bonifas with Hull & Associates, 6397
24 Emerald Parkway, Suite 200, Dublin, Ohio 43065. I'm
25 sorry, 43016.

1 Q. And on whose behalf are you testifying
2 today?

3 A. For the Applicant.

4 Q. And could you please identify what's been
5 marked as Company Exhibit 19, please.

6 A. That is my direct testimony.

7 Q. And this was prepared by you or at your
8 direction?

9 A. It was.

10 Q. Okay. And do you have any changes or
11 revisions to Company Exhibit 19?

12 A. I do not.

13 Q. And if I asked you the questions in
14 Company Exhibit 19 today, would your answers be the
15 same?

16 A. They would.

17 MR. TAYLOR: Your Honor, I have no
18 further questions for this witness and is available
19 for cross-examination.

20 ALJ SANYAL: Questions?

21 MR. LINDGREN: No questions, your Honor.

22 MS. MILAM: None, your Honor.

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EXAMINATION

By Alj Sanyal:

Q. Okay. I have one question. If you will turn to page 6 of your testimony, and this answer is answer 12, kind of describes what the role of the environmental specialist is. So I just want to understand who employs the environmental specialist? Is it Nestlewood, or is it another contractor?

A. Typically the Applicant.

Q. Okay. And in this case do you know if Nestlewood would be -- has -- Nestlewood has retained you, correct?

A. They retained me for this hearing but not for environmental specialist services.

ALJ SANYAL: Okay. The only question I had.

MR. TAYLOR: No questions, your Honor.

ALJ SANYAL: Okay. You may step down. Thank you.

MR. TAYLOR: And, your Honor, we would ask that Company Exhibit 19 be admitted into the record, please.

MR. LINDGREN: No objections.

ALJ SANYAL: Okay. Hearing no objections, 19 is admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 MR. SETTINERI: Your Honor, at this time
3 that concludes our presentation for the reopening of
4 the record.

5 ALJ SANYAL: Okay.

6 MR. SETTINERI: We appreciate it.

7 ALJ SANYAL: Any other issues we need to
8 discuss before we go off the record?

9 MR. SETTINERI: The only request I would
10 make, your Honor, is that hopefully the Board will
11 act timely on this Application and proceed to a
12 decision.

13 ALJ SANYAL: Thank you. That's been
14 noted for the record and getting an expedited
15 transcript will help.

16 Okay. Thank you very much. Let's go off
17 the record.

18 (Discussion off the record.)

19 (Thereupon, at 10:59 a.m., the hearing
20 was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, February 26,
2020, and carefully compared with my original
stenographic notes.

Karen Sue Gibson
Karen Sue Gibson, Registered
Merit Reporter.

(KSG-6890)

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Case No(s). 18-1546-EL-BGN

Summary: Transcript Volume III - In the Matter of the Application of Nestlewood Solar I LLC for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generating Facility in Brown and Clermont Counties, Ohio, hearing held on February 26th, 2020. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.