

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of :
Ross County Solar, LLC : Case No. 20-1380-EL-BGN
for a Certificate of :
Environmental Compatibility :
and Public Need. :

- - -

PROCEEDINGS

before Jay Agranoff and Jesse Davis, Administrative
Law Judges, Ohio Power Siting Board, conducted via
Webex video conference, called at 10:05 a.m. on
Thursday, June 10, 2021.

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VOLUME I

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On behalf of the Ohio Farm Bureau
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On behalf of Buckskin Township.

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Thursday Morning Session,
June 10, 2021.

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ALJ AGRANOFF: The Ohio Power Siting Board has scheduled for hearing at this time and place, Case No. 20-1380-EL-BGN, which is captioned In the Matter of the Application of Ross County Solar, LLC for a Certificate of Environmental Compatibility and Public Need.

My name is Jay Agranoff, with me is Jesse Davis, and we are the Administrative Law Judges in the legal department of the Ohio Power Siting Board who have been assigned to hear this case.

Before we actually take the appearances, I do know that we have a motion which will directly affect the appearances and that was a motion that was filed on June 2nd of 2021. It was filed by Mr. Jeffrey Marks and it was a motion to withdraw as counsel for Buckskin Township in this particular proceeding. I'm going to assume there's no objections to the motion that was filed. Hearing no objections, that motion shall be granted at this point in time.

And now taking that particular ruling into account, we will take the appearances.

1 On behalf of the Applicant.

2 MR. SETTINERI: Yes. Good morning, Your
3 Honors. On behalf of Ross County Solar, LLC, Michael
4 Settineri and Anna Sanyal with the law firm of Vorys,
5 Sater, Seymour and Pease, 52 East Gay Street,
6 Columbus, Ohio 43215.

7 ALJ AGRANOFF: Thank you.

8 On behalf of the Ohio Farm Bureau.

9 MS. MILAM: Good morning, Your Honor.
10 Amy Milam on behalf of Ohio Farm Bureau Federation,
11 280 North High Street, Columbus, Ohio 43215.

12 ALJ AGRANOFF: Thank you.

13 On behalf of Paint Township.

14 MR. MARKS: Good morning, Your Honors.
15 Hopefully this microphone works a little better than
16 the one I had in my office. Sorry I'm so far away on
17 the camera. My name is Jeffrey Marks. I'm
18 representing Paint Township. I'm the Ross County
19 Prosecuting Attorney. Our address is 33 West Main
20 Street, Suite 200, Chillicothe, Ohio 45601.

21 ALJ AGRANOFF: Thank you.

22 On behalf of Buckskin Township.

23 MR. FARTHING: Yes, Your Honor. This is
24 John Farthing. My firm is Farthing & Stewart. We're
25 located at 229 North Court Street, Circleville, Ohio.

1 And as you indicated before, Mr. Marks' motion was
2 granted, and we are now counsel for Buckskin
3 Township.

4 ALJ AGRANOFF: Thank you.

5 On behalf of the Board Staff.

6 MR. LINDGREN: Thank you, Your Honor. On
7 behalf of the Board Staff, Ohio Attorney General Dave
8 Yost, by Thomas Lindgren and Chelsea Fletcher. The
9 address is 30 East Broad Street, 26th Floor,
10 Columbus, Ohio 43215.

11 ALJ AGRANOFF: Thank you.

12 Before we jump into the testimony for
13 today, I think we probably should do a little house
14 cleaning just to make sure everybody is on the same
15 page. If either Mr. Settineri or Ms. Sanyal, if you
16 want to just delineate for the record the order of
17 witnesses for today.

18 MR. SETTINERI: Yes, Your Honor. We have
19 the order for witnesses today is: William Risse,
20 Mark Bonifas, Andrew Lines, Brent Finley, Matthew
21 Robinson, Ryan Rupprecht, Isaac Old who will be
22 adopting the Direct Testimony of Eddie Duncan, Matt
23 Marquis, and then we have a date certain for
24 Mr. August Christensen who will be tomorrow.

25 ALJ AGRANOFF: That is what my notes

1 reflected so that is good.

2 Then if you'd like to go ahead and
3 pre-mark all of the various exhibits that we're going
4 to utilize for today.

5 MR. SETTINERI: Sure. It's a list, so
6 would you like me just to mark -- do you want me to
7 mark each one at a time as we go through, "so
8 marked"?

9 ALJ AGRANOFF: Yeah, why don't we just go
10 ahead and go through the list. I think there's 20?

11 MR. SETTINERI: Yup. We'll knock it out
12 now.

13 ALJ AGRANOFF: Okay.

14 MR. SETTINERI: All right. Your Honor,
15 so at this time we would like to mark as Company
16 Exhibit 1, the Application filed in this proceeding.

17 ALJ AGRANOFF: It will be so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 MR. SETTINERI: We would like to mark as
20 Company Exhibit 1C, these are the confidential
21 portions of the Application that have been filed.

22 ALJ AGRANOFF: They shall be so marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. SETTINERI: We would mark as Company
25 Exhibit 2, responses to various Staff data requests.

1 ALJ AGRANOFF: So marked.

2 MR. SETTINERI: We would mark as --

3 ALJ AGRANOFF: Can we just have, for the
4 purposes of clarifying the record, the date of the
5 responses?

6 MR. SETTINERI: Sure. We have responses
7 of December 24, 2020.

8 ALJ AGRANOFF: Okay. That's --

9 MR. SETTINERI: A few more.

10 ALJ AGRANOFF: Okay.

11 MR. SETTINERI: We have a February 16,
12 2021 response.

13 ALJ AGRANOFF: Okay.

14 MR. SETTINERI: And we have a March 3,
15 2021 response. Those three responses are all
16 included in Company Exhibit 2.

17 ALJ AGRANOFF: Okay. And they shall all
18 be so marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. SETTINERI: Okay. Next, we would
21 mark as Company Exhibit 3, various proofs of service
22 of the Application. I should say the proof of
23 service of the Application.

24 ALJ AGRANOFF: That shall be so marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. SETTINERI: We have Company
2 Exhibit 4. These are various proofs of public
3 notices and proofs of publication.

4 ALJ AGRANOFF: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. SETTINERI: Company Exhibit 5, we
7 would mark as Company Exhibit 5, a Memorandum of
8 Understanding between the Ohio State Historic
9 Preservation Office and Ross County Solar, LLC.

10 ALJ AGRANOFF: So marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. SETTINERI: Company Exhibit 6, the
13 Direct Testimony of William Risse, filed April 14,
14 2021.

15 ALJ AGRANOFF: So marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. SETTINERI: Next, Company Exhibit 7,
18 the Direct Testimony of Eddie Duncan which Isaac Old
19 will be adopting in this proceeding, filed April 14,
20 2021.

21 ALJ AGRANOFF: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. SETTINERI: Company Exhibit 8, the
24 Direct Testimony of Mark Bonifas.

25 ALJ AGRANOFF: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SETTINERI: We would mark as Company
3 Exhibit 9, the Direct Testimony of Matt Marquis.

4 ALJ AGRANOFF: So marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. SETTINERI: We would mark as Company
7 Exhibit 10, the Direct Testimony of Andrew Lines.

8 ALJ AGRANOFF: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 MR. SETTINERI: We would mark as Company
11 Exhibit 11, the Direct Testimony of Matthew Robinson.

12 ALJ AGRANOFF: So marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. SETTINERI: We would mark as Company
15 Exhibit 12, the Direct Testimony of Ryan Rupprecht.

16 ALJ AGRANOFF: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. SETTINERI: We would mark as Company
19 Exhibit 13, the Direct Testimony of August
20 Christensen.

21 ALJ AGRANOFF: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. SETTINERI: And we would mark as
24 Company Exhibit 14, the Direct Testimony of Brent
25 Finley.

1 ALJ AGRANOFF: So marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 MR. SETTINERI: Next, we would mark as
4 Company Exhibit 15, the Supplemental Testimony of
5 William Risse filed on May 21, 2021.

6 ALJ AGRANOFF: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. SETTINERI: We would mark as Company
9 Exhibit 16, the Supplemental Testimony of August
10 Christensen.

11 ALJ AGRANOFF: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. SETTINERI: We would mark as Company
14 Exhibit 17, the Supplemental Testimony of Matthew
15 Robinson filed May 21, 2021.

16 ALJ AGRANOFF: So marked.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. SETTINERI: We would mark as Company
19 Exhibit 18, the Supplemental Testimony of Ryan
20 Rupprecht.

21 ALJ AGRANOFF: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. SETTINERI: We would mark as Company
24 Exhibit 19, the Direct Testimony of Isaac Old.

25 ALJ AGRANOFF: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SETTINERI: We would mark as Company
3 Exhibit 20, a redline which I'll describe for the
4 record is a redline of the conditions from the Staff
5 Report to the Stipulation conditions.

6 ALJ AGRANOFF: So marked.

7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 MR. SETTINERI: Lastly, we would mark as
9 Joint Exhibit 1, the Joint Stipulation filed in this
10 proceeding on May 18, 2021.

11 ALJ AGRANOFF: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 ALJ AGRANOFF: Thank you.

14 MR. SETTINERI: Thank you. And we are
15 ready to proceed when you are ready, Your Honor.

16 ALJ AGRANOFF: Okay. Just in case we did
17 not specifically state for the record while we were
18 going through the delineation of witnesses. In light
19 of the fact that there is the one witness,
20 Mr. Christensen, who is unavailable for today and
21 will be called tomorrow, we will therefore be
22 continuing today's proceeding tomorrow as well.
23 We'll begin at 10:00 for the limited purpose of
24 having Mr. Christensen testify.

25 And I don't know whether we want to

1 discuss this now or wait until tomorrow, but I did
 2 also want to have some conversation with respect to
 3 briefs in this matter in light of the fact it is an
 4 opposed Stipulation. I will throw out the
 5 opportunity for the filing of briefs to the extent
 6 that the parties so desire. So if we could think
 7 about that and talk about it again tomorrow, but I
 8 did at least want to tee that up as an item that will
 9 need to ultimately be discussed.

10 MR. SETTINERI: Yeah. I think, Your
 11 Honor, when we are complete with the witnesses, we
 12 appreciate that, and we can definitely talk about it
 13 at that time.

14 ALJ AGRANOFF: Okay. Is there anything
 15 else before we proceed with the calling of the first
 16 witness? If not, either Mr. Settineri or Ms. Sanyal,
 17 if you care to call Mr. Risse.

18 MR. SETTINERI: Yeah, that will be me,
 19 Your Honor, and at this time we'll call Mr. William
 20 Risse to the stand.

21 MR. SCHMIDT: Mr. Risse, you have been
 22 promoted. If you can enable your audio and video.

23 THE WITNESS: Yes. Good morning. Can
 24 you hear me?

25 ALJ AGRANOFF: Yes, we can, and we can

1 see you as well, so this is all good. Good morning.

2 THE WITNESS: Good morning, Your Honor.

3 ALJ AGRANOFF: Mr. Risse, if you could
4 please raise your right hand.

5 (Witness sworn.)

6 ALJ AGRANOFF: Thank you.

7 Please proceed, Mr. Settineri

8 MR. SETTINERI: Thank you, Your Honor.
9 We've already marked all of the necessary exhibits,
10 so, Mr. Risse, let's just go forward.

11 - - -

12 WILLIAM RISSE

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

15 DIRECT EXAMINATION

16 By Mr. Settineri:

17 Q. If you could please state your name and
18 business address for the record, please.

19 A. My name is William Risse. My business
20 address is 8400 Normandale Lake Boulevard, Suite
21 1200, Bloomington, Minnesota 55437.

22 Q. Okay. Mr. Risse, at this time I'd like
23 you to identify a number of exhibits. So I will
24 start first, if you could identify for the record
25 what's been marked as Company Exhibit 1, please.

1 A. Company Exhibit 1 is the Ross County
2 Solar Application.

3 Q. Okay. Were you involved in the
4 preparation of that Application?

5 A. I was, yes.

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

8 A. It was, yes.

9 Q. Okay. Could you please identify then
10 Company Exhibit 1C for the record, please.

11 A. Yes. Those are confidential portions of
12 the Application.

13 Q. Okay. Next, Mr. Risse, if you could
14 identify Company Exhibit 2 for the record, please.

15 A. Those are responses to Staff data
16 requests.

17 Q. Okay. And were those responses prepared
18 by you or at your direction?

19 A. They were, yes.

20 Q. Next, if you could identify Company
21 Exhibit 3 for the record, please.

22 A. Company Exhibit 3 is proof of service of
23 the accepted and complete Application.

24 Q. Thank you.

25 Could you also please identify Company

1 Exhibit 4, please.

2 A. Company Exhibit 4 is various proofs of
3 public notice for the Application.

4 Q. Okay. Could you please identify for the
5 record what's been marked as Company Exhibit 5,
6 please.

7 A. Yes. Company Exhibit 5 is the Memorandum
8 of Understanding between the Ohio Historic
9 Preservation Office and Ross County Solar.

10 Q. Okay. And were you involved in the
11 drafting and execution of that Memorandum of
12 Understanding?

13 A. I was, yes.

14 Q. Okay. Next, Mr. Risse, if you could
15 identify Company Exhibit 6, please.

16 A. That is my Direct Testimony.

17 Q. Okay. Was that prepared by you or at
18 your direction?

19 A. It was, yes.

20 Q. Okay. Next, Mr. Risse, if you could
21 identify what's been marked as Company Exhibit 15,
22 please.

23 A. That is the supplement to my testimony.

24 Q. Okay. And was that Supplemental
25 Testimony prepared by you or at your direction?

1 A. It was, yes.

2 Q. Okay. Next, I'd like you to identify
3 Company Exhibit 20 for the record, please.

4 A. Yes. That is redlines of the Stipulation
5 conditions in comparison to the initial Staff Report
6 proposed conditions.

7 Q. Okay. Thank you.

8 And lastly, if you could identify what's
9 been marked as Joint Exhibit 1, please.

10 A. Yes. That's the Joint Stipulation.

11 Q. Okay. And were you involved in the
12 negotiation of that Joint Stipulation?

13 A. I was, yes.

14 Q. Okay. Thank you.

15 Mr. Risse, I'd like to turn back to
16 Company Exhibit 6, your Direct Testimony. Do you
17 have that before you?

18 A. I do, yes.

19 Q. All right. Now, again that was prepared
20 by you or at your direction; is that right?

21 A. It was, yes.

22 Q. Okay. Do you have any changes or
23 revisions to that testimony at this time?

24 A. Yes. I do have a few revisions to the
25 testimony this morning.

1 Q. Okay. If you could slowly and carefully
2 go through those for the court reporter, I'd
3 appreciate it.

4 A. Yes. So the first change is on page 3,
5 Answer 5. I'd like to remove the last sentence of
6 Answer 5, beginning with "Finally" and ending with
7 "Report."

8 Q. And could you read that one more time for
9 me, Mr. Risse, just to make sure I have it correct.

10 A. Yes. Answer 5, page 3, I'd like to
11 remove the last sentence, "Finally, I will be
12 responding to the recommendations made by the Staff
13 in the Staff Report." I'd like to remove that
14 sentence.

15 Q. What lines were those?

16 A. That is line 8.

17 Q. Okay. Thank you.

18 ALJ AGRANOFF: And line 9 as well,
19 correct?

20 THE WITNESS: Correct.

21 Q. All right. Please proceed.

22 A. Yeah. The next change I'd like to make
23 is on page 14, Answer 19, beginning on line 17, I'd
24 like to remove the last two sentences of that answer.
25 So beginning with "Currently, Condition 14" and

1 extending all the way to line 20 and ending with
2 "below."

3 Q. Okay. So just to be clear for the
4 record, it's the last two sentences of your answer in
5 19 that are being deleted, correct?

6 A. Correct, yes.

7 Q. Okay. All right. Please proceed.

8 A. Yes. The third change that I'd like to
9 make is on page 21 which is Answer 30. So page 21,
10 on line 5, I'd like to remove on line 5, "is
11 developing" and replace "is developing" with
12 "developed and provided". So again, on line 5,
13 page 21, I'd like to remove "is developing" and
14 replace that language with "developed and provided".

15 MR. SETTINERI: And, Your Honor, given
16 that the Stipulation has been filed in this
17 proceeding, at this time we would withdraw
18 Question 32 and Answer 32. We would --

19 ALJ AGRANOFF: What page are we on?

20 MR. SETTINERI: Sorry. Page 23.

21 Starting at line 19, Question 32, the entirety of
22 Answer 32, extending to the bottom of page 32.

23 And then we'd also withdraw Question 33
24 starting at line 32, page 32. We would withdraw the
25 entirety of Answer 33. We'd also withdraw

1 Question 34 and Answer 34. Again, that's because we
2 have a Stipulation in this proceeding.

3 ALJ AGRANOFF: So if you could please
4 repeat for me, beginning, you said, on page 23,
5 line 19.

6 MR. SETTINERI: Question 32.

7 ALJ AGRANOFF: 32.

8 MR. SETTINERI: We'll withdraw that
9 Question and Answer in its entirety.

10 Starting at the bottom of page 32,
11 line 32, we would withdraw the Question and the
12 entirety of Answer 33 at the top of page 33.

13 ALJ AGRANOFF: So basically you're
14 removing all of Question 32 and 33.

15 MR. SETTINERI: And 34.

16 ALJ AGRANOFF: And 34.

17 MR. SETTINERI: And Answer 34. And
18 again, that's because we have a Stipulation in this
19 case.

20 May I proceed, Your Honor?

21 ALJ AGRANOFF: Just give me a minute.

22 MR. SETTINERI: Yup, no problem.

23 ALJ AGRANOFF: Okay. Proceed, please.

24 MR. SETTINERI: Okay.

25 Q. (By Mr. Settineri) Do you have any other

1 revisions to your Direct Testimony at this time,
2 Mr. Risse?

3 A. I do not, no.

4 Q. Okay. If I asked you the questions in
5 your Direct Testimony as we have revised today, would
6 your answers as you have revised today be the same?

7 A. Yes, they would.

8 Q. Okay. I do -- okay. Turning to then
9 Company Exhibit 15, your Supplemental Testimony.

10 A. Yes.

11 Q. Again, that was prepared by you or at
12 your direction, correct?

13 A. It was, yes.

14 Q. Do you have any changes or revisions to
15 that testimony at this time?

16 A. I do not.

17 Q. Okay. And one additional question for
18 you, Mr. Risse. Since we have now withdrawn Question
19 and Answer 34 from your Direct Testimony which is
20 marked as Company Exhibit 6, what do you recommend
21 the Ohio Power Siting Board do in regard to the
22 Application and the Stipulation?

23 A. I've reviewed the statutory requirements
24 set forth in 4906.10(A) which must guide the Board's
25 decision on the Application. I believe that the

1 information in the Application, the Stipulations,
2 along with the testimony and exhibits in this
3 proceeding, provide a firm basis for the Board to
4 determine that all of the statutory criteria have
5 been met and that a certificate can be issued.

6 MR. SETTINERI: Okay. Thank you.

7 Your Honor, at this time we would offer
8 Mr. Risse up for cross-examination.

9 ALJ AGRANOFF: One moment.

10 Thank you.

11 Are there any parties who have questions
12 of Mr. Risse?

13 I take the silence as a no.

14 Mr. Risse, just so that the record is
15 clear, I do have some questions for you.

16 THE WITNESS: Okay.

17 - - -

18 EXAMINATION

19 By ALJ Agranoff:

20 Q. If you would be so kind as to take a look
21 at your Supplemental Testimony.

22 A. Okay.

23 Q. And in particular if you'd take a look at
24 page 2 and then going on to page 3.

25 A. Okay.

1 Q. And there's a discussion there about the
2 use of borings and boring locations.

3 A. Yes.

4 Q. Do you see that?

5 A. Yup.

6 Q. Have any of those boring tests been
7 performed as of this time or will that be all
8 subsequent to the Board issuing a decision?

9 A. We have completed a preliminary
10 geotechnical evaluation that included test borings
11 throughout the site. And for clarity, we noted a --
12 just a typo error in that -- in that filing that we
13 filed that indicated an incorrect location, but, in
14 review of that, looking at the latitude and longitude
15 of those boring locations, we determined that the
16 data provided was accurate and it was a basic typing
17 error. So we just wanted to clarify that.

18 We have completed test borings out there.
19 And it is standard for us to actually complete a more
20 robust evaluation of the site that accounts for
21 additional locations prior to construction and we
22 would provide those additional boring logs to the
23 Board at that time after those are completed.

24 Q. Okay. But there has been preliminary
25 boring work done to this point.

1 A. Correct. Preliminary boring has been
2 completed and generally determined that the site was
3 suitable for development of solar.

4 Q. Okay. And then if you could take a look
5 at Question 8 which is on page 3 of your Supplemental
6 Testimony.

7 A. Okay.

8 Q. I know there's a discussion there about
9 subsequent changes that may take place.

10 A. Could you repeat that again? Sorry.

11 Q. There's a discussion there about
12 subsequent changes that may take place after the
13 submission of final engineering drawings.

14 A. Okay.

15 Q. Is there a process contemplated for the
16 timing of Staff giving feedback, the Board Staff
17 providing feedback, with respect to any of those
18 subsequent changes?

19 A. In regards to changes, as negotiated in
20 the Stipulation, we would need to provide those
21 changes ahead of implementing those changes on the
22 ground. In terms of exact timing of that, that would
23 be something that we would coordinate with Staff to
24 ensure that they have adequate time to review.

25 Q. And would it be anticipated then or

1 expected that you would not go forward until such
2 feedback was provided by Staff?

3 A. I would agree that we would want to have
4 Staff review and confirm that they have reviewed
5 those changes prior to proceeding with those changes.

6 Q. Okay. And if you could please turn to
7 page 4 of your Supplemental Testimony.

8 A. Okay.

9 Q. And with respect to Condition 11, I know
10 that there's a discussion there about the emergency
11 plan. Do you see that?

12 A. I do, yes.

13 Q. Okay. And with respect to the emergency
14 plan, I believe there's a fire protection, safety,
15 and medical emergency plan that has been referred to
16 within the Application?

17 A. Yes.

18 Q. Is there any objection from the Company
19 to have that plan filed on the docket upon its
20 development and finalization?

21 A. In review of our standard fire
22 protection, safety, and medical emergency plan, this
23 is something that we strive to complete for every
24 project. We would be willing to post that to the
25 docket.

1 Q. Okay. Thank you.

2 And then if you could please turn to
3 page -- it's the same page, if you could please
4 continue to stay on page 4 and take a look at
5 Question 15 and your response.

6 A. Yes.

7 Q. With respect to the road use and
8 maintenance agreement and the townships that are
9 referenced there, are those townships on line 19 that
10 you reference, Buckskin and Paint Township?

11 A. Yes, the townships referenced would be in
12 reference to Buckskin and Paint Township.

13 Q. And then if you go to page 5 of your --
14 I'm sorry -- yeah, page 5 of your supplemental
15 direct.

16 A. Okay.

17 Q. And you discuss a bond amount that would
18 need to be agreed upon with the Ross County Engineer
19 for the repair and damages caused by construction.

20 A. Okay.

21 Q. Is that bond to cover not only the
22 county's roads but the townships' roads as well?

23 A. Yes, the bond that would be established
24 would cover county and township roads.

25 Q. Okay. Thank you.

1 And then staying on page 7, the question
2 and response to Question 16, there's reference to the
3 quarterly complaint summary report.

4 A. Can you clarify the page number?

5 Q. Yes. Page 7, the same page that we
6 were -- I'm sorry. Page 5, line 6.

7 A. Okay.

8 Q. Question and Answer 16.

9 A. Okay.

10 Q. The reference to the quarterly complaint
11 summary report.

12 A. Okay.

13 Q. Do you know whether or not the Company
14 intends to docket the quarterly complaint summary
15 report?

16 A. Give me one moment.

17 As stated in the Condition, we did not
18 anticipate filing the complaint resolution -- or, the
19 summary report to the docket. We anticipated
20 providing that to OPSB Staff as negotiated in the
21 Stipulation.

22 Q. Okay. Thank you.

23 And now if you could please turn to
24 page 7 of your Supplemental --

25 A. Okay.

1 Q. -- Direct Testimony. And specifically
2 I'm looking at lines 6 through 8 and you have a
3 discussion there about "the Applicant must replace
4 the failed plantings within a screening module, if
5 necessary, to ensure the screening module remains
6 effective at that location." Do you see that?

7 A. Yes, I do.

8 Q. Okay. I'm trying to understand how that
9 language comports with the other discussions with
10 respect to Condition 14 relative to 90 percent of the
11 screening needing to be maintained within five years,
12 the first five years of the plan.

13 A. Okay.

14 Q. How do those two statements with respect
15 to the requirement or commitment to replace the
16 failed plantings within a screening module fall
17 within the 90 percent, five-year criteria?

18 A. I can elaborate on that a bit. I think
19 the purpose of kind of the second point you reference
20 there in regards to ensuring that the landscape
21 screening continues to be effective is really looking
22 beyond that five-year point. As the vegetation
23 continues to establish and, I guess, to put it
24 simply, gets larger and more robust, that screening
25 becomes more effective whether 90 percent of

1 vegetation remains in place or not.

2 And this just ensures that beyond that
3 five-year point, once that vegetation has really
4 taken hold and the screening is effectively being
5 implemented, that there isn't any major failure in
6 the goal of that module.

7 So just ensuring that if there were any
8 major failings in the plantings beyond year five,
9 which isn't really anticipated, we would anticipate
10 that we would replace those areas, as necessary, to
11 ensure that screening continues to be implemented
12 properly.

13 Q. And is that a subjective criteria or are
14 there some objective standards that are going to be
15 utilized for the purposes of making that assessment?

16 A. In terms of subjectiveness of that --
17 excuse me.

18 So in order to -- we've kind of
19 established three different vegetation modules for
20 the project and each of those modules kind of has a
21 different design goal. So Module 1, for example, is
22 a very light screening, using low-growing vegetation
23 to kind of help beautify the project. And then
24 Module 3 is a much more robust screening module which
25 is laid out in our Landscape Mitigation Plan.

1 And we would coordinate with our
2 consultant and on-site contractors to ensure that
3 that plan is reviewed and that the goal listed in
4 that vegetation management plan continues to be
5 implemented throughout the life of the project.

6 Q. But it doesn't necessarily mean that
7 you'd be continuing to utilize a 90 percent criteria
8 for the purposes of this subsequent application.

9 A. Correct. In terms of the 90 percent
10 value, in talking with consultants who work in the
11 industry, work on vegetation management and landscape
12 screening such as this, 90 percent survival is a very
13 high rate of survival for vegetation and should
14 ensure that, carrying forward beyond year five, that
15 that vegetation will continue to accomplish what it
16 was set out to do even if that 90 percent goal is not
17 met beyond year five.

18 Q. But how does one know whether or not the
19 remedy that's being applied is going to satisfy the
20 goal of ensuring the screening module remains
21 effective at that location?

22 A. Give me one moment.

23 Yeah, as indicated in our vegetation
24 management plan, we will have a regular monitoring of
25 that vegetation coverage and landscape modules to

1 ensure that the goal of those modules continues to be
2 implemented throughout the life of the project.

3 Q. Separate and apart from the 90 percent,
4 five-year criteria?

5 A. We will ensure that there's 90 percent
6 coverage for the first five years and, following
7 that, we will ensure that the three -- or four,
8 excuse me, four module types for this project are
9 maintained and that the goal of those modules
10 continues to be implemented throughout the life of
11 the project.

12 Q. Okay. I guess what I'm just trying to
13 understand is how does one define or know what the
14 objective is with respect to satisfying the criteria
15 of ensuring that the screening module remains
16 effective? How do you know that that's been
17 satisfied or how do you know how to satisfy it?

18 A. In terms of ensuring that that vegetation
19 remains effective, as I noted we have a robust
20 description of those planting modules, and I would
21 refer to Mr. Matthew Robinson, from EDR, to elaborate
22 on the effectiveness of those modules, but we will
23 ensure that kind of the module goals, for example
24 Module 2 which is kind of for a moderate level of
25 screening, we would ensure there's coordination and

1 review of the vegetation -- or the Landscape
2 Mitigation Plan to ensure that plantings continue to
3 be maintained at a level that will reach the goal for
4 each module.

5 Q. Okay. And what is the area for which
6 that analysis is done? When we talk about the four
7 modules, do you look at, is it a defined geographic
8 area for which you do that analysis?

9 A. We have a vegetation -- a Landscape
10 Mitigation Plan which indicates the location of each
11 screening module. I can't remember the page off the
12 top of my head, but a map is included within the
13 Landscape Mitigation Plan that indicates where each
14 module will be implemented. And for those reviewing
15 the module types, they'll be able to reference that
16 map to ensure that each landscape module is being
17 implemented as noted in that plan.

18 Q. And just so that the record is clear, I
19 think you discuss the existence of four different
20 modules. I think you had said the first one was the
21 light screening module, the second was the
22 moderate-level screening, the third was the robust
23 module, and what was the fourth?

24 A. Yeah, so the fourth module is very
25 similar to Module 3. Both are used for kind of the

1 heaviest screening in close proximity to, for
2 example, adjacent residences to the project.
3 Module 4 is just kind of another option that can be
4 utilized to prevent any sort of shading to panels, so
5 a little bit lower-growing vegetation versus
6 Module 3.

7 ALJ AGRANOFF: Thank you for those
8 clarifications.

9 Based on my questions -- actually, let me
10 ask first, Judge Davis, do you have any questions of
11 this witness?

12 ALJ DAVIS: I do not. Thank you.

13 ALJ AGRANOFF: Based on my limited
14 questions, does counsel have any follow-up questions
15 that they would care to ask?

16 MR. SETTINERI: Your Honor, I may, just
17 to clear up the record on a couple points. May I
18 have a few moments to consult and then come back on
19 the record?

20 ALJ AGRANOFF: Sure.

21 MR. SETTINERI: Thank you.

22 ALJ AGRANOFF: Why don't we take -- you
23 need five or ten minutes?

24 MR. SETTINERI: Five.

25 ALJ AGRANOFF: Let's take a five-minute

1 break. Thank you.

2 MR. SETTINERI: Thank you.

3 (Recess taken.)

4 ALJ AGRANOFF: Let's go back on the
5 record at this time.

6 Mr. Settineri, did you have any follow-up
7 questions based on my limited questioning?

8 MR. SETTINERI: Yeah, just a couple
9 questions for the record, Your Honor, if I may.

10 - - -

11 REDIRECT EXAMINATION

12 By Mr. Settineri:

13 Q. Mr. Risse, will the Company have a
14 complaint resolution procedure for the project?

15 A. Yes, we will.

16 Q. Will that procedure be mailed to adjacent
17 property owners and to property owners in the general
18 area?

19 A. Yes, it will.

20 Q. Okay. And can those property owners
21 avail themselves of that complaint resolution
22 procedure?

23 A. Yes.

24 Q. And so if there was an issue with
25 screening, such as, you know, a tree is dying in a

1 certain area or bushes dying, could a property owner
2 utilize the complaint resolution procedure to address
3 any screening issues?

4 A. Yes, they could.

5 MR. SETTINERI: Okay. Thank you.

6 I have no further questions, Your Honor.

7 ALJ AGRANOFF: Okay. Thank you.

8 With that, Mr. Risse, you are excused.

9 Mr. Settineri, do you care to make a
10 motion at this time with respect to the testimonies?

11 MR. SETTINERI: Yes, Your Honor. And if
12 I may, just for the record, before Mr. Risse leaves
13 the video, did you -- did we want to check to see if
14 anyone has any recross based on the redirect?

15 ALJ AGRANOFF: Are there any additional
16 recross questions?

17 Okay.

18 MR. SETTINERI: Okay. Thank you, Your
19 Honor. I just wanted to make sure the record was
20 clear on that.

21 ALJ AGRANOFF: Thank you.

22 MR. SETTINERI: Okay. Your Honor, at
23 this time, Ross County Solar would move for the
24 admission of the following exhibits: Company
25 Exhibit 1, Company Exhibit 1C, Company Exhibit 2,

1 Company Exhibit 3, Company Exhibit 4, Company
2 Exhibit 5, Company Exhibit 6, Company Exhibit 15,
3 Company Exhibit 20, and we would move for the
4 admission of Joint Exhibit 1.

5 I would note as part of this motion that
6 Company Exhibit 1 is the Application in this
7 proceeding, Company Exhibit 1C is the confidential
8 section of the Application. There is no 1B or 1A.
9 It's just Exhibit 1 and Exhibit 1C.

10 ALJ AGRANOFF: And all of the
11 aforementioned exhibits that you just delineated are
12 being sponsored or are under the purview of
13 Mr. Risse?

14 MR. SETTINERI: That is correct, Your
15 Honor.

16 ALJ AGRANOFF: Any objections to the
17 admission of the aforementioned exhibits?

18 There being none, the aforementioned
19 exhibits shall be admitted as part of the record at
20 this time.

21 (EXHIBITS ADMITTED INTO EVIDENCE.)

22 ALJ AGRANOFF: And at this point in time,
23 are you ready to call Mr. Bonifas?

24 MR. SETTINERI: Yes, Your Honor. And my
25 colleague, Ms. Sanyal, will be calling Mr. Bonifas to

1 the stand.

2 ALJ AGRANOFF: Thank you.

3 Mr. Schmidt, if you could please promote
4 Mr. Bonifas.

5 MR. SCHMIDT: Mr. Bonifas, you've been
6 promoted. If you can enable your audio and video.

7 THE WITNESS: Can you hear me?

8 ALJ AGRANOFF: Yes, we can; and we can
9 see you. Hello there.

10 THE WITNESS: Hi.

11 ALJ AGRANOFF: If you can please raise
12 your right hand for me, sir.

13 (Witness sworn.)

14 ALJ AGRANOFF: Thank you.

15 Ms. Sanyal.

16 MS. SANYAL: Thank you, Your Honor.

17 - - -

18 MARK BONIFAS

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

21 DIRECT EXAMINATION

22 By Ms. Sanyal:

23 Q. Good morning, Mr. Bonifas.

24 A. Good morning.

25 Q. Could you please state your name and your

1 business address for the record.

2 A. Mark Bonifas. I'm with Hull &
3 Associates. The address is 6397 Emerald Parkway,
4 Suite 200, Dublin, Ohio.

5 Q. Thank you.

6 And do you have a copy of what has been
7 previously marked as Company Exhibit 8?

8 A. Yes, I do.

9 Q. Okay. Could you please identify for the
10 record what that is?

11 A. That is -- that is my Direct Testimony.

12 Q. Okay. And was Company Exhibit 8 prepared
13 by you or at your direction?

14 A. Yes, it was.

15 Q. And do you have any revisions or changes
16 to your testimony today?

17 A. I do not.

18 Q. And if I asked you the same questions as
19 are in your testimony, would your answers remain the
20 same?

21 A. Yes, they would.

22 MS. SANYAL: Okay. Thank you,
23 Mr. Bonifas.

24 Your Honor, Mr. Bonifas is now available
25 for cross-examination.

1 ALJ AGRANOFF: Thank you.

2 Judge Davis.

3 ALJ DAVIS: I have no questions.

4 ALJ AGRANOFF: Do any of the parties have
5 any questions of Mr. Bonifas?

6 All right. If not, thank you,
7 Mr. Bonifas, for your attendance today.

8 THE WITNESS: Thank you.

9 ALJ AGRANOFF: Ms. Sanyal.

10 MS. SANYAL: Your Honor, may I move for
11 Company Exhibit 8 to be admitted into the record?

12 ALJ AGRANOFF: Any objections to the
13 admission of the aforementioned exhibit?

14 There being none, Company Exhibit 8 shall
15 be admitted at this time.

16 (EXHIBIT ADMITTED INTO EVIDENCE.)

17 MS. SANYAL: Thank you, Your Honor.

18 ALJ AGRANOFF: Thank you.

19 MS. SANYAL: And we will be calling
20 Mr. Andrew Lines next, and Mr. Settineri will be
21 handling that witness.

22 ALJ AGRANOFF: Okay.

23 MR. SETTINERI: Yes. Thank you, Your
24 Honor. At this time if we're ready to proceed?

25 ALJ AGRANOFF: I think we are.

1 Judge Davis, do you want to take this
2 witness?

3 ALJ DAVIS: Sure. Is he promoted?

4 MR. SCHMIDT: Mr. Lines, you've been
5 promoted. If you can enable your audio and video.

6 THE WITNESS: Can you hear me?

7 ALJ DAVIS: Yes, sir. We can hear and
8 see you.

9 THE WITNESS: Great.

10 ALJ DAVIS: Thank you. If I could ask
11 you to raise your right hand.

12 (Witness sworn.)

13 ALJ DAVIS: Thank you.

14 Mr. Settineri, you may proceed.

15 MR. SETTINERI: Thank you, Your Honor.

16 - - -

17 ANDREW LINES

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

20 DIRECT EXAMINATION

21 By Mr. Settineri:

22 Q. And we've already premarked the exhibit,
23 so first I'll just say good morning, Mr. Lines.

24 A. Good morning.

25 Q. Can you please state your name and

1 business address for the record, please.

2 A. Andrew Lines. I work at 200 South Wacker
3 Drive, Suite 2600, Chicago, Illinois 60606.

4 Q. And do you have before you what's been
5 marked as Company Exhibit 10?

6 A. I do.

7 Q. And could you please identify that for
8 the record, please.

9 A. This is my Direct Testimony.

10 Q. And was that prepared by you or at your
11 direction?

12 A. It was.

13 Q. All right. And do you have any changes
14 or revisions to that testimony at this time?

15 A. I do.

16 Q. And what are those revisions?

17 A. Under Answer No. 6, which is page 3,
18 second line, "I have personally visited the proposed
19 site."

20 And then I would also add at the end of
21 this paragraph that I did research the area for
22 additional listings and sales, and found another two
23 homes that are relatively adjacent to the project of
24 which listing prices I have reviewed.

25 Q. And maybe a good way to approach this for

1 the record, just to be clear then, your specific
2 revision, your first revision on page 3, line 8, are
3 you striking the word "not", Mr. Lines?

4 A. That's correct.

5 Q. And so, it would read: "I have personally
6 visited the proposed site."

7 A. Yes.

8 Q. You also mentioned that you had reviewed,
9 I believe, two other sales in the area; is that
10 correct?

11 A. Listings, that's correct.

12 MR. SETTINERI: Okay. And so, Your
13 Honor, what I would suggest here, instead of doing
14 specific written revisions to the testimony, I will
15 just simply ask a few questions for the record just
16 to make sure it's clear.

17 Q. So if you could just describe those
18 listings for the record, Mr. Lines, please, to
19 supplement your testimony.

20 A. Absolutely.

21 One listing is at 6215 Rapid Forge Road,
22 Greenfield, Ohio, which was listed for sale for
23 \$235,000. My understanding is that this sale --
24 listing was only on the market for a couple of days
25 and is now contingent or perhaps under contract.

1 The second is 69 Moxley Road in
2 Bainbridge, Ohio, and this home is listed for sale,
3 as of June 1st, for \$199,500. And my understanding
4 is that it's still a listing.

5 Q. As to the two properties, 6215 Rapid
6 Forge Road, is it adjacent to the project area?

7 A. Yes.

8 Q. And is 69 Moxley Road adjacent to the
9 project area?

10 A. It's mostly adjacent. I think there are
11 a couple of private property owners in between the
12 actual project site and that property.

13 Q. Okay.

14 A. But it's relatively close.

15 Q. Okay. And being aware of those listings,
16 does that change your conclusions in your testimony?

17 A. No, it does not.

18 Q. Okay. Thank you.

19 MR. SETTINERI: I was on mute. Sorry,
20 Your Honor.

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

24 A. They would be the same.

25 Q. And to make sure I asked this question, I

1 may have already, was this testimony prepared by you
2 or at your direction?

3 A. It was.

4 MR. SETTINERI: All right. At this time,
5 Your Honor, the witness is available for
6 cross-examination, and we would also at this time
7 move, subject to cross-examination, for the admission
8 of Company Exhibit 10.

9 ALJ DAVIS: Does any party have questions
10 for this witness?

11 MR. MARKS: I do, Your Honor. If you're
12 able to hear me.

13 ALJ DAVIS: Mr. Farthing?

14 MR. MARKS: Jeff Marks.

15 ALJ DAVIS: I'm sorry, Mr. Marks.

16 MR. MARKS: No problem, Your Honor.

17 ALJ DAVIS: Okay. You may proceed.

18 MR. MARKS: Thank you very much.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Marks:

22 Q. Good morning, Mr. Lines.

23 A. Good morning.

24 Q. My name is Jeffrey Marks. I'm the
25 Prosecuting Attorney for Ross County, Ohio. I

1 represent Paint Township with respect to this
2 particular matter. I just had a couple of questions
3 I wanted to go over based upon the Direct Testimony
4 that you submitted as well as the modifications, if
5 that's okay.

6 A. Absolutely.

7 Q. You indicated with respect to Exhibit 10,
8 on page 1, you had listed a series of states to which
9 you are a certified appraiser, as well as the
10 District of Columbia, I believe, but Minnesota was
11 not contained on that list. Is Minnesota a state
12 that doesn't require licensure?

13 A. I do not have a Minnesota practicing
14 license, but my partner in my group, I believe, does
15 hold a Certified General Appraiser license in the
16 state of Minnesota, and we work together on a number
17 of cases, but I do not hold one.

18 Q. Thank you.

19 Moving on to page 2, you had provided an
20 extensive list of the different valuations, roughly
21 from lines 3 to 18 in your testimony, covering all
22 kinds of different sort of property types, location
23 types, purposes for -- different purposes for these
24 valuations to be done, and at the end you listed "as
25 well as solar farms." And I guess my question based

1 upon this is: In your 16 years of appraising,
2 approximately what percentage of your work would you
3 say would be doing evaluations -- valuations with
4 respect to solar farm properties and projects?

5 A. For the last four years, I'd say close to
6 30 to 40 percent of my time has been devoted towards
7 doing impact studies of renewable energy projects,
8 both solar and wind.

9 Q. That's certainly an issue that's -- or a
10 project type that has taken hold recently and is
11 moving forward quite rapidly through many states,
12 correct?

13 A. That is the trend of development,
14 correct.

15 Q. Moving down towards line 20 on page 2,
16 you had indicated that you have previously provided
17 testimony to this Board with respect to two different
18 Ohio projects, the first being Big Plain Solar and
19 the second being Yellowbud Solar, correct?

20 A. That's correct.

21 Q. Where is the Big Plain project located?

22 A. I don't remember off the top of my head.
23 I believe it was on the western boundary.

24 Q. Towards the state of Indiana?

25 A. That's correct.

1 Q. Are you able to recall, is that facility
2 or is that project in more of a rural or urban area?

3 A. My recollection was it was rural.

4 Q. Okay. And do you recall the size of that
5 particular project?

6 A. I do not, but I know it was utility
7 scale.

8 Q. Which would put it over the 50?

9 A. It would be over -- it would be over 50,
10 correct.

11 Q. With the Yellowbud project that you had
12 also offered testimony on, that one is also located
13 here in Ross County, correct? Or a majority of it is
14 located here in Ross County, Ohio?

15 A. It's relatively close to this proposed
16 project, correct.

17 Q. And I understand Yellowbud Solar and Ross
18 County Solar are both part of the same parent sort of
19 company that you're testifying on behalf of today?

20 A. That's correct.

21 Q. And I had a chance to review the
22 testimony that you provided in the Yellowbud hearing,
23 and it was, for all intents and purposes, very
24 similar to the testimony provided today, correct?

25 A. That's correct.

1 Q. You know, just for purposes of getting
2 some of this out of the way, on page 3 you indicated
3 you were testifying on behalf of Ross County Solar,
4 and you have been compensated by them in order to
5 conduct the survey and prepare this testimony?

6 A. That's correct.

7 Q. You had indicated on line 4 that the
8 purpose of this testimony is to evaluate the impact
9 of the project on property values surrounding the
10 project area, correct?

11 A. Correct.

12 Q. You indicated that you're familiar with
13 the Ross County Solar project and the reasons you
14 provided were: Having reviewed the Application,
15 conducting online research, and reviewing sales of
16 listings of adjoining properties to this particular
17 project. Are you able to recall how many properties
18 are involved that are adjacent to this particular
19 project that Ross County Solar is applying for?

20 A. I wouldn't be able to give you an exact
21 number. In touring the site and looking at aerial
22 depictions and other exhibits, you know, I would say
23 there's probably a couple dozen homes that are
24 relatively immediately adjacent, but the total number
25 of properties, I don't know.

1 Q. When you were talking about doing online
2 -- I guess you've now indicated you've been to the
3 property where the site is to be done. Is it safe to
4 assume this visit has taken place between the
5 submission of your testimony in April and today's
6 date?

7 A. That's correct.

8 Q. And what was the purpose for visiting the
9 property after having submitted your testimony?

10 A. Just to get a better evaluation in my own
11 mind's eye as to how the panels would be situated,
12 which properties might have a direct view, and to
13 make sure I understand what the lay of the land looks
14 like. That's important for a real estate appraiser.

15 Q. I agree with you.

16 When you were conducting your online
17 research with the imagery and the aerials, what
18 resources did you use to do that properly?

19 A. Google Maps is a really fantastic tool,
20 and Google Earth, and then various websites that
21 entertain real estate listings and sales information,
22 as well as demographic resources.

23 Q. And when you talk about the -- when
24 you're referring to the websites you would use, what
25 websites would you use to check for the sales and

1 listings of the adjoining properties in order to
2 conduct your analysis?

3 A. Certainly Realtor.com has information,
4 and other brokerage sites that pull information from
5 the Multiple Listing Service.

6 Q. I'm trying to think of some other ones
7 like Zillow and -- well, you said Relator.com. Those
8 kind of websites?

9 A. There are a bunch of websites out there
10 that host that MLS information. I wouldn't say that
11 I'm particular to one or the other.

12 Q. Okay. You specifically mentioned the
13 property at 6267 Rapid Forge Road in your Direct
14 Testimony. I believe that you since added a couple
15 other properties; one being adjacent, one being
16 mostly adjacent.

17 With respect to the 6267 Rapid Forge
18 Road, you had noted it was placed on the market
19 March 20th and placed under contract on April 10th,
20 but had not sold at the time of your testimony. Did
21 you have an opportunity to check on the sale of that
22 home?

23 A. My understanding is that it did sell, but
24 when we called the Ross County Auditor there wasn't a
25 record of it yet, so I don't know what the final sale

1 price was or how long it took finally to close.

2 Q. If I -- this morning I had a chance to
3 pull up that particular property on Zillow.com and it
4 had indicated that, on May 27th of 2021, it had sold
5 for \$225,000.

6 MR. SETTINERI: Object, Your Honor.
7 There's been no foundation. The witness testified he
8 was not aware of the sale, and there's been no
9 foundation laid that he's familiar with anything
10 about Zillow with that site, with that property. He
11 just can't read testimony into the record.

12 MR. MARKS: Your Honor, my argument to
13 that would be that Mr. Lines has appeared this
14 morning and apparently has gone to a couple of
15 websites similar to Zillow and added to his testimony
16 about two other properties that are now recently on
17 the market. I don't see how my offering that
18 information to him that I observed this morning on
19 the internet is any different than him looking on the
20 internet to provide modifications to his Direct
21 Testimony.

22 MR. SETTINERI: The witness has no way of
23 verifying, Your Honor.

24 ALJ AGRANOFF: Mr. Lines, do you have the
25 ability to confirm whether or not the information

1 that was provided by Mr. Marks is accurate?

2 THE WITNESS: I would have to conduct the
3 research and check Zillow.com, I suppose. I know
4 that I spoke with the County Auditor and they didn't
5 have a record of it yet; and I know that when I
6 looked on the Ross County website that it was not
7 posted as a sale transaction as of yet.

8 MR. SETTINERI: Your Honor, I'd also add
9 that the record of sales would be with the Auditor's
10 site. Zillow is a website where owners of property
11 can input information so the veracity of that
12 information as to a sale, there's no way to verify
13 it. So as Mr. Lines indicated, you know, Zillow,
14 he'd have to conduct the research, and if we're
15 talking about sale prices, that's the Auditor's site.

16 MR. MARKS: Well, Your Honor, I guess
17 Mr. Lines has argued -- or offered testimony that he
18 relies on sites such as Realtor.com and Zillow.com to
19 prepare his testimony. I mean, it took me about two
20 minutes this morning to look it up online and see
21 that it's there. Obviously the formal record is
22 going to be with the Auditor's Office when that would
23 get filed but it's not been prepared at least as far
24 as the Auditor's website goes. I looked there as
25 well and it's not on that particular website yet.

1 MR. SETTINERI: Your Honor, again, my
2 concern though is, having done it myself as an owner
3 of property, I can input a price. We don't know if
4 that number is the accurate sales number until we see
5 it on the Auditor's site. That's my concern.

6 MR. MARKS: Then what reliance can the
7 Court have on his testimony about these other two
8 properties when he's gone to similar websites to see
9 what's currently under contract, possibly contingent,
10 things of that nature?

11 ALJ AGRANOFF: Mr. Lines, if we were to
12 take a five-minute break, would you be able to at
13 least confirm the information that was asked of you
14 by Mr. Marks, that that information is at least
15 accurately represented as reflected on that website?

16 THE WITNESS: I can. You know, if he
17 says it sold for 225,000, then, okay, you know, he
18 can say that. I don't have, personally, a record of
19 it, and obviously there's no formal record on the
20 public data site. But just to keep this moving, I'm
21 happy to say, okay, it sold at 225. I don't know
22 what other questions he has for me on that.

23 ALJ AGRANOFF: Do you want to at least
24 have the opportunity --

25 MR. SETTINERI: Yes.

1 ALJ AGRANOFF: -- to verify that the
2 website that he said he got that information from
3 does reflect that number?

4 THE WITNESS: Sure.

5 ALJ AGRANOFF: Okay. Why don't we take a
6 ten-minute break and you check to make sure that
7 you're able to access that information, okay? All
8 right. We'll reconvene at 11:35. Thank you.

9 (Recess taken.)

10 ALJ AGRANOFF: Let's go back on the
11 record.

12 Mr. Lines, were you able to do some
13 checking with respect to the question that was asked
14 of you by Mr. Marks?

15 THE WITNESS: Yes. So I was able to
16 verify that the Zillow website does note that the
17 property sold for 225,000.

18 ALJ AGRANOFF: Okay. Thank you.

19 Mr. Marks, are you ready to continue with
20 your questioning?

21 MR. MARKS: Yes, Your Honor. Thank you
22 very much.

23 Q. (By Mr. Marks) Moving on, Mr. Lines. You
24 had further -- further down in your testimony you'd
25 gone through your experience with respect to

1 different utility-scale solar projects and
2 community-sized solar projects that you had been a
3 part of or had done valuations for in numerous
4 different states. And with respect to the
5 utility-scale solar projects, you seem to focus more
6 on the North Star Solar project; is that correct?

7 A. That's an important one and there were a
8 number of transactions around that development. As
9 far as existing and operating large-scale utility
10 projects, that one has been around longer than a lot
11 of the other ones and so there's more data for me to
12 study.

13 Q. About how long has that project been
14 around? I guess I --

15 A. It was completed -- it was completed in
16 2016.

17 Q. Okay. So there's about a five-year
18 breadth of information that's able to be drawn from
19 that particular project?

20 A. Correct.

21 Q. In your testimony you refer to that
22 project at least one time and I think a couple
23 different times as, quote-unquote, our project. Is
24 that one you were closely involved with?

25 A. I don't know if I called it "our

1 project."

2 Q. On page 8, line 20, you had indicated
3 "our results." I apologize. I misspoke when I said
4 "our project."

5 When you indicate "our results," that
6 would be for an evaluation that you conducted on that
7 particular project?

8 A. Correct. A paired sales analysis as well
9 as an appreciation rate study.

10 Q. I apologize for misspeaking there.

11 What kind of a -- obviously that facility
12 is potentially the most similar to the Ross County
13 Solar project here with respect to the potential
14 megawatts and the acreage that's involved. Where was
15 that Minnesota facility at, as far as rural, urban?
16 And when I say "Minnesota," I'm talking about the
17 North Star project.

18 A. Sure. It's located about 45 minutes
19 north of the Twin Cities and it's an area that I
20 would call rural with a lot of row crop and
21 agricultural land uses.

22 Q. Thank you.

23 Moving on to page 4, when you're
24 mentioning the community-sized solar farms you've
25 been involved with in the eight states you've

1 conducted studies of those projects, when you say
2 "community-sized," what do you mean as far as -- I'm
3 assuming that's the size of the project?

4 A. It refers to the size of the project.
5 Generally speaking, community solar projects tend to
6 serve energy to the immediate residents within the
7 community, and utility scale often is transported in
8 a larger area.

9 Q. Okay. Thank you.

10 Then on page 4, you kind of get into a
11 broader discussion of how these studies are conducted
12 with respect to target groups and control groups.
13 And if I'm correct, the two properties that you had
14 just mentioned this morning, the 6215 Rapid Forge
15 Road, you said that would be considered an adjacent
16 property so that would be in what would be called the
17 target group?

18 A. No.

19 Q. Okay. How does that work out then?

20 A. Well, while I did look at some of the
21 listings for houses within the area, that's to get a
22 sense of what the homes are, and my focus is on
23 developing information and studying data for homes
24 that are immediately adjacent to projects which are
25 completed and in operation. The homes that I

1 mentioned this morning do not have solar panels
2 immediately across the street as of today.

3 Q. I understand that. And I think you went
4 into some detail with that when you were talking
5 about these analyses, it's post-construction, once
6 the panels are up, here's what impact those panels
7 might have on property values, correct?

8 A. That's correct.

9 Q. When you were discussing the target and
10 the control groups for these studies, the control
11 group you had indicated is removed from the solar
12 facility. What falls into the gamut of what
13 constitutes "removed"?

14 A. Generally speaking, distance. Every
15 project and every area is a little bit different with
16 regards to how far out you need to go in order to
17 collect as many control data points as they're really
18 necessary to make for, you know, a robust study, so
19 it depends on certain situations. In some situations
20 the control sale might just be a couple blocks away
21 in terms of urban language; in other studies, you
22 might need to go out a mile or two.

23 Q. Is there any sort of differentiation of
24 the control group? Is line of sight one of the
25 considerations in all or some of the sales?

1 A. Correct. The control sales that we use
2 shouldn't have a direct line of sight to a project.

3 Q. And I'm assuming this would include
4 elevation changes, you know, one property being
5 50 feet higher than where the solar project is going
6 to be located, things of that nature?

7 A. It depends. Certain properties that
8 are, you know, somewhat adjacent or generally around
9 an existing solar farm might have other screenings
10 that, you know, restrict or block some of those views
11 but, yeah, certainly I think that is one factor to
12 consider.

13 Q. On page 6, lines 13 and 16 -- through 16,
14 when you were talking about the control area sales
15 are not adjoining, no view of the solar farm, and
16 because of this you made a statement that neither the
17 announcement nor the completion of the solar farm
18 could have impacted the sale of these properties. Do
19 you see that statement?

20 A. I do see that statement, that's correct.

21 Q. And, you know, I might be overthinking
22 this, unfortunately semantics in the criminal world
23 plays a whole lot on what somebody says and how they
24 say it, but when you say that neither of those things
25 could have impacted the sale of these properties, you

1 can't know that specifically that, you know, the
2 announcement of the facility, the construction of the
3 facility, if it did or didn't impact, without
4 actually talking to these home purchasers, correct?

5 A. I don't a hundred percent agree with you.
6 So the point of this study is to utilize data points
7 and understand them in a scientific way, so we're
8 looking at facts. Just as, I suppose, you would do
9 in your criminal investigations, you look at facts
10 and you try to understand the story that joins the
11 facts together.

12 So in this we're looking for transactions
13 that have been completed and when you're specifically
14 talking about control sales, you know, the thing that
15 we're looking at, the difference between the target
16 and control is generally proximity. So you're right,
17 there's a little bit of an assumption there that the
18 control data points, you know, did not have that
19 impact, right, were not impacted by the fact there's
20 one in the area.

21 That being said, I will say that, you
22 know, utility-scale projects can bring a great amount
23 of tax revenue to a district, so even if you're a
24 house that might be located, you know, a mile and a
25 half away, you might still benefit because your

1 school receives now, say, a million dollars more per
2 year in annual tax revenue and that can be a game
3 changer for certain districts. And sometimes we see
4 that, you know, common thread for areas that have
5 high home values, generally have really good school
6 systems, good school systems are usually well funded,
7 so in that respect I guess I could see your point of
8 view.

9 Q. And I don't think anybody would disagree
10 that more funding for a school district is going to
11 improve the community in some way, shape, or form.
12 There's likely to be some kind of a tangible benefit
13 to that project.

14 I guess I need to understand, in the
15 testimony you had said that, you know, the solar farm
16 likely didn't impact those control group sales. When
17 I hear a definite statement like that, that it didn't
18 impact anything, I'm always leery of those kinds of
19 statements and I just wanted to get a little
20 clarification on that, so I appreciate it.

21 With respect to the studies that you
22 conducted and this is kind of based on the testimony
23 on page 7, you had concluded that no measurable and
24 consistent negative impact had occurred to adjacent
25 property which could be attributed to the proximity

1 of commercial-scale facilities, and based upon these
2 past evaluations you went ahead and followed up with
3 local realtors, assessors, brokers, to kind of get
4 some verification of that, correct?

5 A. Correct. And, you know, for assessors of
6 communities who look at transactions within their
7 communities regularly, they're a great data source to
8 not only confirm that transactions happened but also
9 to let us know whether anybody has approached them to
10 reduce their assessment by the virtue of being now
11 adjacent to a solar farm. And I think what's really
12 remarkable is that I'd say we've probably interviewed
13 60 to 70 different assessors and not one has noted
14 that they have seen any data that would support that
15 conclusion.

16 Q. Since this follow-up is done with brokers
17 and assessors post-construction, is it safe to say
18 you haven't contacted any Ross County assessors or
19 brokers or agents up to this point in time?

20 A. That's not true.

21 Q. Okay.

22 A. We did speak with the Ross County
23 Assessor, who -- Auditor, who indicated that he
24 doesn't have any data but he also doesn't have a
25 district that contains any solar, so he recognizes

1 the fact that any transactions up to this point
2 aren't necessarily influenced by the project.

3 Q. With the best of the information you got
4 at hand with these valuations, you indicated on
5 line 17, page 7, that there are no existing projects
6 in Ohio over 100 megawatts. I know that phase one of
7 Hardin, I don't know if that's a gray area for your
8 valuations since it's partly done and it's over
9 100 megawatts or how that plays out, but the Hardin
10 and the Hillcrest are the two that, at least from
11 Ohio's standpoint, gives you some information, maybe
12 not a whole lot, with being at the early stages,
13 correct?

14 A. That's correct. We haven't identified
15 any data around Hardin.

16 Hillcrest, there does seem to be some
17 data points in Mount Orab. You know, I've looked at
18 some of the data cursorily and, you know, we've noted
19 relative listing prices related to some of those
20 sales, but we haven't done a big deep dive to really
21 analyze those properties. You know, a lot of sales
22 data, if any, is extremely recent.

23 Q. I think you indicated earlier that these
24 valuations are -- obviously you start them early on
25 but they don't really take hold and carry as much

1 weight until you have the construction completed,
2 correct?

3 A. That's correct. You know, it also
4 depends on the area, the length of time that
5 residents in a particular area might typically stay
6 in their home. You know, I need the actual
7 transactions in order to do my study, so if it's in
8 an area where people don't move a whole lot, there
9 are going to be fewer data points for me to review.

10 Q. Now, to the best of your knowledge, the
11 Hillcrest facility, is it still being constructed as
12 of today, the one that started in January of 2020?

13 A. I think it's in operation as of 2021.

14 Q. Okay. And you had discussed that there
15 were approximately three home sales related to that
16 particular project. When you say "approximately
17 three," what do you -- I guess it's a small number
18 that might be easy to verify. Why is there an
19 approximate there?

20 A. That's a good question. I mean, I think
21 we found three home sales. I think it's a little bit
22 of appraiser-ese, if I can be poetic.

23 Q. Did you have an opportunity to reach out
24 to any of the homeowners from those sales to see if
25 there was -- or the buyers from those sales to see

1 what role, if any, the project played?

2 A. I have not.

3 Q. Finally, on page 8, line 15, you offer
4 your conclusion and kind of your formal opinion that,
5 based upon your experience with other commercial
6 solar projects, your familiarity with this project,
7 and the results of the valuation study, you don't
8 anticipate there to be any -- this project to be the
9 cause of any decrease in property values; and you're
10 relying again on that North Star project, correct?

11 A. Relying on all of the research and data
12 that my company and I have gone through and amassed
13 over the last three and four years, which totals
14 probably 40 different solar projects coast to coast
15 and in Hawaii, no, I don't think the project will
16 negatively influence surrounding property values.

17 Q. Would you say it's a fair statement to
18 make that the public would certainly have an interest
19 in the respective property values that they have?

20 A. I can tell you, as somebody who works
21 coast to coast, that all Americans are very concerned
22 about their property values in a lot of different
23 situations and, you know, I would assume that
24 everybody gets to take up the public process in the
25 way that it's established where they live, and so

1 Ohio is this, and I would assume that people would be
2 interested.

3 MR. MARKS: Those are all the questions I
4 have, Your Honor. Thank you very much.

5 ALJ AGRANOFF: Any questions from other
6 counsel?

7 Okay. I'll take silence as a no.

8 At this time, any redirect?

9 MR. SETTINERI: Your Honor, if I may have
10 just a few minutes to consult with the witness. We
11 might have a few questions to clear up the record.

12 ALJ AGRANOFF: Okay. How long do you
13 think you need? Five? Ten?

14 MR. SETTINERI: Five. No more than five.

15 ALJ AGRANOFF: Okay. Come back at about
16 12:02.

17 MR. SETTINERI: Works perfect. Thank
18 you.

19 (Recess taken.)

20 ALJ AGRANOFF: Let's go back on the
21 record.

22 Mr. Settineri

23 MR. SETTINERI: Yes. Thank you, Your
24 Honor.

25 - - -

DIRECT EXAMINATION

By Mr. Settineri:

Q. Mr. Lines, do you recall questions from Mr. Marks regarding sales data generally?

A. With regards to the source?

Q. That's correct. And my question for you is: In regards to your paired sales analysis, how do you obtain the sales data and what sources do you use?

A. Sure.

So where we have access to use the Multiple Listing Service, that's initially where we're looking for information.

Sometimes we also use additional websites which are able to collect some of that data as well as inputs from homeowners and brokers. We consider these to be leads, not confirmed data. We always confirm all of our sales using an auditor, assessor, or county deed information in order to verify and make sure that we can use those sales within our studies.

Q. And you're familiar with Zillow; is that true?

A. Unfortunately I am.

Q. Okay. How does -- or I should say how

1 are sale prices, where does that input come from for
2 Zillow?

3 A. My understanding is that brokers can
4 input listing and sale prices as well as property
5 pictures and those kind of things.

6 Zillow states on their website that they
7 also ferret information from public sources. I don't
8 know that they have a direct connection to every
9 public assessor's website but there are other
10 databases which can conglomerate a lot of that
11 information and so Zillow pays money to access that
12 and get the information but not all of the
13 information is accurate and so that is why we always
14 make sure we go through that secondary procedure of
15 verifying the information with public record
16 documents.

17 Q. Can a real estate agent, who has listed
18 the property, enter the sales price on Zillow?

19 A. Yes, they could.

20 Q. Okay. Do you recall questions from
21 Mr. Marks regarding the Zillow sales price listed for
22 6267 Rapid Forge Road?

23 A. I do.

24 Q. Okay. And assuming that Zillow-listed
25 sales price is accurate and you were able to confirm

1 it on the auditor's site, would that change your
2 opinion in your testimony?

3 A. No. That home, even with that listing
4 price and that sale price, still reflected a
5 reasonable sale-price-to-listing-price ratio. Homes
6 don't always sell for what they're exactly listed
7 for.

8 And then also looking at the public data
9 information, I think I noted that the property had
10 previously sold in 2005 for \$135,000, and that would
11 reflect a fairly reasonable annual appreciation,
12 between then and now, of over 3-1/2 percent. And for
13 a rural community, I don't think anybody would be
14 ashamed with that appreciation rate.

15 ALJ AGRANOFF: Which property were you
16 referring to just now when you said that property?

17 THE WITNESS: Sorry. 6267 Rapid Forge.

18 ALJ AGRANOFF: Okay. Thank you.

19 Q. (By Mr. Settineri) And you answered some
20 questions about the paired sales analysis. For the
21 record, can you generally explain what the paired
22 sales analysis is?

23 A. Sure.

24 So this, as my testimony notes, comes
25 from an Appraisal Institute textbook prepared by

1 Dr. Randy Bell who is still alive and still performs
2 appraisals as well as this.

3 This is one technique in extracting
4 information from target and control groups. So a
5 target group is supposed to be either one sale or
6 many sales that are immediately adjacent to a
7 supposed deleterious use, and in this particular
8 study and the studies we're doing for solar we're
9 recognizing the properties that are immediately
10 adjacent to a solar array and then we're comparing
11 them to properties that are removed from having been
12 influenced from that same proposed use.

13 And so, in that respect, we're often
14 taking one sale or a bunch of sales that we could
15 find, depending on how many are immediately around
16 it, and what we'll do is we'll go through, you know,
17 a tax identification plat map and we'll literally
18 count every single property that's adjacent to an
19 existing solar array, and go through public records
20 and see when and if they sold and did they sell
21 during the time period when that solar property had
22 already been erected and was operating.

23 And we will use those facts and compare
24 them to a group of properties, a control group. And
25 we make sure that the control group brackets relative

1 general statistics for the target properties, so
2 they're roughly the same size, they roughly have the
3 same amount of acreage.

4 And we'll use a little bit of a trending
5 to make sure that we're all thinking about them on
6 the same date. Not all the homes sell at the same --
7 at the same date, so we'll use appraisal techniques
8 to get those back to a specific point in time, and
9 then compare the prices per unit and in this case
10 it's usually price per square foot.

11 If the target price of a home is
12 substantially lower than the control group and we see
13 that over and over again, then we might be able to
14 conclude that there is an influence from the adjacent
15 solar array. But what we are finding when we do
16 these in multiple studies is that the difference
17 between the target and control groups is usually only
18 a couple percentage points and, as it happens,
19 especially with the North Star study that we did,
20 that was positive in favor of the homes that were
21 immediately adjacent to the solar array.

22 And that's paired sales analysis.

23 Q. Mr. Lines, is the paired sales analysis
24 the only analysis used to form your opinion in this
25 proceeding?

1 A. No, it is not. We also utilize annual
2 rates of appreciation where we might take a home
3 that's immediately adjacent to a solar facility and
4 track the annual rate of appreciation on a
5 straight-line basis for multiple sales data over the
6 last 20 years and so we'll note how the rate of
7 appreciation might have changed once the solar
8 property came online.

9 And we will compare that with a national
10 index, we'll use Standard & Poor's housing price
11 index which provides that same rate of appreciation
12 data for a ZIP code and so we'll compare that home
13 with all the homes within the ZIP code to see whether
14 or not that rate of appreciation is consistent or if
15 it's not consistent.

16 And for a number of homes that we're able
17 to track multiple sales to do an annual appreciation
18 rate study, we've also found that those numbers are
19 consistent or better with national averages which
20 would indicate that there isn't a negative influence
21 from the adjacent solar farm.

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

24 No further questions, Your Honor. Thank
25 you.

1 ALJ DAVIS: Does any other counsel have
2 recross?

3 MR. MARKS: I just have a couple
4 questions based upon that, Your Honor.

5 ALJ DAVIS: Go ahead, Mr. Marks.

6 - - -

7 RECROSS-EXAMINATION

8 By Mr. Marks:

9 Q. Mr. Lines, what is a reasonable ratio at
10 this point in time, based upon the current market
11 here in Ross County, with respect to listing and sale
12 prices?

13 A. Again, I would say anything within, you
14 know, 3 to 5 percent is probably pretty reasonable.
15 I know it depends where you might have some
16 properties that get into a price war and so you'll
17 see some of those sales occur that are higher than
18 the list price.

19 Q. And this \$225,000 sale for the 6267 Rapid
20 Forge Road, if that turns out to be verified by the
21 Auditor's website, then really the only local data
22 point we would have at this time would be the sale of
23 a home for 15,000 less than list price; would that be
24 accurate?

25 A. No, it wouldn't be accurate.

1 So you have 6215, which is located five
2 doors down, which is listed for sale for \$235,000.

3 But, to me, what's more important is the
4 price per square foot. So at \$225,000, 6267 sold for
5 \$135 a square foot. And the home that's located five
6 homes south, which they are fairly comparable homes,
7 is listed for \$125 a square foot. So, using that
8 data, we could also state that 6267 sold perhaps
9 above what other properties are selling for on a
10 per-square-foot basis.

11 Q. But I guess my question, to put it
12 simpler, would be, the other property you just
13 mentioned five doors down, the 6215, is just
14 currently at a list price. It may be under contract
15 but nobody really knows what that contract price is
16 at this point in time. So the only property with a
17 sale price, if verified, would be the 67 -- 6267
18 Rapid Forge Road.

19 A. Meaning that you're asking me just to
20 compare that particular property with its list price?

21 Q. I guess I'm not asking you to compare.
22 I'm just saying the only property we've got right now
23 with respect to this Ross County Solar project that
24 has a sale price, if verified, is the 6267 Rapid
25 Forge Road.

1 A. Correct. And it's the price of a home
2 next to vacant farmland. There's no solar farm there
3 yet.

4 Q. Correct.

5 MR. MARKS: I don't have anything
6 further, Your Honors. Thank you.

7 ALJ DAVIS: Is there any re-redirect
8 based on that?

9 MR. SETTINERI: No, Your Honor. Thank
10 you.

11 ALJ DAVIS: Thank you.

12 Mr. Lines, I just have one question for
13 you.

14 - - -

15 EXAMINATION

16 By ALJ Davis:

17 Q. If you could go to Question 12 on page 8
18 of your testimony. And this is mostly just for
19 clarification of the record. I know you've spoken to
20 this a little bit. I just wanted to see if you could
21 elaborate some on the specific choice to use the
22 North Star project in Minnesota. I know you
23 indicated earlier in your testimony, Question 10,
24 that there simply are no constructed, existing, in
25 operation, over 100-megawatt facilities in Ohio; so I

1 understand the general premise as to why an outside
2 or an external-to-Ohio facility would have been
3 chosen as a comparison, but could I just ask if you
4 could clarify why that one in particular.

5 A. Sure.

6 And again, it's only one of, you know, a
7 couple of dozen that we've studied but that one is in
8 the midwest; it's about a thousand acres; it's spread
9 out; the homes that sold that were near it or around
10 it, some of them have solar panels in four
11 directions, some of them have three directions around
12 them, some only one. So it's a really good example
13 of an area which had no solar before, and now has
14 this very large project, and so we're able to track
15 some of the sales data for that particular area in a
16 midwest, agricultural environment.

17 And while there might be some subtle
18 differences between Minnesota and Ohio, certainly the
19 football teams, but, you know, generally speaking,
20 fairly similar in terms of relative demographics and
21 also prices per square foot of the homes. Fairly
22 similar to what you're finding in Ross County.

23 ALJ DAVIS: Thank you very much,
24 Mr. Lines. That's the only question I had.

25 Does anyone have -- is there any question

1 based on that, following that, from counsel?

2 MR. SETTINERI: No, Your Honor.

3 ALJ DAVIS: Okay. Thank you.

4 So then we are finished with this
5 witness. Mr. Settineri, did you need to proceed?

6 MR. SETTINERI: Yes, Your Honor. At this
7 time we would re-up our motion to admit Company
8 Exhibit 10 into the record, please.

9 ALJ DAVIS: Are there any objections?

10 MR. MARKS: No.

11 ALJ DAVIS: It is admitted. Hearing no
12 objections, it's admitted.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 ALJ DAVIS: Thank you, Mr. Settineri.

15 And with that, our next witness, I
16 believe, is Mr. Finley -- or no. Yes.

17 ALJ AGRANOFF: Before we get to
18 Mr. Finley, it looks like we have Mr. Finley,
19 Mr. Robinson, Mr. Rupprecht, Mr. Old, and then
20 Mr. Marquis; so that's five more witnesses. It's
21 12:15 now. What's the consensus in terms of, do we
22 just keep plowing through? Does anybody care to
23 entertain taking a break for lunch at some juncture?

24 MR. SETTINERI: Your Honor, I know Mister
25 -- I think for efficiency purposes if we could -- I

1 don't know if you have a lot of questions for
2 Mr. Finley, but if we could do Mr. Finley, then we
3 would be fine with taking a quick break for lunch and
4 come back and wrap everybody else up. I'd propose
5 that. I'm open either way.

6 ALJ AGRANOFF: We have a proposal on the
7 table. Is there any --

8 MR. FARTHING: This is John Farthing.
9 For my purposes, we could continue right on through,
10 but, you know, if people need lunch, I can certainly
11 understand that.

12 MR. SETTINERI: I'll say also I'm also
13 fine with continuing. I'll leave it to the Bench.
14 If the Bench would want to have a break for lunch,
15 that's what I would propose; otherwise, we can keep
16 going.

17 ALJ AGRANOFF: I know I do have questions
18 of Mr. Robinson and some questions for Mr. Old, as
19 well as maybe one question for Mr. Rupprecht. So
20 maybe we do Mr. Finley and then take a lunch break
21 and then jump into the remaining witnesses if that
22 would be acceptable.

23 MR. SETTINERI: It would.

24 MR. FARTHING: It's your call, Judge, and
25 that's fine with me. Thank you.

1 ALJ AGRANOFF: Okay. And then just
2 before we get to Mr. Finley, I do want the record to
3 reflect, I know that Mr. Settineri, you had, in the
4 context of Mr. Risse, moved for the admission of a
5 number of exhibits. I just want the record to
6 reflect that with respect to Exhibit 1C, that that
7 was identified as a confidential exhibit and,
8 therefore, will not be part of the public record and
9 it will be kept under seal.

10 MR. SETTINERI: Thank you, Your Honor.

11 ALJ AGRANOFF: Just so the record is
12 clear relative to that particular exhibit.

13 And with that, if you're ready to call
14 Mr. Finley; or Ms. Sanyal, either.

15 MR. SETTINERI: Mr. Settineri will do
16 that, Your Honor.

17 ALJ AGRANOFF: Okay.

18 MR. SETTINERI: At this time the Company
19 will call Mr. Brent Finley to the stand, please.

20 MR. SCHMIDT: Mr. Finley, you've been
21 promoted. If you can enable your audio and video.

22 ALJ AGRANOFF: Judge Davis.

23 ALJ DAVIS: Mr. Finley?

24 THE WITNESS: Yeah. Can you hear me?

25 ALJ DAVIS: Yes, we can hear and see you.

1 Thank you very much. Good afternoon. If you may
2 raise your right hand for me.

3 (Witness sworn.)

4 ALJ DAVIS: Mr. Settineri, you may
5 proceed.

6 MR. SETTINERI: Thank you, Your Honor.

7 - - -

8 BRENT FINLEY

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

11 DIRECT EXAMINATION

12 By Mr. Settineri:

13 Q. Good afternoon, Mr. Finley.

14 A. Good afternoon.

15 Q. Thank you for your patience today. I'm
16 going to just refresh everyone's memory to note that
17 we had marked as Company Exhibit 14, the Direct
18 Testimony of Brent Finley. Do you have a copy of
19 that before you, Mr. Finley?

20 A. Yes.

21 Q. Can you please identify that for the
22 record, please?

23 A. The title is "Before the Ohio Power
24 Siting Board."

25 Q. All right. And is that your Direct

1 Testimony, prefiled in the case?

2 A. I'm sorry. Yes, it's the Direct
3 Testimony of Brent Finley, yes.

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

6 A. Yes.

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

9 A. No.

10 Q. And if I asked you the questions in that
11 testimony today, would your answers be the same?

12 A. Yes.

13 MR. SETTINERI: All right. Thank you,
14 Mr. Finley.

15 Your Honors, the witness is available for
16 cross-examination.

17 ALJ AGRANOFF: Judge Davis.

18 ALJ DAVIS: Is there any cross from
19 counsel?

20 - - -

21 EXAMINATION

22 By ALJ Davis:

23 Q. Mr. Finley, I just have one question for
24 you. I apologize. I'm attempting to pull up your
25 testimony and it's showing me the famous Windows

1 swirling circle, so give me one moment here and I
2 will just pull it up on the docket.

3 So just a clarification question for the
4 sake of the record. From page 5 to page 6 of your
5 testimony, Question 10, the question I have is that
6 you mentioned in this answer, in Answer 10 to
7 Question 10, the Toxicity Characteristic Leaching
8 Procedure from US EPA, and the last sentence of the
9 answer is "modern photovoltaic units typically pass
10 the TCLP test." And I just wanted to ask, for the
11 sake of clarity from you, when you say "modern
12 units," does that more or less essentially encompass
13 broadly the representative models that the Applicant
14 has included here?

15 A. Yes, it would. Yup.

16 ALJ DAVIS: Okay. Thank you very much.
17 That's the only question I had.

18 Are there any questions from counsel?

19 MR. SETTINERI: No follow-up, Your Honor.

20 ALJ DAVIS: Thank you.

21 With that said, I believe we are -- you
22 are through, Mr. Finley.

23 THE WITNESS: Okay. Thank you.

24 ALJ DAVIS: Thank you.

25 MR. SETTINERI: All right. Your Honor,

1 at this time we would move for the admission of
2 Company Exhibit 14, the Direct Testimony of Brent
3 Finley.

4 ALJ DAVIS: Are there any objections?

5 Hearing none, it is admitted.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 ALJ DAVIS: Thank you.

8 MR. SETTINERI: Thank you.

9 ALJ DAVIS: With Mr. Finley dismissed and
10 with our remaining witnesses, I believe we will break
11 for lunch. Judge Agranoff, do we want to do
12 30 minutes, 45 minutes, 60 minutes?

13 ALJ AGRANOFF: Why don't we come back at
14 1:15 if that's okay with everybody.

15 MR. SETTINERI: That's fine, Your Honor.

16 ALJ AGRANOFF: Okay.

17 MR. SETTINERI: Thank you.

18 ALJ AGRANOFF: We'll see everybody back
19 at 1:15.

20 (At 12:25 p.m. a lunch recess was taken
21 until 1:15 p.m.)

22 - - -

1 Thursday Afternoon Session,
2 June 10, 2021.

3 - - -

4 ALJ AGRANOFF: Let's go back on the
5 record at this time. And I don't know whether it's
6 Mr. Settineri or Ms. Sanyal in terms of calling
7 Mr. Robinson.

8 MR. SETTINERI: Thank you, Your Honor.
9 It will be Mr. Settineri. At this time the Company
10 calls Mr. Matthew Robinson to the stand.

11 MR. SCHMIDT: Mr. Robinson, you've been
12 promoted. If you can enable your audio and video.

13 THE WITNESS: Hello.

14 ALJ AGRANOFF: Hello, Mr. Robinson. If
15 you could please raise your right hand.

16 (Witness sworn.)

17 ALJ AGRANOFF: Thank you.

18 - - -

19 MATTHEW ROBINSON

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

22 DIRECT EXAMINATION

23 By Mr. Settineri:

24 Q. Well, good afternoon, Mr. Robinson.

25 A. Good afternoon.

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

3 A. My name is Matthew Robinson. My business
4 address is 217 Montgomery Street, Suite 1000,
5 Syracuse, New York 13201.

6 Q. Okay. By whom are you employed?

7 A. I'm employed by Environmental Design &
8 Research or EDR.

9 Q. Okay. And were you involved in the
10 preparation of the Application in this proceeding?

11 A. Yes.

12 Q. Okay. Now, just for everyone, previously
13 we had marked two exhibits, we had marked as Company
14 Exhibit 11, the Direct Testimony of Matthew Robinson,
15 and we had marked as Company Exhibit 17, the
16 Supplemental Testimony of Matthew Robinson.

17 Mr. Robinson, do you have those exhibits
18 before you?

19 A. I do, yes.

20 Q. All right. Could you identify Company
21 Exhibit 11 for the record, please.

22 A. That is my Direct Testimony.

23 Q. Okay. And was that prepared by you or at
24 your direction?

25 A. Yes, it was.

1 Q. All right. And do you have any changes
2 or revisions to that Direct Testimony at this time?

3 A. No, I do not.

4 Q. And if I asked you the questions in your
5 Direct Testimony for Company Exhibit 11, if I asked
6 you those questions today, would your answers be the
7 same as written?

8 A. Yes.

9 Q. Okay. Then if you could turn to Company
10 Exhibit 17. Could you please identify that for the
11 record, please.

12 A. That is my Supplemental Testimony.

13 Q. Okay. Was that prepared by you or at
14 your direction?

15 A. Yes.

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

18 A. No, I do not.

19 Q. And if I asked you the questions in that
20 Supplemental Testimony, would your answers be the
21 same today?

22 A. Yes, they would be.

23 MR. SETTINERI: Okay. Thank you.

24 Your Honor, at this time we would submit
25 Mr. Robinson for cross-examination, and also move,

1 subject to cross-examination, for the admission of
2 Company Exhibits 11 and 17.

3 ALJ AGRANOFF: Thank you.

4 Are there any questions of counsel with
5 respect to Mr. Robinson's testimonies? I take
6 silence as a no.

7 - - -

8 EXAMINATION

9 By ALJ Agranoff:

10 Q. Mr. Robinson, I do have some questions
11 with respect to your testimonies. If you could
12 please turn first to your Supplemental Testimony
13 which has been marked I believe as Applicant
14 Exhibit 14. And specifically I know that on page 1,
15 in response to Question 5, you reference a Landscape
16 Mitigation Plan. Do you see that?

17 A. Yes.

18 Q. Okay. And with respect to the Landscape
19 Mitigation Plan, and I believe your testimony also
20 discusses a Lighting Plan, does the Applicant have
21 any objection or does it have the intent to file
22 those plans in the docket in this proceeding?

23 A. I believe so.

24 Q. Okay. To which question would you say
25 you believe so? That they plan to object or --

1 A. Sorry. I would believe they intend to.

2 Q. Intend to file.

3 A. Yes.

4 Q. Okay. Now, if you could please turn to
5 page 2 of your Supplemental Testimony. Let me know
6 when you're there.

7 A. I'm there.

8 Q. Okay. And specifically lines 6 and 7.

9 A. Yup.

10 Q. You indicate that the Applicant will
11 replace any failed plantings during the first five
12 years after construction to ensure that at least
13 90 percent of the vegetation has survived as of the
14 five-year point. Do you see that?

15 A. Yup.

16 Q. Okay. My first question is with respect
17 to remedying a situation where there is less than
18 90 percent of the vegetation that has survived within
19 the first five years of the project. To the extent,
20 let's just say hypothetically speaking, that
21 80 percent of the vegetation has survived, how does
22 the Company intend to remedy that scenario? Would
23 they only then replant the vegetation to bring it
24 back to the 90 percent level or would they attempt to
25 then bring it back to some other percentage?

1 A. The understanding that I have with the
2 Company and what we have written before is that a
3 landscape architect will go out each year and perform
4 an evaluation of the landscape plan to see if it's
5 working. This, in the first five years, really is
6 counting plants to get to that 90 percent number. We
7 know exactly what was put in the ground and it's easy
8 to understand if that plant has been established or
9 if it's died off. And it's my understanding that
10 they, within each of those years, will be replaced as
11 they die off.

12 Now, if something has -- if the landscape
13 architect who is out there has the understanding that
14 two plants were next to each other, one of them has
15 died and the other one is growing very fiercely and
16 very vigorously and it's really performing as both of
17 those plants, then if that was above the 90 percent,
18 we could make -- the landscape architect could make a
19 decision that that plant is performing as well and we
20 do not need to replace past that 90 percent number.

21 Another way to look at it is, in the
22 beginning when the plants are smaller, the modules
23 are designed for the plants to go over each other and
24 they are also using material that is designed to
25 spread and colonize. So other material may be coming

1 in there by the four-year period where it's actually
2 worse number-wise to simply go in and replace another
3 plant that may have died off because you might be
4 disturbing something that's next to it. So that's
5 where that 10 percent comes in and because it's very
6 specifically done on the number of plants.

7 Q. Okay. So let me see whether I understand
8 correctly what you're saying. I think you said on an
9 annual basis an evaluation is going to be made within
10 the first five years?

11 A. Yes.

12 Q. And it's going to be done on a per-plant
13 basis.

14 A. Yes.

15 Q. And then you said something about one
16 plant could die, but if another one is growing
17 significantly, that could somehow counter the loss of
18 the other plant?

19 A. Potentially, yes.

20 Q. So then is it not just a per-plant basis
21 but per plant and then also growth as well that's
22 being taken into --

23 A. That -- the growth is really after five
24 years. You were asking specifically about if
25 something could happen where you would only replace

1 to the 90 percent level of plant material, and I was
2 trying to explain that if -- that everything will be
3 replaced to that 90 percent level but there is leeway
4 in that 10 percent in case another plant is growing
5 well and you don't want to replace the one that was
6 directly next to it because you may disturb that
7 plant's roots and that plant's growing habitat.

8 Q. So potentially you could have a situation
9 where, because you're not doing a replacement as a
10 result of the growth of the adjacent plant, that you
11 may not necessarily be hitting that 90 percent number
12 if you took that out?

13 A. No. In the first five years -- in the
14 first five years it will hit that 90 percent number.

15 Q. Okay. Regardless of growth of the
16 adjacent plant.

17 A. Yes.

18 Q. Okay. So where does the growth of the
19 adjacent plant get factored into this?

20 A. Above 90 percent.

21 Q. Above 90. Okay. So if there wasn't
22 significant growth with the adjacent plant, you
23 didn't have that issue, would you strive then to have
24 greater than 90 percent --

25 A. That would most likely occur --

1 Q. -- in the first five years?

2 A. That would most likely occur, yes.

3 Q. Do you know what that hypothetical goal
4 is?

5 A. No. I mean, 90 percent is a fairly high
6 goal in the industry as is, so knowing what would be
7 above that or how it would exactly work, year to
8 year, is a little harder to understand at this time.

9 Q. Okay. Now, let's talk about the
10 replacement of the vegetation. Would it be the same
11 type of vegetation that was previously used?

12 A. That would depend on why the plant did
13 not survive. We are looking at natives that will
14 be -- that are -- what am I trying to say, sorry --
15 acclimated to that environment and so they should
16 grow well, there are no known pests that would create
17 some type of die-off due to insect or anything like
18 that, so most likely it would be the same species and
19 the same plant.

20 But if, for some reason, it was decided
21 that that area would be better with a different style
22 from the master list that we have, then that plant
23 may go in because the survivability may be higher.

24 Q. Okay. Let's talk a little bit about the
25 original vegetation selection. Does the Stipulation

1 contemplate what type of vegetation will be utilized
2 initially? And specifically I'm looking at it from
3 the standpoint of deciduous vegetation versus
4 evergreen and whether one is being currently
5 contemplated over the other.

6 A. Yeah. Regarding shrubs, trees, deciduous
7 and evergreen, the material that would be replaced
8 would match what was originally installed. So that
9 install is guiding the replacement. It may be just a
10 different type, but it would not be the instance
11 where an evergreen tree would be replaced with a
12 deciduous shrub.

13 Q. Okay. But let's go back to the original,
14 from the beginning of the project, when the
15 vegetation screening is first put in place. Does the
16 Stipulation contemplate a specific type of vegetation
17 either being selected initially or a particular type
18 of vegetation being excluded specifically?

19 A. That is based off of the landscape plan
20 and there are specific plants that we have called out
21 that are appropriate for this area and those are what
22 go into the modules and so that is what is set to be
23 put into the ground. So it's based off of those
24 modules and, yes, there are specific evergreen and
25 deciduous plants that are placed into those modules.

1 I believe the stip talks about
2 implementing the landscape mitigation planting
3 modules in the first line of the Stipulation on 14,
4 so by implementing the landscape mitigation planting
5 modules that is saying what we have put forth in that
6 landscape plan is what will be implemented at the
7 installation time.

8 Q. And that is specific to a particular
9 module where you may have evergreens used in one, and
10 deciduous in another, for example, depending on the
11 module?

12 A. Yes. There's mostly a mix between them
13 but, yes, that is specific to the module.

14 Q. Okay. And with respect to -- let's go
15 back to within the first five years after
16 construction, at least 90 percent of vegetation being
17 maintained. With respect to that particular
18 requirement, is that on a module basis or is that on
19 a project-area-entirety basis?

20 A. I believe it's on an entirety basis.

21 Q. Okay. So to the extent that a particular
22 module conceivably could fall below the 90 percent
23 threshold but the project area as a whole is still at
24 the 90 percent or higher, that then doesn't create a
25 need for any kind of remedy pursuant --

1 A. It does, because the plan states as well
2 that the Applicant shall -- let me see here, where is
3 it -- that the plan shall be followed. So if
4 something was -- if there was -- if all 10 percent
5 happened in one spot, then the module is not being
6 followed, so the plan is not being implemented
7 correctly, so that area would have to be updated.

8 Q. Okay. And that's pursuant to the
9 language on line 12 of your testimony about "To
10 ensure screening modules are functioning as
11 designed...."?

12 A. That's correct.

13 Q. Okay.

14 A. Yes, that's where I read it.

15 Q. Okay.

16 A. That's to ensure that that 10 percent
17 doesn't occur in one location.

18 ALJ AGRANOFF: I appreciate the
19 clarification.

20 Based on my limited questions, do any of
21 the parties have any follow-up?

22 MR. SETTINERI: No follow-up, Your Honor.
23 Thank you.

24 ALJ AGRANOFF: I'll assume everybody
25 else's silence signifies there are no questions. And

1 I appreciate, Mr. Robinson, for your time.

2 THE WITNESS: I did, in the very
3 beginning, say my ZIP code wrong. If I need to
4 correct that, I can.

5 ALJ AGRANOFF: This would be as good of a
6 time as any.

7 THE WITNESS: I stated that it was 13201.
8 The ZIP code for my business address, EDR, is 13202.
9 Sorry.

10 ALJ AGRANOFF: Not a problem.

11 Mr. Settineri, would you care to move for
12 the admission?

13 MR. SETTINERI: Yes. We would resubmit
14 again our motion to admit into the record, Company
15 Exhibit 11, the Direct Testimony of Matthew Robinson,
16 as well as Company Exhibit 17, the Supplemental
17 Testimony of Matthew Robinson, Your Honors.

18 ALJ AGRANOFF: Any objection to the
19 admission of those two exhibits?

20 There being none, Exhibits 11 and 14 --

21 MR. SETTINERI: Sorry, Your Honor. It
22 should be Company Exhibit 17. I think you had
23 mentioned 14 during your questioning as well. The
24 Supplemental Testimony of Matthew Robinson has been
25 marked as Company Exhibit 17.

1 ALJ AGRANOFF: Sorry about that. I
2 didn't mean to create confusion.

3 Exhibits 11 and 17, on behalf of the
4 Applicant, shall be admitted as part of the record at
5 this time.

6 (EXHIBITS ADMITTED INTO EVIDENCE.)

7 ALJ AGRANOFF: I believe my list shows
8 that Mr. Rupprecht is the next witness.

9 MR. SETTINERI: Yes, Your Honor. My
10 colleague, Ms. Sanyal, will be presenting
11 Mr. Rupprecht. Thank you.

12 MR. SCHMIDT: Mr. Rupprecht, you've been
13 promoted. If you can enable your audio and video.

14 THE WITNESS: Good afternoon.

15 ALJ AGRANOFF: Good afternoon, sir. If
16 you could please raise your right hand.

17 (Witness sworn.)

18 ALJ AGRANOFF: Thank you.

19 Ms. Sanyal.

20 MS. SANYAL: Thank you, Your Honor.

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RYAN RUPPRECHT

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

DIRECT EXAMINATION

By Ms. Sanyal:

Q. Good afternoon, Mr. Rupprecht.

A. Good afternoon.

MS. SANYAL: Just to refresh everyone's
memory, we will be referring to Company Exhibits 12
and 18.

Q. Mr. Rupprecht, do you have copies of
Company Exhibits 12 and 18 in front of you?

A. I do.

Q. Okay. So let's do Exhibit 12 first.
Will you please -- actually, before we do that.
Would you state your full name, spell out your last
name, and give us your business address for the
record.

A. Sure. My name is Ryan Rupprecht,
R-u-p-p-r-e-c-h-t. My business address is 121
Continental Drive, Suite 308, Newark, Delaware 19713.

Q. Thank you, Mr. Rupprecht.

Will you please identify Company
Exhibit 12 for the record.

A. That's my Direct Testimony.

1 Q. And was your testimony prepared by you or
2 at your direction?

3 A. It was.

4 Q. Okay. And do you have any revisions to
5 your testimony today?

6 A. I do not.

7 Q. If I asked you the same questions as are
8 in your testimony, would your answers remain the
9 same?

10 A. They would.

11 Q. Okay. Thank you.

12 And then let's turn to Company Exhibit
13 18. Would you please identify that for the record

14 A. That's my Supplemental Testimony.

15 Q. And was Company Exhibit 18 prepared by
16 you or at your direction?

17 A. It was.

18 Q. Okay. And any changes or revisions today
19 to Exhibit 18?

20 A. No.

21 Q. And again, if I asked you the questions
22 that are contained in Exhibit 18, would your answers
23 remain the same?

24 A. They would.

25 Q. Thank you.

1 MS. SANYAL: Your Honor, Mr. Rupprecht is
2 now available for cross-examination.

3 ALJ AGRANOFF: Thank you.

4 Does any of the parties' counsel have
5 cross-examination for Mr. Rupprecht?

6 I'll take silence as a no.

7 - - -

8 EXAMINATION

9 By ALJ Agranoff:

10 Q. Mr. Rupprecht, I do have just a couple of
11 questions with respect to your Supplemental Direct
12 Testimony which has been marked as Applicant
13 Exhibit 18. If you could please turn to page 2 of
14 that testimony.

15 A. Okay.

16 Q. And I know you discuss, on line 8 of that
17 testimony, about Condition 18 and the potential
18 encountering of any threatened or endangered species
19 prior to construction. Do you see that?

20 A. I do.

21 Q. What about in the event of encountering
22 those endangered or threatened species during
23 construction?

24 A. So there will be an environmental monitor
25 on site during construction, and if that monitor sees

1 an endangered species during the activity, they will
2 stop construction and consult whatever plan is in
3 place for avoidance. Depending on the species, that
4 avoidance may, you know, change, and it also depends
5 on what species and their behavior as to what that
6 avoidance would be.

7 Q. Okay. And is there a particular
8 specified time limit for that stoppage?

9 A. I believe there is not. Again, it
10 depends on the species and the occurrence that
11 occurred. You know, for an example, if a bird that
12 was an RTE species simply stopped over and vacated
13 the site after a reasonable period of time to observe
14 that that species is no longer in the vicinity, I
15 believe construction could resume.

16 Q. Okay. And then if you could please look,
17 and I'm focused on the last sentence of your answer
18 to Question 7 as well as your answer -- the last
19 sentence of your answer to Question 8. In both cases
20 there's reference to coordination with the ODNR and
21 the USFWS to allow for a different course of action.
22 Do you see those two sentences?

23 A. I do.

24 Q. My question is with respect to both of
25 those sentences. Is there contemplation for the

1 inclusion of the Board Staff as part of those
2 determinations regarding a different course of
3 action?

4 A. I just want to make sure I understand
5 your question. Instead of just being limited to ODNR
6 and U.S. Fish and Wildlife, you're asking if the
7 Staff would also potentially be added to that list as
8 an agency?

9 Q. Yes, sir. Whether that was possibly
10 inherently intended to be incorporated as part of
11 that process without actually saying it.

12 A. Yes. So essentially the Stipulation, you
13 know, is from the Staff, so it's -- it's interpreted
14 that, you know, that is their requirement and that
15 this is meant to say if there would have been
16 additional time-of-year restrictions imposed by ODNR
17 or U.S. Fish and Wildlife that those would also be
18 carried out as they would be commenting agencies to
19 the Staff information. So yes, the answer is yes,
20 Staff is inherently included in that group.

21 Q. Okay. Thank you.

22 And then if you could please turn to
23 page 3 of your Supplemental Testimony.

24 A. Okay.

25 Q. And specifically I'm looking at line 13

1 of your response to Question 10.

2 A. Okay.

3 Q. There it indicates that the environmental
4 specialist is authorized to halt construction
5 activities for up to 48 hours. My question is, what
6 happens if the problem is still in existence
7 subsequent to the 48-hour time frame?

8 A. Sure. So I don't think that this is to
9 say that after 48 hours, no matter what the
10 conditions are, that construction would automatically
11 resume. It's basically saying that the environmental
12 specialist can halt construction up to 48 hours so
13 there's adequate time to reach out to appropriate
14 agencies and/or appropriate folks to understand what
15 might be the remedy or what might need to occur for
16 construction to resume.

17 It wasn't meant to say that it would be
18 limited to 48 hours no matter what the situation was
19 and that construction could resume after that. It
20 was basically to say that that person has the
21 authorization to stop construction so that there's
22 adequate time to reach an appropriate answer to say,
23 hey, this occurred and we need to find a course of
24 action to be able to move construction forward.

25 Q. Taking into account, though, that it may

1 take more than 48 hours.

2 A. That is correct, but at least it gave a
3 time frame to start, you know, that reach-out.

4 Q. Okay. And my next question, there may
5 not be an answer in the context of your testimonies
6 but what I'm just curious about is, what if, to the
7 extent in the process of those deliberations during
8 the 48-hour time frame, there's a dispute between
9 Staff, the Company, ODNR, and USFWS relative to a
10 resolution to the identified problem, is there
11 something contemplated, a process contemplated, as to
12 how to rectify those disputes?

13 A. I would find it hard that there would be
14 a situation that there wasn't a set procedure or law
15 in place that would need to be followed. Essentially
16 when it relates to RTE species, which primarily this
17 is, there's laws in place that protect those species
18 that would not allow harassment or impact to those
19 species, so, you know, that's pretty clear and would
20 halt construction or any other activities to avoid
21 that from occurring. So I can't imagine a situation
22 where there would not be some level of agreement
23 between the groups on a course of action forward
24 because it would be hard to find that we won't have
25 to follow some particular law or procedure that's

1 already in place.

2 ALJ AGRANOFF: Based on the scope of my
3 questions, is there any follow-up from counsel?

4 MS. SANYAL: Your Honor, may I have maybe
5 two minutes to go off the record and briefly consult
6 with my witness?

7 ALJ AGRANOFF: Sure. Why don't you take
8 five minutes.

9 MS. SANYAL: Thank you.

10 ALJ AGRANOFF: Okay. Thank you.

11 (Recess taken.)

12 MS. SANYAL: Your Honor, we are ready to
13 proceed when you are.

14 ALJ AGRANOFF: I am.

15 MS. SANYAL: Okay. Are we back on the
16 record?

17 ALJ AGRANOFF: Let's go back on the
18 record.

19 MS. SANYAL: Thank you, Your Honor.

20 - - -

21 REDIRECT EXAMINATION

22 By Ms. Sanyal:

23 Q. Mr. Rupprecht, I just have a few
24 questions for you. Do you have a copy of the
25 Stipulation in front of you?

1 A. I do.

2 Q. So my first question is going to be about
3 Conditions 19, 20, and 21. Could you just explain
4 for us why coordination with the U.S. Fish and
5 Wildlife Service and ODNR is important for the
6 time-of-year restrictions?

7 A. Yeah. So the time-of-year restrictions
8 are set up to essentially avoid when known species,
9 what are considered RTE species, rare, threatened,
10 endangered, are known to be potentially present in
11 the vicinity. So by avoiding those time periods, we
12 are unlikely to affect those species from our
13 activities.

14 During that time period there may or may
15 not be those species present, but they're likely to
16 be -- you know, they're potentially present during
17 that time period, and by avoiding that time period
18 there's, you know, the unlikely effect of affecting
19 that species.

20 Q. And I don't know if we quite heard it.
21 Why is the coordination with those two particular
22 agencies important?

23 A. Yes. Because they are the ones that
24 regulate the RTE species. U.S. Fish and Wildlife for
25 the endangered species laws, and ODNR for the

1 state-listed species, so they're the two agencies
2 that have authority over those time-of-year
3 restrictions.

4 Q. Thank you, Mr. Rupprecht.

5 And then just reviewing Conditions 19
6 through 21, does the Stipulation mention that the
7 Board Staff should be involved in that time-of-year
8 restriction coordination?

9 A. The Stipulation does not.

10 Q. Okay. But do you think it is reasonable
11 to include Staff in notifying them of those results?

12 A. Yes.

13 MS. SANYAL: Okay. Your Honor, those are
14 all the questions I have.

15 ALJ AGRANOFF: Thank you.

16 MS. SANYAL: Oh, actually. I'm sorry.
17 My co-counsel just reminded me I do have another
18 question. I apologize. May I ask that question?

19 ALJ AGRANOFF: Certainly.

20 MS. SANYAL: Thank you.

21 Q. (By Ms. Sanyal) I just wanted to clarify
22 one more thing. If you could look at Condition 22,
23 please, Mr. Rupprecht.

24 A. Yup.

25 Q. And then I just wanted to clarify for the

1 record: When will the environmental specialist be on
2 site during construction activities?

3 A. During construction within or around
4 sensitive areas.

5 MS. SANYAL: And I believe those are all
6 the questions I have.

7 ALJ AGRANOFF: Maybe I misunderstood, but
8 I thought, Ms. Sanyal, your question was when the
9 environmental specialist will be present. Is that
10 what your question was?

11 MS. SANYAL: Yes.

12 ALJ AGRANOFF: I thought the answer was
13 not in response to when but it was a where.

14 THE WITNESS: To clarify, it would be
15 when construction is occurring in and around
16 regulated or sensitive areas.

17 ALJ AGRANOFF: Okay. All righty.

18 Any other further clarifying questions
19 from Counsel?

20 MS. SANYAL: I do not have any more.

21 ALJ AGRANOFF: Any other counsel, based
22 on my questions or Ms. Sanyal's follow-up? I take
23 the silence as a no.

24 Mr. Rupprecht, thank you for your
25 testimony today.

1 THE WITNESS: Thank you.

2 ALJ AGRANOFF: Ms. Sanyal, if you care
3 to --

4 MS. SANYAL: I do.

5 ALJ AGRANOFF: -- move for the admission.

6 MS. SANYAL: Thank you, Your Honor. I
7 would like to move exhibits -- Company Exhibits 12
8 and 18 into the record.

9 ALJ AGRANOFF: Any objection?

10 There being none, Exhibits 12 and 18, on
11 behalf of the Applicant, shall be admitted as part of
12 the record at this time.

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 MS. SANYAL: Thank you, Your Honor.

15 I believe our next witness is Mr. Old,
16 and Mr. Settineri will be handling that witness.

17 ALJ AGRANOFF: Thank you.

18 MR. SCHMIDT: Mr. Old, you've been
19 promoted. If you can enable your audio and video.

20 MR. SETTINERI: Your Honor, at this time
21 the Company would call Mr. Isaac Old to the stand.

22 THE WITNESS: Can you hear me?

23 ALJ AGRANOFF: Yes, we can. And we can
24 see you.

25 THE WITNESS: Good.

1 ALJ AGRANOFF: Good afternoon, Mr. Old.

2 THE WITNESS: Good afternoon.

3 ALJ AGRANOFF: If you could please raise
4 your right hand.

5 (Witness sworn.)

6 ALJ AGRANOFF: Mr. Settineri.

7 - - -

8 ISAAC OLD

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

11 DIRECT EXAMINATION

12 By Mr. Settineri:

13 Q. Good afternoon, Mr. Old.

14 A. Good afternoon.

15 Q. Could you please state your name and
16 business address for the record, please.

17 A. My name is Isaac Old, spelled I-s-a-a-c
18 O-l-d. My business address is 55 Railroad Row, White
19 River Junction, Vermont 05001.

20 Q. Thank you.

21 MR. SETTINERI: Your Honor, previously we
22 had marked as Company Exhibit 7, the Direct Testimony
23 of Eddie Duncan. We also marked Company Exhibit 19,
24 the Direct Testimony of Isaac Old. We had previously
25 provided a notice on the docket indicating and

1 stating that Mr. Old will be adopting the testimony
2 of Mr. Duncan today.

3 ALJ AGRANOFF: Okay.

4 Q. Mr. Old, let's start with Company
5 Exhibit 7. Do you have that before you?

6 A. Yes, I do.

7 Q. All right. And you are adopting the
8 testimony of Mr. Duncan today; is that correct?

9 A. That is correct.

10 Q. All right. Now, I would say one
11 exception would be the description of Mr. Duncan's
12 duties and educational and professional background;
13 would that be correct?

14 A. That would be also correct.

15 Q. That information is provided in Company
16 Exhibit 19 which would be your Direct Testimony; is
17 that correct?

18 A. That is correct.

19 Q. Okay. Turning to Company Exhibit 7. Now
20 that you've adopted that Direct Testimony, was that
21 prepared by you or at your direction?

22 A. It was prepared by Eddie Duncan.

23 Q. And you're adopting that testimony today.

24 A. That is correct.

25 Q. Okay. Do you have any revisions or

1 changes to that testimony today?

2 A. I do not.

3 Q. All right. If I asked you the questions
4 in that testimony, subject to the questions about
5 duties and educational and professional background,
6 would the answers be the same?

7 A. Yes.

8 Q. Okay. If you could turn to Company
9 Exhibit 19, please.

10 A. I'm there.

11 Q. Okay. Can you identify that for the
12 record, please?

13 A. That is the Direct Testimony of Isaac
14 Old.

15 Q. And that testimony, was that prepared by
16 you or at your direction?

17 A. It was.

18 Q. Do you have any changes or revisions to
19 that testimony at this time?

20 A. I do not.

21 Q. All right. If I asked you the questions
22 in that testimony today, would your answers be the
23 same?

24 A. Yes.

25 MR. SETTINERI: Thank you, Mr. Old.

1 Your Honor, at this time we would submit
2 Mr. Old for cross-examination, as well as move for
3 the admission of Company Exhibits 7 and 19, subject
4 to cross.

5 ALJ AGRANOFF: Thank you.

6 Does counsel for any of the parties have
7 cross-examination with respect to either Company
8 Exhibit 7 or Company Exhibit 19?

9 Hearing none, I do have a couple of
10 questions with respect to, Mr. Old, your Direct
11 Testimony.

12 THE WITNESS: Okay.

13 MR. SETTINERI: And, Your Honor, if you
14 could identify that for the record. Is that Company
15 Exhibit 19?

16 ALJ AGRANOFF: That would be Company
17 Exhibit 19, correct.

18 MR. SETTINERI: Thank you.

19 - - -

20 EXAMINATION

21 By ALJ Agranoff:

22 Q. And specifically if you could please turn
23 to page 3 of your Direct Testimony.

24 A. All right.

25 Q. And if you could focus on -- the answer

1 actually begins back on page 2 and then carries onto
2 page 3, and I'm looking at the beginning of page 3,
3 line 1 and line 2, where it talks about providing
4 notice to adjacent landowners regarding upcoming
5 construction activities. Do you see that?

6 A. Yes, I do.

7 Q. Okay. Does that notice apply to all
8 construction activities or only a certain level of
9 activities?

10 A. It's my understanding that would apply to
11 all construction activities.

12 Q. And how much advance notice is given with
13 respect to those activities?

14 A. I do not know off the top of my head.

15 Q. Okay. And then on line 2, where you
16 discuss the potential for nighttime construction,
17 what constitutes nighttime construction?

18 A. I'm not sure I understand the question.

19 Q. Well, I assume nighttime --

20 A. Are you referring to the type of
21 construction or the hours?

22 Q. The hours. I'm sorry.

23 A. The hours. I would assume that would
24 occur -- for construction that's occurring after the
25 official start of nighttime so, in this case,

1 10:00 p.m.

2 Q. Did you say 10:00 p.m.?

3 A. Yeah.

4 ALJ AGRANOFF: Okay. Those are all my
5 questions with respect to Exhibit 19.

6 Judge Davis, did you have questions with
7 respect to Exhibit 7?

8 ALJ DAVIS: Yes, I do. Thank you.

9 - - -

10 EXAMINATION

11 By ALJ Davis:

12 Q. Hello, Mr. Old.

13 A. Hello.

14 Q. I have just one clarifying question. If
15 you could locate page 3 of Exhibit 7, Question and
16 Answer 8.

17 A. I'm there.

18 Q. Okay. Thank you. This is just a
19 clarifying question but that first sentence says that
20 sound propagation modeling was conducted at 205
21 sensitive receptors and then it identifies in the
22 parens that 199 of them were what were called
23 non-participating and 6 were participating. Just for
24 the sake of the record, could you clarify the
25 distinguishment between the participating and the

1 non-participating receptors?

2 A. Yeah. Generally, "participating" means
3 that that resident does not have an agreement with
4 the Applicant.

5 ALJ DAVIS: Thank you.

6 That's the only question I had, Judge
7 Agranoff.

8 ALJ AGRANOFF: Okay. Thank you.

9 Any additional questions based on the
10 questions from the Bench?

11 MR. SETTINERI: I have one follow-up
12 question for the record, Your Honor, if --

13 ALJ AGRANOFF: Certainly.

14 MR. SETTINERI: -- I may.

15 - - -

16 REDIRECT EXAMINATION

17 By Mr. Settineri:

18 Q. Mr. Old, regarding the 199
19 non-participating receptors, are those receptors --
20 what's the distance -- the scope of the distance for
21 those receptors from the project boundary, to the
22 extent you know?

23 A. Just give me one second here.

24 Q. And to further clarify, would that be
25 within 1 mile of the project area -- project

1 boundary?

2 A. Yeah. So the distance, of course,
3 varies, but they're all within 1 mile of the project
4 boundary.

5 MR. SETTINERI: Okay. Thank you.

6 No further questions, Your Honor.

7 ALJ AGRANOFF: Thank you.

8 Mr. Old, you are excused.

9 And Mr. Settineri, if you'd like to move
10 for the admission.

11 MR. SETTINERI: Yes, Your Honor. We will
12 again move for the admission of Company Exhibit 7 and
13 Company Exhibit 19.

14 ALJ AGRANOFF: Any objections?

15 There being none, the aforementioned
16 exhibits shall be admitted as part of the record at
17 this time.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 MR. SETTINERI: And, Your Honor, for our
20 last witness today, I will turn it over to
21 Ms. Sanyal.

22 ALJ AGRANOFF: Okay. And just so that we
23 can clarify, that would be the Company's last witness
24 of the day. We still have Mr. Bellamy after that.

25 MR. SETTINERI: Thank you. Sorry,

1 Mr. Bellamy.

2 ALJ AGRANOFF: Just so people don't get
3 all excited.

4 MS. SANYAL: Your Honor, may I call
5 Mr. Matt Marquis to the stand?

6 ALJ AGRANOFF: You may.

7 MR. SCHMIDT: Mr. Marquis, you've been
8 promoted. If you can enable your audio and video.

9 ALJ DAVIS: Good afternoon. Welcome.

10 THE WITNESS: Good afternoon.

11 ALJ DAVIS: Thank you for being here. If
12 I could ask you to raise your right hand.

13 (Witness sworn.)

14 ALJ DAVIS: Thank you very much,
15 Mr. Marquis.

16 - - -

17 MATT MARQUIS

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

20 DIRECT EXAMINATION

21 By Ms. Sanyal:

22 Q. Good afternoon, Mr. Marquis. Do you have
23 a copy of Company Exhibit 9 in front of you that has
24 been previously marked?

25 A. I do.

1 Q. Okay. And will you please identify for
2 the record what Exhibit 9 is?

3 A. That is my Direct Testimony.

4 Q. Thank you.

5 And I keep forgetting to do this, but
6 will you please spell out your name and your
7 business -- provide us your business address for the
8 record.

9 A. Yes. My name is Matt Marquis. My last
10 name is spelled M-a-r-q-u-i-s. I work for Hull &
11 Associates. Our business address is 6397 Emerald
12 Parkway, Suite 200, Dublin, Ohio 43016.

13 Q. Thank you, Mr. Marquis.

14 Turning back to Exhibit 9. Did you
15 prepare your testimony or was it prepared at your
16 direction?

17 A. It was prepared at my direction.

18 Q. Thank you.

19 And do you have any revisions or changes
20 to your testimony today?

21 A. I do not.

22 Q. And if I were to ask you the questions in
23 your testimony, would your answers remain the same?

24 A. Yes.

25 MS. SANYAL: Thank you.

1 Your Honor, Mr. Marquis is now available
2 for cross-examination.

3 ALJ DAVIS: Are there any questions from
4 counsel for this witness?

5 From the Bench, Judge Agranoff?

6 ALJ AGRANOFF: I do not have any
7 questions.

8 ALJ DAVIS: Hearing no questions --

9 MS. FLETCHER: I believe -- I believe we
10 might have a question. Mr. Lindgren.

11 MR. LINDGREN: Please go ahead there,
12 Ms. Fletcher.

13 MS. FLETCHER: Can we actually have a few
14 minutes, Your Honors? I believe one of -- Staff has
15 a question.

16 ALJ DAVIS: Do you need five, ten
17 minutes?

18 MS. FLETCHER: Just a couple, so maybe
19 five minutes.

20 ALJ DAVIS: Okay. We'll just return at
21 2:15.

22 MS. FLETCHER: Okay. Thank you.

23 (Recess taken.)

24 ALJ AGRANOFF: Let's go back on the
25 record at this time.

1 Okay. Ms. Fletcher.

2 MS. FLETCHER: We actually do not have a
3 question at this time. We're just going to address
4 it during Mr. Bellamy's testimony if that's all
5 right.

6 ALJ AGRANOFF: That's fine with us if you
7 don't want to ask it at this point in time.

8 MS. FLETCHER: Thank you. Sorry about
9 that.

10 ALJ AGRANOFF: Any other counsel have
11 follow-up for this witness? If not, Mr. Old, you are
12 free to go.

13 MS. SANYAL: It's actually Mr. Marquis.

14 ALJ AGRANOFF: Oh. Mr. Marquis. I'm
15 sorry. My mistake. Sorry about that. Mr. Marquis,
16 you are free to go.

17 THE WITNESS: Thank you.

18 ALJ AGRANOFF: That's what happens when
19 you give yourself a break for a couple minutes and
20 the memory doesn't click.

21 MS. SANYAL: Your Honor, I would like to
22 move for the admission of Company Exhibit 9 at this
23 time.

24 ALJ AGRANOFF: Any objections?

25 If not, Company Exhibit 9 is admitted as

1 part of the record at this time.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 MS. SANYAL: Thank you, Your Honor.

4 ALJ DAVIS: With that, I believe we have
5 wrapped the Company's witnesses for today.

6 MS. SANYAL: Correct, Your Honor.

7 ALJ DAVIS: Thank you.

8 So Board Staff will be calling their
9 witness at this time?

10 MS. FLETCHER: Yes, Your Honor. We'll be
11 calling Mr. Bellamy.

12 MR. SCHMIDT: Mr. Bellamy, you've been
13 promoted. If you can enable your audio and video.

14 THE WITNESS: Hello? Can you hear me?

15 ALJ DAVIS: We can hear you. We cannot
16 see you. At least I can't.

17 THE WITNESS: I'm not sure what I need to
18 do.

19 ALJ DAVIS: I see just an all-black
20 screen.

21 THE WITNESS: It might have to do with
22 the rear and front cameras. Let me try -- okay.
23 There we go.

24 ALJ DAVIS: There we are. Good
25 afternoon.

1 THE WITNESS: Hi.

2 ALJ DAVIS: If you could raise your right
3 hand.

4 (Witness sworn.)

5 ALJ DAVIS: Ms. Fletcher, you may
6 proceed.

7 MS. FLETCHER: Thank you, Your Honor.

8 - - -

9 MARK BELLAMY

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

12 DIRECT EXAMINATION

13 By Ms. Fletcher:

14 Q. Good afternoon, Mr. Bellamy.

15 A. Good afternoon.

16 Q. Can you please state and spell your name
17 for the record.

18 A. Yes. My name is Mark Bellamy. It's
19 B-e-l-l-a-m-y.

20 Q. Are you responsible for preparing
21 testimony for this matter?

22 A. Yes.

23 Q. Have you reviewed your testimony that was
24 docketed with the Commission on May 19, 2021?

25 A. Yes, I have.

1 Q. And is it a true and accurate copy of the
2 testimony you prepared for this matter?

3 A. Yes.

4 Q. Are there any changes you would like to
5 make to your testimony today?

6 A. No.

7 MR. SETTINERI: Your Honor, I may have
8 missed it. Do we have a -- did we mark the exhibit?
9 Do we know what number that is?

10 ALJ AGRANOFF: We have not done that as
11 of yet.

12 MR. SETTINERI: Okay. Thank you.

13 MS. FLETCHER: Yes. I would like to mark
14 Mr. Bellamy's prefiled testimony as Staff Exhibit 1.

15 ALJ DAVIS: So marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MS. FLETCHER: Thank you.

18 Q. (By Ms. Fletcher) Mr. Bellamy, if I were
19 to ask you again today the same questions that were
20 asked in your prefiled testimony, would you provide
21 the same answers?

22 A. Yes.

23 Q. Okay. Let's turn now to the Stipulation.
24 Mr. Bellamy, are you familiar with the Stipulation
25 that was signed and docketed by the parties in this

1 matter on May 18, 2021?

2 A. Yes, I am.

3 Q. Okay. How are you familiar with the
4 Stipulation?

5 A. On behalf of Staff, I reviewed the
6 Stipulation and agreed to certain changes before the
7 Stipulation was signed on behalf of Staff.

8 Q. Okay. Do you recognize Joint Exhibit 1
9 as the Stipulation reached between the parties?

10 A. Yes.

11 Q. Okay. And do you recommend that the
12 Board adopt the Stipulation?

13 A. Yes.

14 Q. Is there anything else that you would
15 like to add with respect to the Stipulation?

16 A. Yes. There's nothing about the
17 Stipulation I would add, but I would like to note
18 something that was brought up by Mr. Old.

19 Mr. Old referred to nighttime
20 construction time in reference -- or he had said the
21 nighttime construction would start at 10:00 p.m. But
22 according to Condition 15 of the Stipulation,
23 nighttime construction is at 7:00 p.m. -- I'm sorry,
24 let me bring it up -- 7:00 p.m., or until dusk when
25 sunset occurs after 7:00 p.m. So anything after

1 7:00 p.m., or dusk when sunset occurs after
2 7:00 p.m., we would consider nighttime, until
3 7:00 the next morning.

4 Q. Okay. Now, finally, let's turn to the
5 Staff Report.

6 MS. FLETCHER: Your Honors, I would like
7 to mark the Staff Report as Staff Exhibit 2.

8 ALJ DAVIS: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 MS. FLETCHER: Thank you.

11 Q. Per provision A(1) of the Stipulation, do
12 you understand the Stipulation to adopt the
13 conditions in the Staff Report as modified by the
14 Stipulation?

15 A. Yes.

16 Q. And are you familiar enough with the
17 Staff Report to identify it?

18 A. Yes.

19 Q. Okay. How are you familiar with the
20 Staff Report?

21 A. Well, I -- I compiled the Staff Report,
22 and I wrote certain sections of the Staff Report, and
23 I'm sponsoring it on behalf of Staff.

24 Q. Okay. Is the Staff Report, docketed with
25 the Board on March 22, 2021, a true and accurate copy

1 of the Staff Report you helped prepare in this
2 matter?

3 A. Yes.

4 MS. FLETCHER: Okay. Your Honor, I now
5 ask Staff Exhibit 1 and 2 be admitted into the
6 record, subject to any questions by the Bench or the
7 parties.

8 ALJ DAVIS: Are there any objections or
9 questions?

10 MR. SETTINERI: I have a couple questions
11 for Mr. Bellamy, if I may, Your Honor.

12 ALJ DAVIS: Certainly. Go ahead,
13 Mr. Settineri.

14 MR. SETTINERI: Just to clarify.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Settineri:

18 Q. Mr. Bellamy, you had discussed the timing
19 for nighttime construction. I just want to make sure
20 the record is clear for all of us. If you could turn
21 to Joint Exhibit 1, Condition 15.

22 A. I'm sorry. What is Joint Exhibit --
23 Joint Exhibit 1 is the Stipulation, right?

24 Q. That's right.

25 A. Okay. I'm sorry. What page?

1 Q. Let's just start at -- I just want to
2 piece together the Condition for everybody. So if
3 you could turn to Condition 15. I don't have a page
4 number but it's Condition 15.

5 A. Yes, I'm there.

6 Q. So let's see the best way to do it.
7 Let's just walk through the Condition. The first
8 sentence limits general construction activities
9 between the hours of 7 a.m. and 7 p.m., or until dusk
10 when sunset occurs after 7:00 p.m., correct?

11 A. Correct.

12 Q. Okay. And I'm going to skip the impact
13 pile driving and go to where it discusses there's a
14 sentence: "Construction activities that do not
15 involve noise increases...." Do you see that
16 sentence in Condition 15? I'll read it in its
17 entirety: "Construction activities that do not
18 involve noise increases above ambient levels at
19 sensitive receptors are permitted outside of daylight
20 hours when necessary." Do you see that sentence?

21 A. Yes.

22 Q. Okay. So the daylight hours being
23 referenced there would be -- that would be the hours
24 of between 7 a.m. and 7:00 p.m., or until dusk; is
25 that correct?

1 A. Correct.

2 Q. Okay. And then the last sentence: "The
3 Applicant shall notify property owners or affected
4 tenants within the meaning of Ohio Adm. Code
5 4906-3-03(B)(2) of upcoming construction activities
6 including potential for nighttime construction." So
7 nighttime construction, then, would be any
8 construction that would occur after 7:00 p.m., or
9 after sunset occurs; is that correct?

10 A. Correct.

11 Q. And let me rephrase that just to make
12 sure it's clear on the record. That nighttime would
13 be 7:00 p.m., or until dusk when sunset occurs after
14 7:00 p.m., correct?

15 A. Correct.

16 MR. SETTINERI: Okay. I just wanted for
17 all of us to walk through how that Condition will
18 work. Thank you for your testimony, Mr. Bellamy.
19 That was helpful to clear up the record.

20 THE WITNESS: Thank you.

21 MR. SETTINERI: No further questions,
22 Your Honor.

23 ALJ DAVIS: Thank you.

24 Are there any other questions?

25 Hearing none, and just for the sake of

1 the record I'll repeat: Are there any objections to
2 the admittance of Staff Exhibit 1 and 2?

3 MR. SETTINERI: No.

4 ALJ DAVIS: Once more, hearing the
5 cricket chirps, we will admit those into the record
6 at this time, Staff's Exhibit 1 and Staff's
7 Exhibit 2.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 ALJ DAVIS: With that, I believe you are
10 good to go, Mr. Bellamy. Thank you for appearing.

11 THE WITNESS: Thank you.

12 ALJ DAVIS: And with Mr. Bellamy
13 dismissed, I believe we are through our witnesses for
14 today. So we are to reconvene tomorrow at 10:00 a.m.
15 for the testimony of Mr. Christensen for the Company;
16 is that accurate?

17 MR. SETTINERI: That is correct. Thank
18 you. And we appreciate the accommodation by all of
19 the parties and the Bench to allow him to testify
20 tomorrow morning.

21 MR. SCHMIDT: If I could just interject
22 real quick before we finish up for today. As soon as
23 we're done, I will reset this Webex event with the
24 new date and time for tomorrow, so you guys will get
25 a notice from Webex. But all the log-in information,

1 the link, the password, and everything you received
 2 in the e-mail yesterday will be the same for tomorrow
 3 as it was for today, so you won't need to change
 4 anything. You will see an update from Webex in your
 5 e-mail shortly after we conclude, but, otherwise,
 6 everything else will be the same tomorrow as it was
 7 today.

8 ALJ DAVIS: Thank you, Mr. Schmidt.

9 With that said, we are adjourned.

10 (Thereupon, the proceedings concluded at
 11 2:30 p.m.)

12 - - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, June 10, 2021, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires July 17, 2023.

- - -

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in

Case No(s). 20-1380-EL-BGN

Summary: Transcript June 10th 2021

Volume 1

In the Matter of the Application of Ross County Solar, LLC for a Certificate of Environmental Compatibility and Public Need. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn