

**BEFORE
THE OHIO POWER SITING BOARD**

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

**INTERLOCUTORY APPEAL AND REQUEST FOR CERTIFICATION OF
KINGWOOD SOLAR I LLC**

Pursuant to Ohio Adm.Code 4906-2-29(B), Kingwood Solar I LLC (“Kingwood” or the “Applicant”) submits this interlocutory appeal with regard to the Administrative Law Judge’s (“ALJ”) March 15, 2022 ruling regarding Kingwood’s February 25, 2022 motion for subpoenas for certain members of the Ohio Power Siting Board (“Board”) Staff to attend and testify at the adjudicatory hearing. As explained further in the accompanying memorandum in support, the ALJ’s oral ruling presents a new and novel question of law and policy, and represents a departure from past precedent. As a party who is adversely affected by the ALJ’s oral ruling, the Applicant submits this interlocutory appeal and request for certification, requesting an immediate determination from the Board to prevent undue prejudice. A copy of the relevant transcript from the hearing with the ALJ’s oral ruling is attached.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE INTERLOCUTORY APPEAL AND
REQUEST FOR CERTIFICATION OF KINGWOOD SOLAR I LLC**

I. INTRODUCTION

On May 15, 2022, the Administrative Law Judge (“ALJ”) made an oral ruling denying Kingwood Solar I LLC’s motion to subpoena certain Ohio Power Siting Board (“Board”) Staff members, including Ms. Theresa White, the Executive Director of the Board. Kingwood Solar I LLC (“Kingwood” or “Applicant”) submits this interlocutory appeal to the Board because sponsoring Staff witnesses were unable to answer questions about certain, critical portions of the Staff Report of Investigation (“Staff Report”) during the evidentiary hearing. Based on prior precedent, Kingwood requests that the ALJ certify this interlocutory appeal and that the Board reverse the ALJ’s decision and direct that Board Staff produce the appropriate witnesses, including Ms. Theresa White, with sufficient knowledge to answer questions about the sections of the Staff Report for which answers could not be obtained at the first phase of the hearing.

II. BACKGROUND

On October 29, 2021, Board Staff issued the Staff Report in this proceeding, recommending that the Board deny Kingwood’s request for a certificate of environmental compatibility and public need (“the Application”). Staff, according to the Staff Report, made this recommendation due to the Applicant’s inability to establish whether the Project would serve the public interest, convenience, and necessity as required under R.C. 4906.10(A)(6). On February 25, 2022, the Applicant filed a motion to subpoena certain members of the Ohio Power Siting Board (“Board”) Staff and other designated Staff representatives, or employees of the Public Utilities Commission of Ohio, to appear at the hearing in this matter. Among other things, the Applicant sought to depose individuals who were responsible for drafting various sections in the Staff Report related to the discussion of whether Kingwood’s request for a certificate of

environmental compatibility and public need (“the Application”) would serve the public interest, convenience, and necessity as required under R.C. 4906.10(A)(6).

In its motion for subpoena, Kingwood sought to specifically examine Theresa White in addition to the Board Staff member or members who had done the following:

- drafted the section titled “Considerations for R.C. 4906.10(A)(6)” on pages 40 through 44 of the Staff Report;
- decided the contents of the section titled “Considerations for R.C. 4906.10(A)(6)” on pages 40 through 44 of the Staff Report;
- determined what standard Staff should apply when considering whether the Kingwood Solar Project will serve the public interest, convenience, and necessity;
- determined that the Kingwood Solar Project “would not serve the public interest, convenience, and necessity, and therefore does not comply with the requirements specified in R.C. 4906.10(A)(6)”; and
- made the decision to include the recommendation in the Staff Report that the Board deny the Applicant’s request for a certificate of environmental compatibility and public need.

Board Staff filed a memorandum contra on March 4, 2022 stating that it had filed the testimony of ten separate Board Staff witnesses and arguing that the Applicant’s request to subpoena the individuals identified in its motion was moot. In its reply to Staff’s memorandum contra on March 8, 2022, Kingwood requested that the ALJ hold the ruling on the motion in abeyance until after the ten Staff witnesses had testified. During the hearing, the ALJ orally ruled that a decision on the pending motion for subpoena would be held in abeyance until after the examination of Staff witnesses.

On March 15, 2022, the Staff witnesses testified but some could not identify who authored language in the section of the Staff Report addressing the statutory criteria under R.C. 4906.10(A)(6). Specifically, Staff witnesses Butler and Zeto stated they were not the authors of certain language including language that went to the heart of Staff’s recommendation that the

Applicant had not established that the application was in the public interest, convenience and necessity. The Applicant, thus, was unable to ask questions from the decision makers at Staff to establish on the record the basis and intent for Staff's recommendations and statements.

After the presentation of Staff witnesses, The ALJ orally ruled on the motion, granting the motion in part by directing Staff to make Ms. Juliana Graham-Price available to testify. However, the ALJ denied the remainder of the motion including with regard to Ms. Theresa White. As explained further below, Kingwood now files this interlocutory appeal because the Staff witnesses presented, namely Grant Zeto and Matt Butler, were unable to answer questions regarding Board Staff's determination under R.C. 4906.10(A)(6) in the Staff Report.

III. STANDARD OF REVIEW

Ohio Adm.Code 4906-2-29 provides, in pertinent part, that any party that is adversely affected by a ruling can take an interlocutory appeal of that ruling to the Board if it is one of four specific rulings enumerated in paragraph (A) of the rule or if the appeal is certified to the Board by the administrative law judge pursuant to paragraph (B) of the rule. The administrative law judge may certify the appeal if "the appeal presents a new or novel question of interpretation, law, or policy" and is "taken from a ruling which represents a departure from past precedent and an immediate determination by the board is needed to prevent the likelihood of undue prejudice or expense to one or more of the parties, should the board ultimately reverse the ruling in question." Ohio Adm.Code 4906-2-29(B). This interlocutory appeal warrants certification and a ruling from the Board given the importance of the Staff recommendation contained within the Staff Report and the influence that recommendation had in this proceeding.

IV. ARGUMENT

A. The Applicant is entitled to examine Staff witnesses that wrote sections of the Staff Report.

Regardless of that fact that Staff presented witnesses who were “sponsoring” parts of the Staff Report, the Applicant is entitled to examine the Staff witnesses that had responsibility for drafting critical sections of the Staff Report. During the evidentiary hearing, however, both Mr. Butler and Mr. Zeto could not answer questions because they did not draft the critical language. While both indicated that each originally drafted sections of “Considerations for R.C. 4906.10(A)(6)” on pages 40 through 44 of the Staff Report, they could not recall the Staff member or members who had revised or drafted certain, relevant portions. Their lack of familiarity and authorship precluded the Applicant from asking questions of the appropriate Staff witness on the basis and intent of Staff’s recommendation on that statutory criteria. As explained further below, the Applicant has a right to examine these witnesses based on prior precedent.

1. Prior precedent establishes that the Board can direct Staff to produce witnesses with sufficient knowledge to answer questions.

Ohio Adm.Code 4906-2-23 establishes a right for parties to obtain subpoenas for testimony at the adjudicatory hearing. The Supreme Court of Ohio has explicitly affirmed that this right extends to members of the Board Staff: “If appellants desired to examine the seven [Board] staff members, they also had mechanisms available to compel their attendance. Most importantly, as parties to the certification proceeding, appellants had the ability to subpoena the staff members under Ohio Adm.Code 4906-7-08.” *In re Application of Black Fork Wind Energy, L.L.C.*, 138 Ohio St. 3d 43, 48 (2013).

Interpreting a rule similar to Ohio Adm.Code 4906-2-3¹, the Public Utilities Commission of Ohio has, in the interest of furthering administrative efficiency and conserving limited Staff resources, directed parties to initially cross-examine Commission Staff’s designated witnesses. If the designated witnesses are unable or without sufficient knowledge to respond to questions from the parties seeking information that is relevant to these proceedings, the attorney examiner may direct Staff to produce another witness to testify at the hearing. *See, e.g., In re PALMco Power OH, LLC d/b/a Indra Energy and PALMco Energy OH, LLC d/b/a Indra Energy (PALMco)*, Case No. 19-957-GECOI, Transcript Vol. I (Sept. 19, 2019) at 98; *In re the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018, et al.*, Case No. 18-1004-EL-RDR, et al., Entry (Jan. 6, 2022) at ¶ 14.

Turning to this proceeding, the record is clear that neither Mr. Butler nor Mr. Zeto drafted the critical language in the section of the Staff Report addressing R.C. 4906.10(A)(6). Consequently, the subpoenas should issue so Staff can designate the appropriate witnesses.

2. Mr. Butler was unable to answer questions about the section addressing R.C. 4906.10(A)(6).

While Mr. Butler testified he drafted portions of section entitled “Public Interest, Convenience, and Necessity” in the Staff Report, he was without knowledge as to who authored one critical section that he admitted he did not draft. Mr. Butler stated that he had drafted the first two paragraphs under the subsection “Public Interaction and Participation” on page 41, the first three paragraphs of page 42, and all content under the subsection “Public Comments” on page 42 (Tr. Vol. VII at 185:3-12). During cross-examination, Mr. Butler stated that he did not “originate”

¹ In these cases, the Commission was interpreting Ohio Adm.Code 4901-1-25, which is substantially similar to Ohio Adm.Code 4906-2-23.

the fourth paragraph on page 42, which he believed came “out through the Staff editing process through a shared document” (Tr. Vol. VII at 185:13-21).

The fourth paragraph on page 42, which Mr. Butler did not draft, describes the notices of intervention filed by the Boards of Trustees of Miami and Circleville Townships and the resolution in opposition to the Kingwood Solar Project filed by the Greene County Board of Commissioners on the case docket. The paragraph also states that “Staff reviews public input describing perspectives regarding this criterion” (Staff Report at 42). It is critical that Kingwood understand the emphasis Board Staff placed on the intervention notices and resolution in order to conclude that the Application would not satisfy R.C. 4906.10(A)(6). However, Mr. Butler was unable to provide any clarity on this issue (Tr. Vol. VII at 186:4-12; 188: 18-25) and a subpoena should issue to allow for the appropriate person to testify.

3. Mr. Zeto was also unable to answer questions about the section addressing R.C. 4906.10(A)(6).

Despite being the project lead for reviewing the Application submitted by Kingwood and compiling the Staff Report, Mr. Zeto was unable to identify the individual responsible for the conclusion that the Application failed to satisfy R.C. 4906.10(A) (Tr. at Vol. VII at 243: 1-7; 301: 20-25, 302: 1-8). Mr. Zeto stated that he had originally drafted pages 43 and 44 of the Staff Report (Tr. Vol. VII at 247:16-17). Specifically, Mr. Zeto mentioned that he had drafted the “Conclusion” section which began on page 43 and rolled over to page 44 (Tr. Vol. VII. at 253: 8-13). However, while this section was revised on October 29, 2021 as a result of the passage of the Greene County resolution, Mr. Zeto was unable to identify the specific Staff members who revised this section (Tr. Vol. VII at 253: 14-25, 254: 1-12). Mr. Zeto was also unable to identify who drafted the penultimate paragraph of the “Conclusion” subsection on page 44, which alleged that opposition to the Project “has been especially prominent, one-sided, and compelling” and ultimately

concluded that “the Project would not serve the public interest, convenience, and necessity” (Tr. Vol. VII at 285: 8-25, 286: 1-12). Finally, Mr. Zeto did not know who made the actual decision to recommend that the Project would not comply with R.C. 4906.10(A)(6) on page 44 of the Staff Report (Tr. Vol. VII at 301: 20-25).

Again, it is crucial that Kingwood be able to examine the Staff member or members who wrote the section concluding that the Application failed to serve the public interest, convenience, and necessity standard under R.C. 4906.10(A)(6) and the basis of this decision in order to present a complete factual record for the Board’s consideration. Given Mr. Zeto’s lack of authorship of the language at issue, a subpoena should issue to ensure the appropriate Staff witness appear and testify as to the intent and basis for Staff’s conclusions and statements.

4. The ALJ’s ruling on Kingwood’s subpoena represents a new interpretation of law and Board policy, and a departure from past precedent.

The ALJ’s ruling on March 15, 2022 represents both a new and novel question of law and policy, and a departure from past precedent. An immediate determination by the Board is necessary to prevent the likelihood of undue prejudice to Kingwood. Anything less would be prejudicial to Kingwood in this proceeding.

Notably, Kingwood followed the ALJ’s directive when he held Kingwood’s motion for subpoena in abeyance subject to thorough questioning by Kingwood of Staff’s witnesses. Kingwood did just that as evidenced by the transcript from that day. However, questioning in the manner outlined by the ALJ did not yield the Staff members responsible for making the decision that the Application did not satisfy R.C. 4906.10(A)(6). It also did not yield the Staff members that wrote the critical language in the Staff Report on that criteria.

Mr. Butler and the project lead, Mr. Zeto, lacked knowledge as to which Staff member had drafted crucial sections of the Staff Report. These sections, authored by an unknown Staff member

(or members), go to the heart of why the Board Staff determined that Kingwood's Application did not satisfy R.C. 4906.10(A)(6). Understanding the intent and basis of this recommendation by examining the person or persons involved in making that decision is central to the Applicant's development of a record upon which the Board will decide whether or not to issue a certificate in this proceeding. Kingwood will incur undue prejudice from not being able to develop the facts as to the intent and basis for Staff's recommended denial for the Board's consideration.

Anticipating Staff's likely opposition to this appeal, Staff may argue that the ALJ found that the sponsoring witnesses were "candid" and "thorough in responses to the questions they received." The salient issue, however, remains that these witnesses were unable to answer various questions on the basis and intent for Staff's conclusions in the Staff Report. (Tr. Vol. VII at 314: 5-8); *see, e.g., PALMco*, Case No. 19-957-GECOI, Transcript Vol. I (Sept. 19, 2019) at 98 (allowing certain witnesses to be made available if the sponsored witness was not able to answer questions). As of today, Kingwood is unaware of who wrote critical portions of the Staff Report: the fourth paragraph on page 42, the first paragraph and the third paragraph of page 44, and the "Recommended Findings" subsection on page 44. Together, these sections represent the crux of Board Staff's reasoning to recommend a denial of the Application filed by Kingwood. Without an opportunity to cross examine the authors, Kingwood will not be able to discover the basis and rationale for Staff's conclusions. And again, neither Mr. Butler nor Mr. Zeto were able to identify who wrote these critical sections or the person or persons responsible for recommending the denial of the application on October 29, 2021.

Past Commission practice in applying a similar subpoena rule dictates that if designated Staff witnesses are unable to answer the questions posed to them, then a suitable witness is to be produced. The ALJ's ruling represents a novel policy of not allowing the Applicant to ask

questions about critical sections of the Staff Report and the basis of conclusions contained within the document, and is a departure from past precedent allowing parties to do so. Moreover, the ALJ's departure is from a precedent explicitly endorsed by the Supreme Court of Ohio. *See, e.g., Black Fork Wind Energy*, 138 Ohio St. 3d at 48 (noting that parties in a certificate application case have the ability to subpoena staff members). Consequently, Kingwood requests that the ALJ certify this interlocutory appeal and that the Board reverse the ALJ's ruling directing Board Staff to produce appropriate witnesses who drafted the sections identified above and who can also provide a basis for Staff's October 29, 2021 conclusion that the Application does not satisfy R.C. 4906.01(A)(6).

B. The Board should direct Staff to produce Ms. Theresa White to testify.

In its February 25, 2022 motion to subpoena, Kingwood specifically sought to examine Ms. Theresa White, who signed and submitted the Staff Report. Additionally, during the testimony of various Staff witnesses, it became clear that Ms. Theresa White, the Executive Director of the Board, coordinated communications with Staff regarding the Staff Report on October 29, 2021, during which Staff decided to change the outcome of the "Public Interest, Convenience, and Necessity" section (Tr. Vol. VII at 46: 16-23; 51: 21-24; 185: 22-25; 186: 1-12; 251: 1-19). Mr. Zeto testified that prior to October 29, 2021, Staff had not actually recommended a denial of the Project (Tr. Vol. VII, 243: 19-25). Additionally, the resolution passed by the Greene County Board of Commissioners was a factor in Staff changing its position to a denial of the Project (*Id.*). Given that both Mr. Butler and Mr. Zeto were unable to identify the author of critical sections which support Staff's denial recommendation, and because Ms. White is the senior-most official of the Board and was involved in the October 29, 2021 discussions to change the outcome of the Staff Report, it is likely that she will be able to testify regarding the sections of the Staff Report that

Kingwood has identified. As such, to prevent undue prejudice to Kingwood, the Board should reverse the decision by the ALJ and direct Board Staff to produce Ms. White for examination.

V. CONCLUSION

To date, Kingwood has been unable to examine the Staff member of members responsible for drafting certain sections of the Staff Report and making the decision that its Application for a certificate of environmental compatibility and public need should be denied. Without those witnesses appearing for questioning, Kingwood cannot discover the rationale and basis for Staff's recommended denial. As demonstrated above, the ALJ's ruling on March 15, 2022 represents a new and novel question of interpretation, law, and policy, and is a departure from past precedent, which the Board should reverse in order to prevent undue prejudice to Kingwood. To ensure a record based on full transparency and to avoid undue prejudice, Kingwood requests that rulings occur prior to April 25, 2022, when the hearing in this matter continues.

Respectfully submitted,

/s/ Michael J. Settineri

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being sent via electronic mail on March 21, 2022 to:

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BEFORE THE OHIO POWER SITING BOARD

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

PROCEEDINGS

before Mr. Michael Williams and Mr. David Hicks,
Administrative Law Judges, at the Ohio Power Siting
Board, via Webex, called at 9:01 a.m. on Tuesday,
March 15, 2022.

VOLUME VII

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<p style="text-align: right;">Page 9</p> <p>1 Daniel Brown, Cedarville Township. 2 ALJ HICKS: For the Board of Trustees of 3 Xenia Township. 4 MR. WATKINS: Good morning, your Honor. 5 David Watkins and Kevin Dunn on behalf of Xenia 6 Township. 7 ALJ HICKS: For the Board of Trustees of 8 Miami Township. 9 MR. SLONE: Good morning. Lee Slone with 10 Dinsmore & Shohl. 11 ALJ HICKS: For In Progress LLC. 12 MR. HART: Good morning. John Hart for 13 In Progress. 14 ALJ HICKS: For Tecumseh Land 15 Preservation Association. Not hearing him. I will 16 just note Mr. Swaney has been in and out. 17 MR. SWANEY: Good morning. Charles 18 Swaney, Tecumseh Land Preservation Association. 19 ALJ HICKS: Sorry, Mr. Swaney. 20 MR. SWANEY: No. That's fine. 21 ALJ HICKS: Thank you. On behalf of 22 Citizens for Greene Acres and associated Intervenors. 23 MR. VAN KLEY: This is Jack Van Kley of 24 Van Kley & Walker. 25 ALJ HICKS: And for Greene County Board</p>	<p style="text-align: right;">Page 11</p> <p>1 state your first and last name for the record, 2 please. 3 A. Thomas Crawford. 4 Q. By whom are you employed and what is your 5 position? 6 A. I'm employed by the Public Utilities 7 Commission of Ohio. My position is Electric Energy 8 Specialist. 9 MS. BAIR: Your Honor, I would like to 10 have marked Mr. Crawford's direct testimony as Staff 11 Exhibit 3. 12 ALJ HICKS: It is so marked. 13 (EXHIBIT MARKED FOR IDENTIFICATION.) 14 MS. BAIR: Thank you. 15 Q. (By Ms. Bair) Mr. Crawford, do you have 16 what has been marked as Staff Exhibit 3? 17 A. Does it have a name? 18 Q. It's your testimony. 19 A. Testimony, yes, I have that. 20 Q. Okay. And we are going to mark that as 21 Staff Exhibit 3. Do you have that with you? 22 A. Yes, ma'am. 23 Q. Okay. And what is that document? 24 A. That's prefiled testimony prepared by me. 25 Q. Was that -- okay. That was prepared by</p>
<p style="text-align: right;">Page 10</p> <p>1 of Commissioners. 2 MR. BOGGS: Good morning. Thad Boggs and 3 Jesse Shamp, Frost Brown Todd, for the Greene County 4 Board of Commissioners. 5 ALJ HICKS: Thank you all. I believe 6 that is everyone. 7 And to get things started, I believe I 8 will turn it over to Ms. Bair to call Staff's first 9 witness. 10 MS. BAIR: Thank you, your Honor. I 11 would like to call Eric Morrison. 12 MR. SCHMIDT: Mr. Morrison is not 13 currently connected. 14 MS. BAIR: Okay. Is -- is Mr. Crawford, 15 Thomas Crawford? 16 MR. SCHMIDT: Mr. Crawford, I've promoted 17 you to panelist. If you can enable your audio and 18 video. 19 DR. CRAWFORD: Can you hear me? 20 MS. BAIR: Yes, we can hear you. 21 ALJ HICKS: Yes. Mr. Crawford, if you 22 would raise your right hand. 23 (Witness sworn.) 24 ALJ HICKS: Please go ahead, Ms. Bair. 25 MS. BAIR: Thank you. Could you please</p>	<p style="text-align: right;">Page 12</p> <p>1 you, correct? 2 A. Yes, ma'am. 3 Q. Do you have any changes, corrections, or 4 additions to make to that at this time? 5 A. No. 6 Q. If I were to ask you the questions 7 contained therein today, would your answers be the 8 same? 9 A. Yes, they would. 10 MS. BAIR: Your Honor, I would move Staff 11 Exhibit 3 into evidence, subject to 12 cross-examination. 13 ALJ HICKS: Okay. Thank you, Ms. Bair. 14 We'll go down the list here starting with 15 Citizens for Greene Acres. 16 MR. VAN KLEY: We have no cross for this 17 witness. 18 ALJ HICKS: Okay. Miami Township. 19 MR. SLONE: No cross. Thank you. 20 ALJ HICKS: Greene County Board of 21 Commissioners. 22 MR. BOGGS: No cross for this witness. 23 Thank you. 24 ALJ HICKS: Xenia Township. 25 MR. WATKINS: No cross, your Honor.</p>

<p style="text-align: right;">Page 13</p> <p>1 ALJ HICKS: Cedarville Township. 2 MR. BROWN: No cross, your Honor. 3 ALJ HICKS: In Progress. 4 MR. HART: No cross. Thank you. 5 ALJ HICKS: Tecumseh. Take silence as no 6 on that one. 7 Ohio Farm Bureau Federation. 8 MS. MILAM: No cross, your Honor. Thank 9 you. 10 ALJ HICKS: And the Applicant. 11 MR. SETTINERI: Thank you, your Honor. 12 --- 13 CROSS-EXAMINATION 14 By Mr. Settineri: 15 Q. Good morning, Mr. Crawford. My name is 16 Mike Settineri and on behalf of Kingwood Solar I. 17 How are you this morning? 18 A. Doing fine, Mr. Settineri. 19 Q. Just a few questions for you. Were you 20 involved in preparing or reviewing any other part of 21 the Staff Report than what you testified to here 22 today? 23 A. No, sir. 24 Q. All right. And you say at page 3 of your 25 testimony, you prepared the "Electric Grid" section</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. Did you have any communications 2 with the -- any representative from the Greene County 3 Board of County Commissioners? 4 A. No, sir. 5 Q. Okay. Any communications with any 6 representative of Xenia Township? 7 A. No, sir. 8 Q. Are you aware of any communications from 9 anyone from the Power Siting Board to the Greene 10 County Board of Commissioners? 11 A. I believe that came up in an earlier 12 testimony. That was the first I heard about that, 13 the apparent mysterious phone call from a woman at 14 the Power Siting Board to someone in the Greene 15 County Commissioners' office. 16 Q. Okay. Prior to the testimony being given 17 in this case, were you aware of any communications 18 from any representative of Staff to any party in this 19 case including the County Commissioners and Township 20 Trustees? 21 MS. BAIR: Objection, your Honor. Asked 22 and answered many times. 23 ALJ HICKS: I'll overrule the objection 24 and allow this -- this final answer here. Go ahead. 25 A. No communications with anyone there.</p>
<p style="text-align: right;">Page 14</p> <p>1 of the Staff Report; is that correct? 2 A. That is correct. 3 Q. All right. And again, you did not review 4 or consider any other portion of the Staff Report 5 besides the "Electric Grid" section; is that correct? 6 A. That's correct. 7 Q. Okay. Did you have any communications 8 with any party to these proceedings? 9 A. When you say "communication," could you 10 elaborate on that, please? 11 Q. Whatever communication means to you, sir. 12 A. I've -- I read documentation from PJM 13 and, of course, the application. 14 Q. Okay. Do you have -- let me ask you 15 this, did you speak to any party -- let me back up. 16 Do you know who the parties are in this proceeding? 17 A. There's the Applicant and the 18 Intervenors. 19 Q. Okay. Do you know who the Intervenors 20 are in this case? 21 A. Greene Acres, Farm Bureau. I don't know 22 their names. I don't know all their names. 23 Q. Did you have any communications directly 24 with the Intervenors in this case? 25 A. No, sir.</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. SETTINERI: Okay. No further 2 questions, your Honor. Thank you. 3 ALJ HICKS: Thank you, Mr. Settineri. 4 Ms. Bair, any redirect? You're muted, 5 Ms. Bair. 6 MS. BAIR: I'm sorry. No redirect and I 7 would like to move Staff Exhibit 3 into evidence. 8 ALJ HICKS: Sure. 9 First of all, tell Mr. Crawford thank you 10 for your time and your testimony today. 11 Ms. Bair has moved for the admission of 12 Staff Exhibit 3. Any objections to its admission? 13 MR. SETTINERI: No, your Honor. 14 ALJ HICKS: Hearing none, it is admitted. 15 (EXHIBIT ADMITTED INTO EVIDENCE.) 16 ALJ HICKS: Ms. Bair, if you would like 17 to call Staff's next witness. 18 MS. BAIR: Yes. Thank you, your Honor. 19 Staff would call Tyler Conklin to the stand, please. 20 MR. SCHMIDT: Mr. Conklin, you've been 21 promoted. If you can enable your audio and video. 22 MR. CONKLIN: Everybody hear me? 23 ALJ HICKS: We can. If you could raise 24 your right hand. 25 (Witness sworn.)</p>

<p style="text-align: right;">Page 17</p> <p>1 ALJ HICKS: Please go ahead, Ms. Bair. 2 MS. BAIR: Thank you. 3 --- 4 TYLER CONKLIN 5 being first duly sworn, as prescribed by law, was 6 examined and testified as follows: 7 DIRECT EXAMINATION 8 By Ms. Bair: 9 Q. Could you please state your name for the 10 record. 11 A. My name is Tyler Conklin. 12 Q. And by whom are you employed and what is 13 your position? 14 A. I'm a Utility Specialist with the Public 15 Utilities Commission of Ohio. 16 MS. BAIR: And, your Honor, I would like 17 to have marked as Staff Exhibit 4 the prefiled 18 testimony of Tyler Conklin. 19 ALJ HICKS: It is so marked. 20 (EXHIBIT MARKED FOR IDENTIFICATION.) 21 Q. (By Ms. Bair) Okay. Mr. Conklin, do you 22 have the document that's marked as Staff Exhibit 4 23 with you? 24 A. Yes. 25 Q. And what is that document?</p>	<p style="text-align: right;">Page 19</p> <p>1 any communications with Kingwood Solar? 2 A. No, I did not. 3 Q. Now, you were the Staff member who 4 reviewed the economic impact parts of the 5 application, correct? 6 A. That's correct. 7 Q. You evaluated the economic data that was 8 provided by Kingwood Solar? 9 A. That's correct. 10 Q. Did you do any independent study of your 11 own about the economic impact of the Kingwood Solar 12 facility? 13 A. Yeah. I -- I compared the cost estimates 14 that were provided to industry trends in the 15 publications. I evaluated the IMPLAN model 16 methodology. Did some research into Silverlobe 17 Consulting Firm, some of the other research projects 18 that they've done, IMPLAN projects. And I just 19 compared some of the impacts to other similar -- 20 similarly-sized projects. 21 Q. And what kind of impacts did you look at 22 with regard to other projects? 23 A. Just jobs, earnings, and output. 24 Q. This would be the jobs, earnings, and 25 output of the solar facility itself?</p>
<p style="text-align: right;">Page 18</p> <p>1 A. My prefiled testimony. 2 Q. Was this prepared by you or under your 3 direction? 4 A. Yes, it was. 5 Q. Do you have any changes or additions to 6 make to that at this time? 7 A. No, I don't. 8 Q. If I were to ask you the questions 9 contained in your prefiled testimony, would your 10 answers be the same today? 11 A. Yes, they would. 12 MS. BAIR: Your Honor, I move Staff 13 Exhibit 4 into evidence, subject to 14 cross-examination. 15 ALJ HICKS: Thank you, Ms. Bair. 16 We will start with Citizens for Greene 17 Acres. 18 MR. VAN KLEY: Thank you, your Honor. 19 --- 20 CROSS-EXAMINATION 21 By Mr. Van Kley: 22 Q. Good morning, Mr. Conklin. 23 A. Morning. 24 Q. Mr. Conklin, during the process of 25 reviewing the application in this case, did you have</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yeah, the estimates, correct. 2 Q. Okay. And the IMPLAN model that you 3 reviewed, what is that? 4 A. That is an input/output model that sort 5 of estimates the linkages between spending on certain 6 projects throughout the rest of the economy. 7 Q. So is another way of saying that is that 8 you looked at the indirect benefits of the direct 9 expenditures by the Company? 10 A. Yes, the estimates, yes. 11 Q. And that was an analysis that looked at 12 the positive economic impact of the solar facility? 13 A. Yeah. I believe you could characterize 14 those as positive impacts, sure. 15 Q. And you said you did a cost analysis. 16 What was that cost analysis about? 17 A. Oh, so for the capital costs and O&M cost 18 estimates, I reviewed publications from other -- 19 other publications from around the industry and just 20 to compare their cost estimates to those in the -- in 21 publication, other publications. 22 Q. And these would be the cost estimates for 23 building the facility? 24 A. Capital costs and operations and 25 maintenance.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. For the facility.</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Did you do any other economic</p> <p>4 analysis in this case?</p> <p>5 A. No, I didn't.</p> <p>6 Q. So you did not obtain any data on the</p> <p>7 economic value of the farm crops that currently are</p> <p>8 grown in the area?</p> <p>9 A. No, I did not.</p> <p>10 Q. Has the Staff investigated whether any</p> <p>11 farming jobs would be lost by replacing farm crops</p> <p>12 with solar facilities in the project area?</p> <p>13 A. I have not done any research into that.</p> <p>14 Q. Has the Staff investigated whether taking</p> <p>15 farmland out of crop production in the project area</p> <p>16 will reduce the income of the community businesses</p> <p>17 that sell products such as fertilizers used to grow</p> <p>18 crops in the project area?</p> <p>19 A. No, I did not look into that.</p> <p>20 Q. Has the Staff investigated whether any</p> <p>21 custom applicators apply herbicides or fertilizers to</p> <p>22 the farm fields in the project area?</p> <p>23 A. That wasn't something that I looked at,</p> <p>24 no.</p> <p>25 Q. Has the Staff determined whether any</p>	<p style="text-align: right;">Page 23</p> <p>1 MR. BROWN: No cross, your Honor.</p> <p>2 ALJ HICKS: In Progress.</p> <p>3 MR. HART: No cross. Thank you.</p> <p>4 ALJ HICKS: Tecumseh.</p> <p>5 MR. SWANEY: No cross, your Honor. Thank</p> <p>6 you.</p> <p>7 ALJ HICKS: Ohio Farm Bureau Federation.</p> <p>8 MS. MILAM: No cross, your Honor.</p> <p>9 ALJ HICKS: And the Applicant.</p> <p>10 MS. SANYAL: Just a few questions, your</p> <p>11 Honor.</p> <p>12 ---</p> <p>13 CROSS-EXAMINATION</p> <p>14 By Ms. Sanyal:</p> <p>15 Q. Good morning, Mr. Conklin. It's good to</p> <p>16 see you again, albeit over video.</p> <p>17 A. Good to see you as well. Good morning.</p> <p>18 Q. Good morning. In your testimony you note</p> <p>19 that you prepared the section of the Staff Report</p> <p>20 titled "Economic Impact," correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Did you draft any other sections</p> <p>23 in the Staff Report?</p> <p>24 A. I did not.</p> <p>25 Q. Okay. And you are aware that several</p>
<p style="text-align: right;">Page 22</p> <p>1 indirect job losses to the local community will</p> <p>2 result from the loss of farm crops in the project</p> <p>3 area?</p> <p>4 A. No, I didn't evaluate that.</p> <p>5 Q. Has the Staff determined whether any</p> <p>6 farmers rent land in the project area for farming?</p> <p>7 A. That wasn't something I looked into but I</p> <p>8 can't speak for the rest of Staff.</p> <p>9 MR. VAN KLEY: No further questions, your</p> <p>10 Honor.</p> <p>11 ALJ HICKS: Thank you, Mr. Van Kley.</p> <p>12 Any cross from Miami Township?</p> <p>13 MR. SLONE: No cross, your Honor.</p> <p>14 Thanks.</p> <p>15 ALJ HICKS: Greene County Board of</p> <p>16 Commissioners.</p> <p>17 MR. BOGGS: No, thank you.</p> <p>18 ALJ HICKS: Xenia Township.</p> <p>19 MR. WATKINS: No cross, your Honor.</p> <p>20 Thank you.</p> <p>21 ALJ HICKS: I think you said no, but I</p> <p>22 didn't hear you.</p> <p>23 MR. WATKINS: No cross. I'm sorry.</p> <p>24 ALJ HICKS: Okay. Thanks.</p> <p>25 Cedarville Township.</p>	<p style="text-align: right;">Page 24</p> <p>1 parties have intervened in this proceeding, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And are you aware that the Greene County</p> <p>4 Board of Commissioners have intervened -- has</p> <p>5 intervened in this proceeding?</p> <p>6 A. Yes, I am aware.</p> <p>7 Q. Okay. Have you communicated with -- with</p> <p>8 the Greene County Board?</p> <p>9 A. I have not.</p> <p>10 Q. Okay. Have you communicated with any</p> <p>11 representatives or employees of the Board?</p> <p>12 A. I have not.</p> <p>13 Q. Okay. And you're also aware that the</p> <p>14 Board of Trustees of Miami, Xenia, and Cedarville</p> <p>15 Townships have intervened in this proceeding,</p> <p>16 correct?</p> <p>17 A. Yes, I am aware.</p> <p>18 Q. Okay. Have you communicated with any of</p> <p>19 those parties?</p> <p>20 A. No, I have not.</p> <p>21 Q. Okay. Have you communicated with any</p> <p>22 representatives or employees of those parties?</p> <p>23 A. No, I haven't.</p> <p>24 Q. Okay. And you're also aware that several</p> <p>25 other parties have intervened in this providing.</p>

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<p>1 A. Yes.</p> <p>2 Q. Do you generally know who they are?</p> <p>3 A. Just from seeing them throughout the</p> <p>4 hearing.</p> <p>5 Q. Sure. Have you communicated with any of</p> <p>6 those parties?</p> <p>7 A. No, I haven't.</p> <p>8 Q. Okay. Have you communicated with any</p> <p>9 representatives or employees of those parties?</p> <p>10 A. I have not.</p> <p>11 Q. The Public Utilities Commission of Ohio</p> <p>12 and the Ohio Power Siting Board share staff, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Are you aware of any employee or</p> <p>15 representative of the PUCO or the Power Siting Board</p> <p>16 who has communicated with any representative or</p> <p>17 employee of any of these parties that we discussed</p> <p>18 other than at the public information meeting or local</p> <p>19 public hearing?</p> <p>20 A. No, I am not aware.</p> <p>21 MS. SANYAL: I have no other questions,</p> <p>22 your Honor.</p> <p>23 ALJ HICKS: Thank you, Ms. Sanyal.</p> <p>24 Ms. Bair, any redirect?</p> <p>25 MS. BAIR: No redirect, your Honor, but I</p>	<p>1 MS. BAIR: Eric, are you there?</p> <p>2 MR. MORRISON: Just one second, please.</p> <p>3 ALJ HICKS: We can hear you, so we are</p> <p>4 halfway home.</p> <p>5 MR. MORRISON: No, I'm there. I was just</p> <p>6 setting a background effect.</p> <p>7 MS. BAIR: We still can't see you.</p> <p>8 MR. MORRISON: There. Can you see me</p> <p>9 now?</p> <p>10 MS. BAIR: Yes.</p> <p>11 ALJ HICKS: Yes, we can.</p> <p>12 MR. MORRISON: All right. Thank you.</p> <p>13 ALJ HICKS: Mr. Morrison, if you can just</p> <p>14 raise your right hand.</p> <p>15 (Witness sworn.)</p> <p>16 ALJ HICKS: All right. Please go ahead,</p> <p>17 Ms. Bair.</p> <p>18 MS. BAIR: Thank you, your Honor.</p> <p>19 - - -</p> <p>20 ERIC MORRISON</p> <p>21 being first duly sworn, as prescribed by law, was</p> <p>22 examined and testified as follows:</p> <p>23 DIRECT EXAMINATION</p> <p>24 By Ms. Bair:</p> <p>25 Q. Mr. Morrison, by whom are you employed</p>
Page 26	Page 28
<p>1 would like to move Staff Exhibit 4 into evidence.</p> <p>2 ALJ HICKS: Okay. Mr. Conklin, we will</p> <p>3 go ahead and set you free. Thank you for your time</p> <p>4 this morning.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 ALJ HICKS: Staff has moved for the</p> <p>7 admission of Staff Exhibit 4. Any objections to its</p> <p>8 admission?</p> <p>9 Hearing none, it is admitted.</p> <p>10 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>11 ALJ HICKS: Ms. Bair, you can call your</p> <p>12 next witness whenever you are ready.</p> <p>13 MS. BAIR: Your Honor, if it doesn't</p> <p>14 cause any problems, I know I am going out of order,</p> <p>15 but I think Mr. Morrison who was going to be my first</p> <p>16 witness, he -- he had technical difficulties, if I</p> <p>17 could call him now. Is that okay?</p> <p>18 ALJ HICKS: I have no issues with that.</p> <p>19 And I'm assuming none of the parties do but.</p> <p>20 MS. BAIR: Okay. Staff would call Eric</p> <p>21 Morrison to the stand, please.</p> <p>22 MR. SCHMIDT: Mr. Morrison, you've been</p> <p>23 promoted. If you can enable your audio and video.</p> <p>24 MS. BAIR: Maybe not.</p> <p>25 MR. MORRISON: Thank you.</p>	<p>1 and what is your position?</p> <p>2 A. The Public Utilities Commission of Ohio,</p> <p>3 I am a Utility Specialist 1.</p> <p>4 MS. BAIR: Your Honor, I would like to</p> <p>5 have marked as Staff Exhibit 2, Mr. Morrison's direct</p> <p>6 prefiled testimony.</p> <p>7 ALJ HICKS: It is so marked.</p> <p>8 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>9 MS. BAIR: Thank you.</p> <p>10 Q. (By Ms. Bair) Mr. Morrison, do you have</p> <p>11 the document that has been marked as Staff Exhibit 2</p> <p>12 with you?</p> <p>13 A. My prefiled testimony, yes.</p> <p>14 Q. Okay. And was that prepared by you or</p> <p>15 under your direction?</p> <p>16 A. Yeah.</p> <p>17 Q. Do you have any changes, corrections,</p> <p>18 additions to make to that testimony today?</p> <p>19 A. No.</p> <p>20 Q. And if I were to ask you the questions</p> <p>21 contained in your prefiled testimony, would your</p> <p>22 answers be the same today?</p> <p>23 A. Yes.</p> <p>24 MS. BAIR: Thank you.</p> <p>25 Your Honor, I move Staff Exhibit 5 -- or,</p>

<p style="text-align: right;">Page 29</p> <p>1 2, sorry, subject to cross-examination. 2 ALJ HICKS: Thank you, Ms. Bair. 3 For cross we will start first with 4 Citizens for Greene Acres. 5 MR. VAN KLEY: Thank you, your Honor. 6 --- 7 CROSS-EXAMINATION 8 By Mr. Van Kley: 9 Q. And good morning, Mr. Morrison. Have you 10 had any verbal conversations with Kingwood Solar 11 about its application in this case? 12 A. No. 13 Q. Have you had any written communications 14 such as e-mails with Kingwood Solar in this case? 15 A. Not directly. 16 Q. What do you mean by "not directly"? 17 A. If I would have submitted a Data Request 18 in this case, it would have went through the project 19 lead. 20 MR. VAN KLEY: Okay. All right. 21 I have no more questions, your Honor. 22 ALJ HICKS: Thank you, Mr. Van Kley. 23 Next, we will turn to Miami Township. 24 MR. SLONE: No questions, your Honor. 25 ALJ HICKS: Greene County Board of</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Yes. 2 Q. Okay. And you are also responsible for 3 Condition 23 in the Staff Report? 4 A. Correct. 5 Q. Okay. Are you responsible for any other 6 sections in the Staff Report? 7 A. No. 8 Q. Okay. What about any other conditions in 9 the Staff Report? 10 A. No. 11 Q. You are aware that several parties have 12 intervened in this case, correct? 13 A. Yes. 14 Q. Okay. Are you aware that the Greene 15 County Board of Commissioners has intervened in this 16 case? 17 A. Yes. 18 Q. Okay. Have you communicated with the 19 Greene County Board of Commissioners? 20 A. No. 21 Q. What about any representatives or 22 employees of the Greene County Board of 23 Commissioners? 24 A. No. 25 Q. Are you aware that the Board of Trustees</p>
<p style="text-align: right;">Page 30</p> <p>1 Commissioners. 2 MR. BOGGS: No questions, your Honor. 3 ALJ HICKS: Xenia Township. 4 MR. WATKINS: No questions, your Honor. 5 ALJ HICKS: Cedarville Township. 6 MR. BROWN: No questions, your Honor. 7 ALJ HICKS: In Progress. 8 MR. HART: No questions. Thank you, your 9 Honor. 10 ALJ HICKS: Tecumseh. 11 MR. SWANEY: No questions, your Honor. 12 Thank you. 13 ALJ HICKS: Ohio Farm Bureau Federation. 14 MS. MILAM: No questions. Thank you. 15 ALJ HICKS: And the Applicant. 16 MS. SANYAL: Just a few, your Honor. 17 --- 18 CROSS-EXAMINATION 19 By Ms. Sanyal: 20 Q. Good morning, Mr. Morrison. Good to see 21 you. 22 A. Good morning. 23 Q. On page 2 of your testimony you note that 24 you prepared the section of the Staff Report entitled 25 "Roads and Bridges," correct?</p>	<p style="text-align: right;">Page 32</p> <p>1 of Miami, Cedarville, and Xenia Townships have 2 intervened? 3 A. Yes. 4 Q. Okay. Again, have you communicated with 5 any of these townships? 6 A. No. 7 Q. Have you communicated with any employee 8 or representative of these Townships? 9 A. No. 10 Q. Okay. And you're also aware that several 11 other parties have intervened in this proceeding, 12 correct? 13 A. Yes. 14 Q. Do you know who they are? 15 A. Not off the top of my head. 16 Q. Okay. Have you communicated with any of 17 these parties? 18 A. No. 19 Q. What about any employees or 20 representatives of these parties? 21 A. No. 22 Q. And are you aware of any employee of the 23 Public Utilities Commission or the Ohio Power Siting 24 Board who has had any communication with these 25 parties other than the public hearing and local</p>

<p style="text-align: right;">Page 33</p> <p>1 public hearing in this proceeding?</p> <p>2 A. Not that I am aware of.</p> <p>3 Q. Just a few more questions, Mr. Morrison.</p> <p>4 Are you aware that Julie Graham-Price has</p> <p>5 communicated with the Greene County Board of</p> <p>6 Commissioners and one Cedarville Township Trustee</p> <p>7 about the Kingwood Solar project right before the</p> <p>8 Staff Report was issued?</p> <p>9 A. No.</p> <p>10 MS. SANYAL: I think those are all --</p> <p>11 those are all the questions I have, your Honor.</p> <p>12 Thank you, Mr. Morrison.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 ALJ HICKS: Thank you, Ms. Sanyal.</p> <p>15 Ms. Bair, any redirect?</p> <p>16 MS. BAIR: I have no redirect, and I</p> <p>17 would move Staff Exhibit 2 into evidence.</p> <p>18 ALJ HICKS: Okay. Mr. Morrison, we will</p> <p>19 cut you loose. Thank you for your time this morning.</p> <p>20 THE WITNESS: Thank you, your Honor.</p> <p>21 ALJ HICKS: Any objection to the</p> <p>22 admission of Staff Exhibit 2?</p> <p>23 Hearing none, it is admitted.</p> <p>24 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>25 ALJ HICKS: Ms. Bair, you can go ahead</p>	<p style="text-align: right;">Page 35</p> <p>1 A. I work with socioeconomic impacts doing</p> <p>2 the review on these applications for sections such as</p> <p>3 land use, recreation, aesthetics.</p> <p>4 MS. BAIR: Your Honor, I would like to</p> <p>5 mark as Staff Exhibit 5, Allison DeLong's direct</p> <p>6 prefiled testimony.</p> <p>7 ALJ HICKS: It is so marked.</p> <p>8 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>9 Q. (By Ms. Bair) And, Ms. DeLong, do you</p> <p>10 have before you what is marked as Staff Exhibit 5?</p> <p>11 A. Yes.</p> <p>12 Q. And what is that document?</p> <p>13 A. It's my prefiled testimony.</p> <p>14 Q. Was that prepared by you or under your</p> <p>15 direction?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have any changes or corrections,</p> <p>18 additions to make at this time?</p> <p>19 A. I do not.</p> <p>20 Q. And if I were to ask you the questions</p> <p>21 contained in Staff Exhibit 5 today, would your</p> <p>22 answers be the same?</p> <p>23 A. Yes.</p> <p>24 MS. BAIR: Thank you.</p> <p>25 Your Honor, I would move Staff Exhibit 5</p>
<p style="text-align: right;">Page 34</p> <p>1 and call your next witness.</p> <p>2 MS. BAIR: Thank you, your Honor. The</p> <p>3 Staff calls Allison DeLong as its next witness.</p> <p>4 MR. SCHMIDT: Ms. DeLong, you've been</p> <p>5 promoted. If you can enable your audio and video.</p> <p>6 ALJ HICKS: I can see you. Hopefully you</p> <p>7 can see and hear us.</p> <p>8 MS. DeLONG: Yeah.</p> <p>9 ALJ HICKS: If you would just raise your</p> <p>10 right hand.</p> <p>11 (Witness sworn.)</p> <p>12 ALJ HICKS: Please go ahead, Ms. Bair.</p> <p>13 ---</p> <p>14 ALLISON DeLONG</p> <p>15 being first duly sworn, as prescribed by law, was</p> <p>16 examined and testified as follows:</p> <p>17 DIRECT EXAMINATION</p> <p>18 By Ms. Bair:</p> <p>19 Q. Could you please state your name for the</p> <p>20 record.</p> <p>21 A. Allison DeLong.</p> <p>22 Q. And by whom are you employed?</p> <p>23 A. I'm a contract worker employed through</p> <p>24 Dunson and Associates for the PUCO.</p> <p>25 Q. And what is your job at the PUCO?</p>	<p style="text-align: right;">Page 36</p> <p>1 into evidence, subject to cross-examination.</p> <p>2 ALJ HICKS: Thank you, Ms. Bair.</p> <p>3 We will go to cross by Citizens for</p> <p>4 Greene Acres.</p> <p>5 MR. VAN KLEY: Thank you, your Honor.</p> <p>6 ---</p> <p>7 CROSS-EXAMINATION</p> <p>8 By Mr. Van Kley:</p> <p>9 Q. Good morning, Ms. DeLong.</p> <p>10 A. Morning.</p> <p>11 Q. Have you had any meetings with Kingwood</p> <p>12 Solar?</p> <p>13 A. No.</p> <p>14 Q. Have you done any site visits with</p> <p>15 Kingwood Solar?</p> <p>16 A. Not with Kingwood Solar.</p> <p>17 Q. Okay. What do you mean "not with</p> <p>18 Kingwood Solar"?</p> <p>19 A. I had a site visit on my own that was not</p> <p>20 with the Applicant.</p> <p>21 Q. Okay. Have you had any written</p> <p>22 communications such as e-mails or letters received by</p> <p>23 or sent to Kingwood Solar -- sent by you or sent to</p> <p>24 you by Kingwood?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 37</p> <p>1 MR. VAN KLEY: I have no more questions, 2 your Honor. 3 ALJ HICKS: Thank you, Mr. Van Kley. 4 We will go next to Miami Township. 5 MR. SLONE: No questions. 6 ALJ HICKS: Greene County Board of 7 Commissioners. 8 MR. BOGGS: No questions. Thank you. 9 ALJ HICKS: Xenia Township. 10 MR. WATKINS: No questions, your Honor. 11 Thank you. 12 ALJ HICKS: Cedarville Township. 13 MR. BROWN: No questions, your Honor. 14 Thank you. 15 ALJ HICKS: In Progress. 16 MR. HART: No questions. 17 ALJ HICKS: Tecumseh. 18 MR. SWANEY: No questions, your Honor. 19 Thank you. 20 ALJ HICKS: Ohio Farm Bureau Federation. 21 MS. MILAM: No questions, your Honor. 22 Thank you. 23 ALJ HICKS: I know what you said, but I 24 don't know if we picked up the whole. I only caught 25 the tail end.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Did you have any communications with any 2 party to this proceeding including any Cedarville 3 Township Trustee or the Greene County Board of 4 Commissioners? 5 A. Nothing direct. There might have been a 6 hello or welcome in passing at the local public 7 hearing. 8 Q. Okay. And are you aware of any 9 communications from anyone from the Power Siting 10 Board Staff to any party or representative of any 11 party in this proceeding other than the meetings and 12 the local public hearing as to the Kingwood Solar 13 project? 14 A. I am not aware. 15 Q. Okay. If you could -- do you have a copy 16 of the Staff Report with you? I believe that's been 17 marked as Staff Exhibit 1. 18 A. I do. 19 Q. Okay. If you could turn to the page 5 20 where it says "History of the Application." Let me 21 know when you are there. 22 A. I'm there. 23 Q. All right. Did you -- is this the 24 section you drafted? 25 A. Yes.</p>
<p style="text-align: right;">Page 38</p> <p>1 MS. MILAM: Oh, no questions, your Honor. 2 Thanks. 3 ALJ HICKS: Thank you. And now to the 4 Applicant. 5 MR. SETTINERI: Thank you, your Honor. 6 - - - 7 CROSS-EXAMINATION 8 By Mr. Settineri: 9 Q. Good morning, Ms. DeLong. My name is 10 Mike Settineri on behalf of Kingwood Solar I LLC. 11 How are you today? 12 A. I'm doing okay. 13 Q. Good. Turning to page 2 of your 14 testimony at the top, lines 1 through 5, you say 15 there you wrote the history of the application, the 16 land use, regional planning, recreation, and 17 aesthetics sections of the Staff Report; is that 18 right? 19 A. Yes. 20 Q. Okay. Did you work on any other sections 21 of the Staff Report? 22 A. No. 23 Q. Did you provide input on any other 24 section of the Staff Report? 25 A. No.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. And what did you do to draft this 2 section? 3 A. I looked at the case docket and went 4 through everything that had been filed on the case 5 docket and included all of the ones that I felt were 6 important to be, you know, put in that section. 7 Q. And when did you start drafting this 8 section, approximately? 9 A. I don't know. A month or two before the 10 Staff Report was -- was filed. 11 Q. Okay. And approximately when did you 12 finish drafting this section? 13 A. A couple weeks before the Staff Report 14 was filed. 15 Q. Okay. And after you drafted this 16 section, then what happened to your section like in 17 terms of the process? Did you put it into a 18 document? Did you send it to anybody for review? 19 A. Yeah. I sent it to the case lead, and 20 it's generally -- it's generally put into a document 21 that is then shared with management and the rest of 22 Staff to review before being filed. 23 Q. Okay. And when you said -- you say -- 24 let me ask this, who is the case lead on this 25 project?</p>

<p style="text-align: right;">Page 41</p> <p>1 A. Grant Zeto.</p> <p>2 Q. Okay. And when you say "management,"</p> <p>3 "shared with management," who in your -- in your --</p> <p>4 who do you believe is management?</p> <p>5 MS. BAIR: Your Honor, I object to the</p> <p>6 relevance. She is testifying to the history, the</p> <p>7 land use, and regional planning. This is not</p> <p>8 relevant to her testimony.</p> <p>9 MR. SETTINERI: Your Honor, if I may?</p> <p>10 ALJ HICKS: Please go ahead.</p> <p>11 MR. SETTINERI: Well, this is kind of a</p> <p>12 very broad foundation. As you know, given some of</p> <p>13 the issues in this case, and I am leading up to some</p> <p>14 questions on this history section, but in terms of</p> <p>15 her understanding of management is very relevant to</p> <p>16 this proceeding. And for full transparency in this</p> <p>17 case, I think it's very important to have that on the</p> <p>18 record.</p> <p>19 MS. BAIR: Your Honor, as Mr. Settineri</p> <p>20 just admitted, this is very broad. This witness is</p> <p>21 testifying specifically to the history, the land use,</p> <p>22 and the regional planning. This cross-examination</p> <p>23 goes way beyond that.</p> <p>24 ALJ WILLIAMS: I think the Bench would</p> <p>25 like to confer on this issue, so we are going to take</p>	<p style="text-align: right;">Page 43</p> <p>1 contract worker employed by Dunson and Associates,</p> <p>2 correct?</p> <p>3 A. Correct.</p> <p>4 Q. Who do you report to at the Commission?</p> <p>5 A. John Pawley.</p> <p>6 Q. Okay. Now, you stated that you finished</p> <p>7 your section I think a couple weeks before the Staff</p> <p>8 Report issued, and you sent it out for review. Who</p> <p>9 reviewed -- do you know who reviewed your section of</p> <p>10 the Staff Report specifically for the history</p> <p>11 section?</p> <p>12 A. I don't know specifically who reviewed</p> <p>13 that particular section. Like I said, sections go</p> <p>14 into a document, and kind of everybody on the case</p> <p>15 reads through the review to an extent and reviews it</p> <p>16 and may provide edits or comments.</p> <p>17 Q. Okay. Now, turning back to the Staff</p> <p>18 Report, page 6, now tell me when you're there.</p> <p>19 A. Okay.</p> <p>20 Q. When you -- let's see, there is a line</p> <p>21 that says on September 28, the Applicant filed a</p> <p>22 supplemental response to data requests, and I am</p> <p>23 paraphrasing. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And then there are a couple of</p>
<p style="text-align: right;">Page 42</p> <p>1 5.</p> <p>2 (Recess taken.)</p> <p>3 ALJ HICKS: Go ahead and go back on the</p> <p>4 record.</p> <p>5 We went off the record briefly, and</p> <p>6 before we did there was an objection by Ms. Bair to a</p> <p>7 question from Mr. Settineri concerning essentially</p> <p>8 management at the Ohio -- at the Ohio Power Siting</p> <p>9 Board.</p> <p>10 At this time the Bench is going to</p> <p>11 sustain the objection. Mr. Settineri, we agree --</p> <p>12 I'm sorry, Ms. Bair. We agree with Ms. Bair that</p> <p>13 this is straying quite a bit from the purposes of</p> <p>14 Ms. DeLong's testimony. We will allow a little bit</p> <p>15 of latitude to Mr. Settineri to inquire as to edits</p> <p>16 that Ms. DeLong -- or feedback she may have gotten,</p> <p>17 but to the extent that Staff speaks through its</p> <p>18 witnesses and that it provides to support its Staff</p> <p>19 Report, the witness is available. And we're not</p> <p>20 going to go through a litany of -- of the entire</p> <p>21 Staff here at the Board or the Commission.</p> <p>22 And so with that, I will turn it back</p> <p>23 over to Mr. Settineri.</p> <p>24 MR. SETTINERI: Sure.</p> <p>25 Q. (By Mr. Settineri) Ms. DeLong, you are a</p>	<p style="text-align: right;">Page 44</p> <p>1 references to October 28 and October 29 happenings</p> <p>2 regarding Greene County Board of Commissioners; is</p> <p>3 that correct?</p> <p>4 A. Correct.</p> <p>5 Q. Now, when you finished your section, this</p> <p>6 section, two weeks prior, those events had not</p> <p>7 occurred, correct?</p> <p>8 A. Correct.</p> <p>9 Q. All right. And you did not write these</p> <p>10 sections in this part of the Staff Report, correct?</p> <p>11 A. This was my first time doing this section</p> <p>12 and I'm unclear whether I put those in or somebody</p> <p>13 else did.</p> <p>14 Q. Okay. Well, if you finished your section</p> <p>15 two weeks prior, then you wouldn't have put those in,</p> <p>16 correct?</p> <p>17 A. I would disagree with that statement. I</p> <p>18 guess when I said that I finished the section two</p> <p>19 weeks prior, approximately, I meant that I generally</p> <p>20 finished it and then sent it to the case lead. It</p> <p>21 was put into the shared document, and then from</p> <p>22 there, like I said before, edits were made to the</p> <p>23 document.</p> <p>24 Q. Sitting here today, you don't know who</p> <p>25 made -- who added those October 28 and October 29</p>

<p style="text-align: right;">Page 45</p> <p>1 entries to the history section, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay.</p> <p>4 MR. SETTINERI: Your Honor, just to make</p> <p>5 a note for the record, as this witness cannot answer</p> <p>6 questions fully on this section, we would like the</p> <p>7 Staff member who made these edits to appear for</p> <p>8 questioning on this section which is certainly, I</p> <p>9 think, a right we have. And if we have to do a</p> <p>10 subpoena, we would be glad to do that.</p> <p>11 ALJ HICKS: Can -- we will note that for</p> <p>12 the record now, continue on as scheduled, and then we</p> <p>13 can address that once we get through today's</p> <p>14 scheduled business.</p> <p>15 MR. SETTINERI: Okay. Thank you, your</p> <p>16 Honor.</p> <p>17 ALJ HICKS: You're welcome.</p> <p>18 Q. (By Mr. Settineri) Ms. DeLong, when did</p> <p>19 you become aware that the Greene County Board of</p> <p>20 Commissioners -- let me ask you this, are you aware</p> <p>21 that the Greene County Board of Commissioners passed</p> <p>22 a resolution on this project on October 28?</p> <p>23 A. Yes.</p> <p>24 Q. And when did you become aware of that?</p> <p>25 A. I believe it was later in that day.</p>	<p style="text-align: right;">Page 47</p> <p>1 A. No. I don't think everyone else was</p> <p>2 Staff management.</p> <p>3 Q. Okay. Who do you consider to be Staff</p> <p>4 management in your opinion?</p> <p>5 MS. BAIR: Objection, your Honor,</p> <p>6 relevance.</p> <p>7 ALJ HICKS: Sustained. This is the</p> <p>8 same -- variation of the same question as earlier.</p> <p>9 MR. SETTINERI: Your Honor, if I may be</p> <p>10 heard?</p> <p>11 ALJ HICKS: Go ahead.</p> <p>12 MR. SETTINERI: Thank you. You'll note</p> <p>13 that I am following a trail here as to that addition</p> <p>14 of those two points, and she testified that she spoke</p> <p>15 to people that day about -- when she became aware of</p> <p>16 the resolution. And I am asking in terms of who she</p> <p>17 spoke to, and so far she's identified Teresa White.</p> <p>18 She did say also that Staff management,</p> <p>19 she spoke to Staff management, and that there were</p> <p>20 other people in the meeting or her discussions with</p> <p>21 Therese White. It's very fair, and for transparency</p> <p>22 in this case, it is very relevant for her to be able</p> <p>23 to say in her opinion who Staff management is because</p> <p>24 that could inform and refresh her memory as to who --</p> <p>25 who were in those communications with Teresa White.</p>
<p style="text-align: right;">Page 46</p> <p>1 Q. Are you looking at anything right now,</p> <p>2 Ms. DeLong?</p> <p>3 A. Looking at the Staff Report.</p> <p>4 Q. Okay. You said you believe. How did</p> <p>5 you -- if you -- how did you come to be aware of that</p> <p>6 resolution?</p> <p>7 A. Through communication with our Staff</p> <p>8 members that worked on that case.</p> <p>9 Q. And what Staff members did you have</p> <p>10 communication with?</p> <p>11 A. Certainly the case lead. I don't</p> <p>12 remember who else was involved in that conversation.</p> <p>13 Q. Did you have any communications with</p> <p>14 Staff management about that --</p> <p>15 A. Yes.</p> <p>16 Q. -- resolution? Okay. And who in Staff</p> <p>17 management did you have communications with about the</p> <p>18 resolution?</p> <p>19 A. Teresa White is the only person that I</p> <p>20 can tell you for sure was in that conversation. I</p> <p>21 don't remember the specifics of who else was in that</p> <p>22 conversation. I know there were other people. I</p> <p>23 don't remember specifically who they were.</p> <p>24 Q. Would you consider the other people part</p> <p>25 of Staff management?</p>	<p style="text-align: right;">Page 48</p> <p>1 ALJ WILLIAMS: Mr. Settineri, we think</p> <p>2 it's important for you to lay the foundation for</p> <p>3 these types of questions. The foundation should be,</p> <p>4 in the Bench's estimation, did anybody make edits or</p> <p>5 recommended edits to the portion of the report that</p> <p>6 you prepared, and was anything in the published</p> <p>7 portion of the report that you prepared inconsistent</p> <p>8 with your opinions and positions in this case. Who</p> <p>9 reviewed on behalf of the Power Siting Board</p> <p>10 management team is not relevant to those inquiries.</p> <p>11 MR. SETTINERI: If I may be heard, your</p> <p>12 Honor, as to respond to that?</p> <p>13 ALJ WILLIAMS: Please respond.</p> <p>14 MR. SETTINERI: I would note that as</p> <p>15 you -- as we all know, and as the Staff Witness</p> <p>16 Crawford characterized it, mysterious communications,</p> <p>17 we've had communications from OPSB Staff right before</p> <p>18 the public hearing or public -- Staff Report came out</p> <p>19 asking for positions. We also had an e-mail from --</p> <p>20 or Cedarville Township Trustee indicated an e-mail</p> <p>21 prior to the local public hearing from Power Siting</p> <p>22 Board Staff telling him that Intervenor could</p> <p>23 testify at the end of the hearing, something I was</p> <p>24 completely unaware of, in fact, objected to at the</p> <p>25 local public hearing.</p>

<p style="text-align: right;">Page 49</p> <p>1 So there is enough here to be asking 2 questions on this. And specific to this we have 3 entries in the history section where we did not know 4 who made them, and it's -- certainly the foundation 5 in my opinion, your Honor, has been laid as to allow 6 these questions. And she spoke to Teresa White. She 7 knows other people were there, and it's fair to say, 8 okay, did you consider those other people Staff 9 management. 10 ALJ WILLIAMS: So we continue to 11 disagree. Who she spoke with is not material. We 12 are going to strike that testimony based on 13 relevancy. I will allow you to continue to explore 14 issues regarding whether any edits in the report are 15 against her wishes and whether she agrees with the 16 final product as to the section she's prepared. 17 But the details of who talked to whom at 18 what date, unless they are saying it to 19 communications with Intervenor or other parts in 20 this case that you have preserved the right to 21 explore, that you appear to be proceeding toward, and 22 we are allowing latitude relative to those inquiries, 23 but the details of how Staff comes together to 24 prepare its report, again, assuming a witness doesn't 25 find them to be inconsistent with what the witness</p>	<p style="text-align: right;">Page 51</p> <p>1 page 12 of your report, please. 2 A. Okay. 3 Q. All right. If you could turn to 4 "Regional Planning" in the last sentence of that 5 section. Now, this is a section you did for the 6 Staff Report, correct? 7 A. Correct. 8 Q. Okay. And when did you start preparing 9 this section? 10 A. Approximately two months to one month out 11 from the -- the filing date of the report. 12 Q. Okay. And if you look at the last 13 sentence, you'll see another reference to the 14 October 28, 2021, Greene County Board of 15 Commissioners' resolution. Do you see that? 16 A. Correct. 17 Q. Okay. And did -- is that language that 18 you put in this section yourself? 19 A. It was language that I workshopped with 20 other people that were in that conversation. 21 Q. Okay. And what other people did you 22 workshop this language with? 23 A. I believe the case lead was there, Teresa 24 White. I believe at least one of the Staff attorneys 25 was there. Again, don't remember who specifically it</p>
<p style="text-align: right;">Page 50</p> <p>1 thought or prepared are not relevant. 2 MR. SETTINERI: Okay. So I know there 3 was no motion to strike. Now are you striking the 4 testimony she just gave? 5 ALJ WILLIAMS: Not at this time but I am 6 just putting you on notice as to the limitations. 7 MS. BAIR: I will make that motion right 8 now to strike it. 9 ALJ WILLIAMS: What do you mean to 10 strike, Ms. Bair? 11 MS. BAIR: The previous questions what 12 she considers management to be. Somewhat of a 13 philosophical question instead of what she actually 14 put in the Staff Report. 15 ALJ WILLIAMS: Okay. So at this point I 16 don't believe there is any testimony that needs to be 17 stricken. We've cautioned counsel as to what we do 18 and don't feel is relevant and why. We will allow 19 him to proceed. 20 Q. (By Mr. Settineri) Ms. DeLong, who should 21 I speak to at Staff, who would you recommend I speak 22 to at Staff to ascertain who put in the references to 23 October 28, 29, in your section of the Staff Report? 24 A. I would recommend the case lead. 25 Q. Okay. Thank you. If you could turn to</p>	<p style="text-align: right;">Page 52</p> <p>1 was. Basically -- yeah, yeah. 2 Q. Okay. And when you said you workshopped 3 the language, what do you mean by that? 4 A. We came up with the wording together, 5 brainstorming, so to speak. 6 Q. Now, your -- are you aware that the -- 7 you are aware that the Greene County Board of 8 Commissioners passed an amendment to their -- I'll 9 paraphrase, the Prospectives 2020: Land Use Plan? 10 A. Correct. 11 Q. And you are aware that was -- plan was 12 amended on August 26, 2021, correct? 13 A. Correct. 14 Q. Okay. And that was after the application 15 was deemed complete, correct? 16 A. Correct. 17 Q. And after -- well after the Application 18 was filed, correct? 19 A. Yes. 20 Q. Okay. Do you recall -- so do you recall 21 what day that you workshopped this language with the 22 case lead Teresa White and one other Staff attorney 23 and possibly others? 24 MS. BAIR: Objection, your Honor. I 25 don't believe that is the correct testimony that she</p>

<p style="text-align: right;">Page 53</p> <p>1 provided.</p> <p>2 ALJ WILLIAMS: Mr. Settineri.</p> <p>3 MR. SETTINERI: I would be glad to</p> <p>4 rephrase.</p> <p>5 Q. (By Mr. Settineri) Do you recall the date</p> <p>6 you workshopped this language with others?</p> <p>7 A. I know we workshopped language on</p> <p>8 October 29.</p> <p>9 Q. Okay. Was that -- do you recall if it</p> <p>10 was early in the day or later in the day?</p> <p>11 MS. BAIR: And, your Honor --</p> <p>12 A. It was later in the day.</p> <p>13 MS. BAIR: I'm sorry.</p> <p>14 A. It was later in the day.</p> <p>15 Q. Turning to the last sentence before</p> <p>16 "Recreation," do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. It states "With the participation of the</p> <p>19 Greene County Board of Commissioners as a party to</p> <p>20 this case, Staff anticipates additional clarity will</p> <p>21 be added regarding the comprehensive plan during</p> <p>22 forthcoming phases of the evidentiary process in this</p> <p>23 case." Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Did you write that language?</p>	<p style="text-align: right;">Page 55</p> <p>1 date as possible before being filed.</p> <p>2 Q. Okay.</p> <p>3 MR. SETTINERI: No further questions,</p> <p>4 your Honor. Thank you.</p> <p>5 ALJ HICKS: Thank you, Mr. Settineri.</p> <p>6 Ms. Bair, any redirect?</p> <p>7 MS. BAIR: May I have a few minutes,</p> <p>8 please?</p> <p>9 ALJ HICKS: Sure. Can we come back at</p> <p>10 10:10? Does that work?</p> <p>11 MS. BAIR: Sure. Thank you.</p> <p>12 ALJ HICKS: All right. We are off the</p> <p>13 record.</p> <p>14 (Recess taken.)</p> <p>15 ALJ HICKS: We will go back on the</p> <p>16 record.</p> <p>17 Ms. Bair, did you have any redirect?</p> <p>18 MS. BAIR: I have no redirect. Thank</p> <p>19 you, your Honor. And I would move Staff Exhibit 5</p> <p>20 into evidence.</p> <p>21 ALJ WILLIAMS: Before we get to that</p> <p>22 point and excuse the witness, I do have a couple</p> <p>23 clarifying questions from the Bench.</p> <p>24 - - -</p> <p>25</p>
<p style="text-align: right;">Page 54</p> <p>1 A. That is part of brainstorming or</p> <p>2 workshopping. Yes, I wrote part of the sentence.</p> <p>3 Q. Okay. And on October 29, that sentence</p> <p>4 was added to the Staff Report as well as the last two</p> <p>5 sentences of the "Regional Planning" section,</p> <p>6 correct? And it's the first paragraph of "Regional</p> <p>7 Planning" so let me rephrase.</p> <p>8 As of October 29, the "Regional Planning"</p> <p>9 section had three sentences added, the two -- last</p> <p>10 two sentences of the first paragraph and the last</p> <p>11 sentence of the second paragraph, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Ms. DeLong, have you worked on</p> <p>14 other Staff Reports?</p> <p>15 A. Yes.</p> <p>16 Q. All right. Is it typical that you'll</p> <p>17 have a workshop session like you did here on the day</p> <p>18 that the Staff Report is due to be issued?</p> <p>19 A. Generally there's not a need for it.</p> <p>20 Q. And what do you believe was the need to</p> <p>21 workshop the language in the Staff Report here in the</p> <p>22 "Regional Planning" section?</p> <p>23 A. That new information had come up and it</p> <p>24 needed to be included or acknowledged in the Staff</p> <p>25 Report in order for the Staff Report to be as up to</p>	<p style="text-align: right;">Page 56</p> <p>1 EXAMINATION</p> <p>2 By ALJ Williams:</p> <p>3 Q. Ms. DeLong, can you see and hear me okay?</p> <p>4 A. Yes.</p> <p>5 Q. Ms. DeLong, you were asked a couple of</p> <p>6 questions on cross relative to the portion of the</p> <p>7 Staff Report for which you claim authorship. Do you</p> <p>8 recall that?</p> <p>9 A. Yes.</p> <p>10 Q. And my questions to you are relative to</p> <p>11 Section 4906.10(A)(2) and the edits that were made to</p> <p>12 the Staff Report. Do you agree with the edits that</p> <p>13 were included in that section of the Staff Report?</p> <p>14 A. Yes.</p> <p>15 Q. Did anybody force you to make edits to</p> <p>16 which you didn't agree?</p> <p>17 A. No.</p> <p>18 Q. Same questions relative to 4906.10(A)(6),</p> <p>19 pages 40 to 44, do you agree to the edits that were</p> <p>20 made to that section of the Staff Report?</p> <p>21 MR. SETTINERI: Objection, your Honor.</p> <p>22 There is no foundation made that she made any of</p> <p>23 those edits. She did not contribute to that section;</p> <p>24 and, therefore, she should not be asked questions</p> <p>25 about it. Lack of foundation.</p>

<p style="text-align: right;">Page 57</p> <p>1 ALJ WILLIAMS: The objection -- the</p> <p>2 objection is overruled. My question was do you agree</p> <p>3 with the edits that were made to that section for</p> <p>4 which you claim authorship.</p> <p>5 MR. SETTINERI: Again, your Honor, there</p> <p>6 has been no evidence in the record that any edits</p> <p>7 were made.</p> <p>8 ALJ WILLIAMS: Thank you, Mr. Settineri.</p> <p>9 Objection overruled.</p> <p>10 Q. (By ALJ Williams) Ms. DeLong, do you</p> <p>11 agree with any edits that were made to that section</p> <p>12 of the Staff Report?</p> <p>13 A. Can -- what section specifically again?</p> <p>14 Q. So now Section 4906.10(A)(6) which I</p> <p>15 believe is from pages 40 to 44.</p> <p>16 A. Okay.</p> <p>17 Q. You authored that, correct?</p> <p>18 A. Which -- all of pages 40 to 44?</p> <p>19 Q. Let me ask it a different way. Did you</p> <p>20 author some of those pages?</p> <p>21 A. No.</p> <p>22 Q. You didn't author any of pages 40 to 44?</p> <p>23 A. No.</p> <p>24 Q. I believe you were asked questions about</p> <p>25 page 44 on cross-examination. Did you fo -- could</p>	<p style="text-align: right;">Page 59</p> <p>1 MS. BAIR: And, your Honor, I want to</p> <p>2 renew the motion to move her Ex -- Staff Exhibit 5</p> <p>3 into evidence.</p> <p>4 ALJ HICKS: Any objections to the</p> <p>5 admission of Staff Exhibit 5?</p> <p>6 Hearing none, it is admitted.</p> <p>7 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>8 ALJ HICKS: Ms. Bair, go ahead and call</p> <p>9 the next witness when you are ready.</p> <p>10 MS. BAIR: Thank you. Staff calls</p> <p>11 Theodore November to the stand, please.</p> <p>12 MR. SCHMIDT: Mr. November, you've been</p> <p>13 promoted. If you can enable your audio and video.</p> <p>14 MR. NOVEMBER: Can you guys see me?</p> <p>15 ALJ HICKS: I can and hear you.</p> <p>16 MR. NOVEMBER: Okay.</p> <p>17 ALJ HICKS: If you could raise your right</p> <p>18 hand.</p> <p>19 (Witness sworn.)</p> <p>20 ALJ HICKS: Please go ahead, Ms. Bair.</p> <p>21 ---</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 58</p> <p>1 you focus your attention there. You didn't author</p> <p>2 any of that?</p> <p>3 A. I don't remember being asked about page</p> <p>4 44.</p> <p>5 Q. Okay. So to sum up, my question then is</p> <p>6 relative to any of the portions of the Staff Report</p> <p>7 that you authored, were you forced to make any edits</p> <p>8 to which you did not agree?</p> <p>9 A. No.</p> <p>10 ALJ WILLIAMS: Okay. No more questions</p> <p>11 from the Bench. Thank you.</p> <p>12 Thank you for your time, Ms. DeLong.</p> <p>13 MR. SETTINERI: Your Honor, I would like</p> <p>14 the opportunity to recross on that -- those</p> <p>15 questions.</p> <p>16 ALJ WILLIAMS: I don't think the</p> <p>17 questions were beyond the scope of what you had</p> <p>18 already crossed on. At this point the Bench will</p> <p>19 deny the recross.</p> <p>20 MR. SETTINERI: Again, I will just object</p> <p>21 to this as a procedure irregularity, your Honor.</p> <p>22 Note it for the record, please.</p> <p>23 ALJ WILLIAMS: So noted. Thank you.</p> <p>24 Thank you, Ms. DeLong.</p> <p>25 ALJ HICKS: Thank you, Ms. DeLong.</p>	<p style="text-align: right;">Page 60</p> <p>1 THEODORE NOVEMBER</p> <p>2 being first duly sworn, as prescribed by law, was</p> <p>3 examined and testified as follows:</p> <p>4 DIRECT EXAMINATION</p> <p>5 By Ms. Bair:</p> <p>6 Q. Mr. November, could you please state your</p> <p>7 name for the record.</p> <p>8 A. Yes. My name is Theodore November.</p> <p>9 Q. And by whom are you employed?</p> <p>10 A. I'm employed by the Public Utilities</p> <p>11 Commission as a Utility Specialist 2.</p> <p>12 MS. BAIR: Your Honor, I would like to</p> <p>13 mark as Staff Exhibit 6 the prefled testimony of</p> <p>14 Theodore November.</p> <p>15 ALJ HICKS: It is so marked.</p> <p>16 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>17 MS. BAIR: Thank you.</p> <p>18 Q. (By Ms. Bair) Mr. November, do you have</p> <p>19 what has been marked has Staff Exhibit 6 with you?</p> <p>20 A. I do.</p> <p>21 Q. And what is that document?</p> <p>22 A. It's my prefled testimony for the</p> <p>23 Kingwood Solar project.</p> <p>24 Q. I'm sorry. Was that prepared by you or</p> <p>25 under your direction?</p>

<p style="text-align: right;">Page 61</p> <p>1 A. It was.</p> <p>2 Q. Do you have any changes, additions, or</p> <p>3 corrections to make to this right now?</p> <p>4 A. I do not.</p> <p>5 Q. If I were to ask you the questions</p> <p>6 contained in that prefiled testimony today, would</p> <p>7 your answers be the same?</p> <p>8 A. Yes.</p> <p>9 MS. BAIR: Thank you, your Honor. I move</p> <p>10 Staff Exhibit 6 into evidence, subject to</p> <p>11 cross-examination.</p> <p>12 ALJ HICKS: Thank you, Ms. Bair.</p> <p>13 We will turn first for cross to Citizens</p> <p>14 for Greene Acres.</p> <p>15 MR. VAN KLEY: Thank you, your Honor.</p> <p>16 ---</p> <p>17 CROSS-EXAMINATION</p> <p>18 By Mr. Van Kley:</p> <p>19 Q. And good morning, Mr. November.</p> <p>20 A. Good morning.</p> <p>21 Q. How would you describe your role at the</p> <p>22 Power Siting Board?</p> <p>23 A. As Utility Specialist 2, I review</p> <p>24 applications that come in, and I review the</p> <p>25 "Ecological" sections.</p>	<p style="text-align: right;">Page 63</p> <p>1 A. That condition is a general condition for</p> <p>2 solar facilities according to that Admin Code, those</p> <p>3 noxious weeds that are identified in the Admin Code,</p> <p>4 that condition is standard for use in treating those</p> <p>5 in solar facilities.</p> <p>6 Q. Did you review the Administrative Code</p> <p>7 for the purposes of preparing Condition 22?</p> <p>8 A. I did not. I have reviewed the Code</p> <p>9 before, but I have not recently.</p> <p>10 MR. VAN KLEY: All right. I have nothing</p> <p>11 further, your Honor.</p> <p>12 ALJ HICKS: Thank you, Mr. Van Kley.</p> <p>13 Turn next to Miami Township.</p> <p>14 MR. SLONE: Thank you. No questions.</p> <p>15 ALJ HICKS: Greene County Board of</p> <p>16 Commissioners.</p> <p>17 MR. BOGGS: No questions, your Honor.</p> <p>18 ALJ HICKS: Xenia Township.</p> <p>19 MR. WATKINS: No questions, your Honor.</p> <p>20 ALJ HICKS: Cedarville Township.</p> <p>21 MR. BROWN: No questions, your Honor.</p> <p>22 ALJ HICKS: In Progress.</p> <p>23 MR. HART: No questions, your Honor.</p> <p>24 Thank you.</p> <p>25 ALJ HICKS: Tecumseh.</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. Okay. In the course of your work on the</p> <p>2 Kingwood Solar project, did you have any written or</p> <p>3 verbal communications with Kingwood Solar?</p> <p>4 A. No.</p> <p>5 Q. Let me ask you about Condition 22 that's</p> <p>6 proposed in the Staff Report.</p> <p>7 A. Okay.</p> <p>8 Q. If you would go to Staff Exhibit 1, page</p> <p>9 50, you will find that proposed condition on that</p> <p>10 page.</p> <p>11 A. Yes.</p> <p>12 Q. And I see that looking at this proposed</p> <p>13 condition that it is designed to control noxious</p> <p>14 weeds, correct?</p> <p>15 A. That is correct.</p> <p>16 Q. Are you aware of a category of plants</p> <p>17 that are classified as invasive species by the Ohio</p> <p>18 Department of Natural Resources?</p> <p>19 A. I am not.</p> <p>20 Q. So how did you go about preparing</p> <p>21 Condition 22? Did you write it yourself?</p> <p>22 A. I did.</p> <p>23 Q. And how did you determine that noxious</p> <p>24 weeds would be the only types of plant species that</p> <p>25 would be subject to this condition?</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. SWANEY: No questions -- no</p> <p>2 questions, your Honor. Thank you.</p> <p>3 ALJ HICKS: Ohio Farm Bureau Federation.</p> <p>4 MS. MILAM: No questions. Thank you.</p> <p>5 ALJ HICKS: And the Applicant.</p> <p>6 MS. SANYAL: Yes, your Honor.</p> <p>7 ---</p> <p>8 CROSS-EXAMINATION</p> <p>9 By Ms. Sanyal:</p> <p>10 Q. Good morning, Mr. November. I was just</p> <p>11 trying to find you on my screen.</p> <p>12 A. Good morning.</p> <p>13 Q. My name Anna Sanyal, and I represent</p> <p>14 Kingwood Solar. And I have a few questions for you.</p> <p>15 So going to your testimony on page 2, lines 2 to 4,</p> <p>16 you note that you prepared several sections including</p> <p>17 "Surface Waters," "Threatened and Endangered</p> <p>18 Species," and "Vegetation"; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. So if we go to the Staff Report,</p> <p>21 would that cover pages 25 through 30 of the Staff</p> <p>22 Report?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. Did you draft any other sections</p> <p>25 of the Staff Report?</p>

<p style="text-align: right;">Page 65</p> <p>1 A. I did not.</p> <p>2 Q. Did you have input on any other sections</p> <p>3 of the Staff Report?</p> <p>4 A. I did not.</p> <p>5 Q. Okay. And you're aware that various</p> <p>6 parties have intervened in this proceeding, correct?</p> <p>7 A. I am aware.</p> <p>8 Q. Okay. Are you aware that the Greene</p> <p>9 County Board of Commissioners has intervened in this</p> <p>10 proceeding?</p> <p>11 A. I'm aware.</p> <p>12 Q. Okay. Have you communicated with the</p> <p>13 Greene County Board of Commissioners?</p> <p>14 A. I have not.</p> <p>15 Q. What about any employees or</p> <p>16 representatives of the Greene County --</p> <p>17 A. I have not.</p> <p>18 Q. -- Board of Commissioners?</p> <p>19 A. Sorry to cut you off but I have not.</p> <p>20 Q. Okay. Thank you. And then are you aware</p> <p>21 that the Board of Trustees for Miami, Cedarville, and</p> <p>22 Xenia Townships have also intervened?</p> <p>23 A. I am aware.</p> <p>24 Q. Okay. And have you communicated with any</p> <p>25 of those parties?</p>	<p style="text-align: right;">Page 67</p> <p>1 representative of the Public -- of the Commission or</p> <p>2 the Power Siting Board who's communicated with any</p> <p>3 employee or representative of the parties we</p> <p>4 discussed today?</p> <p>5 A. I am not.</p> <p>6 Q. Okay. Are you aware that Ms. Julie</p> <p>7 Graham-Price has communicated with the Greene County</p> <p>8 Board of Commissioners and one Cedarville Township</p> <p>9 Trustee about the project prior to the Staff Report</p> <p>10 being issued?</p> <p>11 A. I am not aware.</p> <p>12 Q. Okay. Just a few more questions,</p> <p>13 Mr. November. Did you just listen to Ms. DeLong's</p> <p>14 testimony?</p> <p>15 A. I did.</p> <p>16 Q. Okay. And she mentioned she had a</p> <p>17 workshop session on October 29, 2021, correct?</p> <p>18 MS. BAIR: Objection, relevance to his</p> <p>19 testimony and the part that he put in the Staff</p> <p>20 Report.</p> <p>21 MS. SANYAL: Your Honor, I am just laying</p> <p>22 foundation as to how Mr. November prepared his</p> <p>23 portion of the Staff Report. If I could just have a</p> <p>24 little bit of leeway, I do not intend to go down this</p> <p>25 path for very long.</p>
<p style="text-align: right;">Page 66</p> <p>1 A. I have not.</p> <p>2 Q. What about any representatives for</p> <p>3 employees for those parties?</p> <p>4 A. No, I have not.</p> <p>5 Q. Okay. And then are you aware that other</p> <p>6 parties like Citizens for Greene Acres, the Tecumseh</p> <p>7 Land Preservation Association, et cetera, have also</p> <p>8 intervened in these proceedings?</p> <p>9 A. Yes, I'm aware.</p> <p>10 Q. Okay. Have you communicated with any of</p> <p>11 those parties?</p> <p>12 A. No, I have not.</p> <p>13 Q. And what about any employees or</p> <p>14 representatives of these parties?</p> <p>15 A. I have not.</p> <p>16 Q. Okay. You are aware that the Public</p> <p>17 Utilities Commission of Ohio and the Power Siting</p> <p>18 Board share staff, correct?</p> <p>19 A. I'm aware that what? Could you repeat</p> <p>20 that?</p> <p>21 Q. Sure. That the Public Utilities</p> <p>22 Commission of Ohio and the Ohio Power Siting Board</p> <p>23 share Staff. Are you aware of that?</p> <p>24 A. I'm aware.</p> <p>25 Q. Okay. Are you aware of any employee or</p>	<p style="text-align: right;">Page 68</p> <p>1 ALJ WILLIAMS: I think the Bench has made</p> <p>2 clear the questions that the Bench will entertain</p> <p>3 would involve relative to any editorial comments that</p> <p>4 were delivered in response to the portions of the</p> <p>5 Staff Report that the witness prepared and whether he</p> <p>6 has agreement with any recommended edits.</p> <p>7 MS. SANYAL: Your Honor, I will rephrase</p> <p>8 my question.</p> <p>9 ALJ WILLIAMS: Okay.</p> <p>10 Q. (By Ms. Sanyal) Did you have any workshop</p> <p>11 sessions with regard to the portions of the</p> <p>12 testimony -- portions of the Staff Report that you</p> <p>13 drafted?</p> <p>14 A. I did not.</p> <p>15 MS. SANYAL: Those are all the questions</p> <p>16 I have, your Honor.</p> <p>17 ALJ HICKS: Thank you, Ms. Sanyal.</p> <p>18 Ms. Bair, any redirect?</p> <p>19 MS. BAIR: No redirect, your Honor. I</p> <p>20 would like to move the Staff Exhibit 6 into evidence.</p> <p>21 ALJ HICKS: Okay. We will let</p> <p>22 Mr. November go. We thank you for your time and</p> <p>23 testimony today.</p> <p>24 THE WITNESS: Thank you. Have a good</p> <p>25 day.</p>

<p style="text-align: right;">Page 69</p> <p>1 ALJ HICKS: Any objection to the 2 admission of Staff Exhibit 6? 3 Hearing none, it is admitted. 4 (EXHIBIT ADMITTED INTO EVIDENCE.) 5 ALJ HICKS: Ms. Bair, please go ahead 6 whenever you're ready. 7 MS. BAIR: Thank you. Staff calls Jess 8 Stottsberry to the stand, please. 9 MR. SCHMIDT: You've been promoted. If 10 you can enable your audio and video. 11 ALJ HICKS: I can see you. 12 MR. STOTTSBERRY: Can you hear me? 13 ALJ HICKS: I can hear you as well. If 14 you would raise your right hand. 15 (Witness sworn.) 16 ALJ HICKS: All right. Please go ahead, 17 Ms. Bair. 18 MS. BAIR: Thank you. 19 --- 20 JESS STOTTSBERRY 21 being first duly sworn, as prescribed by law, was 22 examined and testified as follows: 23 DIRECT EXAMINATION 24 By Ms. Bair: 25 Q. Could you please state your name for the</p>	<p style="text-align: right;">Page 71</p> <p>1 your answers be the same? 2 A. Yes. 3 MS. BAIR: Thank you, your Honor. I move 4 Staff Exhibit 7 into evidence, subject to 5 cross-examination. 6 ALJ HICKS: Thank you, Ms. Bair. 7 We will start with any cross-examination 8 by Citizens for Greene Acres. 9 MR. VAN KLEY: Thank you, your Honor. 10 --- 11 CROSS-EXAMINATION 12 By Mr. Van Kley: 13 Q. Mr. Stottsberry, have you had any written 14 or verbal communications with Kingwood Solar? 15 A. No. 16 Q. Have you visited the project area for the 17 Kingwood Solar project? 18 A. No. 19 MR. VAN KLEY: No further questions, your 20 Honor. 21 ALJ HICKS: Thank you, Mr. Van Kley. 22 Miami Township. 23 MR. SLONE: No questions. Thank you. 24 ALJ HICKS: Greene County Board of 25 Commissioners.</p>
<p style="text-align: right;">Page 70</p> <p>1 record. 2 A. Jess Stottsberry. 3 Q. And by whom are you employed? 4 A. The Public Utilities Commission of Ohio. 5 Q. What is your job there? 6 A. I'm a Utility Specialist 2. 7 MS. BAIR: Your Honor, I would like -- 8 it's already been marked as Staff Exhibit 7, the 9 prefiled direct testimony of Jess Stottsberry. 10 ALJ HICKS: It is so marked. 11 (EXHIBIT MARKED FOR IDENTIFICATION.) 12 Q. (By Ms. Bair) And that's Staff Exhibit 7. 13 Mr. Stottsberry, do you have that document in front 14 of you? 15 A. I do. 16 Q. And what is that document? 17 A. The prefiled testimony I did. 18 Q. Okay. And was that prepared by you or 19 under your direction? 20 A. Yes. 21 Q. Do you have any changes, additions, 22 corrections to make to that at this time? 23 A. No. 24 Q. And if I were to ask you the questions 25 contained in your prefiled testimony today, would</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. BOGGS: No questions. Thank you. 2 ALJ HICKS: Xenia Township. 3 MR. WATKINS: No questions, your Honor. 4 Thank you. 5 ALJ HICKS: Cedarville Township. 6 MR. BROWN: No questions, your Honor. 7 Thank you. 8 ALJ HICKS: In Progress. 9 MR. HART: No questions. Thank you. 10 ALJ HICKS: Tecumseh. Take silence as no 11 questions. 12 Ohio Farm Bureau Federation. 13 MS. MILAM: No questions, your Honor. 14 Thank you. 15 ALJ HICKS: And the Applicant. 16 MS. SANYAL: Yes, your Honor. 17 --- 18 CROSS-EXAMINATION 19 By Ms. Sanyal: 20 Q. Good morning, Mr. Stottsberry. How are 21 you? 22 A. I'm fine. Thank you. 23 Q. Good to see you. Turning to your 24 testimony on page 2, line 6, you note that you wrote 25 the section entitled "Geology"; is that correct?</p>

<p style="text-align: right;">Page 73</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And then does that cover pages 20</p> <p>3 to 23 of the Staff Report?</p> <p>4 A. That's correct, yes.</p> <p>5 Q. Okay. Are there any other sections of</p> <p>6 the Staff Report -- I'm sorry. Strike that. I am</p> <p>7 going to ask that question again.</p> <p>8 Did you draft any other sections of the</p> <p>9 Staff Report?</p> <p>10 A. No.</p> <p>11 Q. Did you have input into any other</p> <p>12 sections of the Staff Report?</p> <p>13 A. No.</p> <p>14 Q. And you are aware that the Greene County</p> <p>15 Board of Commissioners has intervened in this</p> <p>16 proceeding?</p> <p>17 A. Only to the extent it's been discussed by</p> <p>18 you this morning.</p> <p>19 Q. Okay. And have you communicated with the</p> <p>20 Greene County Board of Commissioners?</p> <p>21 A. No.</p> <p>22 Q. Okay. And you have not communicated with</p> <p>23 any representatives or employees of the Greene County</p> <p>24 Board of Commissioners, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 75</p> <p>1 any of these other parties?</p> <p>2 A. No. Only to, again, the extent of what's</p> <p>3 been mentioned today.</p> <p>4 Q. Just one additional question,</p> <p>5 Mr. Stottsberry.</p> <p>6 A. The previous question, did you purposely</p> <p>7 go on mute?</p> <p>8 Q. I was pausing. I was pausing to think.</p> <p>9 Yes, sorry. The virtual hearings are hard. Did you</p> <p>10 attend any workshop sessions with Ms. Teresa White or</p> <p>11 Mr. Grant Zeto in order to draft the sections of the</p> <p>12 Staff Report you were responsible for?</p> <p>13 MS. BAIR: Objection, your Honor. I am</p> <p>14 not even sure what the question is asking. Attend</p> <p>15 any what? Clarity, relevance. I don't understand</p> <p>16 the question.</p> <p>17 ALJ WILLIAMS: Okay. We are going to</p> <p>18 sustain the objection. We are not going to have --</p> <p>19 we are not going to allow questions as to specific</p> <p>20 members of the Board, but I will allow the question</p> <p>21 as to whether he attended any group sessions at which</p> <p>22 his portion of the Staff Report was the point of</p> <p>23 discussion.</p> <p>24 Ms. Sanyal, do you want to rephrase, or</p> <p>25 do you want my question to stand?</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Are you aware that the Miami Township,</p> <p>2 Xenia Township, and Cedarville Township Board of</p> <p>3 Trustees have also intervened?</p> <p>4 A. Again, only to the extent it's been</p> <p>5 discussed this morning by you.</p> <p>6 Q. Okay. And so you have not communicated</p> <p>7 with those Boards of Township Trustees, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And you have not communicated with any</p> <p>10 employees or representatives of those Boards?</p> <p>11 A. No, I have not.</p> <p>12 Q. Okay. And are you aware that there are</p> <p>13 other parties that have intervened in this</p> <p>14 proceeding?</p> <p>15 A. Again, just to the extent of what's been</p> <p>16 discussed this morning.</p> <p>17 Q. Okay. And so I take it you have not</p> <p>18 communicated with any of these parties?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. And you have not communicated with</p> <p>21 any employees or representatives of these parties.</p> <p>22 A. I have not, no.</p> <p>23 Q. Okay. And are you aware of any employee</p> <p>24 or representative of the Power Siting Board or the</p> <p>25 Public Utilities Commission who has communicated with</p>	<p style="text-align: right;">Page 76</p> <p>1 MS. SANYAL: Your question can stand,</p> <p>2 your Honor.</p> <p>3 ALJ WILLIAMS: Mr. Stottsberry, did you</p> <p>4 understand the question?</p> <p>5 THE WITNESS: Yes, I did understand the</p> <p>6 question, and my answer to that question is, no, not</p> <p>7 to my recollection.</p> <p>8 Q. (By Ms. Sanyal) I am going to ask a</p> <p>9 clarifying question, Mr. Stottsberry. So you drafted</p> <p>10 the sections of the Staff Report you were responsible</p> <p>11 for solely by yourself without input from anyone</p> <p>12 else, correct?</p> <p>13 A. Could you please repeat that? You were</p> <p>14 having a video problem there.</p> <p>15 MS. SANYAL: Sure. Ms. Gibson, could you</p> <p>16 read out that question, please, because I will</p> <p>17 probably rephrase it wrong.</p> <p>18 (Record read.)</p> <p>19 A. Right. I don't have any recollection of</p> <p>20 any input from anyone else.</p> <p>21 MS. SANYAL: One moment, your Honor. I</p> <p>22 am going to confer with co-counsel to see if we have</p> <p>23 any other questions. Thank you.</p> <p>24 And no other questions. Thank you,</p> <p>25 Mr. Stottsberry.</p>

<p style="text-align: right;">Page 77</p> <p>1 ALJ HICKS: Thank you, Ms. Sanyal. 2 Ms. Bair, any redirect? 3 MS. BAIR: No redirect. I move Staff 4 Exhibit 7 into evidence. 5 ALJ HICKS: Okay. Mr. Stottsberry, you 6 are free to go. Thank you for your testimony. 7 THE WITNESS: Thank you, your Honor. 8 ALJ HICKS: Any objection to the 9 admission of Staff Exhibit 7? 10 Hearing none, it is admitted. 11 (EXHIBIT ADMITTED INTO EVIDENCE.) 12 ALJ HICKS: Ms. Bair, you are free to 13 call your next witness. 14 MS. BAIR: Thank you, your Honor. Staff 15 calls Mark Bellamy to the stand, please, or video. 16 MR. SCHMIDT: You've been promoted. If 17 you can enable your audio and video. 18 MR. BELLAMY: I have done so. 19 ALJ HICKS: Okay. Mr. Bellamy, if you 20 can raise your right hand. 21 (Witness sworn.) 22 ALJ HICKS: Please go ahead, Ms. Bair. 23 --- 24 25</p>	<p style="text-align: right;">Page 79</p> <p>1 direction? 2 A. Yes. 3 Q. Do you have any changes, corrections, or 4 additions to make to that at this time? 5 A. No. 6 Q. If I were to ask you the questions today 7 contained in that exhibit, would your answers be the 8 same? 9 A. Yes. 10 MS. BAIR: Thank you. Your Honor, I move 11 Staff Exhibit 8 into evidence, subject to 12 cross-examination. 13 ALJ HICKS: Thank you, Ms. Bair. 14 We will go first for cross-examination to 15 Citizens for Greene Acres. 16 MR. VAN KLEY: Thank you, your Honor. 17 --- 18 CROSS-EXAMINATION 19 By Mr. Van Kley: 20 Q. Good morning, Mr. Bellamy. 21 A. Good morning. 22 Q. Have you had any conversations or written 23 communications with Kingwood Solar in this case? 24 A. My only communication with Kingwood Solar 25 in this case has been through Data Requests and the</p>
<p style="text-align: right;">Page 78</p> <p>1 MARK BELLAMY 2 being first duly sworn, as prescribed by law, was 3 examined and testified as follows: 4 DIRECT EXAMINATION 5 By Ms. Bair: 6 Q. Could you please state your name for the 7 record. 8 A. My name is Mark Bellamy. 9 Q. And where are you employed? 10 A. I'm employed by the Ohio Power Siting 11 Board Staff and the Public Utilities Commission of 12 Ohio. 13 Q. What is your position there? 14 A. I'm a Utility Specialist. 15 MS. BAIR: Your Honor, I would like to 16 mark as Staff Exhibit 8 the prefiled testimony of 17 Mark Bellamy. 18 ALJ HICKS: It is so marked. 19 (EXHIBIT MARKED FOR IDENTIFICATION.) 20 Q. (By Ms. Bair) Mr. Bellamy, do you have 21 what has been marked as Staff Exhibit 8? 22 A. I do. 23 Q. Okay. What is that document? 24 A. That is my direct testimony in this case. 25 Q. And was it prepared by you or under your</p>	<p style="text-align: right;">Page 80</p> <p>1 responses to those. 2 Q. Did you attend any public hearing or 3 public information session in this case? 4 A. No. 5 Q. Did you have any communications with 6 Kingwood Solar's noise consultant in this case? 7 A. Not that I can recall. I believe my only 8 communication has been through Data Requests, and I 9 think I did have a noise question or two but that 10 would have been my only communication that I can 11 recall. 12 Q. And when you say that you may have had "a 13 noise question or two," were those exclusively sent 14 to Kingwood through Data Requests or through some 15 other means? 16 A. Through Data Requests. 17 Q. Would you go to page 52 of the Staff 18 Report that's been marked as Staff Exhibit 1. 19 A. I'm sorry. You said page 52? 20 Q. Yes, sir. 21 A. I'm there. 22 Q. All right. You see Condition 30 on that 23 page? 24 A. Yes. 25 Q. Are you the author of this condition?</p>

<p style="text-align: right;">Page 81</p> <p>1 A. I am.</p> <p>2 Q. All right. I wanted to ask you some</p> <p>3 questions about how this condition is supposed to be</p> <p>4 interpreted to make sure that I'm understanding it</p> <p>5 accurately. Of course, Kingwood Solar's consultant</p> <p>6 performed some modeling on the anticipated noise from</p> <p>7 the project that were included in the application,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. All right. And Condition 30 as worded in</p> <p>11 your Staff Report proposes to require Kingwood Solar</p> <p>12 to remodel the noise from the -- from the project</p> <p>13 under certain -- certain conditions, right?</p> <p>14 A. Yes.</p> <p>15 Q. And what are those conditions?</p> <p>16 A. The -- the Applicant chose a</p> <p>17 representative inverter and transformer for the</p> <p>18 project. However, the Applicant did not commit to</p> <p>19 any model or manufacturer for the inverter or the</p> <p>20 transformer, so Condition 30 is designed for the</p> <p>21 circumstance in which the Applicant chooses an</p> <p>22 inverter or transformer that is -- that has a -- I'm</p> <p>23 sorry, a larger sound power output than that shown in</p> <p>24 the application. Condition 30 requires them to</p> <p>25 remodel the operational noise impacts to ensure that</p>	<p style="text-align: right;">Page 83</p> <p>1 So in the noise report, they have -- they</p> <p>2 have modeled and indicated the operational impacts</p> <p>3 for the project. So they will be required to operate</p> <p>4 within the constraints of what is stated in the</p> <p>5 application and in the noise report. So I believe</p> <p>6 they are limited to ambient plus 5 even though it is</p> <p>7 not explicitly stated in Condition 30.</p> <p>8 Q. Okay. And what is your understanding as</p> <p>9 to what that limit is?</p> <p>10 A. That limit is that the -- or the</p> <p>11 Applicant cannot operate the facility at ambient</p> <p>12 levels Leq plus 5 dBA or more -- I'm sorry. The</p> <p>13 Applicant cannot operate at greater than ambient Leq</p> <p>14 plus 5.</p> <p>15 Q. All right. So if I am understanding what</p> <p>16 you are saying is that if the Applicant does not</p> <p>17 produce more noise than the Leq ambient plus 5 dBA,</p> <p>18 then it would be in compliance.</p> <p>19 A. Yes.</p> <p>20 MR. VAN KLEY: All right. Nothing</p> <p>21 further, your Honor.</p> <p>22 ALJ HICKS: Thank you, Mr. Van Kley.</p> <p>23 Go next to Miami Township.</p> <p>24 MR. SLONE: No questions.</p> <p>25 ALJ HICKS: Greene County Board of</p>
<p style="text-align: right;">Page 82</p> <p>1 noise impacts will be at ambient Leq levels plus 5</p> <p>2 dBA or less.</p> <p>3 Q. Okay. And the modeling that you've just</p> <p>4 described would be performed before construction</p> <p>5 starts on the project; is that right?</p> <p>6 A. That's correct.</p> <p>7 Q. Now, if the project is constructed and</p> <p>8 then later there are noise complaints, is there</p> <p>9 anything in Condition 30 as you interpret it that</p> <p>10 would provide a limit for the noise coming from the</p> <p>11 facility that would be at a level of the ambient plus</p> <p>12 5 dBA?</p> <p>13 A. Not in Condition 30.</p> <p>14 Q. Okay. Is there -- is there a requirement</p> <p>15 anywhere else that would limit the operation or that</p> <p>16 would -- let me start over.</p> <p>17 Is there a requirement anywhere else that</p> <p>18 would limit the noise produced by the operating</p> <p>19 Kingwood facility to a level of ambient plus 5 dBA?</p> <p>20 A. Although it is not stated explicitly in a</p> <p>21 condition, the Applicant is required, I believe,</p> <p>22 according to Condition 1, to construct and operate</p> <p>23 the project as presented in the application and</p> <p>24 supplement -- supplemental filings and responses to</p> <p>25 Data Requests.</p>	<p style="text-align: right;">Page 84</p> <p>1 Commissioners.</p> <p>2 MR. BOGGS: No questions, your Honor.</p> <p>3 Thank you.</p> <p>4 ALJ HICKS: I only heard thank you,</p> <p>5 Mr. Boggs. I'm sorry.</p> <p>6 MR. BOGGS: No questions, your Honor.</p> <p>7 ALJ HICKS: Thank you.</p> <p>8 Xenia Township.</p> <p>9 MR. WATKINS: No questions, your Honor.</p> <p>10 Thank you.</p> <p>11 ALJ HICKS: Cedarville Township.</p> <p>12 MR. BROWN: No questions, your Honor.</p> <p>13 Thank you.</p> <p>14 ALJ HICKS: In Progress.</p> <p>15 MR. HART: Thank you, your Honor. No</p> <p>16 questions.</p> <p>17 ALJ HICKS: Tecumseh.</p> <p>18 MR. SWANEY: No questions, your Honor.</p> <p>19 Thank you.</p> <p>20 ALJ HICKS: Ohio Farm Bureau Federation.</p> <p>21 MS. MILAM: No questions. Thank you.</p> <p>22 ALJ HICKS: And the Applicant.</p> <p>23 MR. SETTINERI: Thank you, your Honor.</p> <p>24 ---</p> <p>25</p>

<p style="text-align: right;">Page 85</p> <p>1 CROSS-EXAMINATION</p> <p>2 By Mr. Settineri:</p> <p>3 Q. Good morning, Mr. Bellamy. How are you</p> <p>4 today?</p> <p>5 A. Good.</p> <p>6 Q. Good. Question for you, you're -- you</p> <p>7 know who the parties are in this case; is that</p> <p>8 correct?</p> <p>9 A. Generally, although I -- I couldn't give</p> <p>10 you a list, although I'm familiar that there are many</p> <p>11 parties in this case, yes.</p> <p>12 Q. Yeah. Are you aware of any</p> <p>13 communications to any of the Townships or the Greene</p> <p>14 County Board of Commissioners by any member of the</p> <p>15 Staff other than what may have occurred at the local</p> <p>16 public hearings -- I should say local public hearing</p> <p>17 and the public information meeting?</p> <p>18 A. I am not aware.</p> <p>19 Q. Okay. Did you have any communications</p> <p>20 with any party to this case other than at the public</p> <p>21 information meeting perhaps and the local public</p> <p>22 hearing?</p> <p>23 A. No. My only communication with any party</p> <p>24 has been through the Data Requests to the Applicant.</p> <p>25 Q. Okay. And you were -- let me ask you</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. Okay. And so it's under the heading</p> <p>2 "Noise" and through the bottom of page 19, that would</p> <p>3 have been the section you drafted?</p> <p>4 A. Correct.</p> <p>5 Q. In terms of the "Recommended Findings" at</p> <p>6 page 30 which would be a summary of that entire</p> <p>7 section that starts page 11, I believe, if I have</p> <p>8 that right, and I do, did you draft the recommended</p> <p>9 findings of that page?</p> <p>10 A. No.</p> <p>11 Q. Okay. Did you discuss the recommended</p> <p>12 findings in that section with anyone?</p> <p>13 A. No.</p> <p>14 Q. Okay. Do you know who drafted the</p> <p>15 "Recommended Findings" in that section?</p> <p>16 A. I do not.</p> <p>17 Q. Okay. And same -- let's see, "Cultural</p> <p>18 Resources," if you could help me, where was the</p> <p>19 "Cultural Resources" section you mentioned earlier</p> <p>20 that you drafted?</p> <p>21 A. Pages 13 and 14.</p> <p>22 Q. Okay. Thank you, sir. Now, have you</p> <p>23 reviewed the Joint Stipulation and Recommendation</p> <p>24 that's been filed in this proceeding?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 86</p> <p>1 this, what sections of the Staff Report did you</p> <p>2 draft?</p> <p>3 A. Sure. I drafted the "Cultural Resources"</p> <p>4 section on pages 13 and 14, the "Noise Section" on</p> <p>5 page 19, and the "Agricultural District" section on</p> <p>6 page 45.</p> <p>7 Q. Okay. And did you alone draft those</p> <p>8 sections?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. One moment, please, Mr. Bellamy.</p> <p>11 And just specific to the "Ag District" section which</p> <p>12 starts at page 45, that's a one-page section; is that</p> <p>13 right?</p> <p>14 A. I believe so. Can I turn there?</p> <p>15 Q. Oh, definitely. Page 45 of the Staff</p> <p>16 Report.</p> <p>17 A. Yes, that is one page.</p> <p>18 Q. Okay. And did you also draft the</p> <p>19 "Recommended Findings" there in that section?</p> <p>20 A. Yes.</p> <p>21 Q. And I am going to be specific for the</p> <p>22 record here. To go back, you said you drafted the</p> <p>23 "Noise" section, I believe, and just trying to -- oh,</p> <p>24 starts on page 19, right?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Okay. If you could turn to -- do you</p> <p>2 have a copy of that with you? It's been marked as</p> <p>3 Joint Exhibit 1.</p> <p>4 A. Just a second.</p> <p>5 Q. Take your time.</p> <p>6 A. Yes, I have that.</p> <p>7 Q. If you could turn to page 9, I have a --</p> <p>8 direct your attention to Condition 31.</p> <p>9 A. Okay. I'm there.</p> <p>10 Q. And so you are aware that the Joint</p> <p>11 Stipulation was signed by the Applicant and the Ohio</p> <p>12 Farm Bureau Federation, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. In that you are aware that the</p> <p>15 Joint Stipulation proposes conditions for the Board's</p> <p>16 consideration if the Board elects to issue a</p> <p>17 certificate, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you are aware that Condition 31 is</p> <p>20 being proposed to replace the condition that was in</p> <p>21 the Staff Report, correct?</p> <p>22 A. Correct.</p> <p>23 Q. All right. Have you reviewed this</p> <p>24 Condition 31 that's in the Joint Stipulation?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 89</p> <p>1 Q. Okay. Would you agree with me that the 2 language -- that this condition as written is very 3 similar to other conditions that the Board has 4 approved in other proceedings? 5 A. Yes, I am aware. 6 Q. If you could turn -- let's stay on that 7 document. Let's just turn to -- actually let's go 8 back to the Staff Report, I'm sorry. Go back to the 9 Staff Report and I would like to direct your 10 attention to a drainage condition in the Staff 11 Report. 12 A. Okay. Which Condition number? 13 Q. Yeah. Condition 31 of the Staff Report. 14 A. I'm there. 15 Q. All right. Looking at that last sentence 16 of Condition 31, it says "However" -- oops. Sorry. 17 Wrong sentence. Let me strike that. 18 Go to 32, I'm sorry. And 32 has, I will 19 paraphrase, a general requirement that the Applicant 20 ensure parcels are protected from unwanted drainage 21 and the Applicant shall ensure implementing one of 22 the following, and you give three options. And the 23 third option is to agree to compensate parcel owners 24 affected by damage to functioning field tile, 25 drainage systems, and soils resulting from the</p>	<p style="text-align: right;">Page 91</p> <p>1 contact the Applicant and say -- and, you know, say 2 that they have flooding, ponding on their property, 3 and they think it is due to the Applicant's, you 4 know, work and, you know, perhaps it damaged, you 5 know, part of their crops. 6 So, you know, the -- you know, Condition 7 31, you know, it states that drain tile systems must 8 be repaired when damaged with -- you know, with the 9 exception stated in Condition 31. However, even if 10 the Applicant agrees to -- agrees to the repairs, the 11 owners of the nearby parcels are still harmed. You 12 know, they still lost, you know, part of their crop, 13 you know, perhaps due to the flooding or ponding. 14 And they should be compensated for that loss of 15 crops. 16 Q. So assume for me there is a dispute as to 17 what caused the damage to the crops and dispute as to 18 what the value is to the damage to the crops. Would 19 you expect the Power Siting Board then to hear that 20 dispute? 21 A. I think that's possible. 22 Q. And would you expect then the Power 23 Siting Board to issue a decision ascertaining the 24 damages that must be paid by the Applicant? 25 A. I think that's possible.</p>
<p style="text-align: right;">Page 90</p> <p>1 construction, operation, and/or maintenance of the 2 facility, in agricultural areas for damage to crops 3 or other agricultural activities. Do you see that? 4 A. Yes. 5 Q. Okay. In terms -- if there was damage to 6 adjacent agricultural areas to the project area as to 7 crops and other activities, what would be the amount 8 of compensation that would have to be paid under this 9 condition? 10 A. It doesn't specify. 11 Q. And the condition also doesn't specify 12 what is meant by damage; is that right? It doesn't 13 specify what is meant by damage to crops or other 14 agricultural activities, correct? 15 A. Yes, damage is not defined. 16 Q. So you agree with me that this condition 17 alone would be difficult to implement in reality, 18 correct? 19 A. No. 20 Q. No? And why not? 21 A. Because the paragraph C is designed so 22 that if the Applicant were to choose paragraph C to 23 comply with the protecting nearby parcels from 24 unwanted drainage problems, the way I think that 25 would work is a nearby parcel owner would -- would</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Okay. Why do you say that's possible? 2 A. Because I'm unaware of that type -- that 3 type of enforcement happening in a prior case so I -- 4 that's new territory as far as I know, so I'm not 5 sure how that would play out. 6 MR. SETTINERI: No further questions, 7 your Honor. Thank you. 8 Thank you, Mr. Bellamy. 9 THE WITNESS: Thank you. 10 ALJ HICKS: Thank you, Mr. Settineri. 11 Ms. Bair, any redirect? 12 MS. BAIR: Could I have, I don't know, a 13 couple minutes, please? 14 ALJ HICKS: Sure. Is 11:00 too soon? 15 MS. BAIR: No. That's fine. Thank you. 16 ALJ HICKS: Okay. We'll go off the 17 record. 18 (Discussion off the record.) 19 ALJ HICKS: Let's go back on the record. 20 MS. BAIR: No -- I have no redirect, your 21 Honor. 22 ALJ HICKS: Okay. Thank you, Ms. Bair. 23 Mr. Bellamy, we thank you for your time 24 and testimony today. 25 THE WITNESS: Thank you.</p>

<p style="text-align: right;">Page 93</p> <p>1 ALJ HICKS: And take up the exhibit. 2 MS. BAIR: Oh, yes. Yes, I would like to 3 move Staff Exhibit 8 into evidence, your Honor. 4 ALJ HICKS: Any objection to the 5 admission of Staff Exhibit 8? 6 Hearing none, it is admitted. 7 (EXHIBIT ADMITTED INTO EVIDENCE.) 8 ALJ HICKS: Let's go off the record. 9 (Discussion off the record.) 10 ALJ HICKS: So let's go ahead and go back 11 on the record. 12 Coming back from a quick break and 13 turning it over to Greene County Board of 14 Commissioners to call their witness. 15 MR. BOGGS: Thank you, your Honor. At 16 this time the Greene County Board of Commissioners 17 would call Brandon Huddleson. 18 MR. SCHMIDT: Mr. Huddleson, you've been 19 promoted. If you can enable your audio and video. 20 MR. HUDDLESON: Good morning. 21 ALJ HICKS: Good morning. 22 MR. BOGGS: Good morning. 23 ALJ HICKS: If you could please raise 24 your right hand. 25 (Witness sworn.)</p>	<p style="text-align: right;">Page 95</p> <p>1 Q. And was this testimony prepared -- excuse 2 me, prepared by you or at your direction? 3 A. It was. 4 Q. And do you have any edits or corrections 5 to that testimony today? 6 A. I do not. 7 Q. And if I asked you the questions in this 8 testimony again today, would your answers be the same 9 as in this exhibit? 10 A. Yes, sir. 11 MR. BOGGS: Your Honor, I would now like 12 to mark Greene County Exhibit 2, the Resolution 13 21-10-28-8 of the Greene County Board of 14 Commissioners. 15 ALJ HICKS: It is so marked. 16 (EXHIBIT MARKED FOR IDENTIFICATION.) 17 Q. (By Mr. Boggs) Mr. Huddleson, do you have 18 that document before you today? 19 A. Yes, I do. 20 Q. And can you identify this document? 21 A. It's the resolution stating opposition of 22 the Board of Commissioners to the application of 23 Kingwood Solar. 24 Q. And is that a true and correct copy of 25 the document?</p>
<p style="text-align: right;">Page 94</p> <p>1 ALJ HICKS: Okay. Please go ahead, 2 Mr. Boggs. 3 MR. BOGGS: Thank you, your Honor. 4 --- 5 BRANDON HUDDLESTON 6 being first duly sworn, as prescribed by law, was 7 examined and testified as follows: 8 DIRECT EXAMINATION 9 By Mr. Boggs: 10 Q. Could you please state your name for the 11 record. 12 A. Brandon Huddleson. 13 Q. And what is your occupation, sir? 14 A. I'm the Greene County Administrator. 15 MR. BOGGS: And at this time I would like 16 to mark Greene County Exhibit 1, direct testimony of 17 Brandon Huddleson on behalf of Intervening Party 18 Board of Commissioners of Greene County, Ohio. 19 ALJ HICKS: It is so marked. 20 (EXHIBIT MARKED FOR IDENTIFICATION.) 21 Q. (By Mr. Boggs) Mr. Huddleson, do you have 22 Greene County Exhibit 1 before you? 23 A. I do. 24 Q. And can you identify it, please. 25 A. It is my direct testimony.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. It is. 2 Q. And is that a public record produced in 3 the course of the Commissioners' duties? 4 A. Yes, sir. 5 MR. BOGGS: Lastly, I would like to mark 6 Greene County Exhibit 3 which is Resolution 7 No. 21-8-26-10 for the record. 8 ALJ HICKS: It is so marked. 9 (EXHIBIT MARKED FOR IDENTIFICATION.) 10 Q. (By Mr. Boggs) Mr. Huddleson, do you have 11 Greene County Exhibit 3 in front of you? 12 A. I do. 13 Q. Can you identify it, please. 14 A. It's a resolution of the Board of 15 Commissioners adopting the amendment to the 16 Prospectives 2020: A Future Land Use Plan for Greene 17 County. 18 Q. Thank you. And is the document in front 19 of you a true and correct copy of that resolution? 20 A. Yes, sir. 21 Q. And is that a public record prepared in 22 the course of the Commissioners' duties? 23 A. Yes, sir. 24 MR. BOGGS: Thank you, your Honors. At 25 this time the witness is ready for cross-examination.</p>

<p style="text-align: right;">Page 97</p> <p>1 ALJ HICKS: Thank you, Mr. Boggs. 2 We will go first for any cross from 3 Citizens for Greene Acres. 4 MR. VAN KLEY: No cross, your Honor. 5 ALJ HICKS: Miami Township. 6 MR. SLONE: No questions. Thank you. 7 ALJ HICKS: Xenia Township. 8 MR. WATKINS: No cross. Thank you. 9 ALJ HICKS: Cedarville Township. 10 MR. BROWN: No cross, your Honor. Thank 11 you. 12 ALJ HICKS: In Progress. 13 MR. HART: No cross, your Honor. Thank 14 you. 15 ALJ HICKS: Tecumseh. 16 MR. SWANEY: No cross, your Honor. Thank 17 you. 18 ALJ HICKS: Ohio Farm Bureau Federation. 19 MS. MILAM: No cross. Thank you. 20 ALJ HICKS: And the Applicant. 21 MR. SETTINERI: Thank you, your Honor. 22 --- 23 CROSS-EXAMINATION 24 By Mr. Settineri: 25 Q. Good morning, Mr. Huddleson.</p>	<p style="text-align: right;">Page 99</p> <p>1 A. Sometime after I became aware of the 2 project and prior to the passage of the resolution in 3 August of 2021. 4 Q. Okay. And you said you worked with 5 Regional Planning staff. Who on the Regional 6 Planning staff did you work with? 7 A. It would have been Devon Shoemaker, and 8 after his departure, his replacement was DeAndrea 9 Navratil. 10 Q. When did DeAndrea replace Devon? 11 A. I'm not aware of that date. 12 Q. Okay. Do you know approximately when she 13 replaced him? 14 A. Prior to August of 2021. 15 Q. All right. Did -- would it have been 16 maybe July of 2021? 17 A. Regional Planning is not a department 18 under the Board of County Commissioners, so it's a 19 separate Board. I am not aware of those details. 20 Q. Okay. Now, you referenced, again, in 21 your testimony, I think you said County's Land Use 22 Plan as capital L capital U capital P. Would that be 23 the Prospectives 2020: Land Use Plan that was, I 24 think, adopted approximately 2002? 25 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 A. Good morning. 2 Q. Hope you are doing well today. I want to 3 just follow up real quick. Did you listen to 4 Ms. Abel's testimony, was it earlier this week? 5 A. I did. 6 Q. Okay. And you recall that she had 7 indicated that after receiving a phone call from an 8 Ohio Power Siting Board Staff member, she consulted 9 you for direction; is that right? 10 A. That is what she said. 11 Q. Okay. Do you recall what direction you 12 gave her as to how to respond to that inquiry? 13 A. I do not recall. 14 Q. Okay. Let's turn to page 2 of your 15 testimony. We are going to walk through some things 16 here. Page 2 of your testimony, lines 39 to 40, if 17 you have that before you. 18 A. I do. 19 Q. There in line 39 you mention that you 20 worked with Regional Planning staff to draft language 21 for the County's land use plan to address alternative 22 energy sites. Do you see that? 23 A. Yes. 24 Q. And when did you start working on 25 drafting language for the County's land use plan?</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. SETTINERI: Okay. Why don't we go 2 ahead and mark -- I think, your Honor, you let me 3 know what your preference is, I can just mark a 4 number of exhibits now or just work through them as 5 we go. 6 ALJ HICKS: Sorry. I was muted. Let's 7 just work through them as we go. 8 MR. SETTINERI: Okay. Your Honor, at 9 this time if we can mark Kingwood Exhibit 75 and that 10 would be -- I am not quite certain how to explain it. 11 It's a document, but the first has a from from 12 ricoh@co.greene.oh.us dated July 7, 2021, to 13 Mr. Huddleson. 14 ALJ HICKS: I think that's a sufficient 15 description. I think we will all know what you are 16 referring to. So it will be so marked. 17 (EXHIBIT MARKED FOR IDENTIFICATION.) 18 MR. SETTINERI: Thank you, your Honor. 19 Q. (By Mr. Settineri) Let me know when you 20 have that, Mr. Huddleson. 21 A. I'm having trouble finding that one. 22 What is in the rest of that document? 23 Q. Yeah. That's the Word document that had 24 a list of questions -- 25 A. Oh, yes.</p>

<p style="text-align: right;">Page 101</p> <p>1 Q. -- if you recall and --</p> <p>2 A. Go ahead.</p> <p>3 MR. SETTINERI: And my version that came</p> <p>4 over, and this was attached to some discovery</p> <p>5 responses, Mr. Boggs, has -- the first page has that</p> <p>6 e-mail piece to it.</p> <p>7 MR. BOGGS: Your Honor --</p> <p>8 MR. SETTINERI: Scan maybe.</p> <p>9 MR. BOGGS: Your Honor, may we go off the</p> <p>10 record for a moment?</p> <p>11 ALJ HICKS: Sure.</p> <p>12 Let's go off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 ALJ HICKS: Let's go ahead and go back on</p> <p>15 the record.</p> <p>16 MR. SETTINERI: Thank you, your Honor,</p> <p>17 and thank you, Mr. Boggs, for clarifying an error in</p> <p>18 one of the exhibits. So we had previously marked</p> <p>19 Kingwood Exhibit 75 and indicated an e-mail cover</p> <p>20 page. That was incorrect. Your Honor, what I would</p> <p>21 like to do is re-present Kingwood Exhibit 75 and mark</p> <p>22 a document titled "Local" -- as a heading "Local</p> <p>23 Planning Documents," and it is a two-page document.</p> <p>24 ALJ HICKS: Okay. So remarked</p> <p>25 Commission -- or Kingwood Exhibit 75 will be those</p>	<p style="text-align: right;">Page 103</p> <p>1 how the whole process worked, how intervention</p> <p>2 worked, that sort of thing.</p> <p>3 Q. Okay. And do you recall approximately</p> <p>4 when that conference call took place?</p> <p>5 A. I do not. I searched my calendar, could</p> <p>6 not find reference to that meeting.</p> <p>7 Q. And would it have been before or after</p> <p>8 the application was filed in this proceeding, if you</p> <p>9 know?</p> <p>10 A. I can't be sure. Very early on.</p> <p>11 Q. All right. And the document -- was Mr.</p> <p>12 Shoemaker in that meeting with you with OPSB Staff?</p> <p>13 A. He was.</p> <p>14 Q. Was anybody else from Regional Planning</p> <p>15 in that meeting with you?</p> <p>16 A. I'm not sure if he had anybody on his end</p> <p>17 or not.</p> <p>18 Q. Okay. And I may -- I may have asked it,</p> <p>19 what was the purpose of this document?</p> <p>20 A. To guide the conversation to make sure we</p> <p>21 asked any questions that we wanted to have answers</p> <p>22 to.</p> <p>23 Q. In terms -- that very first paragraph,</p> <p>24 No. 1, there is a sentence that says "We have been</p> <p>25 told that the OPSB will not consider these goals</p>
<p style="text-align: right;">Page 102</p> <p>1 two pages, and it's my understanding Mr. Settineri</p> <p>2 will get an updated copy of that to everyone at --</p> <p>3 when you are able to do so.</p> <p>4 MR. SETTINERI: Yes, your Honor. Thank</p> <p>5 you.</p> <p>6 Q. (By Mr. Settineri) Mr. Huddleson, do you</p> <p>7 have what's been marked as Kingwood Exhibit 75 before</p> <p>8 you?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And are you familiar with this</p> <p>11 document?</p> <p>12 A. Yes.</p> <p>13 Q. Did you create this document?</p> <p>14 A. I did not.</p> <p>15 Q. Who created it?</p> <p>16 A. This came from Regional Planning.</p> <p>17 Q. Okay. And that would have been</p> <p>18 Mr. Shoemaker?</p> <p>19 A. Likely, yes. I believe it was</p> <p>20 Mr. Shoemaker.</p> <p>21 Q. And what was the purpose of this</p> <p>22 document?</p> <p>23 A. We had a conference call with Ohio Power</p> <p>24 Siting Board Staff very early in the process to ask</p> <p>25 questions, learn about how the application worked,</p>	<p style="text-align: right;">Page 104</p> <p>1 within the two plans because we do not specifically</p> <p>2 offer siting criteria, or simply do not state that</p> <p>3 utility scale solar and wind are not desired land</p> <p>4 uses. Is this the case?" Was that question posed to</p> <p>5 the Ohio Power Siting Board in this meeting? I</p> <p>6 should say the Staff.</p> <p>7 A. My recollection of that meeting was we</p> <p>8 used this as a guiding document and had a</p> <p>9 conversation. I can't be sure if that question was</p> <p>10 read verbatim. These are meeting -- pre-meeting</p> <p>11 notes.</p> <p>12 Q. Coming out of that meeting, did you have</p> <p>13 any conversations with Mr. Shoemaker about amending</p> <p>14 the County's land use plan?</p> <p>15 A. I did.</p> <p>16 Q. And what were -- what was the substance</p> <p>17 of those conversations?</p> <p>18 A. We talked at length about the fact that</p> <p>19 the County's land use plan was in need of update</p> <p>20 given the prevalence of alternative energy, be it</p> <p>21 wind or solar, in the interest in our County so that</p> <p>22 we needed to take a look at that land use plan.</p> <p>23 Q. Did you have conversations with anyone</p> <p>24 else about updating the land use plan after that</p> <p>25 meeting?</p>

<p style="text-align: right;">Page 105</p> <p>1 A. Oh, yes. I discussed it with the</p> <p>2 Commissioners at least.</p> <p>3 Q. Now, the amendment to the land use plan</p> <p>4 was passed August 26, 2021, by resolution; is that</p> <p>5 right?</p> <p>6 A. Correct.</p> <p>7 Q. And that resolution is attached to your</p> <p>8 testimony.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Now, that amendment was passed</p> <p>11 after the application was filed, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And it was passed after the application</p> <p>14 had been deemed complete by the Board; is that</p> <p>15 correct?</p> <p>16 A. I believe that's the case.</p> <p>17 Q. Okay. Was that amendment passed</p> <p>18 specifically to address the Kingwood Solar project?</p> <p>19 A. No.</p> <p>20 Q. Was it added in part to address the</p> <p>21 Kingwood Solar project?</p> <p>22 A. It was passed to address all alternative</p> <p>23 energy projects in the County.</p> <p>24 Q. All right. And you have been the County</p> <p>25 Administrator for how long, approximately?</p>	<p style="text-align: right;">Page 107</p> <p>1 think that's the only reference I can recall.</p> <p>2 Q. You would agree with me the Greene County</p> <p>3 Board of Commissioners don't have a vote at the Power</p> <p>4 Siting Board on this if -- as to this project; is</p> <p>5 that correct?</p> <p>6 A. That is correct.</p> <p>7 Q. And it's your understanding that this</p> <p>8 project is grandfathered under Senate Bill 52?</p> <p>9 A. Yes.</p> <p>10 Q. Let's turn to the amendment that was</p> <p>11 done. I think it's attached to your testimony as</p> <p>12 Exhibit 3, I believe, and it starts with the</p> <p>13 resolution, right?</p> <p>14 A. I have it.</p> <p>15 Q. I am going to go to the fifth whereas</p> <p>16 in -- start with the resolution first. And so this</p> <p>17 resolution was passed by the Board of Commissioners</p> <p>18 on August 26, 2021, correct?</p> <p>19 A. Correct.</p> <p>20 Q. All right. And that fifth whereas says</p> <p>21 "WHEREAS, as proposed utility-scale solar projects</p> <p>22 become more prevalent in the County and since the</p> <p>23 current Prospectives 2020: Land Use Plan does not</p> <p>24 address these types of projects, an amendment to</p> <p>25 Prospectives 2020 is desired by the County and those</p>
<p style="text-align: right;">Page 106</p> <p>1 A. About eight years.</p> <p>2 Q. Okay. And you've worked for the County</p> <p>3 for 22 years?</p> <p>4 A. 22 years, yes, sir.</p> <p>5 Q. Okay. And do you believe that the</p> <p>6 amendment should apply to the Kingwood -- well, let</p> <p>7 me strike that. Just strike that.</p> <p>8 Now, the original land use plan,</p> <p>9 Perspectives 2022: Land Use Plan, that did not</p> <p>10 address renewable energy installations in the County,</p> <p>11 correct?</p> <p>12 A. That is correct.</p> <p>13 Q. Do you recall receiving any input from</p> <p>14 OPSB Staff in the meeting that you were in with</p> <p>15 Mr. Shoemaker as to whether it would be helpful for</p> <p>16 you to update your land use plan?</p> <p>17 A. No.</p> <p>18 Q. Did you receive -- do you recall</p> <p>19 receiving any input as to consideration of your</p> <p>20 existing land use plan that was in place prior to the</p> <p>21 amendment?</p> <p>22 A. I believe I read somewhere something</p> <p>23 about the land use plan, but I think it was the</p> <p>24 reference in the application from Kingwood about it</p> <p>25 being largely in compliance because it was silent. I</p>	<p style="text-align: right;">Page 108</p> <p>1 jurisdictions utilizing the Plan." Did I read that</p> <p>2 correctly?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Now, would this -- one of the --</p> <p>5 in terms of what is the reference to "proposed</p> <p>6 utility-scale projects become more prevalent"? Is</p> <p>7 that including the Kingwood Solar facility?</p> <p>8 A. That was one of the projects that had --</p> <p>9 we've become aware of, yes.</p> <p>10 Q. Okay. All right. And you would expect</p> <p>11 this -- this -- all right. And you would expect the</p> <p>12 amendment to the land use plan to apply on a</p> <p>13 going-forward basis, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And, for instance, for the existing</p> <p>16 Cedar -- you are familiar with the Cedarville solar</p> <p>17 arrays by the University?</p> <p>18 A. Somewhat, yes.</p> <p>19 Q. Okay. You would not expect to apply the</p> <p>20 amended land use plan to that existing solar array,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And same answer for the Antioch College</p> <p>24 solar arrays?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 109</p> <p>1 Q. As well as to the Yellow Springs solar 2 arrays, correct? 3 A. Correct. 4 Q. And you would not -- and when I say -- 5 and those are all arrays that were existing prior to 6 the adoption of that amendment; is that right? 7 A. That is correct. 8 Q. Okay. Based on your experience as a 9 Greene County Administrator, and only to the extent 10 you can answer this, for any -- let me back up. 11 Strike that. 12 If someone is installing a small solar 13 system on their property, and let's just say it 14 consists of 10 panels, all right, would you expect 15 that solar array would have to get -- go through the 16 building department for permitting? 17 A. Yes. 18 Q. Okay. And under the existing new amended 19 land use plan, a system like that would be subject to 20 the land use plan; is that right? 21 A. I don't believe so. 22 Q. Okay. And what does the amendment to the 23 land use plan apply to? What types of systems? 24 A. Industrial scale. 25 Q. Only, okay. And turning to that, let's</p>	<p style="text-align: right;">Page 111</p> <p>1 A. Correct. 2 Q. Okay. And then you have here it looks 3 like maybe a definition of utility-scale renewable 4 energy system. I'll read it, second full paragraph 5 on page 4, "A utility-scale renewable energy system 6 is an energy system above a certain capacity that is 7 intended to produce electricity to sell into the 8 market." Did I read that correctly? 9 A. Yes. 10 Q. Okay. What is the "certain capacity" 11 that you refer to there? 12 A. Well, if you refer to page 3 of that same 13 amendment, the final paragraph there discusses that. 14 "Land intensive endeavor consuming massive tracts of 15 land and in most cases prime farmland." Let's see, I 16 see a reference to 20 -- "greater than 20 megawatts." 17 So I think what we are talking about is anything 18 other than someone's home system, something that's 19 large in scale that's, again, like it says on page 4, 20 intended to be sold to the grid rather than be used 21 to power somebody's residence or business. 22 Q. And when you say sell -- sell to the 23 grid, are you aware that you have the transmission 24 grid, for example, the 138 kV line that runs through 25 the project area, and then you have the wires that</p>
<p style="text-align: right;">Page 110</p> <p>1 just turn to that section. It's page 4 of 5 of the 2 amendment which is attached to Exhibit 3 of your 3 testimony. Do you see that? 4 A. I do. 5 Q. Let's just walk through that. And so the 6 document starts in the -- under "Policies and 7 Recommendations," we have language that states "The 8 following policies and recommendations offered in 9 this section are designed to help Greene County 10 achieve the land use vision of Prospectives 2040 and 11 to encourage renewable energy projects that meet the 12 desired scale and type that will compliment the 13 various character zones described in this plan." Do 14 you see that? 15 A. I do. 16 Q. All right. Has Prospectives 2040 been 17 written yet? 18 A. It's being drafted currently, but it has 19 not been adopted. 20 Q. "This policy shall be in effect" -- and I 21 am continuing to read here, "This policy shall be in 22 effect until such time a more robust sustainable 23 energy and resilience plan is explored." So this 24 is -- this amendment is kind of filling the gap to 25 the 2040 plan; is that correct?</p>	<p style="text-align: right;">Page 112</p> <p>1 come to the houses and businesses? 2 A. Yes, I'm aware. 3 Q. Okay. So if I told you the houses and 4 businesses are fed off the distribution grid, would 5 you agree with me? 6 A. Yes. It ends up there, yes. 7 Q. And are you familiar with net metering? 8 A. Not exactly. 9 Q. Are you aware that in some instances if 10 someone has solar at their business or panels on 11 their house, they can actually put electricity back 12 onto the grid and get a credit? 13 A. Yes, I am aware of that. I'm sorry, yes. 14 Q. And I will call that net metering for 15 this discussion. So I just want to drill down on 16 that, "sell into the market" language on page 4. 17 When you say "sell into the market," is that a 18 reference to actually power sales into the wholesale 19 electric market? 20 MR. BOGGS: Objection. 21 ALJ HICKS: Go ahead. 22 MR. BOGGS: So the document here was 23 adopted by the Commissioners as part of its land use 24 plan, so I'm questioning, however, the relevance of 25 Mr. Huddleson's particular personal interpretation of</p>

<p style="text-align: right;">Page 113</p> <p>1 language that speaks for itself in the document. 2 MR. SETTINERI: Your Honor, if I may. 3 ALJ HICKS: Please go ahead. 4 MR. SETTINERI: I believe Mr. Huddleson 5 helped draft this document. He is the County 6 Administrator and works close with the Administrators 7 [SIC], so his belief as to what this document says is 8 important; and, frankly, I think he would be probably 9 one of the central people applying it. 10 ALJ HICKS: I'll overrule the objection, 11 allow a little leeway here, Mr. Settineri. 12 MR. SETTINERI: Thank you, your Honor. 13 A. So I think -- I think I got your 14 question. So there on page 4 it says, as you read, 15 "utility-scale renewable energy system is an energy 16 system above a certain capacity that is intended to 17 produce electricity to sell into the market." So I 18 think the distinction there is that's the intent of 19 the development is to produce electricity for sale; 20 whereas, on my home, if I install solar panels or a 21 windmill and I have some ancillary savings by selling 22 back some -- some kilowatt-hours, that's not the 23 intent. I didn't put that windmill in to make money. 24 I put it in to power my house, and I have some 25 incidental revenue.</p>	<p style="text-align: right;">Page 115</p> <p>1 A. Correct. 2 Q. All right. Now, do you believe that the 3 requirements in 1 through 4, that Kingwood Solar is 4 required to follow those requirements for its 5 project? 6 A. That's up to the Ohio Power Siting Board. 7 Q. Let me ask you, in terms of drafting you 8 assisted in drafting the amendment; is that right? 9 A. Yes. 10 Q. Okay. And the regional -- Devon 11 Shoemaker from the Regional Planning Commission was 12 also involved in drafting, correct? 13 A. Yes. 14 Q. Okay. Were any members from Citizens for 15 Greene Acres involved in the drafting of the 16 amendment? 17 A. In the drafting of the amendment, no. 18 Q. Were they able to provide input on the 19 amendment? 20 A. Not -- yes, they would have had an 21 opportunity at either of the public hearings where 22 the amendment was considered to make any 23 amendments -- or to propose any amendments that they 24 thought were appropriate. 25 Q. So those public -- the public hearing on</p>
<p style="text-align: right;">Page 114</p> <p>1 Q. Thank you. And then going to the 2 policies, there's a policy section and then you have 3 1, 2, 3, and 4. You would agree with me that part 1 4 relates to the siting of a facility; is that right? 5 A. Yes, as it relates to urban service 6 boundary. 7 Q. It also includes setback. And I guess I 8 am not going through each bullet point. I guess what 9 I want to say all the bullet points in No. 1 relate 10 to siting; is that right? 11 A. Let me scan them here. Just a second. 12 Q. Take your time. 13 A. Yes, they all have to do with the siting 14 of a facility. 15 Q. And then No. 2 is -- appears to be more 16 of a policy statement; is that correct? 17 A. They are all under the heading of 18 policies; but, yes, it is policy. 19 Q. And No. 3 relates to review of plans in 20 unincorporated areas, correct? 21 A. Yes. 22 Q. All right. And -- all right. This 23 part -- well, strike that. 24 No. 4 just requires a roadway use 25 agreement, correct?</p>	<p style="text-align: right;">Page 116</p> <p>1 it would have been held April 21 and then also the 2 day that the amendment was passed on April 26, right? 3 A. In our resolution on Greene County 4 Exhibit 3 it says public hearings were held on the 5 amendment on August 24 and August 26. 6 Q. Great. Thank you. 7 A. One by Regional Planning and one by 8 County Commissioners. 9 Q. And just so we have the record clear 10 then, the resolution was passed on August 26, 11 correct? 12 A. Correct, immediately following the public 13 hearing. 14 Q. All right. And are you aware -- did you 15 discuss the amendment with any member of Citizens for 16 Greene Acres prior to August 24, 2021? 17 A. I don't know if I did or I didn't. 18 Q. Did you discuss it with Nicole Marvin? 19 A. I may very well have. 20 Q. All right. Did you discuss the land use 21 amendment prior to August 24 with any representative 22 from Kingwood Solar? 23 A. I discussed the amendment with members of 24 Kingwood Solar. I cannot recall what that date was, 25 but Mr. Stickney and I did discuss the amendment.</p>

<p style="text-align: right;">Page 117</p> <p>1 Q. All right. And would that have been 2 after it was passed? 3 A. It could -- may have been. I don't 4 recall the date. 5 Q. Now, the Board of Commissioners for 6 Greene County did not conduct or commission any study 7 regarding the impact of the project on tourism, 8 correct? 9 A. Correct. 10 Q. And the Board of Commissioners did not 11 conduct or commission any study regarding the impact 12 of the project on property values, correct? 13 A. Correct. 14 Q. All right. So let's turn -- I would like 15 to turn to the Resolution No. 21-10-28-8, it's Greene 16 County Exhibit 2, if you can. 17 A. I have that. 18 Q. And I want to turn to page 2 and just go 19 through some of the items there. The first whereas 20 said that "the project proposed in the Kingwood 21 application would be located in a relatively densely, 22 and growing, populated area, with 51 23 non-participating houses located within 300 feet of 24 the project area boundary according to Kingwood's 25 filings." Did I read that correctly or close to?</p>	<p style="text-align: right;">Page 119</p> <p>1 the word -- I guess in terms of what you just said, 2 the "Commissioners believe it has the potential," 3 that means that may or may not happen, correct? 4 A. That's how I understand the word 5 potential, yes. 6 Q. Okay. Then the fourth and last whereas 7 says "the project proposed in the Kingwood 8 application is incompatible with the adopted policies 9 for development of renewable energy and farmland 10 preservation." Do you know what policies, adopted 11 policies, are being referenced in that sentence? 12 A. Primarily that's a reference to the land 13 use amendment and the balance of the Prospectives 14 2020. 15 Q. All right. And so if I heard you 16 correctly say that's a reference to the amended land 17 use -- the land use plan amendment and the balance of 18 the land use plan. 19 A. Correct. 20 Q. So through this resolution, the Greene 21 County Board of Commissioners considered the Kingwood 22 project as to the requirements of the amended land 23 use plan, correct? 24 A. Yes, I would say that. 25 Q. And there is no way Kingwood Solar when</p>
<p style="text-align: right;">Page 118</p> <p>1 A. Yes. 2 Q. All right. The second whereas, and I 3 will paraphrase, just notes that the project would 4 also be located within 300 feet of 4-H Camp Clifton, 5 right? 6 A. Yes. 7 Q. And the third whereas on that page notes 8 that the 5-mile viewshed area identified by Kingwood 9 includes various local cultural, state historic, 10 scenic, and recreational resources. I won't name 11 them all but that's noted there as well, right? 12 A. Correct. 13 Q. And then there is a sentence at the very 14 end of that third whereas "This project could be a 15 potential economic detriment to tourism," right? 16 A. Yes. 17 Q. Okay. And the word potential is in that 18 section, that whereas, correct? 19 A. Yes. 20 Q. And that's because it's unknown whether 21 the project would be an economic detriment to 22 tourism, correct? 23 A. Commissioners believe it has the 24 potential. 25 Q. And when you say the word -- when you use</p>	<p style="text-align: right;">Page 120</p> <p>1 it filed its application could have been aware of 2 that amendment to the land use plan, correct? 3 A. That is correct. 4 Q. You would agree with me that Kingwood 5 Solar made some type of investment into the -- into 6 this project, and when I say "investment," I mean a 7 dollar investment, to get to the point to file its 8 application? 9 A. Yes. 10 Q. So now let's go to the resolution itself. 11 Section 1 under the "NOW, THEREFORE, BE IT RESOLVED," 12 the Section 1 states "The Greene County Board of 13 Commissioners finds that the application of Kingwood 14 Solar I LLC, pending in Case No. 21-0117-EL-BGN 15 before the Ohio Power Siting Board is incompatible 16 with the general health, safety, and welfare of the 17 residents of Greene County, and therefore will not 18 serve the public interest, convenience, and necessity 19 of the residents of the County or the State of Ohio," 20 correct? 21 A. Correct. 22 Q. All right. Sitting here today in terms 23 of this resolution, what is incompatible -- how is 24 the project incompatible with the general health of 25 the residents of Greene County?</p>

<p style="text-align: right;">Page 121</p> <p>1 A. Because of where it's sited.</p> <p>2 Q. And how does where it's sited impact the</p> <p>3 general health of the residents of Greene County?</p> <p>4 A. The --</p> <p>5 MR. BOGGS: Objection. Here again,</p> <p>6 similar to the land use plan, this question asks</p> <p>7 Mr. Huddleson's personal opinion on a resolution</p> <p>8 adopted by the Commissioners that speaks for itself.</p> <p>9 ALJ HICKS: Mr. Settineri, anything?</p> <p>10 MR. BOGGS: As well as relevance.</p> <p>11 MR. SETTINERI: Yes, your Honor. He's</p> <p>12 attached the resolution to his testimony. He works</p> <p>13 closely with the Commissioners. I think he certainly</p> <p>14 can explain, answer the question.</p> <p>15 ALJ HICKS: I will overrule the</p> <p>16 objection. I agree that this is attached to</p> <p>17 Mr. Huddleson's testimony. Valid for Mr. Settineri</p> <p>18 to ask some -- some clarifying questions. So please</p> <p>19 proceed.</p> <p>20 A. The Commissioners are tasked with</p> <p>21 determining general health, safety, and welfare in a</p> <p>22 lot of areas of the Ohio Revised Code. There's no --</p> <p>23 no explanation or list for them to follow when</p> <p>24 determining the general health, safety, and welfare</p> <p>25 of their residents. So based on the siting of this</p>	<p style="text-align: right;">Page 123</p> <p>1 just its general location in that area is problematic</p> <p>2 for the Commissioners.</p> <p>3 Q. Okay. And when you just went through</p> <p>4 that answer, were you referring to everything that's</p> <p>5 on page 4 or 5 -- or 4 through 5?</p> <p>6 A. I was actually looking at the resolution,</p> <p>7 I'm sorry, earlier on on page 2 of the resolution</p> <p>8 lists those -- it's within 300 feet of 51 houses, the</p> <p>9 Camp Clifton, and all of those treasurers you read</p> <p>10 earlier, or referenced earlier.</p> <p>11 Q. Okay. And so as to the general health,</p> <p>12 safety, and welfare, the issues the Board has raised</p> <p>13 as to the project are contained in this resolution;</p> <p>14 is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And that would be everything</p> <p>17 listed in the four -- four whereas clauses on page 2,</p> <p>18 and you can look at the first page if you would like</p> <p>19 to confirm that.</p> <p>20 A. I would say this resolution and the land</p> <p>21 use plan address all of their reasons why they</p> <p>22 determined that it's incompatible with the general</p> <p>23 health, safety, and welfare.</p> <p>24 Q. Right. And the fourth whereas clause --</p> <p>25 whereas clause picks up the land use plans, right?</p>
<p style="text-align: right;">Page 122</p> <p>1 project, they believe that it does not -- that it is</p> <p>2 incompatible with all three of those, the general</p> <p>3 health, safety, and welfare of the residents of</p> <p>4 Greene County.</p> <p>5 I don't recall a single conversation</p> <p>6 where we parsed and looked at those individually.</p> <p>7 It's just in general the health, safety, and welfare</p> <p>8 of the residents in the opinion of the Commissioners</p> <p>9 are not served by having this project located where</p> <p>10 it's proposed to go.</p> <p>11 Q. All right. So other than where it's</p> <p>12 sited, you can't tell me how the project is</p> <p>13 incompatible with the general health, safety, and</p> <p>14 welfare?</p> <p>15 A. I can't explain beyond the words on the</p> <p>16 page.</p> <p>17 Q. Okay. And when you say where it is</p> <p>18 sited, what are your concerns with where the project</p> <p>19 is sited?</p> <p>20 A. Those are all enumerated in the land use</p> <p>21 plan amendment. It is -- there's -- it's in close</p> <p>22 proximity to homes. It's -- it's in close proximity</p> <p>23 to all of those national and scenic areas that are in</p> <p>24 the resolution, 4-H Camp Clifton. It's too near the</p> <p>25 properties, the non-participating property owners, so</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Yes.</p> <p>2 MR. BOGGS: And I'm sorry. This is not</p> <p>3 an objection but just to clarify, fourth whereas</p> <p>4 clause in Resolution 21-10-28-8?</p> <p>5 MR. SETTINERI: Thank you for clarifying.</p> <p>6 I am referring to the fourth -- well, it's page 2,</p> <p>7 the fourth whereas clause on Resolution</p> <p>8 No. 21-10-28-8, Greene County Exhibit 2, but it's the</p> <p>9 second page, fourth whereas clause, "WHEREAS, the</p> <p>10 project proposed in the Kingwood application is</p> <p>11 incompatible with the adopted policies for</p> <p>12 development of renewable energy and farmland</p> <p>13 preservation."</p> <p>14 MR. BOGGS: Thank you.</p> <p>15 Q. (By Mr. Settineri) And just to be clear</p> <p>16 for the record, Mr. Huddleson, that -- that fourth</p> <p>17 whereas clause on page 2, that would pick up the land</p> <p>18 use plan and land use plan amendment for your prior</p> <p>19 testimony, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. In terms of the issues raised in</p> <p>22 the fourth whereas clause, you would expect the Power</p> <p>23 Siting Board to address those concerns in its</p> <p>24 evaluation of the application in this proceeding; is</p> <p>25 that correct?</p>

<p style="text-align: right;">Page 125</p> <p>1 A. No, it's not correct.</p> <p>2 Q. And why not?</p> <p>3 A. This resolution is the Commissioners'</p> <p>4 opposition to the project. I would expect the Ohio</p> <p>5 Power Siting Board to follow their own criteria when</p> <p>6 addressing this project.</p> <p>7 Q. Okay. Let me ask the question a</p> <p>8 different way, you understand the Power Siting Board</p> <p>9 is going to review and apply its criteria to the</p> <p>10 project application, correct?</p> <p>11 A. I do.</p> <p>12 Q. All right. All right. I want to go</p> <p>13 ahead and mark some more exhibits, Mr. Huddleson. We</p> <p>14 are going to start next with Kingwood Exhibit 74 and</p> <p>15 that is an e-mail from you to Nicole Marvin dated</p> <p>16 October 29, 2021. Let me know when you have that.</p> <p>17 A. I have it.</p> <p>18 ALJ HICKS: I'll just note for the record</p> <p>19 we are marking it as Kingwood Exhibit 74.</p> <p>20 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>21 MR. SETTINERI: Thank you, your Honor.</p> <p>22 My apologies.</p> <p>23 Q. (By Mr. Settineri) So you have that</p> <p>24 Kingwood Exhibit 74 before you, Mr. Huddleson?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 127</p> <p>1 and see.</p> <p>2 MR. SETTINERI: And then, your Honor,</p> <p>3 next, I would like to mark Kingwood Exhibit 76.</p> <p>4 ALJ HICKS: Okay. Which is?</p> <p>5 MR. SETTINERI: It's -- has -- it's an</p> <p>6 e-mail from Nicole Marvin to Jenifer Adams, James</p> <p>7 Krajicek, and Terry Fife but also attached to that is</p> <p>8 an e-mail from Nicole Marvin to Brandon Huddleson.</p> <p>9 ALJ HICKS: That is so marked.</p> <p>10 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>11 Q. (By Mr. Settineri) And, Mr. Huddleson, I</p> <p>12 want to direct your attention to the middle of the</p> <p>13 page of Kingwood Exhibit 76. And do you recognize</p> <p>14 that e-mail from Nicole Marvin to you that's attached</p> <p>15 to the e-mail string?</p> <p>16 A. I do. It seems to be an incomplete</p> <p>17 e-mail string. I don't see all of the e-mail there</p> <p>18 but, yes.</p> <p>19 Q. Okay. Well, let -- and turn to page --</p> <p>20 to the second page.</p> <p>21 A. Uh-huh.</p> <p>22 Q. Do you recall having e-mail</p> <p>23 communications in early 2021 with Nicole Marvin</p> <p>24 regarding the tax analysis of the PILOT which would</p> <p>25 be the Payment in Lieu of Tax for the project?</p>
<p style="text-align: right;">Page 126</p> <p>1 Q. And can you identify that for me, that</p> <p>2 document.</p> <p>3 A. It is an e-mail from me to Nicole Marvin</p> <p>4 on October 29, 2021.</p> <p>5 Q. And this e-mail was sent at</p> <p>6 approximately, oh, let's say 14 minutes after you</p> <p>7 received an e-mail from Juliana Graham-Price; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And why did you forward this e-mail to</p> <p>11 Nicole Marvin?</p> <p>12 A. She's one of the -- one of our many</p> <p>13 constituents that I've been in contact with, probably</p> <p>14 the one that I had the most conversation with about</p> <p>15 this entire project.</p> <p>16 Q. And you are aware she is a member of</p> <p>17 Citizens for Greene Acres?</p> <p>18 A. Oh, I am, yes.</p> <p>19 Q. Did you forward that e-mail from Juliana</p> <p>20 Graham-Price to any other constituents of Greene</p> <p>21 County?</p> <p>22 A. I know I sent it to the Commissioners</p> <p>23 when I received it. No, I didn't. I looked and saw</p> <p>24 that they had already received it. I'm not certain</p> <p>25 that I sent it to anyone else. I would have to look</p>	<p style="text-align: right;">Page 128</p> <p>1 A. I do.</p> <p>2 Q. And if you turn to the top of page 2, do</p> <p>3 you see the sentence that says "I can tell you that I</p> <p>4 will not be recommending PILOT to the Commissioners</p> <p>5 for this project" and not is bold and underlined? Do</p> <p>6 you see that?</p> <p>7 A. I do.</p> <p>8 Q. Now, do you recall sending that to her?</p> <p>9 A. I do.</p> <p>10 Q. All right. And at that point why -- why</p> <p>11 do you say that "I will not be recommending the PILOT</p> <p>12 to the Commissioners for this project"?</p> <p>13 A. Based on my analysis of the financing,</p> <p>14 I -- the PILOT versus the taxes that they would be</p> <p>15 subject to on the project otherwise. I don't believe</p> <p>16 that it's in our financial best interest to agree to</p> <p>17 a PILOT. I didn't then based on the Auditor's</p> <p>18 analysis and the Kingwood analysis with all the</p> <p>19 assumptions that are still yet to come to fruition,</p> <p>20 and I have not changed that opinion so far.</p> <p>21 Q. Have you had any discussions with</p> <p>22 Kingwood Solar on the analysis of the PILOT and the</p> <p>23 amount of payments?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Let's turn to Kingwood Exhibit 77.</p>

<p style="text-align: right;">Page 129</p> <p>1 MR. SETTINERI: Your Honor, I would like 2 to mark as Kingwood Exhibit 77, it's an e-mail from 3 Juliana Graham-Price to a number of individuals 4 including Mr. Huddleson. 5 ALJ HICKS: It is so marked. 6 (EXHIBIT MARKED FOR IDENTIFICATION.) 7 Q. (By Mr. Settineri) Are you familiar with 8 this document, Mr. Huddleson? 9 A. I am. 10 Q. All right. And do you recall receiving 11 it? 12 A. Yes. 13 Q. All right. And this was received at 14 5:12 p.m., Friday, October 29, 2021, correct? 15 A. Correct. 16 Q. This e-mail is from Juliana Graham-Price, 17 correct? 18 A. Correct. 19 Q. All right. Do you know why -- well, and 20 this e-mail was sent not only to you but all three 21 Greene County Commissioners, correct? 22 A. Correct. 23 Q. And in the subject line she's noting -- 24 notifying you that the Staff Report has been filed, 25 and it recommends denial; is that correct?</p>	<p style="text-align: right;">Page 131</p> <p>1 I do receive an alert every time something is filed, 2 but other than that, I did not. 3 Q. And did you follow up with her at all on 4 this communication that came to you on December 13? 5 A. I did not. 6 Q. Do you know if any of the Commissioners 7 did? 8 A. They did not. 9 Q. Did you say they or? 10 A. They did not. 11 Q. Okay. Thank you, sir. Put that to the 12 side. 13 MR. SETTINERI: Next, I would like to 14 mark as Kingwood Exhibit 79 -- but before we do that, 15 your Honor, if we could just go off the record. I 16 want to work through some logistics with Mr. Boggs. 17 ALJ HICKS: Let's go off the record. 18 (Discussion off the record.) 19 ALJ HICKS: Let's go ahead and go back on 20 the record. 21 MR. SETTINERI: Thank you, your Honor. 22 At this time we would mark as Kingwood Exhibit 79, 23 these are interrogatory responses from the Greene 24 County Board of Commissioners. 25 ALJ HICKS: It's so marked.</p>
<p style="text-align: right;">Page 130</p> <p>1 A. Correct. 2 Q. Did you have -- did you have any 3 follow-up communications with Ms. Graham-Price 4 regarding this e-mail? 5 A. No, sir. 6 Q. Okay. Let's turn to Kingwood Exhibit 78. 7 MR. SETTINERI: At this time, your Honor, 8 we would mark as Kingwood Exhibit 78 another e-mail 9 from Juliana Graham-Price with a CC to Mr. Huddleson. 10 ALJ HICKS: It is so marked. 11 (EXHIBIT MARKED FOR IDENTIFICATION.) 12 Q. (By Mr. Settineri) All right. And are 13 you familiar with this document, Mr. Huddleson? 14 A. I am. 15 Q. And this would be an e-mail from Juliana 16 Graham-Price and is to the Commissioners with a CC to 17 you; is that correct? 18 A. Yes. 19 Q. Did you ask Ms. Price to provide you with 20 updates regarding the case? 21 A. I did not. 22 Q. Did you ask anyone at the Power Siting 23 Board Staff to provide you with updates regarding the 24 case? 25 A. I signed up for the docket alerts so that</p>	<p style="text-align: right;">Page 132</p> <p>1 (EXHIBIT MARKED FOR IDENTIFICATION.) 2 Q. And, Mr. Huddleson, are you familiar with 3 the document that's been marked as Kingwood 4 Exhibit 79? 5 A. Yes. 6 Q. And you provided the responses except not 7 the objections, but you provided the factual 8 responses to those interrogatories, correct? 9 A. Correct. 10 Q. Okay. And each response is subject to an 11 objection, I will note that for the record. As to 12 interrogatory No. 2, there you are describing a 13 communication that came from the Power Siting Board 14 Staff; is that correct? 15 A. Correct. 16 Q. And that answer reads -- and again, there 17 are some objections above it. "Additionally, 18 Executive Assistant to the County Administrator Vicki 19 Abel fielded a call on or about October 27 or 20 October 28, 2021, from a person identifying herself 21 as a staff member of the Power Siting Board and 22 asking whether the Board of Commissioners would be 23 taking a position. She informed the caller that a 24 resolution was on the Board's agenda for the 25 October 28, 2021, meeting." Did I read that</p>

<p style="text-align: right;">Page 133</p> <p>1 correctly?</p> <p>2 A. Correct.</p> <p>3 Q. And the Interrogatory 1 through 8 relate</p> <p>4 to communications to or from any representative for</p> <p>5 the PUCO or Power Siting Board Staff, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And -- okay. Put that to the side, sir.</p> <p>8 MR. VAN KLEY: Your Honor, my copy of</p> <p>9 Exhibit 79 is marked as Kingwood Exhibit 75. Do I</p> <p>10 have the wrong version of your exhibit, or does that</p> <p>11 need to be remarked?</p> <p>12 ALJ HICKS: Let's go off the record for a</p> <p>13 second.</p> <p>14 (Discussion off the record.)</p> <p>15 ALJ HICKS: Let's go back on the record.</p> <p>16 MR. SETTINERI: Thank you, your Honor.</p> <p>17 Q. (By Mr. Settineri) Thank you,</p> <p>18 Mr. Huddleson. I have a few more questions here.</p> <p>19 MR. SETTINERI: I would like to next</p> <p>20 market Exhibit -- actually I don't know if it's been</p> <p>21 marked yet, but it's Kingwood Exhibit 23. I don't</p> <p>22 know if it's been marked. So, your Honor, at this</p> <p>23 time we will mark at Kingwood Exhibit 23 a letter to</p> <p>24 Dick Gould, Commissioner, from Jill Kocher, I</p> <p>25 believe. This is a letter.</p>	<p style="text-align: right;">Page 135</p> <p>1 A. I do.</p> <p>2 Q. And that's when it would have been</p> <p>3 processed, when it was received by the County,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. All right. You can put that to the side,</p> <p>7 sir. Going back to the resolution, and this would</p> <p>8 be, I believe, the County Exhibit 2 attached to your</p> <p>9 direct testimony, or part of your direct testimony.</p> <p>10 A. Okay.</p> <p>11 Q. And, now, are you familiar that there</p> <p>12 is -- do you know that there is a Joint Stipulation</p> <p>13 that's been filed in this proceeding by the Farm</p> <p>14 Bureau and the Applicant?</p> <p>15 A. Yes.</p> <p>16 Q. And that was just filed on March 4, 2022,</p> <p>17 correct?</p> <p>18 A. That was filed recently. I can't be sure</p> <p>19 of the date.</p> <p>20 Q. After the res -- after the resolution in</p> <p>21 your testimony was passed, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now going back to page 2 of the</p> <p>24 resolution, and the second resolution, Section 2</p> <p>25 states "The Greene County Board of Commissioners</p>
<p style="text-align: right;">Page 134</p> <p>1 ALJ HICKS: I don't believe it has been</p> <p>2 marked, so it will be marked as Kingwood Exhibit 23.</p> <p>3 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>4 Q. (By Mr. Settineri) Do you have what's</p> <p>5 been marked as Kingwood Exhibit 23, Mr. Huddleson?</p> <p>6 A. The June 30, 2021, letter from</p> <p>7 Ms. Kocher?</p> <p>8 Q. That's correct.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. That was -- and that's from the --</p> <p>11 at least the letterhead says "Power Siting Board,"</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And did you have any communications with</p> <p>15 Jill Kocher at all?</p> <p>16 A. I did not.</p> <p>17 Q. Did you have any follow-up communications</p> <p>18 with her in regards to this letter that was received?</p> <p>19 A. I did not.</p> <p>20 Q. And the asterisk at the top of the page,</p> <p>21 does that indicate that all three Board of County</p> <p>22 Commissioners received copies?</p> <p>23 A. Yes.</p> <p>24 Q. And there's a receipt stamped "July 6,</p> <p>25 2021." Do you see that?</p>	<p style="text-align: right;">Page 136</p> <p>1 hereby states its opposition to the application of</p> <p>2 Kingwood Solar I LLC, pending in Case No." 21-00 --</p> <p>3 sorry, "0117-EL-BGN before the Ohio Power Siting</p> <p>4 Board," correct?</p> <p>5 A. Correct.</p> <p>6 Q. Now, I wanted to ask you a question. Are</p> <p>7 you familiar with any other solar projects that are</p> <p>8 being developed in Greene County that would sell</p> <p>9 power to the transmission grid?</p> <p>10 A. That are being developed, no.</p> <p>11 Q. No? Are you familiar with a project</p> <p>12 that's being developed in Xenia Township near</p> <p>13 Wilberforce?</p> <p>14 A. I'm familiar with the Samsung project, if</p> <p>15 that's what you are talking about, but I don't know</p> <p>16 that it's being developed.</p> <p>17 MR. SETTINERI: Let's go ahead and mark</p> <p>18 Kingwood Exhibit 73, your Honor. And this would be</p> <p>19 meeting minutes of Greene County Board of</p> <p>20 Commissioners.</p> <p>21 ALJ HICKS: So marked.</p> <p>22 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>23 MR. SETTINERI: Thank you, your Honor.</p> <p>24 Q. (By Mr. Settineri) Mr. Huddleson, are you</p> <p>25 familiar with what's been marked as Kingwood</p>

<p style="text-align: right;">Page 137</p> <p>1 Exhibit 73?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And would these be meeting minutes from a</p> <p>4 working session of the Greene County Board of</p> <p>5 Commissioners?</p> <p>6 A. Yes.</p> <p>7 Q. And do you see the last paragraph states</p> <p>8 "Mr. Huddleson said he held a meeting with</p> <p>9 representatives of Xenia Township and the City of</p> <p>10 Xenia on a proposed smaller-scale solar project to be</p> <p>11 located in Xenia Township"? Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And "He suggests the Board hold a Town</p> <p>14 Hall and invite anyone with an interest in solar</p> <p>15 projects to attend." Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And did the Board hold a town hall?</p> <p>18 A. They did.</p> <p>19 Q. And was the -- and that smaller-scale</p> <p>20 solar project noted, is that the Samsung project you</p> <p>21 referenced?</p> <p>22 A. Yes.</p> <p>23 Q. And was the Samsung project discussed at</p> <p>24 the town hall?</p> <p>25 A. It was not.</p>	<p style="text-align: right;">Page 139</p> <p>1 aside, sir.</p> <p>2 MR. SETTINERI: Your Honor, if I could</p> <p>3 just take 5 minutes just to go through my notes to</p> <p>4 get organized, I think I am almost done. So I think</p> <p>5 we are doing well.</p> <p>6 ALJ HICKS: Okay. Let's go off the</p> <p>7 record. We will come back let's just say 12:30.</p> <p>8 (Recess taken.)</p> <p>9 ALJ HICKS: We are ready to go back on</p> <p>10 the record.</p> <p>11 MR. SETTINERI: Thank you, your Honor.</p> <p>12 At this time Kingwood Solar would mark as Kingwood</p> <p>13 Exhibit 100, these are meeting minutes from the Board</p> <p>14 of County Commissioners, Thursday, May 13, 2021.</p> <p>15 ALJ HICKS: It is so marked.</p> <p>16 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>17 Q. (By Mr. Settineri) Mr. Huddleson, do you</p> <p>18 have before you what's been marked as Kingwood</p> <p>19 Exhibit 100?</p> <p>20 A. I do.</p> <p>21 Q. Can you identify that for the record,</p> <p>22 please.</p> <p>23 A. It's a work session minutes of May 13,</p> <p>24 2021.</p> <p>25 Q. And this would be the Greene County</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. Did you -- are you aware of whether --</p> <p>2 let me ask this, who sponsored the town hall meeting?</p> <p>3 A. The Board of County Commissioners.</p> <p>4 Q. And that was approximately April 2021,</p> <p>5 correct?</p> <p>6 A. That sounds correct. I would have to</p> <p>7 verify the date.</p> <p>8 Q. All right. And did you invite</p> <p>9 representatives of Kingwood Solar to be present at</p> <p>10 that town hall meeting?</p> <p>11 A. Yes.</p> <p>12 Q. And you did that so they could be</p> <p>13 available to answer questions; is that correct?</p> <p>14 A. No.</p> <p>15 Q. Okay. Why did you invite representatives</p> <p>16 from Kingwood Solar to that meeting?</p> <p>17 A. Simply made them aware that the meeting</p> <p>18 was happening so they could be -- they could be</p> <p>19 there, hear what the constituents had to say.</p> <p>20 Q. Okay. Did you also notify any</p> <p>21 representatives of that smaller-scale solar project</p> <p>22 about the town hall meeting?</p> <p>23 A. No. Town hall had nothing to do with the</p> <p>24 smaller project.</p> <p>25 Q. Okay. All right. You can put that</p>	<p style="text-align: right;">Page 140</p> <p>1 meeting minutes of the Greene County Commissioners,</p> <p>2 correct?</p> <p>3 A. It's our work session, yes.</p> <p>4 Q. Thank you. And you'll see there's</p> <p>5 discussion there regarding the amendment to the 2020</p> <p>6 land use plan, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And there's a -- there's a note that says</p> <p>9 "The overall modifications to the Land Use Plan will</p> <p>10 not be ready until September. Mr. Huddleson said,</p> <p>11 but because of the timing of the Vesper Energy solar</p> <p>12 project, the amendment specifically for solar</p> <p>13 projects should be considered sooner." Do you see</p> <p>14 that?</p> <p>15 A. I do.</p> <p>16 Q. All right. And fair to say that that is</p> <p>17 something that you said to the Board of</p> <p>18 Commissioners?</p> <p>19 A. That's not a verbatim, you know, but</p> <p>20 pretty close.</p> <p>21 Q. Okay.</p> <p>22 A. I would agree.</p> <p>23 Q. I'm sorry to interrupt. Why did you</p> <p>24 believe the amendment for solar projects should be</p> <p>25 considered sooner?</p>

<p style="text-align: right;">Page 141</p> <p>1 A. So with the Commissioners we've been 2 having a lot of discussion about Senate Bill 52 and 3 its passage knowing clear well and good that this 4 project was in beforehand, but the Commissioners felt 5 strongly that now, given Senate Bill 52 and what was 6 going on with it, that it was important for the 7 Commissioners to weigh in on their opinion of this 8 project, to have some criteria going forward; and to 9 have some criteria to look at this one, there was 10 some conversation with Mr. Stickney about how this 11 project could gain support from the Commissioners so, 12 you know, if we needed some parameters by which to 13 circle back to the Applicant and say if it met these 14 criteria, Commissioners would be supportive of that. 15 So all of that went into that statement. 16 MR. SETTINERI: Okay. One moment, your 17 Honor, please. 18 ALJ HICKS: Sure. We will go off the 19 record. 20 (Discussion off the record.) 21 ALJ HICKS: Back on the record. 22 MR. SETTINERI: Thank you. 23 Q. (By Mr. Settineri) Do you know when 24 Senate Bill 52 was effective? 25 A. Oh, boy. No, I can't come up with that</p>	<p style="text-align: right;">Page 143</p> <p>1 Vesper Energy solar project," what do you mean -- 2 what did you mean by timing? 3 A. So again, adding in considerations for 4 alternative energy sites was going to be part of the 5 overall update to the 2020 perspectives which would 6 be now the 2040. However, this project is pending. 7 It's before us. We are having active conversations 8 with the Applicant about our support or not support, 9 about siting, proper siting, so rather than wait for 10 a full text amendment of the 2040 plan, it was 11 important, we thought, to get the amendment to that 12 section passed, considered and passed. 13 Q. And the Board is relying on that 14 amendment as part of its opposition to the project, 15 correct? When I say "Board," Board of Commissioners. 16 A. No. I think the Board of Commissioners 17 are outlining their opposition by that amendment. 18 They are putting in there the parameters by which a 19 project would be acceptable, so they are opposed 20 because it does not meet these criteria. 21 Q. And so, for instance, in your -- on that 22 amendment where it lists, I think it was under the 23 No. 1 under "Policies," all the siting requirements. 24 A. Correct. 25 Q. Okay. That would be -- let me just get</p>
<p style="text-align: right;">Page 142</p> <p>1 date off the top of my head. Sorry. 2 Q. Okay. And your -- the meeting minutes 3 reflect that you said because of the timing of the 4 Vesper Energy solar project that the amendment 5 specifically for solar projects should be considered 6 sooner. Now, the prior sentence notes that "The 7 overall modifications to the Land Use Plan will not 8 be ready until September." What are you referring to 9 there? What are those meeting minutes referring to 10 there? 11 A. Our Regional Planning -- Regional 12 Planning Commission was hopeful to have a full 13 amendment to the 2040 plan ready, and they have not 14 done that yet. 15 MR. SETTINERI: All right. One moment, 16 please, your Honor. 17 ALJ HICKS: Sure. We will go off the 18 record. 19 (Discussion off the record.) 20 ALJ HICKS: Back on the record. 21 MR. SETTINERI: Thank you. 22 Q. (By Mr. Settineri) Going back to those 23 meeting minutes, Mr. Huddleson, I want to drill down 24 a little bit there. What -- in terms it says, again, 25 "Mr. Huddleson said, but because of the timing of the</p>	<p style="text-align: right;">Page 144</p> <p>1 it clear on the record. In terms of the Board's 2 application of the amendment and its opposition to 3 the project, it's looking towards those siting 4 requirements on Policy 1, in part, correct? 5 A. Yes. 6 MR. SETTINERI: We have no further 7 questions at this time for Mr. Huddleson. Thank you, 8 Mr. Huddleson. 9 Thank you, your Honor. 10 ALJ HICKS: Thank you, Mr. Settineri. 11 Is there any cross from Board Staff? 12 MR. MARGARD: I do not have any cross. 13 Thank you, your Honor. 14 ALJ HICKS: Thank you. 15 Mr. Boggs, I don't know if you have 16 redirect or need a moment to review. 17 MR. BOGGS: May I just have 1 or 2 18 minutes, please? 19 ALJ HICKS: Sure. We will go off the 20 record. 21 (Discussion off the record.) 22 ALJ HICKS: Let's go back on the record. 23 Mr. Boggs, if you have any redirect, 24 please proceed. 25 MR. BOGGS: I do not have any redirect</p>

<p style="text-align: right;">Page 145</p> <p>1 for Mr. Huddleson.</p> <p>2 ALJ HICKS: Okay. Mr. Huddleson --</p> <p>3 MR. SETTINERI: Your Honor?</p> <p>4 ALJ HICKS: Yes.</p> <p>5 MR. SETTINERI: I just want to</p> <p>6 double-check for the record, and I may have missed</p> <p>7 it, did you ask Staff if they had any questions, if</p> <p>8 it had any questions of the witness?</p> <p>9 ALJ HICKS: I did.</p> <p>10 MR. SETTINERI: Thank you, sir. I just</p> <p>11 wanted to check.</p> <p>12 ALJ HICKS: No worries.</p> <p>13 We can go ahead and release</p> <p>14 Mr. Huddleson. We thank you, sir, for coming back a</p> <p>15 second time.</p> <p>16 THE WITNESS: Thank you. Have a good</p> <p>17 day.</p> <p>18 ALJ HICKS: Have a good day.</p> <p>19 Okay. Let's take up the exhibits.</p> <p>20 MR. BOGGS: I would move to admit Greene</p> <p>21 County Exhibit 1, direct testimony of Brandon</p> <p>22 Huddleson.</p> <p>23 ALJ HICKS: Any objection to the</p> <p>24 admission of Greene County Exhibit 1?</p> <p>25 Hearing none, it is admitted.</p>	<p style="text-align: right;">Page 147</p> <p>1 MR. SETTINERI: I would move for the</p> <p>2 admission of Kingwood Exhibit 73 and Kingwood</p> <p>3 Exhibit 100 which are meeting minutes.</p> <p>4 ALJ HICKS: Any objections to the</p> <p>5 admission of either of those exhibits?</p> <p>6 Hearing none, Kingwood Exhibit 73 and</p> <p>7 Kingwood Exhibit 100 are both admitted.</p> <p>8 (EXHIBITS ADMITTED INTO EVIDENCE.)</p> <p>9 MR. SETTINERI: Move for the admission of</p> <p>10 Kingwood Exhibit 74.</p> <p>11 ALJ HICKS: Any objections to the</p> <p>12 admission of that exhibit?</p> <p>13 Hearing none, Kingwood Exhibit 74 is</p> <p>14 admitted.</p> <p>15 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>16 MR. SETTINERI: Move for the admission of</p> <p>17 Kingwood Exhibit 75.</p> <p>18 ALJ HICKS: Any objections to the</p> <p>19 admission of Kingwood Exhibit 75?</p> <p>20 Hearing none, it is admitted.</p> <p>21 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>22 MR. SETTINERI: Move for the admission of</p> <p>23 Kingwood -- hold that. Move for the admission of</p> <p>24 Kingwood Exhibit 77.</p> <p>25 ALJ HICKS: Any objection to the</p>
<p style="text-align: right;">Page 146</p> <p>1 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>2 MR. BOGGS: Move to admit Greene County</p> <p>3 Exhibit 2, Resolution No. 21-10-28-8 of the Greene</p> <p>4 County Board of Commissioners.</p> <p>5 ALJ HICKS: Any objection to the</p> <p>6 admission of Greene County Exhibit 2?</p> <p>7 Hearing none, it is admitted.</p> <p>8 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>9 MR. BOGGS: I move to admit Greene County</p> <p>10 Exhibit 3, Resolution No. 21-8-26-10 of the Greene</p> <p>11 County Board of Commissioners.</p> <p>12 ALJ HICKS: Any objection to the</p> <p>13 admission of Greene County Exhibit 3?</p> <p>14 Hearing none, it is admitted.</p> <p>15 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>16 ALJ HICKS: Mr. Settineri.</p> <p>17 MR. SETTINERI: All right. My colleagues</p> <p>18 are keeping me in line here. I am unmuted now.</p> <p>19 So, your Honor, a number of exhibits to</p> <p>20 move. First, I would like to move for admission of</p> <p>21 Kingwood Exhibit 23.</p> <p>22 ALJ HICKS: Any objection to the</p> <p>23 admission of Kingwood Exhibit 23?</p> <p>24 Hearing none, it is admitted.</p> <p>25 (EXHIBIT ADMITTED INTO EVIDENCE.)</p>	<p style="text-align: right;">Page 148</p> <p>1 admission of Kingwood Exhibit 77?</p> <p>2 Hearing none, it is admitted.</p> <p>3 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>4 MR. SETTINERI: Move for the admission of</p> <p>5 Kingwood Exhibit 78.</p> <p>6 ALJ HICKS: Any objection to the</p> <p>7 admission of Kingwood Exhibit 78?</p> <p>8 Hearing none, it is admitted.</p> <p>9 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>10 MR. SETTINERI: And we would move for the</p> <p>11 admission of Kingwood Exhibit 79. As we've indicated</p> <p>12 to the parties, that exhibit will be reworked to</p> <p>13 include the cover page with objections, responses to</p> <p>14 interrogatories, the page with the signature of</p> <p>15 counsel as to objections, the verification, and the</p> <p>16 certificate of service.</p> <p>17 ALJ HICKS: Any objection to the</p> <p>18 admission of Kingwood Exhibit 79?</p> <p>19 Hearing none, it is admitted.</p> <p>20 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>21 MR. SETTINERI: And, last, we would move</p> <p>22 for the admission of Kingwood Exhibit 76.</p> <p>23 ALJ HICKS: Any objection to the</p> <p>24 admission of Kingwood Exhibit 76?</p> <p>25 Hearing none, it is admitted.</p>

<p style="text-align: right;">Page 149</p> <p>1 (EXHIBIT ADMITTED INTO EVIDENCE.)</p> <p>2 MR. SETTINERI: That's it, your Honor.</p> <p>3 ALJ HICKS: Let's go off the record.</p> <p>4 (Discussion off the record.)</p> <p>5 (Thereupon, at 12:44 p.m., a lunch recess</p> <p>6 was taken.)</p> <p>7 - - -</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 151</p> <p>1 A. Andrew Conway.</p> <p>2 Q. And by whom are you employed?</p> <p>3 A. Public Utilities Commission of Ohio.</p> <p>4 Q. And what is your position with the Public</p> <p>5 Utilities Commission?</p> <p>6 A. I'm a Utility Specialist 2.</p> <p>7 MS. BAIR: Okay. Your Honor, I would</p> <p>8 like to mark as Staff Exhibit 9 the prefiled</p> <p>9 testimony of Andrew Conway.</p> <p>10 ALJ HICKS: It is so marked.</p> <p>11 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>12 MS. BAIR: Thank you.</p> <p>13 Q. (By Ms. Bair) And do you have Staff</p> <p>14 Exhibit 9 before you, Mr. Conway?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And what is that document?</p> <p>17 A. That's my prefiled testimony.</p> <p>18 Q. Was that prepared by you or under your</p> <p>19 direction?</p> <p>20 A. Yes, it was.</p> <p>21 Q. Do you have any changes, corrections, or</p> <p>22 additions to make at this time?</p> <p>23 A. One minor change. At question and answer</p> <p>24 13 --</p> <p>25 Q. What page is that?</p>
<p style="text-align: right;">Page 150</p> <p>1 Tuesday Afternoon Session,</p> <p>2 March 15, 2022.</p> <p>3 - - -</p> <p>4 ALJ HICKS: We will go ahead and go back</p> <p>5 on the record.</p> <p>6 I will hand it over to Ms. Bair to call</p> <p>7 Staff's next witness.</p> <p>8 MS. BAIR: At this, your Honor, Staff</p> <p>9 calls Andrew Conway.</p> <p>10 MR. SCHMIDT: Mr. Conway, you've been</p> <p>11 promoted. If you can enable your audio and video.</p> <p>12 MR. CONWAY: Yes.</p> <p>13 ALJ HICKS: I can see and hear you.</p> <p>14 Would you raise your right hand.</p> <p>15 (Witness sworn.)</p> <p>16 ALJ HICKS: Please go ahead, Ms. Bair.</p> <p>17 MS. BAIR: Thank you.</p> <p>18 - - -</p> <p>19 ANDREW CONWAY</p> <p>20 being first duly sworn, as prescribed by law, was</p> <p>21 examined and testified as follows:</p> <p>22 DIRECT EXAMINATION</p> <p>23 By Ms. Bair:</p> <p>24 Q. Could you please state your first and</p> <p>25 last name.</p>	<p style="text-align: right;">Page 152</p> <p>1 A. 7.</p> <p>2 Q. Okay.</p> <p>3 A. On line 16, the word "panel," replace</p> <p>4 that with "panels" plural.</p> <p>5 Q. Any other changes?</p> <p>6 A. No.</p> <p>7 Q. If I were to ask you the questions in</p> <p>8 Staff Exhibit -- in Staff Exhibit 9 today, would your</p> <p>9 answers be the same?</p> <p>10 A. Yes, they would.</p> <p>11 MS. BAIR: Your Honor, the witness is</p> <p>12 available for cross.</p> <p>13 ALJ HICKS: Thank you, Ms. Bair.</p> <p>14 We will start first with Citizens for</p> <p>15 Greene Acres.</p> <p>16 MR. VAN KLEY: Thank you, your Honor.</p> <p>17 - - -</p> <p>18 CROSS-EXAMINATION</p> <p>19 By Mr. Van Kley:</p> <p>20 Q. Mr. Conway, good afternoon.</p> <p>21 A. Hello.</p> <p>22 Q. Mr. Conway, have you had any verbal or</p> <p>23 written communications with Kingwood Solar about --</p> <p>24 A. Yes.</p> <p>25 Q. -- this project?</p>

<p style="text-align: right;">Page 153</p> <p>1 A. Sorry. Yes.</p> <p>2 Q. Okay. Would you describe those</p> <p>3 interactions, please.</p> <p>4 A. I participated in a preapplication video</p> <p>5 call. I've sent Data Requests, and I participated in</p> <p>6 settlement conferences.</p> <p>7 Q. What was the purpose of the -- the video</p> <p>8 call?</p> <p>9 A. It was a preapplication meeting. That</p> <p>10 was a -- the Applicant met with Staff prior to</p> <p>11 submitting its application to provide the preliminary</p> <p>12 proposal for the project and for them to ask any</p> <p>13 questions of Staff prior to submitting it -- their</p> <p>14 application.</p> <p>15 Q. All right. Have you had any e-mails</p> <p>16 exchanged between you and Kingwood Solar?</p> <p>17 A. No. I sent Data Requests to our lead</p> <p>18 Staff member who then forwarded those Data Requests</p> <p>19 to the Applicant.</p> <p>20 Q. All right. Would you turn to the Staff</p> <p>21 Report, please, which has been marked as Staff</p> <p>22 Exhibit 1.</p> <p>23 A. Okay.</p> <p>24 Q. And we will go to proposed Condition 33</p> <p>25 which is on page 53 of the Staff Report. Tell me</p>	<p style="text-align: right;">Page 155</p> <p>1 narrative of the application.</p> <p>2 A. Oh, I don't have the application in front</p> <p>3 of me.</p> <p>4 Q. Okay. Can you look it up on your</p> <p>5 website?</p> <p>6 A. Yes.</p> <p>7 Okay. I'm on 38.</p> <p>8 Q. All right. Very good. Do you see there</p> <p>9 a section starting with "(e) Site Reclamation" is the</p> <p>10 title?</p> <p>11 A. Yes, I do.</p> <p>12 Q. And the first paragraph under that title</p> <p>13 refers to additional activities after all project</p> <p>14 equipment has been removed to return the project back</p> <p>15 to conditions similar to pre-construction. Do you</p> <p>16 see that?</p> <p>17 A. Yes, I see that sentence.</p> <p>18 Q. Okay. And it also says that "reclamation</p> <p>19 will restore vegetative cover and hydrological</p> <p>20 function after the closure of the facility"?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. All right. And then in the next</p> <p>23 paragraph under that title do you see a reference to</p> <p>24 backfilling with locally imported soil?</p> <p>25 A. Yes, I do see that.</p>
<p style="text-align: right;">Page 154</p> <p>1 when you've found that.</p> <p>2 A. I'm there.</p> <p>3 Q. All right. I wanted to ask you about the</p> <p>4 Staff's intent concerning one of the aspects of this</p> <p>5 condition. First of all, you are the author of this</p> <p>6 Condition 31; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. All right. So I'm looking at this -- the</p> <p>9 part of the condition that starts on the sixth line</p> <p>10 of that condition with the heading "b" in</p> <p>11 parentheses. Do you see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Okay. So (b) states "a timeline of up to</p> <p>14 one year for removal of the equipment" and then (c)</p> <p>15 following that states "a provision to monitor the</p> <p>16 site for at least one additional year to ensure</p> <p>17 successful revegetation and rehabilitation." Do you</p> <p>18 see that?</p> <p>19 A. Yes, I see both of those.</p> <p>20 Q. Okay. Now, if you could keep your finger</p> <p>21 there and find the narrative of the application, I</p> <p>22 would like to refer you to page 38 of that narrative</p> <p>23 once you've gotten there.</p> <p>24 A. Page 38 of the Staff Report?</p> <p>25 Q. Yes, sir -- oh, no, page 38 of the</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Now, the site reclamation activities that</p> <p>2 we just identified under the heading of "Site</p> <p>3 Reclamation" on page 38 of the narrative of the</p> <p>4 application, referring to those activities, can you</p> <p>5 go back to Condition 33 of the Staff Report on page</p> <p>6 59 and tell me whether those activities are intended</p> <p>7 to be finished in the one year allowed by (b) or the</p> <p>8 provision in (c) for at least one additional year or</p> <p>9 neither one of them? Will you enlighten me on that?</p> <p>10 A. Yeah. One moment. I'm thinking. We</p> <p>11 would expect -- Staff would expect that the removal</p> <p>12 would happen and then shortly thereafter there would</p> <p>13 be revegetation and we -- we expect that the re --</p> <p>14 the monitoring would occur after this site</p> <p>15 reclamation piece mentioned on page 38. So where --</p> <p>16 and then, lastly, we are going to review that plan</p> <p>17 and make sure that it's acceptable to Staff if the</p> <p>18 Board grants a certificate in this case.</p> <p>19 Q. Yeah, yeah. So in Condition 33 as</p> <p>20 proposed in the Staff Report, says the "timeline of</p> <p>21 up to one year for removal of the equipment," and (b)</p> <p>22 also require, in your view, the site reclamation</p> <p>23 activities that we discussed on page 38 of the</p> <p>24 narrative of the application?</p> <p>25 MR. SETTINERI: I'll just object to lack</p>

<p style="text-align: right;">Page 157</p> <p>1 of foundation that this witness is aware as to how 2 the Applicant will incorporate those provisions so. 3 ALJ HICKS: Overruled. 4 MR. SETTINERI: Okay. 5 A. We would be looking for a decommissioning 6 plan. Currently the Applicant indicates that 7 decommissioning activities and restoration would 8 occur over a 6- to 12-month period and we expect the 9 removal of the equipment within that year and we 10 would look for the -- the final plan to address all 11 of the elements in this condition. 12 Q. So is it the Staff's intent that the site 13 reclamation activities listed on page 38 of the 14 narrative of the application be -- be performed 15 during that first year as stated in (b) of Condition 16 33? 17 A. Well, condition (b) just says the removal 18 of the equipment. It doesn't -- 19 Q. Yeah, right. And that's why I am asking 20 the question. So I guess I'm looking to see if the 21 Staff is intending anything in Condition 33 to 22 provide a deadline for the site reclamation 23 activities on page 38 of the narrative of the 24 application. 25 A. One moment. I am looking at the back at</p>	<p style="text-align: right;">Page 159</p> <p>1 "Decommissioning and equipment removal can take up to 2 six months to complete; therefore, assessment of site 3 conditions is needed to ensure proper planning and 4 management of the movement of materials and to 5 protect surrounding natural resources"; is that the 6 sentence you are referring to? 7 A. Yes. 8 Q. Is there any language in that sentence 9 that you are interpreting as a one-year deadline for 10 completing the site reclamation activities after 11 discontinuation of project operations? 12 A. Yeah, the term decommissioning. 13 Q. Where do you see -- are you saying 14 there's a one-year deadline for all decommissioning 15 in that sentence? 16 A. Hold on. I'm confused here. No. We -- 17 we recommend this condition if -- in a certificate 18 that -- that the equipment be removed within one year 19 so. And then currently the Applicant expects 20 equipment removal to be at least six months. And so 21 during the six-month time frame for removal, right 22 after that we would expect some sort of revegetation 23 and restoration and -- and that revegetation and 24 restoration is seasonal and weather dependent. So 25 that's why we recommend the 33(c) that it be</p>
<p style="text-align: right;">Page 158</p> <p>1 the application as well. Currently the Applicant 2 expects that the removal of the equipment would be 3 six months and restoration slightly beyond that so, 4 yeah, we think that (b) would likely include 5 restoration and revegetation. 6 Q. Are you looking at page 36 of the 7 narrative of the application? 8 A. Yes. 9 Q. And you're looking at the first 10 paragraph -- actually the only paragraph under the 11 heading of "Preparation"? 12 A. Yes. 13 Q. So looking at the second sentence of that 14 paragraph that states as follows: "Decommissioning 15 and removal of Project structures from the site is 16 anticipated to occur within one year following 17 discontinuation of operations of the Project," did I 18 read that correctly? 19 A. Yes. 20 Q. Okay. Is that the sentence that you are 21 interpreting as a commitment to finishing the site 22 reclamation activities within one year after 23 discontinuation of the operations of the project? 24 A. No. The next sentence. 25 Q. Okay. That sentence reads</p>	<p style="text-align: right;">Page 160</p> <p>1 monitored for an additional year. 2 Q. So prior to monitoring then as provided 3 by (c), what, if any, deadline for completing the 4 site reclamation activities is provided by Condition 5 33 or the application? 6 A. Just -- could you reask that question or 7 have it read back? 8 Q. I will repeat it for you. 9 A. Thanks. 10 Q. What I am trying to figure out is -- is 11 whether there is anything in proposed Condition 33 or 12 in the application that provides a deadline for 13 completing the site reclamation activities listed on 14 page 38 of the narrative of the application. Can you 15 answer that question? 16 A. Yes. Just 33(c) would provide that 17 deadline. 18 Q. That's what it is intended to be, the 19 deadline for completing the site reclamation 20 activities? 21 A. Correct. That if they would not -- yes. 22 Q. Okay. So is the Staff's intent to 23 provide the Applicant with two years to complete all 24 of the activities -- I'm sorry. It's the Staff's -- 25 is it the Staff's intent to provide the Applicant</p>

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<p>1 with two years to perform and complete the site 2 reclamation activities on page 38 of the application? 3 A. Yes, that would be the worst case 4 scenario if the vegetation does not hold so it would 5 be up to two years. 6 MR. VAN KLEY: Okay. Thank you, 7 Mr. Conway. I have no further questions. 8 ALJ HICKS: Thank you, Mr. Van Kley. 9 Go next to Miami Township. 10 MR. SLONE: No questions, your Honor. 11 ALJ HICKS: Greene County Board of 12 Commissioners. 13 MR. SHAMP: No questions, your Honor. 14 Thank you. 15 ALJ HICKS: Xenia Township. 16 MR. DUNN: No questions, your Honor. 17 Thank you. 18 ALJ HICKS: Cedarville Township. 19 MR. BROWN: No questions, your Honor. 20 ALJ HICKS: In Progress. 21 MR. HART: No questions. Thank you. 22 ALJ HICKS: Mr. Swaney actually e-mailed 23 that he would -- counsel for Tecumseh would not be on 24 this afternoon and that he had no questions, so I 25 will just put that on the record now.</p>	<p>1 section of the Staff Report addressing the "Public 2 Interest, Convenience, and Necessity"? 3 A. Yes, subsections of that, "Safety" and 4 "Electromagnetic Fields." 5 Q. Okay. And did you have any input as to 6 the conclusion in that section which would be at page 7 43 of the Staff Report? 8 A. No. 9 Q. Okay. 10 A. Insofar -- yeah. 11 Q. Were you involved in the drafting of the 12 "Conclusion" at page 53? 13 MS. BAIR: Are you talking about page 43? 14 MR. SETTINERI: Sorry. I don't know what 15 I said. 16 MS. BAIR: You said 53. 17 Q. (By Mr. Settineri) Mr. Conway, were you 18 involved in the drafting of the "Conclusion" at page 19 43 of the Staff Report? 20 A. No, I did not write that sentence. 21 Q. And I know you said you did not write it. 22 Were you involved in the drafting of that -- of that 23 conclusion in terms of any discussions? 24 A. I was involved in discussions but -- 25 about the revision -- or the Staff Report but, no, I</p>
Page 162	Page 164
<p>1 Any questions from the Ohio Farm Bureau 2 Federation? 3 MS. MILAM: No questions. Thank you. 4 ALJ HICKS: Any questions from the 5 Applicant? 6 MR. SETTINERI: Thank you, your Honor. 7 - - - 8 CROSS-EXAMINATION 9 By Mr. Settineri: 10 Q. Good afternoon, Mr. Conway. Hope you are 11 doing well. 12 A. Thank you. 13 Q. Good to see you. First question for you 14 is what parts -- did you author any parts of the 15 Staff Report? 16 A. Yes. 17 Q. And what parts of the Staff Report did 18 you author? 19 A. I was a Staff analyst, an author of the 20 sections for "Glare," "Decommissioning," "Wind 21 Velocity," "Public and Private Water Supplies," 22 "Aviation," "Safety," "Electromagnetic Fields," and 23 "Water Conservation" in addition, Conditions 24, 25, 24 26, 27, 33, 35, and 37. 25 Q. Were you involved in the drafting of the</p>	<p>1 did not -- my subsections under this -- under this 2 "Public Interest, Convenience" I don't think went 3 into that conclusion. 4 Q. Okay. And if I understand your answer, 5 you said you were involved in discussions on the 6 revision to the Staff Report. What revision are you 7 referring to? 8 A. We -- the drafting of the Staff Report as 9 a whole. 10 Q. Do you consider that a revision? 11 A. No. I meant -- I meant the drafting of 12 the separate work. I mean, there's -- there's 13 initial rough draft and until it's filed there's 14 always finalization of that report. 15 Q. Okay. So just make sure the record is 16 clear, you were involved in discussions regarding the 17 "Conclusion" to this section; is that what I heard? 18 MS. BAIR: Objection, your Honor. That 19 mischaracterizes the testimony. 20 ALJ HICKS: Mr. Settineri. 21 MR. SETTINERI: Your Honor, I am asking 22 if that's what his testimony was. Trying to get it 23 clear on the record. 24 ALJ HICKS: I will overrule it. 25 Mr. Conway is free to clarify.</p>

<p style="text-align: right;">Page 165</p> <p>1 A. No, I did not author that "Conclusion." 2 Q. Mr. Conway, though I am asking did you 3 participate in any discussions regarding the 4 "Conclusion" to this section? 5 MS. BAIR: Objection, asked and answered. 6 He's told what he has sponsored. He has been clear 7 that he did not draft that part of the Staff Report 8 on page 43. He has answered it many times. 9 MR. SETTINERI: Your Honor, that's not 10 the question that was pending. Trying to get the 11 record clear. Right now, it's kind of a mess. 12 MS. BAIR: I don't understand the 13 relevance of the question being asked again. 14 ALJ HICKS: I'll overrule the objection. 15 I agree that this question, I don't think, has been 16 answered. Allow him to answer the question and then 17 hopefully we can start to move along. 18 Q. (By Mr. Settineri) Do you need the 19 question reread, Mr. Conway? 20 A. Yes, please. 21 MR. SETTINERI: Ms. Gibson, could you 22 please read that last pending question. 23 (Record read.) 24 A. Yes, I participated in discussions about 25 the "Conclusion."</p>	<p style="text-align: right;">Page 167</p> <p>1 talking about the finalization of the Staff Report 2 including the "Conclusion" of this section. 3 Q. All right. And those discussions 4 occurred on October 29, 2021; is that correct? 5 A. Yes. 6 Q. Okay. And how many discussions did you 7 have that day, if you recall? 8 A. At least one that I had. 9 Q. Okay. And who was in -- who was involved 10 in the one discussion that you recall? 11 MS. BAIR: Your Honor, I would like to 12 object based on Mr. Williams' earlier ruling. This 13 isn't relevant to the testimony that Mr. Conway is 14 here to provide and I believe that Mr. -- Examiner 15 Williams ruled in that way earlier in the hearing. 16 MR. SETTINERI: Your Honor, if I may. 17 ALJ WILLIAMS: Mr. Settineri, since it 18 was my ruling, I am going to step in and we will do 19 this in tandem. Please proceed. What's your 20 counterargument? 21 MR. SETTINERI: Yeah. Well, this is 22 obviously trying to find out exactly what Mr. Conway 23 was involved in. He's testified as to what parts of 24 the Staff Report he's been involved in. We now see 25 that he has been involved in a different part of the</p>
<p style="text-align: right;">Page 166</p> <p>1 Q. Okay. And what were the substance of 2 those discussions? 3 A. Generally that the project did not serve 4 the public interest, convenience, and necessity. 5 Q. Okay. And who did you have those 6 discussions with? 7 A. The -- all of the Staff witnesses that 8 participated in this -- that provided testimony so -- 9 or all the teammates on the draft of the Staff 10 Report. 11 Q. So you're -- are you saying that Mr. Eric 12 Morrison had a discussion on this conclusion? 13 MS. BAIR: Objection. What's the 14 relevance of Mr. Morrison's testimony? 15 MR. SETTINERI: He just said that all the 16 Staff witnesses that testified were in that 17 discussion. 18 MS. BAIR: It just doesn't seem relevant 19 to what Mr. Conway is testifying to. 20 ALJ HICKS: Mr. Settineri. 21 MR. SETTINERI: Let me rephrase. 22 Q. (By Mr. Settineri) Mr. Conway, you had 23 discussions with Staff rep -- or members regarding 24 the "conclusions" in this section; is that correct? 25 A. Yeah. We had con -- yeah, we were</p>	<p style="text-align: right;">Page 168</p> <p>1 Staff Report. Certainly allowed to ask about that. 2 In terms of discussions those certainly 3 inform communications that have been ongoing or that 4 occurred and who was involved in writing that 5 "Conclusion," and he is one person who has personal 6 knowledge of who was involved there. Certainly 7 allowed to ask him and certainly relevant. 8 ALJ WILLIAMS: So my prior ruling did 9 encompass and entitle Applicant to some bit of 10 questioning relative to workshops and team meetings 11 that led to producing the ultimate report with a 12 strong emphasis on the witnesses here are sponsors of 13 the report and that's the basis of their testimony to 14 include their capacity for independently reviewing 15 and acquiescing any edits that came their way on the 16 part they were sponsoring. So I will allow a little 17 bit of liberty to a workshop-type question who met 18 when at what time, but we are going to have to keep 19 it pretty finite. 20 MR. SETTINERI: I think, your Honor, that 21 my pending question is along those lines of -- 22 Ms. Gibson, if you don't mind rereading that question 23 for Mr. Williams to listen to. 24 (Record read.) 25 ALJ WILLIAMS: Mr. Conway, you are</p>

<p style="text-align: right;">Page 169</p> <p>1 permitted to answer that question.</p> <p>2 A. It was Grant Zeto, Teresa White, and I</p> <p>3 believe some of the other Staff members that wrote</p> <p>4 sections of the Staff Report.</p> <p>5 Q. All right. Was Mr. Butler present during</p> <p>6 that meeting?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. Thank you. Mr. Conway, I want to</p> <p>9 turn back to your testimony. I would like you to go</p> <p>10 to page 6 of the testimony, question 10, answer 10.</p> <p>11 Tell me when you are there.</p> <p>12 A. I'm there.</p> <p>13 Q. All right. So Staff has recommended a</p> <p>14 Condition 26 in the Staff Report, and you were</p> <p>15 responsible for that condition, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And that Condition 26 is that at least 30</p> <p>18 days prior to the pre-construction conference the</p> <p>19 Applicant shall demonstrate that its solar and</p> <p>20 substation equipment are outside the inner management</p> <p>21 protection zones for the Camp Clifton Day Camp Source</p> <p>22 Water Protection Area; is that correct? You are</p> <p>23 welcome to refer to that condition if you would like</p> <p>24 to. It's in the Staff Report at page 51.</p> <p>25 A. Yes, that's correct.</p>	<p style="text-align: right;">Page 171</p> <p>1 for keeping equipment out of this inner management</p> <p>2 zone is -- is to limit intrusion of contaminants into</p> <p>3 the wellhead, so this -- the inner management zone</p> <p>4 has a short time travel versus -- short travel time</p> <p>5 from groundwater at this current pumping rate to the</p> <p>6 wellhead, so the area over in -- in the perimeter</p> <p>7 that encompasses the inner management zone, it takes</p> <p>8 about one year for groundwater to travel from that</p> <p>9 perimeter to the wellhead, so at this stage it's --</p> <p>10 Staff believes it's prudent to avoid that area to</p> <p>11 avoid contamination potential to that well.</p> <p>12 Q. Now, one of the bases for your conclusion</p> <p>13 is the assumption that there will be contamination</p> <p>14 from the panels, correct?</p> <p>15 A. Not just panels but the support piles</p> <p>16 into the groundwater and -- and, you know, not just</p> <p>17 the panels.</p> <p>18 Q. Okay. Specifically what contaminants do</p> <p>19 you believe will enter the groundwater from the</p> <p>20 project? And let me rephrase that question,</p> <p>21 Mr. Conway.</p> <p>22 Let me walk through it. The basis for</p> <p>23 your conclusion assumes -- would have to assume there</p> <p>24 would be contamination to the panels, correct?</p> <p>25 A. There could be other contaminants.</p>
<p style="text-align: right;">Page 170</p> <p>1 Q. All right. And in -- turning back to</p> <p>2 your testimony, lines 5 to 8, you say that "Staff</p> <p>3 recommends that this equipment be located away from</p> <p>4 Clifton Day Camp's water intake," and I am not going</p> <p>5 to read the entire sentence. Do you know how much</p> <p>6 equipment -- first of all, what types of equipment</p> <p>7 would have to be relocated if this condition applies</p> <p>8 to the project?</p> <p>9 A. All of the solar equipment. Currently</p> <p>10 there's the fence about -- underground collection</p> <p>11 lines, the support piles, the vertical support piles,</p> <p>12 and about 4-1/2 acres of solar array.</p> <p>13 Q. And the basis for that condition</p> <p>14 assumed -- that is being done in the event of a spill</p> <p>15 or significant panel damage; is that correct?</p> <p>16 A. No, not just a spill.</p> <p>17 Q. Okay. What -- what's the basis for</p> <p>18 recommending that relocation of equipment?</p> <p>19 A. Generally the area -- the Source Water</p> <p>20 Protection Areas are Ohio EPA -- one moment. The</p> <p>21 Ohio EPA and other regulatory agencies generally</p> <p>22 restrict specific activities within the inner</p> <p>23 management and outer management zones collectively</p> <p>24 referred to as Source Water Protection Areas.</p> <p>25 And -- and the recommendation generally</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. But I want to focus on my question. Just</p> <p>2 walk through my questions, so the first question is</p> <p>3 the basis for your conclusion assumes that the</p> <p>4 assumption under -- one of the assumptions</p> <p>5 underlining your recommendation for that certificate</p> <p>6 is that there would be contamination from the panels;</p> <p>7 is that correct?</p> <p>8 A. Not -- one of the assumptions is -- is</p> <p>9 the contamination of the panels but there is other</p> <p>10 con -- other reasons to support that conclusion.</p> <p>11 Q. And let me just walk through the next</p> <p>12 question then with you. Is -- in the recommended</p> <p>13 Staff -- the Staff Report has recommended a condition</p> <p>14 where the panel has to show evidence they passed the</p> <p>15 testing, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And let me ask this, you also</p> <p>18 believe -- strike that.</p> <p>19 All right. What other assumptions about</p> <p>20 contaminants would -- do you have -- have you assumed</p> <p>21 in regards to that recommendation?</p> <p>22 A. The Ohio EPA did a -- an analysis of this</p> <p>23 Camp Clifton -- it's called a Source Water Assessment</p> <p>24 of risks of contamination to that wellhead. And</p> <p>25 there is a -- there is susceptibility because this</p>

<p style="text-align: right;">Page 173</p> <p>1 area is a probable -- likely karst area of 2 contamination from the ground -- or from the surface 3 to the groundwater so drilling for piles would 4 further that contact from the surface to the ground 5 so there could be a spill of whatever chemicals used, 6 if there are special chemicals used to clean the 7 panels, or maintenance trucks, or if there are -- if 8 the Applicant alters its layout to put an inverter or 9 transformer within that zone. So those are potential 10 contaminants beyond just the panels. 11 Q. Do you know the depth to water, to the 12 groundwater in that area? 13 A. Yes. 14 Q. What is it? 15 A. It's approximately 5 to 12 feet was 16 according to the geotechnical report from the 17 borings. 18 Q. Is that information you just provided, is 19 that specific to the inner management zone Camp 20 Clifton? 21 A. I don't recall where the -- it's within 22 the project area, but I don't recall where the boring 23 locations were. 24 MR. SETTINERI: One minute, your Honor, 25 please.</p>	<p style="text-align: right;">Page 175</p> <p>1 Board Staff to any of the parties in this case other 2 than the settlement conference, public information 3 meeting, and local public hearing? 4 MS. BAIR: I would object. That was the 5 same question. It was answered by the witness, asked 6 and answered. 7 ALJ HICKS: Mr. Settineri. 8 MR. SETTINERI: Yeah. I am asking about 9 general knowledge. His answer was specific 10 knowledge. 11 ALJ HICKS: I will overrule it and let 12 him answer this one and then let's keep things 13 moving. 14 A. I'm aware we received a -- an ordinance 15 from Greene County -- or I mean Staff in general, but 16 I don't know who specifically received it. 17 Q. Okay. Do you know when that was received 18 by Staff, that ordinance? 19 A. I believe it was October 29. 20 MR. SETTINERI: All right. We have no 21 further questions, your Honor. Thank you. 22 ALJ HICKS: Thank you, Mr. Settineri. 23 Ms. Bair, any redirect or do you need a 24 minute? 25 MS. BAIR: I would need -- yeah, I need a</p>
<p style="text-align: right;">Page 174</p> <p>1 Q. (By Mr. Settineri) All right, Mr. Conway. 2 Let me ask you this, have you had any communications 3 with any party to this proceeding outside of the 4 public information meeting and local public hearings? 5 And make that singular, local public hearing? 6 A. Yes. We participated in a settlement 7 conference. 8 Q. Okay. That was one conference; is that 9 right? 10 A. I think it's one or two. 11 Q. Okay. Any -- were those the only 12 communications that you had with any party to this 13 proceeding outside of the public information meeting, 14 local public hearing in the event you were there? 15 A. Correct. 16 Q. Are you aware of any communications from 17 Board Staff to parties in this proceeding that would 18 have been outside the public information meeting and 19 local public hearing? 20 A. I don't have specific knowledge of any. 21 I am not aware. 22 Q. Okay. Let me ask you this, you said you 23 didn't have specific knowledge, but prior to the 24 start of this evidentiary hearing, did you have any 25 general knowledge of communications from Power Siting</p>	<p style="text-align: right;">Page 176</p> <p>1 few minutes, please. 2 ALJ HICKS: Okay. Does 2:25 work? 3 MS. BAIR: That's fine. Thank you. 4 ALJ HICKS: All right. We are off the 5 record. 6 (Recess taken.) 7 ALJ HICKS: Let's go ahead and go back on 8 the record. 9 Ms. Bair, any redirect for the witness? 10 MS. BAIR: No redirect, your Honor. 11 ALJ HICKS: Okay. Thank you for your 12 time and testimony today, Mr. Conway. 13 THE WITNESS: You're welcome. 14 MS. BAIR: And, your Honor, I would like 15 to move Staff Exhibit 9 into evidence. 16 ALJ HICKS: Any objections to the 17 admission of Staff Exhibit 9? 18 Hearing none, it is admitted. 19 (EXHIBITS ADMITTED INTO EVIDENCE.) 20 ALJ HICKS: I am now going to turn the 21 reigns over to Judge Williams. 22 ALJ WILLIAMS: Mr. Margard, I understand 23 you have the next witness? You're muted, 24 Mr. Margard. Mr. Margard, you're muted, sir. 25 MR. MARGARD: Thank you. Staff would</p>

<p style="text-align: right;">Page 177</p> <p>1 call Matthew Butler.</p> <p>2 ALJ WILLIAMS: Good afternoon,</p> <p>3 Mr. Butler.</p> <p>4 MR. BUTLER: Good afternoon.</p> <p>5 ALJ WILLIAMS: Would you raise your right</p> <p>6 hand.</p> <p>7 (Witness sworn.)</p> <p>8 ALJ WILLIAMS: Please proceed,</p> <p>9 Mr. Margard.</p> <p>10 MR. MARGARD: Thank you, your Honor. I</p> <p>11 would request that the prefiled testimony of Matthew</p> <p>12 Butler filed on February 28, 2022, in this matter be</p> <p>13 marked for purposes of identification Staff Exhibit</p> <p>14 No. 10.</p> <p>15 ALJ WILLIAMS: So marked.</p> <p>16 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>17 MR. MARGARD: Thank you.</p> <p>18 - - -</p> <p>19 MATTHEW BUTLER</p> <p>20 being first duly sworn, as prescribed by law, was</p> <p>21 examined and testified as follows:</p> <p>22 DIRECT EXAMINATION</p> <p>23 By Mr. Margard:</p> <p>24 Q. Sir, please state your name and spell it</p> <p>25 for the record.</p>	<p style="text-align: right;">Page 179</p> <p>1 A. Yes.</p> <p>2 Q. And in your opinion are those responses</p> <p>3 true and reasonable?</p> <p>4 A. Yes.</p> <p>5 MR. MARGARD: Thank you. Your Honor, I</p> <p>6 respectfully move for admission of Staff Exhibit No.</p> <p>7 10, subject to cross-examination, and tender the</p> <p>8 witness.</p> <p>9 ALJ WILLIAMS: Thank you, Mr. Margard.</p> <p>10 Citizens for Greene Acres.</p> <p>11 MR. VAN KLEY: Yes, your Honor. Thank</p> <p>12 you.</p> <p>13 - - -</p> <p>14 CROSS-EXAMINATION</p> <p>15 By Mr. Van Kley:</p> <p>16 Q. Good afternoon, Mr. Butler.</p> <p>17 A. Good afternoon.</p> <p>18 Q. How would you describe your duties at the</p> <p>19 Ohio Power Siting Board?</p> <p>20 A. In my roles I act as a Public Information</p> <p>21 Officer for the Board, so I answer phone calls,</p> <p>22 e-mails from members of the public. I also</p> <p>23 participate in the Staff investigation and report.</p> <p>24 Q. So do you -- do you provide information</p> <p>25 to the public about cases pending before the Power</p>
<p style="text-align: right;">Page 178</p> <p>1 A. Matthew Butler, M-A-T-T-H-E-W</p> <p>2 B-U-T-L-E-R.</p> <p>3 Q. And by whom are you employed and in what</p> <p>4 capacity, please?</p> <p>5 A. I'm a Program Administrator for the</p> <p>6 Public Utilities Commission of Ohio, Power Siting</p> <p>7 Department.</p> <p>8 Q. Sir, do you have before you what's been</p> <p>9 marked as Staff Exhibit No. 10?</p> <p>10 A. I do.</p> <p>11 Q. Would you identify that for us, please.</p> <p>12 A. That's my prefiled testimony.</p> <p>13 Q. And was this prepared by you or at your</p> <p>14 direction?</p> <p>15 A. It was.</p> <p>16 Q. Have you had an opportunity to review</p> <p>17 that document prior to taking the stand today?</p> <p>18 A. I have.</p> <p>19 Q. And having done so, do you have any</p> <p>20 corrections or changes of any kind to make to that</p> <p>21 document?</p> <p>22 A. I do not.</p> <p>23 Q. And if I were to ask you the questions</p> <p>24 contained in Staff Exhibit No. 10, would your</p> <p>25 responses today be the same?</p>	<p style="text-align: right;">Page 180</p> <p>1 Siting Board?</p> <p>2 A. I provide information by way of things</p> <p>3 like news releases and our public website information</p> <p>4 that's generated and disseminated to the general</p> <p>5 public, and then I may have conversations and e-mail</p> <p>6 exchanges with individuals who have questions about</p> <p>7 the process.</p> <p>8 Q. Now, if an applicant for a certificate</p> <p>9 would ask you for -- ask you questions about the</p> <p>10 process, would you answer those questions?</p> <p>11 A. I would -- I would answer them within the</p> <p>12 scope of -- of the process, so I would be able to,</p> <p>13 you know, help them to understand if they were new --</p> <p>14 the new applicant help them understand the process</p> <p>15 and how that process works.</p> <p>16 Q. When you communicate with the public, do</p> <p>17 you communicate with both supporters and opponents of</p> <p>18 projects if they request information?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know who Julie Graham-Price is?</p> <p>21 A. I do.</p> <p>22 Q. Does she work in the same office as you</p> <p>23 do?</p> <p>24 A. Yes.</p> <p>25 MR. SETTINERI: Your Honor, at this time</p>

<p style="text-align: right;">Page 181</p> <p>1 I am just going to object. This is leading down the</p> <p>2 line of friendly cross so I would like to put that</p> <p>3 red flag up.</p> <p>4 ALJ WILLIAMS: I appreciate you putting</p> <p>5 us on notice. We'll allow a little latitude.</p> <p>6 Mr. Butler, please respond.</p> <p>7 Q. (By Mr. Van Kley) Do you remember the</p> <p>8 question, Mr. Butler?</p> <p>9 A. I think my answer was, yes, I do work in</p> <p>10 the same office as Ms. Graham-Price.</p> <p>11 Q. Okay. Her -- and her title is Community</p> <p>12 Liaison?</p> <p>13 A. I'm not exactly sure what her title is</p> <p>14 but that sounds like a close enough approximation.</p> <p>15 Q. Okay. Does she also play a role in</p> <p>16 keeping the public informed about proceedings at the</p> <p>17 Power Siting Board?</p> <p>18 MR. SETTINERI: Object, your Honor. This</p> <p>19 is all friendly cross, this line of questioning.</p> <p>20 This is pure friendly cross.</p> <p>21 ALJ WILLIAMS: We'll allow a very short</p> <p>22 leash here. Mr. Butler can respond to that as well.</p> <p>23 A. Could you repeat that question,</p> <p>24 Mr. Van Kley?</p> <p>25 Q. Yeah. Does Ms. Graham-Price also have a</p>	<p style="text-align: right;">Page 183</p> <p>1 more detail on that.</p> <p>2 MR. VAN KLEY: All right. I have no</p> <p>3 further questions, your Honor.</p> <p>4 ALJ WILLIAMS: Thank you, Mr. Van Kley.</p> <p>5 Miami Township.</p> <p>6 MR. SLONE: No cross. Thank you.</p> <p>7 ALJ WILLIAMS: Greene County.</p> <p>8 MR. SHAMP: No cross, your Honor.</p> <p>9 ALJ WILLIAMS: Xenia Township.</p> <p>10 MR. DUNN: No cross, your Honor.</p> <p>11 ALJ WILLIAMS: Cedarville Township.</p> <p>12 MR. BROWN: No cross, your Honor.</p> <p>13 ALJ WILLIAMS: In Progress. Hearing</p> <p>14 none.</p> <p>15 Farm Bureau.</p> <p>16 MS. MILAM: No cross, your Honor.</p> <p>17 ALJ WILLIAMS: Thank you.</p> <p>18 Applicant. Mr. Settineri.</p> <p>19 MR. SETTINERI: All right.</p> <p>20 - - -</p> <p>21 CROSS-EXAMINATION</p> <p>22 By Mr. Settineri:</p> <p>23 Q. Good afternoon, Mr. Butler. Hope you are</p> <p>24 doing well.</p> <p>25 A. Good afternoon.</p>
<p style="text-align: right;">Page 182</p> <p>1 role in keeping the public informed about proceedings</p> <p>2 at the Power Siting Board?</p> <p>3 A. Yes.</p> <p>4 Q. Have you had any communications with</p> <p>5 Kingwood Solar about its project?</p> <p>6 A. Yes, I have.</p> <p>7 Q. Okay. Could you tell me what the nature</p> <p>8 of those communications has been?</p> <p>9 A. From what I recall, I did attend the</p> <p>10 preapplication conference that the Applicant had with</p> <p>11 the Staff, and then I recall communicating with</p> <p>12 Kingwood in the lead up to one or both of the public</p> <p>13 informational meetings just on the coordination basis</p> <p>14 as to who would be attending from Staff, that type of</p> <p>15 thing.</p> <p>16 Q. Have you received any communications from</p> <p>17 people supporting the Kingwood Solar project?</p> <p>18 A. The Board has. I don't know if I have</p> <p>19 directly, but by way of my role, I have.</p> <p>20 Q. All right. And when you say that the</p> <p>21 Board has received such communications, what was the</p> <p>22 means by which those communications were made?</p> <p>23 A. I don't recall if they were e-mails or</p> <p>24 letters received through the mail, but I referred to</p> <p>25 the public docket and the public comments filed for</p>	<p style="text-align: right;">Page 184</p> <p>1 Q. I want to start first with exactly what</p> <p>2 parts of the Staff Report that you drafted yourself.</p> <p>3 A. Sure. Let me just pull up the Staff</p> <p>4 Report, refer to it here. So the sections are the</p> <p>5 "Public Interaction and Participation" section and</p> <p>6 the portion of the "Public Comments" section that is</p> <p>7 on page 42 but not 43.</p> <p>8 Q. And so would that -- specific to 42, can</p> <p>9 you direct me to the exact language that you drafted</p> <p>10 in that section?</p> <p>11 A. Under the -- on page 42.</p> <p>12 Q. Uh-huh.</p> <p>13 A. I would have drafted everything on that</p> <p>14 page under "Public Comments," and I believe I drafted</p> <p>15 the first three paragraphs under "Public Interaction</p> <p>16 and Participation" which flow over from the previous</p> <p>17 page.</p> <p>18 Q. All right. So you drafted "Public</p> <p>19 Interaction and Participation." You drafted</p> <p>20 paragraph one, paragraph two, and then did you also</p> <p>21 draft the first full paragraph at paragraph 42?</p> <p>22 A. Yes, the one that starts "The</p> <p>23 Administrative Law Judge" and the next paragraph</p> <p>24 which starts "The Board of Trustees."</p> <p>25 Q. Oh, okay. So you drafted "The Board of</p>

<p style="text-align: right;">Page 185</p> <p>1 Trustees" paragraph as well?</p> <p>2 A. Yes.</p> <p>3 Q. All right. So just to be clear for the</p> <p>4 record, and just bear with me, you drafted, turning</p> <p>5 back to page 41, "Public Interaction and</p> <p>6 Participation," you drafted the first paragraph and</p> <p>7 the second paragraph on page 41 under that heading;</p> <p>8 and then turning the page, continuing on, you drafted</p> <p>9 the paragraph starting with "The Administrative Law</p> <p>10 Judge," and you drafted the paragraph that said "The</p> <p>11 Board of Trustees," correct?</p> <p>12 A. Correct.</p> <p>13 Q. All right. You did not draft the</p> <p>14 paragraph -- the last paragraph of that section,</p> <p>15 correct?</p> <p>16 A. No, I did not originate that paragraph.</p> <p>17 Q. Okay. And where did -- who originated</p> <p>18 that paragraph?</p> <p>19 A. I don't recall specifically, but it's a</p> <p>20 paragraph that would have come out through the Staff</p> <p>21 editing process through a shared document.</p> <p>22 Q. Okay. You heard Mr. Conway testify</p> <p>23 today, I assume?</p> <p>24 A. I did.</p> <p>25 Q. Okay. And you heard him say that there</p>	<p style="text-align: right;">Page 187</p> <p>1 look at that last paragraph before the heading</p> <p>2 "Public Comments." That paragraph was not there --</p> <p>3 that paragraph was added to the Staff Report on</p> <p>4 October 29 per your belief; is that correct?</p> <p>5 A. I don't -- I don't know that all of it</p> <p>6 was, certainly the last sentence that talks about</p> <p>7 October 29, but I'm not sure about the beginning.</p> <p>8 Q. And you said Ms. White reached out to you</p> <p>9 about a change or shift in Staff's recommendation and</p> <p>10 asked if -- paraphrasing, if you were okay with it;</p> <p>11 is that a general gist of that question from</p> <p>12 Ms. White?</p> <p>13 A. Could you -- could you restate that?</p> <p>14 Q. Yeah. You said, and I am paraphrasing</p> <p>15 your testimony, that Ms. White reached out to you</p> <p>16 regarding the change to or a shift in the Staff's</p> <p>17 recommendation, and she wanted to see if you were</p> <p>18 okay with that; is that the general gist of that</p> <p>19 conversation with her?</p> <p>20 A. Yes. We had a conversation that the</p> <p>21 Staff had met earlier and that was what the Staff --</p> <p>22 the direction Staff was moving in, and then she asked</p> <p>23 me for any feedback I might have on that.</p> <p>24 Q. And did you give her any feedback?</p> <p>25 A. I don't recall.</p>
<p style="text-align: right;">Page 186</p> <p>1 was a discussion with Teresa White, I think Grant</p> <p>2 Zeto, and other staff members on October 29.</p> <p>3 A. Uh-huh.</p> <p>4 Q. Did you participate in that discussion?</p> <p>5 A. From what I recall, I did not. I recall</p> <p>6 after that discussion, because I was unable to make</p> <p>7 that discussion due to some sort of conflict,</p> <p>8 Ms. White reached out to me and, excuse me, advised</p> <p>9 me that the Staff was changing its -- was shifting in</p> <p>10 terms of its recommendation in the "Public Interest"</p> <p>11 section and asking if I had any concerns or</p> <p>12 objections to that.</p> <p>13 Q. Okay. And when she called you, were you</p> <p>14 able to look at that -- the language that was -- when</p> <p>15 she called you, did you have a chance to look at the</p> <p>16 language before you gave a response to the question</p> <p>17 that she asked you?</p> <p>18 MR. MARGARD: I would object only from a</p> <p>19 foundational point of view. I am not sure we have</p> <p>20 established that language existed before that contact</p> <p>21 was made.</p> <p>22 ALJ WILLIAMS: I'll sustain the</p> <p>23 objection. Can you break that down, Mr. Settineri?</p> <p>24 MR. SETTINERI: Sure.</p> <p>25 Q. (By Mr. Settineri) Mr. Butler, if we can</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Okay. And when you gave -- when she</p> <p>2 posed that question to you, were you able to review</p> <p>3 the language -- the language in the Staff Report at</p> <p>4 that point prior to giving her a response?</p> <p>5 A. I don't recall if I -- if I did.</p> <p>6 Q. Okay.</p> <p>7 A. Certainly had a chance to review it prior</p> <p>8 to the filing of the Staff Report.</p> <p>9 Q. All right. Mr. Butler, now turning to</p> <p>10 the "Public Comment" section, specifically there did</p> <p>11 you -- did you draft that entire section under</p> <p>12 "Public Comments" up until "No. 1 Opposition"?</p> <p>13 A. Yes. I drafted the portions of that</p> <p>14 section that are on page 42.</p> <p>15 Q. Okay. And did you draft any portions on</p> <p>16 Section 43 -- or page 43 of the Staff Report?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Okay. In regards to the conclusion at</p> <p>19 the bottom of page 43, fair to say that at the time</p> <p>20 that the staff made its decision, you did not --</p> <p>21 weren't able to provide input to that conclusion; is</p> <p>22 that true?</p> <p>23 A. I was not part of that earlier Staff</p> <p>24 discussion.</p> <p>25 Q. Is my answer true?</p>

<p style="text-align: right;">Page 189</p> <p>1 A. I had a chance to review it prior to the 2 filing of the report. 3 Q. Okay. Did you agree with the conclusion? 4 A. Yes. 5 Q. Did you have any concerns about the 6 conclusion? 7 A. No. 8 Q. Okay. Let's turn to the "Public 9 Comments" section that you drafted here. 10 A. Okay. 11 Q. Your -- so as of October 29, 2021, the 12 Staff Report reads "The OPSB has received 35 13 documents in the public comments of the case record"; 14 is that correct? 15 A. That's correct. 16 Q. Now, you are aware that one of those 17 documents contains 76 letters of support from the 18 IBEW workers? 19 A. Yes. 20 Q. Is that noted in the Staff Report here 21 anywhere? 22 A. It is not directly noted, although at the 23 end of the paragraph F of the bullet points I do 24 discuss the input of those supportive of the project 25 and the issues that they -- points they emphasized.</p>	<p style="text-align: right;">Page 191</p> <p>1 of how many actual comments it may contain. And I 2 felt the best way to -- to express the views of those 3 form comments -- commenters was through that 4 paragraph that I wrote. 5 Q. Okay. Now, you are also aware though 6 that as of the date the Staff Report issued -- and 7 let's go back to that section. Let's go look at page 8 44 above "Recommended Findings." 9 A. Okay. Okay. 10 Q. Do you see the sentence "While some local 11 opposition is common in many siting projects, 12 considering the above opposition filed in the docket 13 and expressed at the local public hearings, Staff 14 recognizes that in this proceeding it has been 15 especially prominent, one-sided, and compelling." Do 16 you see that? 17 A. Uh-huh. 18 Q. Okay. Now, you would agree with me that 19 as of October 29, the local public hearing had not 20 occurred yet in this proceeding, correct? 21 A. That is true. That is true. 22 Q. Okay. And there's nothing in this 23 sentence that indicates any of the letters of support 24 from the IBEW or any other letters of support that 25 are on the public docket, correct?</p>
<p style="text-align: right;">Page 190</p> <p>1 Q. Are you pointing to the bottom of the 2 page of 42? 3 A. Yes. It would be the last sentence of 4 the first paragraph after the bullet points. 5 Q. Okay. There's no reference -- going back 6 to my question, the 76 letters of support from the 7 IBEW are not referenced at all in the Staff Report; 8 is that correct? 9 A. That's correct. 10 Q. All right. Why didn't you reference 11 those in the Staff Report? 12 A. You know, I think that I touched on the 13 key points that those individuals were -- were trying 14 to make through their form comments, so I believe 15 that those 70 -- I think you said 76 letters were 16 essentially form comments that each said the same -- 17 made the same points, so I tried to summarize it. 18 Q. So you don't think 76 for comments from 19 the IBEW warrants a bullet point compared to the 20 bullet point you put in for Citizens for Greene 21 Acres? 22 A. I would say that the way our Docketing 23 Division sometimes works is when they get a group of 24 form comments, they group those together in a filing. 25 That filing is actually called a document regardless</p>	<p style="text-align: right;">Page 192</p> <p>1 A. Let me read it here. That is true. 2 Q. So let's go back to the "Public 3 Comments." 4 MR. SETTINERI: Your Honor, at this time 5 I would like to mark Kingwood Exhibit 97. 6 ALJ WILLIAMS: Which is? 7 MR. SETTINERI: That is a compilation of 8 the public comment list. It's a select list pages 9 from the docket of -- it's a case record of public 10 comments for this proceeding, your Honor. Sorry for 11 the clutter. 12 ALJ WILLIAMS: So marked. 13 (EXHIBIT MARKED FOR IDENTIFICATION.) 14 Q. (By Mr. Settineri) And do you have what's 15 been marked as Kingwood Exhibit 97, Mr. Butler? 16 A. I do. Yep. 17 Q. All right. If you could take your time 18 and look through it. Are you familiar with what this 19 document is? 20 A. Yeah. It looks like it's a portion at 21 least of the public comments filed in the case. 22 Q. Okay. And if you turn to the last page 23 of the document, do you see that it says page 13 of 24 13 in the right-hand corner of the screen and then if 25 you go above the summary "196-194 of 194 documents"?</p>

<p style="text-align: right;">Page 193</p> <p>1 A. Yeah. I see -- I see a 12 of 13. Okay. 2 Now I see a 13 of 13. There's a blank page in there. 3 Q. You would agree with me then that the 4 first public comment filed was on March 9, 2021? 5 A. That's what it looks like. Yep. 6 Q. All right. And that this exhibit 7 includes comments actually all way to November 9, 8 2021. That's -- 9 A. Yes, correct. 10 Q. So the first thing is when you did the -- 11 you said the OPSB had received 35 documents in the 12 Staff Report. When you wrote that, did you review 13 for duplicate comments? 14 A. I did not. 15 Q. And did you review -- I'm sorry to 16 interrupt you. 17 A. That count would -- if there are 18 duplicates, that count would include duplicates. It 19 reflects the record. 20 Q. And did you review the comments to see if 21 any comments were made by Intervenor in the 22 proceeding? 23 A. Not specifically. 24 Q. Okay. And by October 29, 2021, the 25 Intervenor was established in this proceeding; is</p>	<p style="text-align: right;">Page 195</p> <p>1 Q. All right. April 19, 2021, Concerned 2 Customer, that's -- that is one where there is no 3 name or address associated with that comment, 4 correct? 5 A. I don't -- I don't know. 6 Q. Okay. Let me ask this, do people have 7 the ability to leave comments on a project at the 8 Power Siting Board and do so anonymously? 9 A. Yes. 10 Q. And that can be done online through the 11 Board's system, correct? 12 A. It could be done online. It could be 13 done by e-mail. It could be sent through the mail. 14 Q. Okay. Continuing on, March -- May 7, 15 2021, Karen Landon, she is an Intervenor in the case, 16 correct? 17 A. I'm not sure. 18 Q. Okay. May 24, Angie Hanna, she's an 19 Intervenor as well, correct? 20 A. Correct. 21 Q. You already -- and she's also a 22 duplicate -- not a duplicate comment but a second 23 comment by her, correct? 24 A. Yes. 25 Q. And then there's someone named Jack Van</p>
<p style="text-align: right;">Page 194</p> <p>1 that correct? 2 A. I wouldn't know without looking at the 3 docket. 4 Q. That's fine. So let's just look here. 5 If you go -- start at the last page, comment dated 6 April 1, 2021, Angie -- 7 A. I'm sorry. 8 Q. The last page. We are going to work our 9 way backwards. 10 A. Okay. April 1. 11 Q. Work our way backwards. 12 MR. SETTINERI: Sorry, Ms. Gibson. 13 Q. Working our way backwards, April 1, 2021, 14 Angie Hanna's an Intervenor in this case, correct? 15 A. I believe so. 16 Q. Nick Pitstick is an Intervenor in this 17 case, correct? 18 A. That name doesn't immediately ring a 19 bell. 20 Q. All right. Jenifer Adams, Intervenor in 21 this case? 22 A. I believe so. 23 Q. Nicole Marvin, Intervenor in this case, 24 correct? 25 A. I believe so.</p>	<p style="text-align: right;">Page 196</p> <p>1 Kley that filed a comment June 10. Are you familiar 2 with Mr. Van Kley? 3 A. Yes. 4 Q. All right. And he represents the 5 Intervenor in this proceeding, correct? 6 A. That's correct. 7 Q. Did you count that comment in your list 8 of 35? 9 A. Yes. 10 Q. Okay. Continuing on July -- on the next 11 page, backing up July 14, 2021. 12 A. I see it. 13 Q. That's another comment from Angie Hanna, 14 correct? 15 A. Correct. 16 Q. And August 5, that's another comment from 17 Angie Hanna, correct? 18 A. I see it there, yep, correct. 19 Q. All right. Okay. And again, the Staff 20 Report doesn't -- your section of the Staff Report 21 doesn't note that duplicate comments were received, 22 correct? 23 A. It does not. 24 Q. And it doesn't reflect that comments were 25 provided by the Intervenor other than the letter</p>

<p style="text-align: right;">Page 197</p> <p>1 from Citizens for Greene Acres, correct?</p> <p>2 A. Could you restate that?</p> <p>3 Q. Sure. The Staff Report section you wrote</p> <p>4 does not indicate that multiple comments were</p> <p>5 submitted by Intervenor in this proceeding, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Now, if you --</p> <p>8 MR. SETTINERI: We are going to mark</p> <p>9 Kingwood Exhibit 89, your Honor, please.</p> <p>10 ALJ WILLIAMS: Which is?</p> <p>11 MR. SETTINERI: And that is a letter from</p> <p>12 me to Teresa White dated November 9, 2021.</p> <p>13 ALJ WILLIAMS: So marked.</p> <p>14 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>15 Q. (By Mr. Settineri) Let me know when you</p> <p>16 have that exhibit before you, Kingwood Exhibit 89,</p> <p>17 please.</p> <p>18 A. I have it.</p> <p>19 Q. All right. Have you seen this letter</p> <p>20 before?</p> <p>21 A. I believe so.</p> <p>22 Q. Okay. And this letter was from me on</p> <p>23 behalf of Kingwood Solar I LLC, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And it was filed on the case docket,</p>	<p style="text-align: right;">Page 199</p> <p>1 MR. SETTINERI: Your Honor, if I may</p> <p>2 though, the -- by law, by statute, the chair of the</p> <p>3 Board is required to submit a written report to the</p> <p>4 Board and to the Applicant, right? And that is going</p> <p>5 to the Board and I think it's certainly relevant as</p> <p>6 to the line of questioning, especially with this</p> <p>7 letter being submitted to the Staff as to whether</p> <p>8 Staff considered that request and why it did not</p> <p>9 issue a corrected Staff Report.</p> <p>10 Now, this witness has not addressed all</p> <p>11 of the issues here, but I do think it's relevant</p> <p>12 given the statutory directive the need for clear and</p> <p>13 accurate information, and I think we've established</p> <p>14 at least with this witness that some of the</p> <p>15 information here was not fully disclosed as to those</p> <p>16 35 documents.</p> <p>17 MR. MARGARD: May I respond, your Honor?</p> <p>18 ALJ WILLIAMS: Yes, you may.</p> <p>19 MR. MARGARD: It's pretty clear that, in</p> <p>20 fact, the law was complied with, that a report was</p> <p>21 submitted to the Board. If counsel has questions</p> <p>22 about the accuracy of the report or -- he's free to</p> <p>23 explore that, and he's been doing precisely that.</p> <p>24 ALJ WILLIAMS: I'll sustain the</p> <p>25 objection. Mr. Butler's testimony, what he did or</p>
<p style="text-align: right;">Page 198</p> <p>1 correct?</p> <p>2 MR. MARGARD: If you know.</p> <p>3 A. It appears so.</p> <p>4 Q. And that would be the last page of the</p> <p>5 document?</p> <p>6 A. Yep. I see the confirmation, yep.</p> <p>7 Q. All right. And you understand that</p> <p>8 Kingwood Solar requested that corrected Staff Report</p> <p>9 be issued; is that right?</p> <p>10 A. Yes. I can read that in the letter.</p> <p>11 Q. Okay. And specific to your sections, did</p> <p>12 you discuss with anyone rewriting your sections based</p> <p>13 on that -- the request from that letter?</p> <p>14 MR. MARGARD: I'll object, your Honor.</p> <p>15 I'm not sure what relevance it is whether a</p> <p>16 discussion was had about rewriting it or not. No --</p> <p>17 no rewriting was done. No supplemental report was</p> <p>18 filed. I don't see why any discussion relating to a</p> <p>19 non-report is relevant at this stage.</p> <p>20 ALJ WILLIAMS: I'll sustain the</p> <p>21 objection.</p> <p>22 Mr. Settineri, the questions would seem</p> <p>23 to be better aimed at whether there was any change in</p> <p>24 Mr. Butler's sponsorship of the testimony he is here</p> <p>25 to describe today.</p>	<p style="text-align: right;">Page 200</p> <p>1 didn't consider doesn't appear to have any relevancy</p> <p>2 here. His testimony is aimed at what he is</p> <p>3 sponsoring.</p> <p>4 MR. SETTINERI: Okay.</p> <p>5 Q. (By Mr. Settineri) Mr. Butler, after</p> <p>6 receiving -- after you became -- when did you become</p> <p>7 aware of this letter that's been marked as Kingwood</p> <p>8 Exhibit 97?</p> <p>9 A. It looks like it was filed in the docket</p> <p>10 on November 9 of 2021 at 4:16 p.m. so I would -- I</p> <p>11 would imagine I -- without being able to recall</p> <p>12 specifically, I would imagine I learned about it the</p> <p>13 next business day.</p> <p>14 Q. Okay. And you did not propose any</p> <p>15 revisions to your sections of the Staff Report based</p> <p>16 on that letter; is that correct?</p> <p>17 MR. MARGARD: Objection, same basis.</p> <p>18 ALJ WILLIAMS: The objection is</p> <p>19 sustained. The witness, I believe, has answered the</p> <p>20 question already, so we will strike his answer from</p> <p>21 the record.</p> <p>22 MR. MARGARD: Thank you, your Honor.</p> <p>23 MR. SETTINERI: I'll just object. I will</p> <p>24 note an objection to that ruling here. I think this</p> <p>25 is certainly a relevant line of questioning here, and</p>

<p style="text-align: right;">Page 201</p> <p>1 we'll have more questions like it going forward, 2 Mr. Margard. 3 ALJ WILLIAMS: And we'll rule on those in 4 due time then. 5 MR. SETTINERI: Thank you. 6 ALJ WILLIAMS: Please proceed. 7 MR. SETTINERI: Okay. 8 Q. (By Mr. Settineri) When's the last time 9 you made any edits to the Staff Report, Mr. Butler, 10 in the sections that you authored? 11 A. Potentially on the 29th but I'm not sure. 12 Q. Why do you say potentially on the 29th? 13 A. A good part of my role with editing and 14 reviewing the Staff Report is reviewing it for 15 formatting, grammar, things like that, so I'm going 16 through the entire report on the last day and making 17 sure that it's -- you know, that it's a clean 18 document, so I may have made changes to that section 19 on that day. I'm just not sure. 20 Q. Okay. Any changes would have been typos, 21 formatting type changes? 22 A. From what I would recall, yes. 23 Q. Okay. All right. So just to be clear 24 then, you did -- okay. Page 43, you were not 25 involved in the drafting of page 43; is that correct?</p>	<p style="text-align: right;">Page 203</p> <p>1 could get involved in the process. 2 Q. Any other communications besides with 3 Mr. Shoemaker from Greene County or with 4 representatives of Greene County? 5 A. None that I can recall. 6 Q. All right. Let's ask the same question, 7 did you have any communications directly with any of 8 the -- any representative of any of the Townships 9 that have intervened in this proceeding which is 10 Miami, Xenia, and Cedarville? 11 A. I may have, but I don't recall. 12 Q. Okay. Are you aware of any 13 communications from any Board Staff member to any of 14 the Townships outside of the local public hearing and 15 public information meetings? 16 A. Yes. 17 Q. Okay. And what would -- who -- what 18 Board represents Staff -- strike that. 19 What Staff representatives communicated 20 with those Townships or any of the Townships? 21 A. I believe that a letter was sent at some 22 point to local government officials. I believe that 23 included Township Trustees. And then I think there 24 was some outreach by e-mail or phone to Township 25 Trustees as well.</p>
<p style="text-align: right;">Page 202</p> <p>1 MR. MARGARD: Of the Staff Report, 2 correct? 3 MR. SETTINERI: The Staff Report, thank 4 you, Mr. Margard. 5 A. Page 43, that is correct. 6 Q. Let me -- have you had -- I know you -- 7 in your role you -- you answered some questions for 8 Mr. Van Kley about your communications, with how you 9 communicate with people. Specific to the Greene 10 County and the Board of County Commissioners, did you 11 have any communications with any Representative or 12 Commissioner from Greene County? 13 A. I remember having some conversations with 14 a gentleman from the Planning Department. Devon 15 Shoemaker, I believe, is the name. 16 Q. Okay. And those communications, were 17 those in the form of e-mail? 18 A. I -- if I recall, it was a combination of 19 phone and e-mail. 20 Q. And what were the substance of those 21 conversations, if you recall? 22 A. Yeah. If I recall, it was him trying to 23 understand who the Board was, what the Board's role 24 was in a project like this, the nature of that role, 25 and the process and trying to learn about ways they</p>	<p style="text-align: right;">Page 204</p> <p>1 Q. Do you know who did -- who sent that 2 letter that you are referring to to governmental 3 officials? 4 A. I believe that was Jill Kocher. 5 Q. Okay. And then do you know who did the 6 e-mail and outreach that you mentioned? 7 A. My understanding is that was Julie 8 Graham-Price. 9 Q. Does Julie Graham-Price work for you? 10 A. No. 11 Q. Okay. Who do you report to, Mr. Butler? 12 A. I report to Teresa White. 13 Q. Okay. Does Julie Graham-Price also 14 report to Teresa White? 15 A. That's my understanding. 16 Q. Okay. Let's -- do you have -- there's 17 some exhibits that have been marked today. Let me 18 ask this, did you see the letter that Jill Kocher 19 sent out? 20 A. I believe I have seen it. I don't know. 21 I think it's an exhibit. I don't know where to find 22 it. 23 Q. Okay. Does she report to you? 24 A. No. 25 Q. Who does she report to?</p>

<p style="text-align: right;">Page 205</p> <p>1 A. I believe she reports to Matt Schilling.</p> <p>2 Q. And who is Matt Schilling?</p> <p>3 A. He is the PUCO Director of Public</p> <p>4 Affairs.</p> <p>5 Q. Okay. Why don't we get -- get your eyes</p> <p>6 on Kingwood Exhibit 23, if we could, please.</p> <p>7 A. Okay. Let me take a moment here. You</p> <p>8 said 23? Did you say Exhibit 23?</p> <p>9 Q. Yes; yes, sir, Exhibit 23.</p> <p>10 A. Okay. Okay. I have it.</p> <p>11 Q. All right. Have you seen this letter</p> <p>12 before?</p> <p>13 A. I think so.</p> <p>14 Q. And when do you think you saw it?</p> <p>15 A. Generally -- well, these letters are a</p> <p>16 matter of process -- procedure, I guess, that we have</p> <p>17 that we send these letters out, so I would have seen</p> <p>18 it at some point prior to it being mailed.</p> <p>19 Q. Okay. And you said these letters are</p> <p>20 part of procedure; is that what you said?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Would you be -- let me ask this,</p> <p>23 this letter is on behalf of the Power Siting Board,</p> <p>24 correct?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 207</p> <p>1 A. No.</p> <p>2 Q. Okay. Approximately when do you believe</p> <p>3 that these letters were -- started to be sent out for</p> <p>4 renewable projects?</p> <p>5 A. Probably within the last year and a half.</p> <p>6 Q. Were these -- and -- well, strike that.</p> <p>7 Were these letters a result of Senate</p> <p>8 Bill 52?</p> <p>9 MR. MARGARD: Objection.</p> <p>10 A. I think these letters were part of an</p> <p>11 effort to enhance outreach to local government.</p> <p>12 Q. All right. Thank you, Mr. Butler. And</p> <p>13 let me ask this question, do you know who -- who</p> <p>14 these letters are typically sent to?</p> <p>15 A. My understanding is that they are sent to</p> <p>16 local elected officials to -- that would include</p> <p>17 County Commissioners impacted by the project,</p> <p>18 Township Trustees, County Engineer, Soil and Water</p> <p>19 Conservation District, if there is one. That's all I</p> <p>20 can recall. Local officials.</p> <p>21 Q. That's helpful. Thank you. Going back</p> <p>22 to the, I think you said, e-mail and outreach that</p> <p>23 Julie Graham-Price did, and I think you had mentioned</p> <p>24 there were phone calls made. Do -- do you know who</p> <p>25 made phone calls to -- let me strike that.</p>
<p style="text-align: right;">Page 206</p> <p>1 Q. Now, would you be responsible for these</p> <p>2 letters?</p> <p>3 A. Well, Mrs. Kocher sent it. She was</p> <p>4 responsible for seeing that these letters were sent.</p> <p>5 Q. And I am just trying to understand your</p> <p>6 role and responsibilities because I believe you said</p> <p>7 you are the Public Information Officer for the Power</p> <p>8 Siting Board; is that right?</p> <p>9 A. That's kind of a working title.</p> <p>10 Q. Okay. All right. Going back to this</p> <p>11 letter, are these letters sent out for every Power</p> <p>12 Siting Board project?</p> <p>13 A. I'm not entirely sure. I know that -- I</p> <p>14 know that they are mailed for -- or have been mailed</p> <p>15 for renewable energy projects. I am not sure if</p> <p>16 they've been mailed for other types of projects.</p> <p>17 Q. Now, how long have you been in your</p> <p>18 position at the Power Siting Board?</p> <p>19 A. I think about 10 years.</p> <p>20 Q. All right. And were you in your position</p> <p>21 during the Champaign Wind -- Wind Farm proceeding?</p> <p>22 A. I believe I was -- I don't believe so.</p> <p>23 Q. Okay. Let me ask this, during the 10</p> <p>24 years that you've been at the Board, have these</p> <p>25 letters been sent out for every renewable project?</p>	<p style="text-align: right;">Page 208</p> <p>1 Specific to Greene County Board of</p> <p>2 Commissioners, are you aware of any Staff</p> <p>3 representative making phone calls to that entity?</p> <p>4 A. I am aware that Staff communicated with</p> <p>5 Greene County as well as Townships.</p> <p>6 Q. And would that Staff member be Julie</p> <p>7 Graham-Price?</p> <p>8 A. I know that Ms. Graham-Price was involved</p> <p>9 in that outreach.</p> <p>10 Q. Okay. And who else was involved in that</p> <p>11 outreach from Staff?</p> <p>12 A. I am not aware of anyone else.</p> <p>13 Q. All right. Anyone that is not an OPSB</p> <p>14 Staff member involved in that outreach but still</p> <p>15 employed by the PUCO?</p> <p>16 A. I am not aware of anything other than the</p> <p>17 letter that you referenced earlier from Jill Kocher.</p> <p>18 Q. Now, you mentioned though that</p> <p>19 Julianne -- Julie Graham-Price also sent some</p> <p>20 e-mails; is that correct?</p> <p>21 A. That's what I understand.</p> <p>22 Q. Okay. And I just want to clean the</p> <p>23 record up. In regards to any Staff communications</p> <p>24 that you are aware of to Greene County or any of the</p> <p>25 three Townships, are you aware of any Staff member</p>

<p style="text-align: right;">Page 209</p> <p>1 other than Julie Graham-Price and Jill Kocher having</p> <p>2 communications with those entities?</p> <p>3 A. No, I am not, other than the calls and</p> <p>4 conversations I had with Mr. Shoemaker early on, I am</p> <p>5 not aware of anything.</p> <p>6 Q. Okay. Now, are you aware of -- did any</p> <p>7 Staff -- are you aware of any Staff member making</p> <p>8 phone calls or sending e-mails to any of the other</p> <p>9 Intervenors in this proceeding?</p> <p>10 A. Initiated or responding to?</p> <p>11 Q. Initiating. Good question.</p> <p>12 A. No.</p> <p>13 Q. Do you agree with me that the Staff</p> <p>14 Report represents a major milestone in the</p> <p>15 application process before the Power Siting Board?</p> <p>16 A. It is one step in the process.</p> <p>17 Q. All right. So you don't view it as a</p> <p>18 major milestone?</p> <p>19 A. No more major than some of the other</p> <p>20 steps in the process, like the public hearing, the</p> <p>21 adjudicatory hearing, witness review, filing of the</p> <p>22 application.</p> <p>23 Q. Going back to the communications from</p> <p>24 Staff, after the letter -- so do you -- well, are you</p> <p>25 aware of any communications to the County Engineer's</p>	<p style="text-align: right;">Page 211</p> <p>1 A. I don't believe so.</p> <p>2 Q. All right. Next -- and then the next</p> <p>3 sentence "Staff notes that" and that ends with a</p> <p>4 "township" with parens and quote. Do you see that?</p> <p>5 A. Yep.</p> <p>6 Q. Did you write that sentence?</p> <p>7 A. I don't believe so.</p> <p>8 Q. And then the last sentence in that</p> <p>9 paragraph, did you write that?</p> <p>10 A. I don't believe so.</p> <p>11 Q. And if I recall, you don't recall who</p> <p>12 wrote -- you don't know who wrote that paragraph,</p> <p>13 correct?</p> <p>14 A. Not specifically.</p> <p>15 Q. Now, you do monitor the docket though,</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And would you have reviewed the</p> <p>19 intervention notice from Miami and Cedarville</p> <p>20 Township?</p> <p>21 A. I would have been aware that they had</p> <p>22 been filed.</p> <p>23 Q. Let's just go through those while we have</p> <p>24 you.</p> <p>25 MR. SETTINERI: Your Honor, at this time</p>
<p style="text-align: right;">Page 210</p> <p>1 Office after June 30, 2021? And I use that date as</p> <p>2 reference because that's the date of the letter we</p> <p>3 just looked at from Jill Kocher.</p> <p>4 A. I don't recall anything.</p> <p>5 Q. Okay. Same question as to the Greene</p> <p>6 Soil and Water Conservation District.</p> <p>7 A. I don't recall anything.</p> <p>8 MR. SETTINERI: One moment, your Honor,</p> <p>9 please.</p> <p>10 ALJ WILLIAMS: Off the record.</p> <p>11 (Discussion off the record.)</p> <p>12 ALJ WILLIAMS: Back on the record.</p> <p>13 Mr. Settineri, you are muted.</p> <p>14 MR. SETTINERI: And I wasn't saying</p> <p>15 anything yet. Ready to go. Thank you, your Honor.</p> <p>16 Q. (By Mr. Settineri) A couple questions,</p> <p>17 Mr. Butler. I just want to follow up. Turning to</p> <p>18 page 42 of the Staff Report, which is Staff Exhibit</p> <p>19 1, I just want to be clear so I understand exactly</p> <p>20 what you wrote and did not write in the paragraph</p> <p>21 directly above the heading "Public Comments."</p> <p>22 A. Yep. I see it.</p> <p>23 Q. All right. And so the first sentence</p> <p>24 reads -- starts with "In considering whether" and</p> <p>25 ends at "criterion," did you write that sentence?</p>	<p style="text-align: right;">Page 212</p> <p>1 I would like to mark a series of exhibits and these</p> <p>2 are notices of intervention. And so as Kingwood</p> <p>3 Exhibit 85, it's a notice of intervention. It was</p> <p>4 filed on the docket April 27 by Cedarville Township.</p> <p>5 ALJ WILLIAMS: So marked.</p> <p>6 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>7 MR. SETTINERI: I would then mark as</p> <p>8 Kingwood Exhibit 86 a resolution to intervene by</p> <p>9 Cedarville Township. It has an Exhibit A attachment.</p> <p>10 I will note for the record I believe when the</p> <p>11 intervention notices were filed, the actual</p> <p>12 attachments were also filed separately on the docket.</p> <p>13 ALJ WILLIAMS: So are you marking the</p> <p>14 entirety of that with Attachment A?</p> <p>15 MR. SETTINERI: No. Your Honor, I am</p> <p>16 keeping them separate as they are on the docket, so I</p> <p>17 am filing -- so again, Kingwood Exhibit 85 is the</p> <p>18 notice of intervention by Cedarville Township dated</p> <p>19 April 27. I would like to mark as Kingwood Exhibit</p> <p>20 86 a resolution to intervene by Cedarville Township.</p> <p>21 That was filed in the docket also on April 27.</p> <p>22 ALJ WILLIAMS: So marked.</p> <p>23 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>24 MR. SETTINERI: Next I would mark as</p> <p>25 Kingwood Exhibit 90 a notice of intervention by Miami</p>

<p style="text-align: right;">Page 213</p> <p>1 Township and that had an attachment as well. And</p> <p>2 that was filed on May 13.</p> <p>3 ALJ WILLIAMS: So marked.</p> <p>4 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>5 MR. SETTINERI: I would mark as Kingwood</p> <p>6 Exhibit 98 notice of interview Miami Township, and it</p> <p>7 is not a duplicate, at least it was filed on July 14.</p> <p>8 ALJ WILLIAMS: So marked.</p> <p>9 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>10 MR. SETTINERI: And I would mark Kingwood</p> <p>11 Exhibit 96 notice of intervention by the Board of</p> <p>12 Trustees of Xenia Township. That was filed May 6.</p> <p>13 ALJ WILLIAMS: So marked.</p> <p>14 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>15 MR. SETTINERI: And I would note that</p> <p>16 mark Kingwood Exhibit -- sorry. Kingwood Exhibit 95</p> <p>17 is a resolution filed by the Xenia Township Board of</p> <p>18 Trustees on the docket dated May 7 as well.</p> <p>19 ALJ WILLIAMS: So marked.</p> <p>20 (EXHIBIT MARKED FOR IDENTIFICATION.)</p> <p>21 Q. (By Mr. Settineri) Now, Mr. Butler, I</p> <p>22 don't know if you have those before you.</p> <p>23 A. I do.</p> <p>24 Q. Oh, great. So the first thing I want to</p> <p>25 draw your attention to is Kingwood Exhibit 85. Do</p>	<p style="text-align: right;">Page 215</p> <p>1 review filings on the docket?</p> <p>2 A. Well, I am aware of their presence in the</p> <p>3 docket. I don't necessarily review them.</p> <p>4 Q. Okay. Do you know if you reviewed this</p> <p>5 specific document before in the docket?</p> <p>6 A. I don't think that I have.</p> <p>7 Q. Do you have any reason to believe it's</p> <p>8 not a -- that it is not a document from the PUCO</p> <p>9 docketing system?</p> <p>10 A. No. I have no reason to believe that.</p> <p>11 Q. And did Staff review all the notices of</p> <p>12 interventions at page 42 of the Staff Report?</p> <p>13 A. Yes. Staff, yes, they are discussed in</p> <p>14 the report.</p> <p>15 Q. All right. And you were the primary</p> <p>16 drafter of the "Public Intervention and</p> <p>17 Participation" section, correct?</p> <p>18 A. That is correct.</p> <p>19 Q. So with that foundation being laid, I</p> <p>20 would like to turn your attention to this notice of</p> <p>21 intervention, Mr. Butler, and look at No. 4 on the</p> <p>22 second page that reads "Because the proposed project</p> <p>23 is likely to have some adverse effects on roads,</p> <p>24 properties, and citizens located and/or residing in</p> <p>25 Cedarville Township, the Cedarville Township Board of</p>
<p style="text-align: right;">Page 214</p> <p>1 you have that before you?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And Kingwood Exhibit 85 is a</p> <p>4 notice of intervention by Cedarville Township,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And that's signed by Cedarville</p> <p>8 Township's attorney in this matter, correct?</p> <p>9 A. Daniel Brown.</p> <p>10 Q. All right. And turning kind of looking</p> <p>11 both at the Staff Report at page 42 and the page 2 of</p> <p>12 the notice of intervention, all right, do you see --</p> <p>13 let's look -- focus at page 2 of the intervention.</p> <p>14 Do you see part 4 of the notice, starts with the word</p> <p>15 "Because"?</p> <p>16 MR. MARGARD: Your Honor, I am going to</p> <p>17 object at this point because we haven't established</p> <p>18 that the witness is at all familiar with this</p> <p>19 document other than to note that it had been filed.</p> <p>20 ALJ WILLIAMS: That's a reasonable</p> <p>21 objection.</p> <p>22 Mr. Settineri, do you want to lay a</p> <p>23 foundation?</p> <p>24 MR. SETTINERI: Sure.</p> <p>25 Q. (By Mr. Settineri) Mr. Butler, do you</p>	<p style="text-align: right;">Page 216</p> <p>1 Trustees has a direct and substantial interest in</p> <p>2 this proceeding." Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. All right. So let's turn to page 42 of</p> <p>5 the Staff Report. The paragraph just before "Public</p> <p>6 Comments," you will see there is a reference to</p> <p>7 cite -- it quotes both the Miami and Cedarville</p> <p>8 Township interventions. Do you see the quotation</p> <p>9 that reads "[b]ecause the proposed project is likely</p> <p>10 to have some adverse effect on roads, properties, and</p> <p>11 citizens located and/or residing in" and then</p> <p>12 [township]."" Do you see that?</p> <p>13 MR. MARGARD: Just this -- that's the</p> <p>14 final paragraph of the "Public Interaction" section</p> <p>15 there that appears immediately before "Public</p> <p>16 Comments"?</p> <p>17 MR. SETTINERI: That's correct,</p> <p>18 Mr. Margard.</p> <p>19 Q. (By Mr. Settineri) And do you see that</p> <p>20 sentence, Mr. Butler?</p> <p>21 A. Yes. Okay. Now that -- that is a direct</p> <p>22 quote from the notice of intervention for Cedarville,</p> <p>23 correct.</p> <p>24 MR. MARGARD: I will object, your Honor.</p> <p>25 I am not sure what the point of this is. We are</p>

<p style="text-align: right;">Page 217</p> <p>1 asking the witness to compare language in a document 2 he had not previously seen with a phrase in the Staff 3 Report that he did not -- I don't understand what the 4 value of that is. Either the words are the same or 5 they are not. There's no reason to have this witness 6 testify to that. 7 MR. SETTINERI: Well, your Honor, I have 8 no problem with if staff is willing to identify a 9 specific witness who wrote this section that I can 10 ask these questions to, I would be glad to. But to 11 this point in time I'm concerned I may not find out 12 who wrote this. At this point Mr. Butler is the 13 closest person, and he is responsible for this 14 section, so I am laying a foundation here obviously, 15 if you've looked at my letter, setting up a 16 discrepancy in that quotation. 17 ALJ WILLIAMS: Mr. Butler, just to 18 confirm you are sponsoring -- whether you initially 19 drafted or not, you are sponsoring the language at 20 page 41 beginning with "Public Interaction and 21 Participation" and continuing through the end of page 22 42; is that correct? 23 THE WITNESS: That is correct. 24 ALJ WILLIAMS: So you are able to discuss 25 the paragraph above "Public Comments" regardless of</p>	<p style="text-align: right;">Page 219</p> <p>1 time, you could also then look at the Miami Township 2 intervention, Kingwood Exhibit 90, part 4 as well 3 because that's what I want to compare -- I want to 4 compare those two. 5 A. Which number is that, Kingwood Exhibit -- 6 Q. The Miami is Kingwood Exhibit 90. 7 A. 90. 8 Q. It's page 2. I am having some trouble 9 opening this document. Hang on a second. 10 A. It's difficult without having each 11 document in front of me side by side to compare all 12 these documents, but they appear to essentially say 13 the same thing. 14 Q. All right. Let me direct you to the 15 Kingwood Exhibit 98, part 4. There's one word 16 difference between the two, Mr. Butler, and I will 17 direct your attention to the word "may" versus 18 "likely." Tell me if you see that in the Miami 19 notice of intervention, Kingwood Exhibit 98, part 4 20 says "Because the proposed project may have some 21 adverse effect." Do you see that? 22 ALJ WILLIAMS: Mr. Settineri, you keep 23 referring to this as Exhibit 98. I believe it's 24 Exhibit 90; is that correct? 25 MR. SETTINERI: I'm sorry, yeah, yes.</p>
<p style="text-align: right;">Page 218</p> <p>1 whether or not you were the initial or primary 2 drafter because you are sponsoring that testimony, 3 correct? Or that part of the record, I'm sorry, 4 correct? 5 THE WITNESS: I can. 6 ALJ WILLIAMS: That's what is assumed by 7 sponsoring the testimony. Are you sponsoring that 8 part of the report? 9 THE WITNESS: Yes. 10 ALJ WILLIAMS: Okay. So we'll allow the 11 question, though I would ask for some economy of 12 questioning here, Mr. Settineri. If it's simply a 13 matter of comparing the language in the resolution to 14 the language in the report, perhaps you could ask the 15 question in a more global fashion relative to 16 whatever documents you intend to reference. 17 MR. SETTINERI: Sure. 18 Q. (By Mr. Settineri) I think, Mr. Butler, 19 first of all, you agree that the language in the 20 notice of intervention is quoted and placed in that 21 paragraph for the Staff Report; is that correct? 22 A. Give me a moment. We are talking about 23 in the parentheses "[b]ecause the proposed 24 project"; is that correct? 25 Q. That is correct. And if you want to save</p>	<p style="text-align: right;">Page 220</p> <p>1 Thank you, your Honor. 2 A. So which document am I looking at? 3 ALJ WILLIAMS: Kingwood Exhibit 90. 4 A. Yes, I see the word "may." 5 Q. Okay. Then go back to the Cedarville 6 notice of intervention, same section. 7 A. And that was Exhibit? 8 MR. MARGARD: 85. 9 Q. Yep. 10 A. I do not see the word "may." 11 Q. Do you see the word "likely" instead, 12 correct? 13 A. I see the word "likely." 14 Q. Okay. So they are not the same that -- 15 strike that. 16 So when you go back to the part of the 17 Staff Report that you are sponsoring where it says 18 "Staff notes that the notice of intervention for both 19 the Board of Township Trustees of Miami Township and 20 the Board of Trustees of Cedarville Township states 21 their intervention" and then there is a quotation. 22 That quotation is not accurate as to Miami Township, 23 correct? 24 A. It does not reflect the exact language in 25 that document.</p>

<p style="text-align: right;">Page 221</p> <p>1 Q. Okay. And then if you take Kingwood 90, 2 turn to the last page -- or second to last page which 3 would be the actual resolution from Miami Township. 4 A. Kingwood 90, okay. 5 Q. All right. So as of the date of 6 intervention, you'll see the intervention -- the 7 resolution passed by Miami Township simply says 8 "WHEREAS, Miami Township, Greene County, Ohio, is 9 interested in the proposal by Kingwood Solar to 10 construct a power installation in Miami Township. 11 THEREFORE, Miami Township, Greene County, requests 12 status with The Ohio Power Siting Board as an 13 intervenor in the Kingwood Solar One project proposal 14 for a solar power installation in our Township," 15 correct? 16 A. That is what I read on that page. 17 Q. All right. And so that there is no 18 discussion of the actual resolution in the section 19 that you are sponsoring there in the Staff Report, 20 correct? 21 A. I'm reading it. That's correct. 22 Q. Okay. And let's turn back -- then with 23 that information in hand, let me do one last one. 24 Let's look at Kingwood Exhibit 86 which is a 25 Cedarville Township resolution.</p>	<p style="text-align: right;">Page 223</p> <p>1 explained in more detail above, Staff notes that 2 there is general opposition to the project from the 3 local citizens and local governmental bodies. 4 Several local governmental bodies have filed to 5 intervene in this proceeding, including the Board of 6 Trustees of Cedarville Township, the Board of 7 Trustees of Xenia Township, the Board of Trustees of 8 Miami Township, and the Greene County Board of 9 Commissioners. As noted above, two of these local 10 governmental bodies intervened based on anticipated 11 adverse effects of the project on their respective 12 localities." Do you see that? 13 A. Uh-huh. 14 Q. So the -- what is the "As noted above" 15 referring to the extent you have an opinion? 16 And let me rephrase that. Would the "As 17 noted above" be referring to your section of the 18 Staff Report although you did not write it? 19 A. I would -- let me read it here. 20 I think it could refer to the last two 21 paragraphs in the "Public Interaction and 22 Participation" section. 23 Q. Okay. And then the reference in that 24 sentence to "based on anticipated adverse effects of 25 the project on their respective localities," that was</p>
<p style="text-align: right;">Page 222</p> <p>1 A. Okay. 2 Q. And there that resolution simply approves 3 the intervention in the project -- or sorry. Let me 4 just read it for the record. Kingwood Exhibit 86, 5 that resolution from Cedarville Township, part of it 6 states "Mrs. Krajicek moved to choose to intervene in 7 the Kingwood Solar One Solar Farm project. 8 Cedarville Township requests status with the Ohio 9 Power Siting Board as an Intervenor in the Kingwood 10 Solar One project proposal for a solar farm power 11 installation in our township. Mr. Boeck seconded and 12 the motion passed." Do you see that? Do you see 13 that, Mr. Butler? 14 A. Yes, I do see that. 15 Q. So that resolution is not discussed 16 anywhere in the Staff Report either, correct? 17 A. That is correct. 18 Q. All right. So let's turn to page 44 of 19 the Staff Report. Let me -- before I ask you a 20 question, you would expect that other Staff members 21 would rely on the information in any section of the 22 Staff Report that you are responsible for, correct? 23 A. Yes, they may. 24 Q. Okay. Let's turn then to page 44. And 25 I'll -- the paragraph, and I will just read it, "As</p>	<p style="text-align: right;">Page 224</p> <p>1 based on the notice of intervention that was signed 2 by counsel for those Townships, correct? 3 A. Could you restate that? 4 Q. Sure. Where the sentence that says "As 5 noted above, two of these local governmental bodies 6 intervened based on anticipated adverse effects of 7 the project on their respective locations." The 8 "intervened based on anticipated adverse effects of 9 the project," that information would have come from 10 the notices of intervention but not the resolutions, 11 correct? 12 A. Certainly would have come from the notice 13 of intervention. I'm not sure about the other 14 documents. 15 Q. Now, going to the last sentence of 16 that -- before the "Public Comments," and this is a 17 section that you are sponsoring, you didn't draft the 18 sentence that says "Additionally, on October 29, 19 2021, the Greene County Board of Commissioners filed 20 a unanimous resolution on the public docket stating 21 its opposition to the project." Do you see that? 22 A. Yes, I see that. 23 Q. All right. Would you agree with me that 24 it was -- the Staff's basis for recommending denial 25 of that specific criteria was based on the filing of</p>

<p style="text-align: right;">Page 225</p> <p>1 that resolution by the Greene County Board of 2 Commissioners? 3 A. Could you restate that? 4 Q. Sure. Do you agree with me that the 5 basis for the Staff's recommendation to deny the 6 project -- to deny the application because it did not 7 satisfy the criteria under 4906.10(A)(6) was based on 8 the Greene County Board of Commissioners' resolution? 9 MR. MARGARD: I am going object as 10 mischaracterizes what's written in the Staff Report. 11 Counsel has completely overlooked the word 12 "additionally" in that sentence. 13 ALJ WILLIAMS: I'll sustain the 14 objection. 15 Mr. Settineri, that's not what the report 16 says. 17 MR. SETTINERI: I was -- I was more of -- 18 it wasn't actually quoting the report, your Honor, 19 but I will try again. 20 Q. (By Mr. Settineri) Mr. Butler, you are 21 aware that Staff recommended denial of the 22 application based on the fact that Staff believes the 23 Applicant has not met his burden to show that it 24 satisfies 4906.10(A)(6) of the Revised Code, correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 227</p> <p>1 does not comply with the requirements specified in RC 2 4906.10(A)(6)." Do you see that? 3 A. Yes. 4 Q. All right. Ms. White reached out to you 5 to discuss the Staff's recommendation on October 29, 6 correct? 7 A. That is correct. 8 Q. Okay. And based on that discussion and 9 also the fact that you are aware that the Greene 10 County Commissioners' resolution was docketed on 11 October 29, would you agree with me that the basis 12 for the Staff's recommending to deny -- or I should 13 say the basis for Staff's recommendation on RC 14 4906.10(A)(6) was based solely on the receipt of the 15 Greene County Board of Commissioners' resolution? 16 MR. MARGARD: Again, object on the basis 17 of the word "solely." 18 ALJ WILLIAMS: I am going to sustain the 19 objection. If you want to ask whether the Township 20 intervention and the information they filed had any 21 bearing on Staff's recommendation, you can ask that 22 question. You cannot continue to superimpose your 23 desired position that Greene County Board's filing 24 was the sole rationale for the Staff's opinion. 25 MR. SETTINERI: No, your Honor. He</p>
<p style="text-align: right;">Page 226</p> <p>1 Q. All right. And as of the date that the 2 Staff Report issued and the Staff Report 3 recommendation was issued, the basis for that denial 4 was that the Greene County Board of Commissioners 5 passed a resolution opposing the project, correct? 6 MR. MARGARD: I renew my objection, your 7 Honor. 8 ALJ WILLIAMS: The objection continues to 9 be sustained. 10 Mr. Settineri, that's not what the report 11 says. 12 MR. SETTINERI: I'm sorry, your Honor. I 13 wasn't citing to the report. 14 ALJ WILLIAMS: You keep asking him if the 15 basis is one part of what's in the report ignoring 16 what else is in the report referencing to the other 17 governmental bodies that have intervened and given 18 these rationale. 19 MR. SETTINERI: Well, let me try it a 20 different way, your Honor. This might help. 21 Q. (By Mr. Settineri) Mr. Butler, bottom of 22 page 44 just under "Recommended Findings," the 23 sentence reads "Staff recommends that the Board find 24 that the proposed facility would not serve the public 25 interest, convenience, and necessity, and therefore</p>	<p style="text-align: right;">Page 228</p> <p>1 mentioned the Staff reversed their position upon 2 receipt of that resolution. It's on the record. 3 MR. MARGARD: And that's argumentative, 4 your Honor. What's been indicated here is that that 5 was an additional piece of information. 6 ALJ WILLIAMS: You want to explore how, 7 if at all, the Greene County changed any opinion, you 8 are welcome to explore that line of questioning. 9 Q. (By Mr. Settineri) Yeah. Mr. Butler, you 10 are aware that the notices of intervention for Miami 11 Township, Cedarville Township were received by the 12 Board well before the date the Staff Report was 13 issued, correct? 14 A. I don't recall the exact dates. 15 Q. Was it well before the Staff Report 16 issued? 17 A. I could look at the Staff Report. 18 Q. Well, let's just look at Exhibit 90 19 turning to the last page. When was that filed? 20 A. Pull it up. That was filed on May 13, 21 2021. 22 Q. Look at Kingwood Exhibit 85, please, last 23 page, when was that filed? 24 A. That was filed on April 27. 25 Q. All right. And while we are at it, let's</p>

<p style="text-align: right;">Page 229</p> <p>1 look at Kingwood Exhibit 96. 2 ALJ WILLIAMS: 86 or 96? 3 MR. SETTINERI: 96, please. 4 A. This was May 6, 2021. 5 Q. All right. So for those three 6 interventions, would you agree that they were filed 7 well before the Staff Report issued on October 29, 8 2021? 9 A. Yes. Now that I know when they were 10 filed, I would agree with that. 11 Q. Okay. And as of October -- let me ask 12 this, did Staff receive any new information on 13 October 29 -- strike that. Let me ask this question, 14 in terms of recommending the recommendation at the 15 bottom of page 42 under conclusion as to 16 4906.10(A)(6), do you believe that the notices of 17 intervention by Miami Township and Cedarville 18 Township support that recommendation? 19 MR. MARGARD: And can I clarify solely 20 those interventions? 21 MR. SETTINERI: That's what I said. 22 MR. MARGARD: I didn't hear solely. 23 MR. SETTINERI: I didn't say solely. I 24 just asked the question. 25 ALJ WILLIAMS: You know, we're putting</p>	<p style="text-align: right;">Page 231</p> <p>1 I am looking at them. I would say that the -- the 2 resolutions do not specifically state opposition. 3 The notice expresses concerns with the project. 4 Q. All right. If I can -- one minute 5 actually. One last question before I forget. Going 6 back to that letter from Jill Kocher we talked about, 7 Kingwood Exhibit 23, Mr. Butler? 8 A. Uh-huh. 9 Q. I think you said something like that had 10 been -- that type of letter had been sent for a year 11 and a half. Why -- do you know why the Power Siting 12 Board started sending that -- that type of letter out 13 for renewable projects? 14 A. There's an interest in communicating 15 more, providing process-related information to the 16 local officials, making sure that they are aware that 17 there are projects proposed in their community. 18 Q. And when you say "interest," you know, 19 who -- let -- whose interest? Who was interested in 20 that? Are you saying Staff? The Board? I am just 21 trying to find the source. 22 A. Yeah. I would say Staff. 23 MR. SETTINERI: Thank you. One moment, 24 your Honor, if I may. 25 ALJ WILLIAMS: Everybody stay on camera.</p>
<p style="text-align: right;">Page 230</p> <p>1 Karen through the paces here. So I believe the 2 question was did the Township interventions influence 3 that determination; is that correct, Mr. Settineri? 4 MR. SETTINERI: That's correct, your 5 Honor. 6 ALJ WILLIAMS: The witness can answer 7 that question. 8 MR. MARGARD: Thank you. 9 A. Yes. 10 Q. And how did they influence that decision? 11 A. They contributed to the Staff's awareness 12 that there was local opposition, local governmental 13 bodies were opposed to the project. 14 Q. Okay. But the Township resolutions don't 15 indicate that, do they? 16 A. I would have to review the documents 17 again. 18 Q. Go ahead. Take your time. 19 A. Can you remind me of the exhibit numbers? 20 Q. Sure. You can actually look at the back 21 of Kingwood Exhibit 90, and then you can look at 22 Kingwood Exhibit 86. Mr. Butler, do you need the 23 question? I know you were locating the document. Do 24 you need the question again? 25 A. No. I have got the document. I'm sorry.</p>	<p style="text-align: right;">Page 232</p> <p>1 You can silence, Mr. Settineri. 2 MR. SETTINERI: All right. We have no 3 further questions, your Honor. 4 Thank you, Mr. Butler. Good seeing you 5 today. 6 THE WITNESS: Thank you. 7 ALJ WILLIAMS: Mr. Margard, do you need 8 some time regarding redirect? 9 MR. MARGARD: Yeah, 3 or 4 minutes, 10 please. 11 ALJ WILLIAMS: Let's come back at 3:53. 12 Off the record. 13 (Discussion off the record.) 14 ALJ WILLIAMS: Back on the record. 15 Mr. Margard, any redirect? 16 MR. MARGARD: I do not. Thank you, your 17 Honor. Respectfully renew my motion to admit Staff 18 Exhibit No. 10. 19 ALJ WILLIAMS: We'll get to that in a 20 second. 21 Mr. Butler, thank you for your time and 22 energy this afternoon. Have a great day. 23 THE WITNESS: Thank you. 24 ALJ WILLIAMS: Thank you. 25 Okay. Relative to Staff's motion to</p>

<p style="text-align: right;">Page 233</p> <p>1 admit Exhibit 10, I am not hearing any objections. 2 That's deemed admitted. 3 (EXHIBIT ADMITTED INTO EVIDENCE.) 4 ALJ WILLIAMS: Applicant? 5 MR. SETTINERI: Thank you, your Honor. 6 Move for the admission of Kingwood Exhibit 85, 86, 7 Kingwood Exhibit 90, Kingwood Exhibit 95, Kingwood 8 Exhibit 96, and Kingwood Exhibit 98. These are 9 all -- this packet comprises the intervention notices 10 as well as the resolutions that are from the docket 11 which is why I did them that way. 12 ALJ WILLIAMS: Okay. Any objection to 13 the Kingwood Exhibits 85, 86, 90, 95, 96, or 98? 14 MR. MARGARD: No, your Honor. 15 ALJ WILLIAMS: Hearing none, those are 16 all admitted. 17 (EXHIBITS ADMITTED INTO EVIDENCE.) 18 MR. SETTINERI: Next move for admission 19 of Kingwood Exhibit 89 which is a letter from the 20 docket. 21 ALJ WILLIAMS: Any objection to the 22 admission of Kingwood Exhibit 89? 23 MR. VAN KLEY: Yes, your Honor, we object 24 to that one. That's just an argument of counsel. 25 The pertinent points from that exhibit were all</p>	<p style="text-align: right;">Page 235</p> <p>1 were cited by the Staff in the Staff Report; so, you 2 know, if it goes in the Staff Report, I don't see why 3 this letter can't go in the record. 4 ALJ WILLIAMS: I am going to allow the 5 document into the record. While it appears to be a 6 close case, at the end the letter does request 7 consideration of a corrected report. It is just an 8 issue that the Bench has entertained argument on 9 throughout this proceeding, so we will bring the 10 exhibit in in spite of the objections. 11 (EXHIBIT ADMITTED INTO EVIDENCE.) 12 ALJ WILLIAMS: Mr. Settineri. 13 MR. SETTINERI: I think the last item 14 would move 97. This is directly off the docket but 15 the value of -- I will just say in terms of the 16 moving for the admission, although this can be found 17 in the case docket, this provides a nice, easily -- 18 easy to read compilations of the public comments that 19 were in place up until October 29, and obviously the 20 witness answered questions about it. So we move for 21 the admission of Kingwood Exhibit 97. 22 ALJ WILLIAMS: Yeah. The Bench finds 23 that that document remains on DIS the same today as 24 it was then. The document remains compiled in a 25 chronological fashion, so the document doesn't add</p>
<p style="text-align: right;">Page 234</p> <p>1 stated by the questions and answers on the -- on the 2 docket so admitting the -- this document separately 3 would be prejudicial. And if Kingwood wants to make 4 the arguments, make the arguments of counsel that are 5 included in that letter, they can make those 6 arguments in their post-hearing briefs. 7 ALJ WILLIAMS: Anyone else want to weigh 8 in on that objection? 9 MR. SETTINERI: I would just respond when 10 they are done. 11 ALJ WILLIAMS: Yes, I will, sir. 12 MR. MARGARD: I guess, your Honor, I 13 would rise in support of that argument. 14 ALJ WILLIAMS: Mr. Settineri, response? 15 MR. SETTINERI: Sure, your Honor. This 16 is a communication from Kingwood Solar to Teresa 17 White. It is sent by counsel. I would not say these 18 are arguments of counsel but this is a direct 19 communication to Ms. White asking -- pointing out 20 what Kingwood Solar believes to be errors in the 21 Staff Report and requesting a corrected report, so 22 it's certainly relevant to this proceeding. It's not 23 simply arguments on brief. 24 And I would note that to that extent, the 25 notices of intervention which were signed by counsel</p>	<p style="text-align: right;">Page 236</p> <p>1 any value to the consideration of the case. We will 2 not admit that. 3 Okay. Let's go off the record 4 (Discussion off the record.) 5 ALJ WILLIAMS: Mr. Margard, please call 6 your next witness. 7 MR. MARGARD: Thank you, your Honor. 8 Staff would call Grant Zeto to the stand, please. 9 ALJ WILLIAMS: Good afternoon, Mr. Zeto. 10 MR. ZETO: Afternoon. 11 ALJ WILLIAMS: Would you raise your right 12 hand. 13 (Witness sworn.) 14 ALJ WILLIAMS: Thank you. Please 15 proceed, Mr. Margard. 16 MR. MARGARD: Thank you, your Honor. I 17 would respectfully request that the prefiled 18 testimony of Grant Zeto filed in this case on 19 February 28, 2022, be marked for purposes of 20 identification as Staff Exhibit 11. 21 ALJ WILLIAMS: So marked. 22 (EXHIBIT MARKED FOR IDENTIFICATION.) 23 --- 24 GRANT ZETO 25 being first duly sworn, as prescribed by law, was</p>

<p style="text-align: right;">Page 237</p> <p>1 examined and testified as follows: 2 DIRECT EXAMINATION 3 By Mr. Margard: 4 Q. Mr. Zeto, would you please state and 5 spell your name for the record. 6 A. Grant Zeto, G-R-A-N-T Z-E-T-O. 7 Q. And by whom are you employed and in what 8 capacity, please? 9 A. The Public Utilities Commission of Ohio 10 as a Public Utilities Administrator with the Power 11 Siting Department. 12 Q. Mr. Zeto, do you have before you what has 13 just been marked as Staff Exhibit No. 11? 14 A. Yes, I do. 15 Q. Would you identify that for us, please. 16 A. This is my prefiled testimony. 17 Q. And was this prepared by you or at your 18 direction? 19 A. Yes. 20 Q. And have you reviewed that document prior 21 to taking the stand today? 22 A. Yes. 23 Q. And having done so, do you have any 24 changes, corrections of any kind to make to that 25 testimony?</p>	<p style="text-align: right;">Page 239</p> <p>1 Q. Could you describe those communications. 2 A. We communicated with them throughout the 3 process, be it Data Requests, e-mails, basically 4 throughout the course of our investigation to gather 5 information for our Staff Report. 6 Q. How many e-mails would you estimate that 7 you sent to representatives of Kingwood Solar during 8 that period of time? 9 A. I really don't know. Maybe a guess, a 10 dozen. 11 Q. Okay. Have you -- did you also receive 12 e-mails from Kingwood Solar during that process? 13 A. Yes. 14 Q. Can you give an estimate of how many 15 e-mails you received from Kingwood Solar during that 16 process? 17 A. Probably would have been an even amount 18 receiving and sending. 19 Q. Did you have any in-person discussions 20 with any representatives of Kingwood Solar during the 21 process of this case? 22 A. Yes. I believe that there was a public 23 information meeting, preapplication meeting, things 24 of that nature. 25 Q. And did you have any telephone</p>
<p style="text-align: right;">Page 238</p> <p>1 A. No. 2 Q. And if I were to ask you the questions 3 contained in Staff Exhibit No. 11, would your 4 responses today be the same? 5 A. Yes. 6 Q. And in your opinion are those responses 7 true and reasonable? 8 A. Yes. 9 MR. MARGARD: Thank you. 10 Your Honor, I respectfully move for the 11 admission of Staff Exhibit No. 11, subject to 12 cross-examination, and tender the witness. 13 ALJ WILLIAMS: Thank you, Mr. Margard. 14 First hear from Citizens for Greene 15 Acres. 16 MR. VAN KLEY: Thank you, your Honor. 17 - - - 18 CROSS-EXAMINATION 19 By Mr. Van Kley: 20 Q. And good afternoon, Mr. Zeto. 21 A. Good afternoon. 22 Q. Have you had any written or verbal 23 communications with any representatives of Kingwood 24 Solar in this case? 25 A. Yes.</p>	<p style="text-align: right;">Page 240</p> <p>1 conversations with representatives of Kingwood Solar 2 during the pendency of this case? 3 A. I believe this was an all parties meeting 4 on the stipulation. That's the only one I can 5 specifically remember. 6 Q. Would you go to the Staff Report that's 7 been marked as Staff Exhibit No. 1. 8 A. Yes. I'm there. 9 Q. Would you go to Condition 15 in that 10 Staff Report you will find on page 49. 11 A. Okay. Yes, I see that. 12 Q. Okay. Directing your attention to the 13 reference to a fence that is both small-wildlife 14 permeable and aesthetically fitting for a rural 15 location, can you tell me whether the reference in 16 this proposed condition to small wildlife is meant to 17 include predators such as foxes and coyotes? 18 MR. MARGARD: Your Honor, I object to 19 this point only because this isn't the witness who 20 sponsored Staff Condition No. 15. If there were 21 questions with respect to that condition, they should 22 have been raised with Staff Witness Bellamy. 23 MR. VAN KLEY: Okay. Well, let me just 24 double-check because I wrote him down as Condition 25 15. Just a second.</p>

<p style="text-align: right;">Page 241</p> <p>1 ALJ WILLIAMS: Go off record. 2 (Discussion off the record.) 3 ALJ WILLIAMS: Back on the record. 4 Response to the objection, Mr. Van Kley? 5 MR. VAN KLEY: I'm going to restate the 6 question, your Honor. 7 ALJ WILLIAMS: Okay. 8 Q. (By Mr. Van Kley) Mr. Zeto, you have 9 degrees in -- you have a Bachelor of Science Degree 10 in environment and natural resources? 11 A. Yes. 12 Q. And in the course of your duties, you've 13 had duties relative to evaluating the effects of 14 solar projects on wildlife, correct? 15 A. Yes. 16 Q. And your college degree in environment 17 and natural resources provided you with training 18 concerning wildlife? 19 A. Yes. 20 Q. Can you tell me what size of a hole is 21 sufficient for a fox or coyote to get through? 22 A. No. I don't know that for sure. 23 MR. VAN KLEY: Okay. Very good. Then I 24 have no more questions for you. 25 Thank you, your Honor.</p>	<p style="text-align: right;">Page 243</p> <p>1 Q. What are your responsibilities as the 2 overall Staff project lead on a project? 3 A. My responsibilities would include 4 assigning sections, facilitating deadlines on the 5 report, and coordinating information on the team on 6 the report as well as compiling the report and 7 writing and editing the report. 8 Q. Okay. And in your role as the -- I will 9 say the Staff project lead, would you be involved in 10 the recommendations of the report? 11 A. Yes. 12 Q. Okay. So specifically turning to page 43 13 of the Staff Report, Staff Exhibit 1, let me know 14 when you are there. 15 A. Okay. I'm there. 16 Q. So you were involved in that 17 recommendation there, correct? 18 A. Yes, I was. 19 Q. All right. And that recommendation in -- 20 at that section of the Staff Report came about on 21 October 29, 2021, correct? 22 A. The final recommendation, yes. 23 Q. All right. And then prior to October 29 24 2021, that was not a recommended denial, was it? 25 A. No.</p>
<p style="text-align: right;">Page 242</p> <p>1 ATTORNEY EXAMINER: Thank you, 2 Mr. Van Kley. 3 Next we will hear from Miami Township. 4 MR. SLONE: No cross for this witness. 5 Thank you. 6 ALJ WILLIAMS: Thank you. 7 Greene County. 8 MR. SHAMP: No cross, your Honor. 9 ALJ WILLIAMS: Xenia Township. 10 MR. DUNN: No cross, your Honor. 11 ALJ WILLIAMS: Cedarville Township. 12 MR. BROWN: No cross, your Honor. 13 ALJ WILLIAMS: In Progress. 14 MR. HART: No cross, your Honor. Thank 15 you. 16 ALJ WILLIAMS: Farm Bureau. 17 MS. MILAM: No cross. Thank you. 18 ALJ WILLIAMS: Applicant. 19 MR. SETTINERI: Thank you, your Honor. 20 --- 21 CROSS-EXAMINATION 22 By Mr. Settineri: 23 Q. And good afternoon, Mr. Zeto. I hope you 24 are doing well. 25 A. Thank you. You as well.</p>	<p style="text-align: right;">Page 244</p> <p>1 Q. Okay. And the one fact that changed that 2 recommendation -- the initial recommendation was the 3 Greene County Board of Commissioners' resolution, 4 correct? 5 A. That was a factor within the decision. 6 Q. Okay. What other factors went into that 7 decision? 8 A. I would say it's all the details within 9 the case on the docket here, the Intervenor's public 10 comments, the kind of information that we had been 11 receiving from the public on it, to name -- amongst 12 others. 13 Q. Okay. Now, you had all that information 14 prior to October 29, correct? 15 MR. MARGARD: All the information except 16 the resolution, correct, Mr. Settineri? 17 MR. SETTINERI: Thank you for making it a 18 better question, Mr. Margard. Appreciate it. That 19 is the question. 20 A. The resolution came in on the 29th, yes. 21 Q. Okay. And based on receiving the 22 resolution, Staff's recommendation changed in this 23 section, correct? 24 A. It was finalized. 25 Q. So you agree with me that that -- is that</p>

<p style="text-align: right;">Page 245</p> <p>1 a correct to my question?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. All right. Did you review the</p> <p>4 resolution on October 29, 2021?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Okay. All right. So let me back up.</p> <p>7 What sections of the -- did you write any of the</p> <p>8 sections of the Staff Report?</p> <p>9 A. Yes.</p> <p>10 Q. And specifically what sections did you</p> <p>11 write?</p> <p>12 A. The "Project Description" and "Schedule";</p> <p>13 the "Air, Water, Solid Waste Permitting" section,</p> <p>14 "Site Selection"; and I was contributing on that</p> <p>15 "Public Comment" section. Let's see here --</p> <p>16 Q. I am going to interrupt you. My</p> <p>17 apologies, Mr. Zeto. The reason I am interrupting, I</p> <p>18 wasn't able to follow you quick enough. Would it be</p> <p>19 easier to go through the Staff Report and just tell</p> <p>20 me as we go through it and maybe it's on your screen</p> <p>21 what sections you wrote?</p> <p>22 A. I can restate my sections for you, if</p> <p>23 that would help, slower.</p> <p>24 Q. If you could do slower for me. Thank</p> <p>25 you.</p>	<p style="text-align: right;">Page 247</p> <p>1 heading on page 31, correct?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And the remainder of that</p> <p>4 page carrying over through page 32, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And did you draft the "Conclusion" there</p> <p>7 as well in the page 33?</p> <p>8 A. Yes.</p> <p>9 Q. And did you draft the "Recommendation</p> <p>10 Finding" section on page 33?</p> <p>11 A. Yes.</p> <p>12 Q. And then you also mentioned that you</p> <p>13 drafted the "Air, Water, and Solid Waste" sections.</p> <p>14 Would that start at page 37 of the Staff Report?</p> <p>15 A. Correct.</p> <p>16 Q. And would that stop on page 38 before</p> <p>17 "Aviation"?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And then I think I heard you say</p> <p>20 you contributed to sections of the "Public Comments"</p> <p>21 so that's turning back to page 6, correct?</p> <p>22 A. Okay.</p> <p>23 Q. Is this the section where you contributed</p> <p>24 to sections on the "Public Comments"?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 246</p> <p>1 A. "Project Description; "Project Schedule";</p> <p>2 the "Minimizing Impact" section; "Site Selection";</p> <p>3 Air, Water, and Solid Waste Permitting"; and then I</p> <p>4 also contributed to sections of "Public Comments."</p> <p>5 Q. Anything else?</p> <p>6 A. That would be all.</p> <p>7 Q. All right. And so the "Project</p> <p>8 Description" -- and would that be at page 6 of the</p> <p>9 Staff Report, starting at page 6 and going -- I don't</p> <p>10 know where that ends, maybe page 8.</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And did you also -- okay. Keep</p> <p>13 going. And then you said you drafted the "Project</p> <p>14 Schedule." Where would that be?</p> <p>15 A. That is a subsection at the end of</p> <p>16 "Project Description" on the end of page 8.</p> <p>17 Q. Okay. Now, just to be clear so I</p> <p>18 understand, so when there is -- there is a heading</p> <p>19 "Solar Panels and Racking," did you draft that whole</p> <p>20 section?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So okay. And then "Minimizing</p> <p>23 Impacts," where is that section that you drafted?</p> <p>24 A. One moment. Page 31.</p> <p>25 Q. All righty. And "Minimizing Impact" as a</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. Okay. So let's turn here. What specific</p> <p>2 sections in the "Public Interest, Convenience, and</p> <p>3 Necessity" part of the Staff Report did you</p> <p>4 contribute to?</p> <p>5 A. I believe I was the original author on</p> <p>6 parts on pages 43 and 44.</p> <p>7 Q. And just can you give me a heading point</p> <p>8 of reference there, please?</p> <p>9 A. So starting at the top of page 43, it's</p> <p>10 the "No. 1 Opposition to agricultural land used for</p> <p>11 solar and concern over farmland quantity --</p> <p>12 quantity."</p> <p>13 Q. Okay. And then what about -- anything</p> <p>14 else on that section?</p> <p>15 A. I think I originally wrote all of these,</p> <p>16 yes, through the end of page 44.</p> <p>17 Q. Make sure, did you say through the end of</p> <p>18 page 44?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. You said you "originally wrote."</p> <p>21 What do you mean by "originally wrote" these?</p> <p>22 A. I think that goes back to our process of</p> <p>23 Staff reporting as a group. Staff can contribute and</p> <p>24 edit sections at any time.</p> <p>25 Q. And let me ask that so we all understand</p>

<p style="text-align: right;">Page 249</p> <p>1 it. Is the Staff Report a working document?</p> <p>2 A. Yes.</p> <p>3 Q. And can any Staff member add at any</p> <p>4 section of the Staff Report at any time?</p> <p>5 A. Yeah.</p> <p>6 Q. So it's an open document; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Thank you. All right. So you -- so let</p> <p>10 me -- so going back to -- I just want to work through</p> <p>11 it very carefully so I understand it. Starting at</p> <p>12 page 40, you did not draft anything on page 40,</p> <p>13 correct?</p> <p>14 A. No.</p> <p>15 Q. And you did not draft anything on page 41</p> <p>16 that's there, correct?</p> <p>17 A. No.</p> <p>18 Q. And turning to page 42, you did not draft</p> <p>19 the -- I guess we will call it the first three</p> <p>20 paragraphs, but it's the "In the event the Board" and</p> <p>21 then the next one is the paragraph "The</p> <p>22 Administrative Law Judge," and then the third</p> <p>23 paragraph is "The Board of Trustees." You did not</p> <p>24 draft those three, correct?</p> <p>25 A. One moment, please. No, I don't think I</p>	<p style="text-align: right;">Page 251</p> <p>1 Q. All right. To refresh your memory, do</p> <p>2 you recall being in a discussion with Teresa White</p> <p>3 and others on October 29?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And did that discussion result in</p> <p>6 changes to the Staff Report at that time?</p> <p>7 A. Yes. Not solely that discussion but that</p> <p>8 was part of our process, yeah.</p> <p>9 Q. Okay. And you said "not solely that</p> <p>10 discussion." Were there other discussions that</p> <p>11 resulted in changes to the Staff Report on</p> <p>12 October 29, 2021?</p> <p>13 A. Not that I remember specifically.</p> <p>14 Q. Okay. Then -- and trying to refresh your</p> <p>15 memory in terms of the discussion that you had on</p> <p>16 October 20 -- October 29, 2021, with Teresa White and</p> <p>17 others, was the Staff Report being edited during</p> <p>18 those discussions?</p> <p>19 A. It may have. I don't remember.</p> <p>20 Q. Okay. Would that have been on either</p> <p>21 a -- would that have been on a virtual call?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So sitting here today, you can't</p> <p>24 tell me who wrote that paragraph in considering,</p> <p>25 correct?</p>
<p style="text-align: right;">Page 250</p> <p>1 did.</p> <p>2 Q. That would be Mr. Butler, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And now the next paragraph says</p> <p>5 "In considering whether a facility is in the public</p> <p>6 interest," did you draft that paragraph?</p> <p>7 A. I believe that was Mr. Butler.</p> <p>8 Q. Did you just listen to Mr. Butler's</p> <p>9 testimony by chance?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Do you recall that he did not</p> <p>12 believe he drafted that section?</p> <p>13 A. Okay. Yeah, I guess I don't remember</p> <p>14 that specifically.</p> <p>15 Q. Okay. Well, let me ask this to make sure</p> <p>16 we are at the same reference, I am looking at the</p> <p>17 paragraph that's immediately above the "Public</p> <p>18 Comments," the paragraph starts "In considering</p> <p>19 whether." Do you know who drafted that section from</p> <p>20 the Staff?</p> <p>21 A. One moment. I will read it over so I can</p> <p>22 refresh my memory, please.</p> <p>23 Q. Thank you.</p> <p>24 A. I may have written that. I just can't</p> <p>25 remember for sure.</p>	<p style="text-align: right;">Page 252</p> <p>1 A. I mean, I would say it's a product of the</p> <p>2 Staff collectively.</p> <p>3 Q. I understand, but the specific Staff</p> <p>4 member who wrote that paragraph, can you identify</p> <p>5 that person today?</p> <p>6 A. I can't, but I think that kind of</p> <p>7 almost -- it almost goes to -- the entire Staff</p> <p>8 Report goes that way where not every word is written</p> <p>9 by one person.</p> <p>10 Q. Who do you report to, Mr. Zeto?</p> <p>11 A. Randall Schumacher.</p> <p>12 Q. Was Randall Schumacher in the discussions</p> <p>13 you had on October 29, 2021, regarding the Staff</p> <p>14 Report?</p> <p>15 MR. MARGARD: Objection, your Honor, with</p> <p>16 respect to the general process and who all was</p> <p>17 involved in what. What's relevant here is what Staff</p> <p>18 put in its Staff Report.</p> <p>19 ALJ WILLIAMS: We've allowed a small bit</p> <p>20 of latitude relative to these workshops or these</p> <p>21 meetings where the collaborative process takes place,</p> <p>22 so I will allow the question to stand.</p> <p>23 A. I don't remember if he was on the call or</p> <p>24 not.</p> <p>25 Q. Okay. All right. So continuing on page</p>

<p style="text-align: right;">Page 253</p> <p>1 42 under "Public Comments," Mr. Butler drafted that 2 section, correct, down at the bottom of page 42? 3 A. I believe so, yes. 4 Q. And you did not draft that section, 5 correct? 6 A. I don't believe I was the original 7 drafter of the section, but I contributed to it. 8 Q. All right. And continuing on the bottom 9 of page 43, the "Conclusion," did you draft the 10 conclusion in that section which rolls over to page 11 44? 12 A. I believe I did. I think I was the 13 original drafter of this, yes. 14 Q. Okay. And obviously this section 15 references the date of October 29, 2021, so did you 16 revise this section or draft this section on 17 October 29, 2021? 18 A. Revisions were made on the 29th. 19 Q. Okay. And were those revisions made by 20 you? 21 A. Yes. I contributed. 22 Q. Okay. Who else contributed to the 23 revisions in this section? 24 A. I think the entire Staff that worked on 25 the project and had access to the document had</p>	<p style="text-align: right;">Page 255</p> <p>1 in the Staff Report above the "Recommended Findings" 2 there is a sentence that says "As noted above, two of 3 these local governmental bodies intervened based on 4 anticipated adverse effects of the project on their 5 respective localities." Do you see that language? 6 A. Yes. 7 Q. Okay. And let's start first with Miami 8 Township Exhibit 90 -- Kingwood Exhibit 90. 9 A. Sorry. I just clicked it, and it 10 refreshed and one moment. Okay. I am opening 11 Exhibit 90. 12 Q. Okay. And just turn to the last -- 13 second to last page which is the actual Miami 14 Township resolution. Let me know when you see that. 15 A. Okay. 16 Q. Now, you would agree with me the Ohio 17 Power Siting Board speaks through its orders, 18 correct? 19 A. I believe that's one way, yes. 20 Q. And that's a common understanding of 21 Staff; is that correct? 22 A. I don't know. 23 Q. Okay. And would you agree with me that 24 the Township Board of Trustees speaks through its 25 resolutions as well?</p>
<p style="text-align: right;">Page 254</p> <p>1 opportunity to, so it's hard for me to say everyone 2 specifically. 3 Q. Okay. Did you review this section prior 4 to the filing of the Staff Report? 5 A. Yes. 6 Q. So you're comfortable that no edits were 7 made to this section that you weren't aware of; is 8 that correct? 9 A. That's correct. 10 Q. And what about the "Recommended Findings" 11 section, did you draft that as well? 12 A. Yes. 13 Q. All right. So when you drafted the 14 conclusion in this section, you didn't consider the 15 actual resolutions from Miami Township and Cedarville 16 Township when -- as to their intervention; is that 17 correct? 18 A. They were considered, yes. 19 Q. All right. Well, let me -- let's just -- 20 this is probably helpful, probably fair to you to 21 just go through some docs. There was some previous 22 documents that were marked with Mr. Butler. 23 A. Okay. 24 Q. All right. So why don't we start first 25 with Miami. And while I'm doing that, I'll note that</p>	<p style="text-align: right;">Page 256</p> <p>1 MR. MARGARD: And I'll object at this 2 point. There's no -- no way the witness would have 3 any reason to know. 4 ALJ WILLIAMS: I'll sustain the 5 objection. The witness is not a Township employee 6 nor does he profess to have awareness of all the 7 Townships. 8 Q. (By Mr. Settineri) Let's turn to the 9 actual resolution here. Mr. Zeto, did you consider 10 this resolution when you wrote the section of the 11 Staff Report under the "Conclusion" at page 44? 12 A. Yes. 13 Q. You did. Did you describe it in that 14 "Conclusion" section at all? 15 A. There is mention of Miami Township's 16 interest in the project. 17 Q. Okay. But there is no reference as to 18 the actual resolution that was passed by Miami 19 Township, correct? 20 A. Not that I am seeing. 21 Q. And if I direct your attention to the 22 actual resolution, it doesn't give any indication of 23 anticipated adverse effects on the -- of the project 24 on Miami Township, does it? 25 A. Sorry. I am just reading it over. The</p>

<p style="text-align: right;">Page 257</p> <p>1 document does say that there's concerns about some 2 adverse effects. 3 Q. Well, I guess I want to direct your 4 attention to Exhibit A. What do you -- let me ask 5 you this, what do you constitute the resolution from 6 Miami Township as to the intervention? 7 A. Can you please repeat that question? 8 Q. Sure. Kingwood Exhibit 90 is a -- I 9 guess a five-page document, right? And so starting 10 with it consists of a notice of intervention, and 11 that's on page 2, signed by the lawyer for Miami 12 Township, correct? 13 A. Yes. 14 Q. Page 3 is a certificate of service signed 15 by the lawyer, correct? 16 A. Yes. 17 Q. Page 4 is a title page, says Exhibit A, 18 correct? 19 A. Yes. 20 Q. And then the next page is Miami Township 21 Resolution 2021-06, correct? 22 A. Yes. 23 Q. So of all the pages I showed -- we just 24 went through, what constitutes the resolution of 25 Miami Township that we've been discussing to you?</p>	<p style="text-align: right;">Page 259</p> <p>1 ALJ WILLIAMS: I'll sustain the 2 objection. Do you want to go into detail with this 3 witness? I don't think we can assume he listened to 4 all of the prior witness. 5 MR. SETTINERI: Oh, I will, your Honor. 6 I will get back to that. I was just trying to be 7 efficient. 8 Q. (By Mr. Settineri) Did you -- let's see 9 here. 10 MR. SETTINERI: Your Honor, give me one 11 minute here. I am going to try to pick up an 12 exhibit. 13 Q. While I do that, if you could turn to 14 page 42 of the Staff Report, Mr. Zeto, and the 15 paragraph that's above public comments, please. Let 16 me know when you are there. 17 A. Okay. 18 Q. All right. Are you aware that there is a 19 quotation there in that paragraph that indicates that 20 that quotation is the same in both the Miami Township 21 and the Board -- and Cedarville Township's 22 interventions; is that correct? 23 A. I see the quotations, yeah. 24 Q. Okay. Are you aware that that's not 25 true, that's not true that that -- Miami Township and</p>
<p style="text-align: right;">Page 258</p> <p>1 A. It's their intervention request. 2 Q. Do you understand the difference between 3 the resolution attached as Exhibit A to the notice of 4 intervention? 5 A. I'm not sure what you are asking. 6 Q. Do you understand what a resolution is? 7 A. Well, I guess I don't -- I couldn't say 8 for sure, no. 9 Q. Okay. Let's -- so you wrote the 10 conclusion in the Staff Report, you considered the 11 notice of intervention as the -- as a resolution in 12 your mind? 13 A. There was a resolution to intervene is 14 what I understand. 15 Q. Now, did you hear my -- you heard -- did 16 you listen to the entire cross-examination of 17 Mr. Butler? 18 A. I listened to most of it, yes. 19 Q. Okay. Did you -- is it your 20 understanding there is a discrepancy in the Staff 21 Report regarding the quotation as to what the 22 interventions -- the quotation to the intervention in 23 the Staff Report at page 42? 24 MR. MARGARD: I am merely objecting to 25 the characterization of discrepancy.</p>	<p style="text-align: right;">Page 260</p> <p>1 Cedarville used the exact same language? 2 A. I believe there is maybe a typo, that 3 instead of "may" it said "likely." 4 Q. Okay. And those are two different words, 5 right? 6 A. Yes. 7 Q. Well, that would be an error in the Staff 8 Report, correct? 9 A. I don't know. 10 Q. Why don't you know? 11 A. I think the intent behind the word 12 ultimately goes to the same result. 13 Q. Well, let's look. There is a quotation 14 mark before that, the word "because," right? 15 A. Uh-huh. 16 Q. There is a quotation mark at the end of 17 "Township," correct? 18 A. Yes. 19 Q. All right. So I would -- if I looked at 20 both the Miami Township and Cedarville Township 21 interventions, that language should be exactly the 22 same, correct? 23 A. Yes. 24 Q. But it's not, correct? 25 A. Right.</p>

<p style="text-align: right;">Page 261</p> <p>1 Q. So that's an error, isn't it?</p> <p>2 A. Okay. Yeah.</p> <p>3 Q. Okay. Now, were you made aware of that</p> <p>4 error by Kingwood Solar through correspondence?</p> <p>5 A. I think the first time I became aware of</p> <p>6 it was listening to Mr. Butler's testimony.</p> <p>7 Q. Let's look at an exhibit. If you could</p> <p>8 pull up one we just marked with Mr. Butler. I just</p> <p>9 have to find it.</p> <p>10 ALJ WILLIAMS: Let's go off the record.</p> <p>11 (Discussion off the record.)</p> <p>12 ALJ WILLIAMS: Back on the record.</p> <p>13 MR. SETTINERI: Thank you, your Honor.</p> <p>14 Q. (By Mr. Settineri) Mr. Zeto, do you have</p> <p>15 Kingwood Exhibit 89?</p> <p>16 A. One moment, please. Okay. Yes, I do.</p> <p>17 Q. Okay. Had you -- have you seen this</p> <p>18 document prior to today?</p> <p>19 A. I believe I have, yes.</p> <p>20 Q. Okay. When do you believe you saw this</p> <p>21 document?</p> <p>22 A. I think I saw this when -- it was on the</p> <p>23 date it was issued, around November 9.</p> <p>24 Q. Now, you recognize that this document</p> <p>25 asked for -- this document on page 2 specifically</p>	<p style="text-align: right;">Page 263</p> <p>1 ALJ WILLIAMS: I am going to allow a</p> <p>2 little bit of latitude relative to Staff's</p> <p>3 consideration of processing Mr. Settineri's letter</p> <p>4 from 11-9.</p> <p>5 A. What was the question again, please?</p> <p>6 MR. SETTINERI: Ms. Gibson, if you could</p> <p>7 just reread it, I would appreciate it.</p> <p>8 (Record read.)</p> <p>9 A. We did not issue another report.</p> <p>10 Q. And why not as to the specific point?</p> <p>11 MR. MARGARD: And now I renew my</p> <p>12 objection.</p> <p>13 ALJ WILLIAMS: Your objection is noted.</p> <p>14 Again, I am going to allow a little bit of latitude</p> <p>15 here. You can answer, Mr. Zeto.</p> <p>16 A. I don't think that that would have</p> <p>17 changed our -- our decision -- or recommendation, I</p> <p>18 mean.</p> <p>19 Q. All right. But let me ask this, if I --</p> <p>20 you would agree with me if I change that quotation to</p> <p>21 say "Because the" -- and I will refer you to page 42</p> <p>22 of the Staff Report. If I change that to say</p> <p>23 "Because the proposed project may have some adverse</p> <p>24 effect on roads, properties, and citizens," that's</p> <p>25 much different than "likely to have some adverse</p>
<p style="text-align: right;">Page 262</p> <p>1 points out the error on the intervention quotation,</p> <p>2 doesn't it?</p> <p>3 A. You said on page 2?</p> <p>4 Q. Uh-huh. Second bullet on -- page 44,</p> <p>5 bullet point there, it says -- bullet point page 44.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. All right. So this document pointed out</p> <p>9 the error on the intervention on a quotation,</p> <p>10 correct?</p> <p>11 A. Okay. Yes.</p> <p>12 Q. And this letter also asked that a</p> <p>13 corrected report be issued, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And did Staff issue a correction --</p> <p>16 corrected report to at least correct that error in</p> <p>17 that paragraph?</p> <p>18 MR. MARGARD: Objection, your Honor.</p> <p>19 ALJ WILLIAMS: Basis?</p> <p>20 MR. MARGARD: We're delving into whether</p> <p>21 or not Staff should have filed a supplemental report</p> <p>22 or corrective report of some sort. The record speaks</p> <p>23 for itself. There is no supplemental or corrected</p> <p>24 report. Questions about what Staff could or should</p> <p>25 have done here are not relevant.</p>	<p style="text-align: right;">Page 264</p> <p>1 effect," isn't it?</p> <p>2 MR. MARGARD: And I will object. The</p> <p>3 witness has already indicated that he thought likely</p> <p>4 and may was sufficiently similar.</p> <p>5 ALJ WILLIAMS: I'll sustain the</p> <p>6 objection. The witness has already indicated he</p> <p>7 didn't believe the error was material. Move on.</p> <p>8 MR. SETTINERI: Will do.</p> <p>9 Q. (By Mr. Settineri) Let's go to -- I want</p> <p>10 you to pull up Kingwood Exhibit 20, and if you don't</p> <p>11 have a copy, Mr. Margard can send you one.</p> <p>12 MR. MARGARD: The witness should have a</p> <p>13 copy.</p> <p>14 A. I am actually having trouble finding that</p> <p>15 one. Okay. I have it now, and it's open.</p> <p>16 Q. All right. Do you have Kingwood</p> <p>17 Exhibit 20, Mr. Zeto?</p> <p>18 A. Yes, I do.</p> <p>19 Q. All right. Are you familiar with this</p> <p>20 document?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what is this document you are</p> <p>23 looking at, Kingwood Exhibit 20?</p> <p>24 A. Notice of Greene County Board of</p> <p>25 Commissioners Resolution in opposition to the</p>

<p style="text-align: right;">Page 265</p> <p>1 application.</p> <p>2 Q. Do you consider this entire document a</p> <p>3 resolution?</p> <p>4 A. I don't know.</p> <p>5 Q. Whether you -- all right. So when you</p> <p>6 wrote Section 44 of the Staff Report, there's a</p> <p>7 sentence that says "Additionally, on October 29,</p> <p>8 2021, the Greene County Board of Commissioners filed</p> <p>9 a resolution." Do you see that language?</p> <p>10 A. You're back on the Staff Report?</p> <p>11 Q. Uh-huh.</p> <p>12 A. And could you point me to that again?</p> <p>13 Q. Yeah. I guess I will say first full</p> <p>14 paragraph, last sentence, "Additionally, on</p> <p>15 October 29, 2021, the Greene County Board of</p> <p>16 Commissioners filed a resolution." Do you see that?</p> <p>17 MR. MARGARD: Page 44.</p> <p>18 Q. Page 44.</p> <p>19 A. Yes, I see that.</p> <p>20 Q. All right. So turning back to then the</p> <p>21 Kingwood Exhibit 20 -- and I hope you have multiple</p> <p>22 screens; you don't have paper copies.</p> <p>23 A. Okay. I'm back to the...</p> <p>24 Q. So you look at the first page, you see</p> <p>25 this -- the sentence "A copy of the resolution is</p>	<p style="text-align: right;">Page 267</p> <p>1 right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And when you wrote the Staff</p> <p>4 Report, you didn't rely on the resolution for the</p> <p>5 summary of the characterization of the interventions;</p> <p>6 you relied on the notice of intervention which was</p> <p>7 signed by the lawyer, correct?</p> <p>8 A. Yeah. That was considered as part of the</p> <p>9 recommendation, yeah.</p> <p>10 Q. And let me make sure we have it clear</p> <p>11 though because I -- I think you lost me with your</p> <p>12 answer there. When you wrote your recommendation or</p> <p>13 you wrote the conclusion at page 44 of the Staff</p> <p>14 Report, you relied on the notice of intervention</p> <p>15 signed by the lawyer but did not rely on the actual</p> <p>16 resolution attached to the notice, correct?</p> <p>17 A. Kind of reviewed it as one document, I</p> <p>18 guess.</p> <p>19 Q. Well, and the language you relied on for</p> <p>20 the Staff Report came from the notice of intervention</p> <p>21 that was signed by the attorneys, correct?</p> <p>22 ALJ WILLIAMS: The witness has answered</p> <p>23 the question he viewed this as one document. Please</p> <p>24 move on.</p> <p>25 MR. SETTINERI: Well, your Honor, I am</p>
<p style="text-align: right;">Page 266</p> <p>1 enclosed"?</p> <p>2 A. Yes.</p> <p>3 Q. All right. And if I turn a couple more</p> <p>4 pages, I find that there is a resolution. Do you see</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Would that be the document,</p> <p>8 the resolution, that you are referencing in the Staff</p> <p>9 Report?</p> <p>10 A. Yes.</p> <p>11 Q. So you would not be referencing the</p> <p>12 actual notice page signed by the attorney, correct?</p> <p>13 A. I guess not.</p> <p>14 Q. So now I want you to turn back to the</p> <p>15 Miami intervention notice, Kingwood Exhibit 90. All</p> <p>16 right. Let's just look at the first page. This</p> <p>17 might help. Exhibit 90, No. 1, "The Miami Township</p> <p>18 Board of Trustees is the duly elected body authorized</p> <p>19 to act for Miami Township and has taken the required</p> <p>20 action to intervene, as certified by the resolution</p> <p>21 attached as EXHIBIT A to this Notice." Do you see</p> <p>22 that language?</p> <p>23 A. Yes.</p> <p>24 Q. All right. So then if I turn to Exhibit</p> <p>25 A, there's a resolution from Miami Township; is that</p>	<p style="text-align: right;">Page 268</p> <p>1 moving on as fast as I can. Respectfully I don't</p> <p>2 think I have gotten a clear indication there. He</p> <p>3 keeps saying he treated it as one document but in</p> <p>4 terms of the actual language in the Staff Report and</p> <p>5 what he relied on from this document, so I can ask</p> <p>6 him that question.</p> <p>7 ALJ WILLIAMS: So he already answered</p> <p>8 that he doesn't fully appreciate the nuances between</p> <p>9 a resolution and the filing, the entirety of this</p> <p>10 filing. He's also answered that he considered the</p> <p>11 entirety of this filing in regard to the preparation</p> <p>12 of the Staff Report. So I'm not sure what you</p> <p>13 haven't explored.</p> <p>14 MR. SETTINERI: All right. One moment,</p> <p>15 your Honor. All right.</p> <p>16 Q. (By Mr. Settineri) And, Mr. Zeto, if you</p> <p>17 could turn to Kingwood Exhibit 85 and 86, please.</p> <p>18 Let's start with Kingwood Exhibit 85.</p> <p>19 A. Okay. I'm there.</p> <p>20 Q. All right. Is this the -- this is a</p> <p>21 notice of intervention by Cedarville Township. Is</p> <p>22 this a document you relied on that you -- and you</p> <p>23 reference in the Staff Report? I guess it's</p> <p>24 referenced in the Staff Report at page 42, paragraph</p> <p>25 above "Public Comments."</p>

<p style="text-align: right;">Page 269</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And why don't you look at Kingwood</p> <p>3 Exhibit 86.</p> <p>4 A. Okay.</p> <p>5 Q. All right. And you recognize this as a</p> <p>6 resolution by Cedarville Township?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And this resolution does not</p> <p>9 provide a position on the project one way or the</p> <p>10 other, correct?</p> <p>11 A. Yeah. I don't see any opinion.</p> <p>12 Q. Okay. And you -- you didn't rely on this</p> <p>13 document when writing your conclusions at page 44 of</p> <p>14 the Staff Report; is that correct?</p> <p>15 A. I guess it was considered, but I don't</p> <p>16 know how much it was specifically relied upon for</p> <p>17 that conclusion.</p> <p>18 Q. Okay. It's not referenced anywhere in</p> <p>19 page 44, is it?</p> <p>20 A. I don't believe it is.</p> <p>21 Q. Okay. And just for the record, from page</p> <p>22 45 on, are there any sections of the Staff Report you</p> <p>23 would have authored?</p> <p>24 A. No.</p> <p>25 Q. Okay. Thank you, sir. Now, I want to go</p>	<p style="text-align: right;">Page 271</p> <p>1 Q. How long have you been at the Board?</p> <p>2 A. 10 years or so.</p> <p>3 Q. Okay. You know the difference between a</p> <p>4 local public hearing and local public information</p> <p>5 meeting?</p> <p>6 A. Yes, I do.</p> <p>7 Q. So I am going to ask again, the "local</p> <p>8 public hearings," that's a mistake in the Staff</p> <p>9 Report, isn't it?</p> <p>10 MR. VAN KLEY: Objection, your Honor.</p> <p>11 He's already answered that question.</p> <p>12 ALJ WILLIAMS: Mr. Settineri, I believe</p> <p>13 he testified that he had used that interchangeably</p> <p>14 with other local governmental meetings.</p> <p>15 MR. SETTINERI: Your Honor, the answer</p> <p>16 was pretty garbled, and having laid a foundation as</p> <p>17 to his experience and knowledge of public information</p> <p>18 meeting versus local public hearing, I think he</p> <p>19 deserves another bite of the apple at this one.</p> <p>20 ALJ WILLIAMS: So I believe there were</p> <p>21 meetings besides the public information meeting.</p> <p>22 There were meetings with the local government</p> <p>23 authorities. Are you specifying a local public</p> <p>24 hearing as required by the Board, or are you</p> <p>25 differentiating between other governmental meetings?</p>
<p style="text-align: right;">Page 270</p> <p>1 to the Staff Report and go to the paragraph before</p> <p>2 "Recommended Findings," near there, page 44. Tell me</p> <p>3 when you are there.</p> <p>4 A. I'm there.</p> <p>5 Q. All right. There is a sentence "While</p> <p>6 some local opposition is common in many siting</p> <p>7 projects, considering the above opposition filed in</p> <p>8 the docket and expressed at the local public</p> <p>9 hearings, Staff recognizes that in this proceeding it</p> <p>10 has been especially prominent, one-sided, and</p> <p>11 compelling." Do you see that sentence?</p> <p>12 A. Yes.</p> <p>13 Q. Now, the local public hearing had not</p> <p>14 occurred yet when the Staff Report issued in this</p> <p>15 proceeding, correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. So that -- that reference to</p> <p>18 the local public hearings, that's a mistake in the</p> <p>19 Staff Report, correct?</p> <p>20 A. I think it meant public meetings, public</p> <p>21 input.</p> <p>22 Q. Well, let's be clear. It says</p> <p>23 specifically in the Staff Report "local public</p> <p>24 hearings," correct?</p> <p>25 A. It does, yes.</p>	<p style="text-align: right;">Page 272</p> <p>1 MR. SETTINERI: Are you asking me or the</p> <p>2 witness?</p> <p>3 ALJ WILLIAMS: I'm asking you,</p> <p>4 Mr. Settineri.</p> <p>5 MR. SETTINERI: Oh, I am just asking the</p> <p>6 question. The question was pretty straightforward.</p> <p>7 ALJ WILLIAMS: The problem is that the</p> <p>8 question was differentiate between a local public</p> <p>9 hearing and public information meeting. There are</p> <p>10 other types of meetings that could be considered and</p> <p>11 I believe the witness had referenced so it's</p> <p>12 important we not restrict him regarding his</p> <p>13 understanding or ability to respond to the question.</p> <p>14 MR. SETTINERI: Well, let me kind of work</p> <p>15 my way back to it. I will take another way around.</p> <p>16 Q. (By Mr. Settineri) Mr. Zeto, was there a</p> <p>17 public information meeting for this project?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did you attend it?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did you have any meetings yourself</p> <p>22 individually with any governmental entities?</p> <p>23 A. I don't believe I had any direct</p> <p>24 meetings. I was involved in meetings that I think</p> <p>25 they were involved in like the stipulation all party</p>

<p style="text-align: right;">Page 273</p> <p>1 meeting.</p> <p>2 Q. That would be a settlement conference,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. That's one. And then we have the public</p> <p>6 information meeting. Did you attend that?</p> <p>7 A. Yes.</p> <p>8 Q. All right. You attended the local public</p> <p>9 hearing?</p> <p>10 A. Yes.</p> <p>11 Q. That was on November 15, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Any other meetings that you</p> <p>14 attended?</p> <p>15 A. Not that I remember.</p> <p>16 Q. Okay. So let's go back to that question</p> <p>17 I asked you. Again, you are aware that the local</p> <p>18 public hearing was held after the Staff Report</p> <p>19 issued, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the Staff Report at page 44 indicates</p> <p>22 that opposition was expressed as to local public</p> <p>23 hearings. That's a mistake, isn't it?</p> <p>24 MR. VAN KLEY: Objection, your Honor.</p> <p>25 He's already testified in answer to that question.</p>	<p style="text-align: right;">Page 275</p> <p>1 Q. The local public hearing happened after</p> <p>2 the Staff Report issued, right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So what you're saying there then</p> <p>5 is that you believe that you should have written</p> <p>6 public information meeting there; is that correct?</p> <p>7 A. I don't know because we are also</p> <p>8 considering public comments and things like that</p> <p>9 throughout our investigation.</p> <p>10 Q. Well, specifically, Mr. Zeto, you use --</p> <p>11 you said "expressed at the local public hearings,"</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And the only meeting that occurred</p> <p>15 that you attended prior to the Staff Report being</p> <p>16 issued was the public information meeting, correct?</p> <p>17 MR. VAN KLEY: Objection, your Honor.</p> <p>18 There's nothing in the Staff Report that indicates</p> <p>19 that Mr. Zeto was referring only to public -- local</p> <p>20 public hearings that he attended.</p> <p>21 ALJ WILLIAMS: I'll sustain that</p> <p>22 objection.</p> <p>23 Mr. Settineri, you keep phrasing the</p> <p>24 question in terms of meetings that Mr. Zeto attended.</p> <p>25 He's certainly sponsoring testimony globally, and one</p>
<p style="text-align: right;">Page 274</p> <p>1 ALJ WILLIAMS: So I am going to allow the</p> <p>2 witness to explain, and I am particularly curious the</p> <p>3 witness indicates he is aware of what a local public</p> <p>4 hearing is. I would note that the reference in the</p> <p>5 Staff Report is to a plural, local public hearings.</p> <p>6 Is it the intention to reference more than one</p> <p>7 hearing or a hearing other than the Board's local</p> <p>8 public hearing, Mr. Zeto?</p> <p>9 THE WITNESS: I believe it's -- yeah,</p> <p>10 it's meant to reference multiple opportunities for</p> <p>11 the public to have input. Maybe hearings wasn't the</p> <p>12 best choice of words but that was the intent.</p> <p>13 Q. (By Mr. Settineri) Okay. What other</p> <p>14 public meetings were there that you attended,</p> <p>15 Mr. Zeto?</p> <p>16 A. I remember -- I think we've covered all</p> <p>17 the ones that I can remember.</p> <p>18 Q. That was a settlement conference, the</p> <p>19 public information meeting, and the local public</p> <p>20 hearing, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So the answer -- and the</p> <p>23 settlement conference happened after the Staff Report</p> <p>24 issued, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 276</p> <p>1 would assume that could involve meetings at which he</p> <p>2 was aware of where he wasn't necessarily in</p> <p>3 attendance, so I will ask that you better phrase the</p> <p>4 question, please.</p> <p>5 MR. SETTINERI: All right.</p> <p>6 Q. (By Mr. Settineri) Yeah, Mr. Zeto, are</p> <p>7 you aware of Staff members attending other meetings</p> <p>8 other than the three you attended?</p> <p>9 A. I believe they did, but I don't know</p> <p>10 specifically what they could have been.</p> <p>11 Q. Okay. All right. Let's turn to page 4</p> <p>12 of your testimony. Let's look at line 11 to line 13.</p> <p>13 A. Okay.</p> <p>14 Q. And I want to go back to a question</p> <p>15 there. So you -- again, you read the letter that was</p> <p>16 sent by Kingwood Solar to Teresa White noting what</p> <p>17 Kingwood Solar believed were to be errors in the</p> <p>18 Staff Report, correct?</p> <p>19 A. Sorry. Could you please say that again?</p> <p>20 Q. Yeah. You were aware of letter -- we</p> <p>21 looked at a letter earlier, Kingwood Exhibit 89, you</p> <p>22 don't need to go to unless you want to but that --</p> <p>23 we -- you are aware that Kingwood Solar sent a letter</p> <p>24 to Teresa White, put it on the docket regarding what</p> <p>25 it thought were errors in the Staff Report, correct?</p>

<p style="text-align: right;">Page 277</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And do you recall that that letter</p> <p>3 also pointed out that the local public hearing had</p> <p>4 not occurred yet?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And Staff did not -- and that</p> <p>7 letter requested a correction to the Staff Report as</p> <p>8 well, correct?</p> <p>9 A. I believe so, yeah.</p> <p>10 Q. Okay. And so at that time did you go</p> <p>11 back and look at this language and realize it should</p> <p>12 have referenced something other than local public</p> <p>13 hearings?</p> <p>14 A. I believe that was discussed at some</p> <p>15 point, yeah.</p> <p>16 Q. All right. And why -- and obviously</p> <p>17 Staff did not issue a correction. Why didn't you</p> <p>18 believe a correction should be issued to make sure it</p> <p>19 was clear for the Board?</p> <p>20 MR. MARGARD: Your Honor, I think the</p> <p>21 witness has already answered this question.</p> <p>22 ALJ WILLIAMS: I tend to agree. The</p> <p>23 witness has indicated that he believed the choice of</p> <p>24 hearings maybe wasn't the word he would have chosen</p> <p>25 if he had to do over again. He has already indicated</p>	<p style="text-align: right;">Page 279</p> <p>1 A. Yes.</p> <p>2 Q. All right. How many public meetings were</p> <p>3 held for the Kingwood Solar project?</p> <p>4 A. I don't know.</p> <p>5 Q. Was any -- was there any -- were any</p> <p>6 public meetings held for the Kingwood Solar project?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. What were those meetings?</p> <p>9 A. I don't know how to title or which ones</p> <p>10 to list specifically, but I could say the public</p> <p>11 information meeting for sure.</p> <p>12 Q. Okay. What else?</p> <p>13 A. I'm not sure exactly.</p> <p>14 Q. Well, do you know?</p> <p>15 A. No.</p> <p>16 Q. Okay. So when you wrote your testimony,</p> <p>17 the use of the word "meetings" is in error, correct?</p> <p>18 A. No. Actually -- was there not a virtual</p> <p>19 and an in-person public information meeting for this</p> <p>20 project?</p> <p>21 Q. I believe you are correct.</p> <p>22 A. Okay.</p> <p>23 Q. Do you believe that's what your testimony</p> <p>24 is referencing?</p> <p>25 A. At least that, yeah.</p>
<p style="text-align: right;">Page 278</p> <p>1 he didn't think changes were material. In the</p> <p>2 testimony he references local public meeting as</p> <p>3 opposed to hearings, so his testimony certainly seems</p> <p>4 to reinforce that account, Mr. Settineri.</p> <p>5 MR. SETTINERI: Okay. I will just</p> <p>6 politely agree to disagree for the record, your</p> <p>7 Honor, that's all.</p> <p>8 ALJ WILLIAMS: Thank you, sir.</p> <p>9 MR. SETTINERI: Just note it for the</p> <p>10 record.</p> <p>11 ALJ WILLIAMS: So noted.</p> <p>12 MR. SETTINERI: Thank you.</p> <p>13 Q. (By Mr. Settineri) Let's go back to page</p> <p>14 4 of your testimony.</p> <p>15 A. Okay.</p> <p>16 Q. Page -- line 11, page 4, "While some</p> <p>17 local opposition is common in many siting projects,</p> <p>18 considering the above opposition filed in the docket</p> <p>19 and expressed at local public meetings, Staff</p> <p>20 recognizes that in this proceeding it has been</p> <p>21 especially prominent, one-side, and compelling." Do</p> <p>22 you see that?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Now, that's different than</p> <p>25 the Staff Report, isn't it?</p>	<p style="text-align: right;">Page 280</p> <p>1 Q. Okay. And a public information meeting,</p> <p>2 is testimony given under oath?</p> <p>3 A. No.</p> <p>4 Q. Are people able to ask questions?</p> <p>5 A. Yes.</p> <p>6 Q. Do people -- did you attend both of these</p> <p>7 meetings?</p> <p>8 A. I believe I did, yes.</p> <p>9 Q. When I say "both meetings," the virtual</p> <p>10 and the telephone component?</p> <p>11 A. The in person and the virtual? I don't</p> <p>12 remember for sure.</p> <p>13 Q. Okay. All right. All right. So you're</p> <p>14 basing your testimony there about opposition you</p> <p>15 claim that's expressed -- that was expressed at the</p> <p>16 public information meeting, correct?</p> <p>17 MR. MARGARD: Mischaracterizes. He said</p> <p>18 "at least those meetings."</p> <p>19 ALJ WILLIAMS: He did say "at least,"</p> <p>20 Mr. Settineri.</p> <p>21 MR. SETTINERI: Well, your Honor, he only</p> <p>22 can identify one public information meeting, so I can</p> <p>23 ask him again if he knows of any others, but he does</p> <p>24 not and this is his testimony. He wrote it.</p> <p>25 ALJ WILLIAMS: Well, he's testified he</p>

<p style="text-align: right;">Page 281</p> <p>1 considers the two, the virtual and the in person, to 2 be two different public information meetings. He's 3 also testified he can't recall as he is sitting here 4 today any other local public meetings, though I will 5 invite you to ask any more direct questions regarding 6 whether the different Townships or the Board of 7 Greene County might have had a meeting of which he 8 was aware. 9 Q. (By Mr. Settineri) Let me ask this 10 question, Mr. Zeto, this is your written testimony, 11 correct? 12 A. Yes. 13 Q. And you prepared it, correct? 14 A. Yes. 15 Q. Okay. And the sentence that starts at 16 line 11 "While some local opposition is common in 17 many siting projects, considering the above 18 opposition filed in the docket and expressed at local 19 public meetings," the reference to "local public 20 meetings" in that sentence relates to the telephonic 21 and virtual public information meetings that were 22 held for this project, correct? 23 MR. VAN KLEY: I think I would object to 24 this question too, your Honor. I think he already 25 testified he couldn't remember all the local public</p>	<p style="text-align: right;">Page 283</p> <p>1 held prior to the application being filed; is that 2 correct? 3 A. Correct. 4 Q. Thank you. Now going back to the Staff 5 Report, page 44, your reference to the local public 6 hearings, is it your testimony today that that 7 referenced the local public hearings related to the 8 public information meetings that -- the one that was 9 held virtually the summer of 2021 and the telephonic 10 and virtual meeting held prior to the application 11 being filed? 12 A. Please repeat that. 13 Q. That was a long one. Yeah. Turning back 14 to page 44 of the reference to local public hearings. 15 A. Okay. 16 Q. Is it your testimony today that that 17 referenced "local public hearings" in the Staff 18 Report relates back to the public information meeting 19 held in the summer of 2021 and the telephonic and 20 virtual public information meeting held prior to the 21 filing of the Staff -- prior to the filing of the 22 application in this proceeding? 23 A. Yes, at least those. I guess I will go 24 back to the idea that this is a Staff product. So 25 any other public meetings that other Staff may have</p>
<p style="text-align: right;">Page 282</p> <p>1 meetings. 2 ALJ WILLIAMS: So the question has a 3 problem in that you reference as telephonic or 4 virtual. I think the alternative would be virtual or 5 in person; is that correct, Mr. Settineri? 6 MR. SETTINERI: It was telephonic. 7 ALJ WILLIAMS: So it was telephonic and 8 one that was done electronically as well? Okay. So 9 with that then, the question appears proper so. 10 MR. SETTINERI: Your Honor, let me -- 11 let's just go off the record and let's just make sure 12 I am making a correct representation for you, okay? 13 ALJ WILLIAMS: We are off the record. 14 (Discussion off the record.) 15 ALJ WILLIAMS: We are back on the record. 16 We were off the record for just a minute 17 while we confirmed the history regarding the public 18 information meetings in this case. 19 Mr. Settineri. 20 MR. SETTINERI: Yes. 21 Q. (By Mr. Settineri) So, Mr. Zeto, going 22 back to line 13 of your testimony, the reference to 23 "local public meetings," that reference is to the 24 in-person public meeting held December of 2021 and 25 then a virtual telephonic public information meeting</p>	<p style="text-align: right;">Page 284</p> <p>1 attended that I am not aware of would fall into that 2 category and also the public comments, the public 3 input. 4 Q. If you -- now, let's look at Kingwood 5 Exhibit 91, please. 6 A. Okay. I'm there. 7 MR. SETTINERI: Oh, I'm sorry, your 8 Honor. I am looking at both of you on the screen, 9 your Honors. I need to mark Kingwood Exhibit 91 10 first. My fault. 11 ALJ WILLIAMS: I wasn't sure if you had 12 done that before, but I see it there. Kingwood 91? 13 MR. SETTINERI: Exhibit 91 we would mark 14 and that is an Opinion and Order and certificate in 15 the Republic Wind proceeding, Case No. 17-2295. 16 ALJ WILLIAMS: So marked. 17 (EXHIBIT MARKED FOR IDENTIFICATION.) 18 Q. (By Mr. Settineri) Mr. Zeto, do you have 19 that document before you? 20 A. Yes. 21 Q. Were you involved in the Republic Wind 22 proceeding? 23 A. Yes. 24 Q. Okay. And you recognize Kingwood 25 Exhibit 91 as an order from the Board -- or Opinion</p>

<p style="text-align: right;">Page 285</p> <p>1 and Order and certificate in that proceeding?</p> <p>2 A. Yes.</p> <p>3 Q. I would like you to turn to paragraph --</p> <p>4 it's page 29 paper copy, paragraph 92, the very end</p> <p>5 of paragraph 92 of that decision. Tell me when you</p> <p>6 are there.</p> <p>7 A. I'm there.</p> <p>8 Q. All right. So the last paragraph 92 of</p> <p>9 the decision, last sentence, I am going to read it,</p> <p>10 "While some local opposition is common in many siting</p> <p>11 projects, considering the above resolution as well as</p> <p>12 the comments filed in the docket and the testimony</p> <p>13 given at the local public hearing, the Board</p> <p>14 recognizes that in this proceeding it has been</p> <p>15 especially prominent and one-sided." Do you see</p> <p>16 that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now, let's look at the Staff</p> <p>19 Report, page 44, paragraph above "Recommended</p> <p>20 Findings." I'll read, "While some local opposition</p> <p>21 is common in many siting projects, considering the</p> <p>22 above opposition filed in the docket and expressed at</p> <p>23 the local public hearings, Staff recognizes that in</p> <p>24 this proceeding it has been especially prominent,</p> <p>25 one-side, and compelling." Would you agree with me</p>	<p style="text-align: right;">Page 287</p> <p>1 ALJ WILLIAMS: I take that as an</p> <p>2 objection which is sustained. The witness has</p> <p>3 testified regarding his sponsorship of testimony who</p> <p>4 actually authored, one, is indeterminate and, two,</p> <p>5 isn't relevant to what his testimony is.</p> <p>6 Q. (By Mr. Settineri) Mr. Zeto, you did not</p> <p>7 refer to the Republic Wind decision to write that</p> <p>8 sentence, right?</p> <p>9 ALJ WILLIAMS: He's answered that</p> <p>10 question. He said he did not.</p> <p>11 MR. SETTINERI: Your Honor, I have to say</p> <p>12 it's backwards because he said he wrote it. He just</p> <p>13 thought maybe someone may have edited it after he</p> <p>14 wrote it. So if he wrote it, I mean, it's not</p> <p>15 editing to change an entire sentence, so he must --</p> <p>16 if he wrote it, he would have had to look at the</p> <p>17 Republic Wind decision. That's what I am trying to</p> <p>18 get at, your Honor.</p> <p>19 ALJ WILLIAMS: Whether he wrote it or not</p> <p>20 is immaterial. He indicated that he doesn't know who</p> <p>21 drafted it. His testimony is relative to sponsorship</p> <p>22 of the document.</p> <p>23 Q. (By Mr. Settineri) Would you agree with</p> <p>24 me, Mr. Zeto, that the language in the Republic Wind</p> <p>25 decision is very similar to the Staff Report</p>
<p style="text-align: right;">Page 286</p> <p>1 that that sentence from the Staff Report is very</p> <p>2 similar to the sentence from the Republic Wind</p> <p>3 decision?</p> <p>4 A. Yes, it is.</p> <p>5 Q. All right. And you wrote that sentence</p> <p>6 at page 44, correct?</p> <p>7 A. Yeah. I was a contributing author to</p> <p>8 that.</p> <p>9 Q. Well, who else contributed to that</p> <p>10 sentence?</p> <p>11 A. Any person from Staff could have provided</p> <p>12 that sentence and language in there.</p> <p>13 Q. I mean, do you -- let me ask this, when</p> <p>14 you wrote that sentence, did you refer to the</p> <p>15 Republic Wind decision?</p> <p>16 A. Staff referred to the Republic Wind</p> <p>17 decision.</p> <p>18 Q. I asked specifically if you did, sir.</p> <p>19 A. I did not.</p> <p>20 Q. All right. So you didn't write that</p> <p>21 sentence, did you, in the Staff Report, page 44?</p> <p>22 MR. MARGARD: It's already been asked and</p> <p>23 answered. The witness indicated he contributed to</p> <p>24 that as did other Staff participating in the</p> <p>25 preparation of the Staff Report.</p>	<p style="text-align: right;">Page 288</p> <p>1 language, correct?</p> <p>2 MR. MARGARD: Objection, irrelevant.</p> <p>3 ALJ WILLIAMS: It has been asked and</p> <p>4 answered as well. Strike the question.</p> <p>5 Q. (By Mr. Settineri) All right. Mr. Zeto,</p> <p>6 do you recall what part of the sentence you actually</p> <p>7 wrote?</p> <p>8 MR. MARGARD: Objection, irrelevant.</p> <p>9 ALJ WILLIAMS: Objection sustained.</p> <p>10 MR. SETTINERI: I mean, your Honor, I</p> <p>11 have to respectfully just note for the record that we</p> <p>12 haven't gotten a clear answer on who wrote this</p> <p>13 language, and it's very relevant here because it</p> <p>14 appears it was almost cut and pasted, not quite, from</p> <p>15 the Republic Wind decision.</p> <p>16 ALJ WILLIAMS: So --</p> <p>17 MR. MARGARD: Your Honor, this is the</p> <p>18 Staff witness --</p> <p>19 ALJ WILLIAMS: I have what I need,</p> <p>20 Mr. Margard. You are welcome to brief the</p> <p>21 similarities between the Republic Wind decision and</p> <p>22 this paragraph. Certainly the Bench would certainly</p> <p>23 focus on why the local public hearing is made plural</p> <p>24 in this paragraph. You are also welcome to maintain</p> <p>25 your objection and brief why you believe the</p>

<p style="text-align: right;">Page 289</p> <p>1 authorship supercedes the sponsorship. But at this 2 point in time the Bench has determined that what's at 3 stake is the sponsorship. You have heard that 4 testimony. We would ask that you move on relative to 5 your questions regarding authorship. 6 MR. SETTINERI: Your Honor, I hear what 7 you are saying. I will just make an objection for 8 the record that as an Applicant, we have a Staff 9 Report that's recommended denial based on, as we've 10 heard today, the issuance of a resolution. We're 11 certainly allowed to cross-examine the Staff, not 12 just the Staff sponsor but the Staff witness who 13 authored that section because that is where the 14 knowledge lies. And so I just want to make that 15 objection for the record, your Honor. 16 ALJ WILLIAMS: Your objection is noted. 17 Please proceed. 18 MR. SETTINERI: Thank you. Thank you, 19 sir. 20 Q. (By Mr. Settineri) Mr. Zeto, turning back 21 to your testimony, page 4 -- let's start at page 3. 22 A. Okay. 23 Q. So line 19 to 21 you say "Two of these 24 local governmental bodies intervened based on 25 anticipated adverse effects of the project on their</p>	<p style="text-align: right;">Page 291</p> <p>1 A. That's what -- I am just quoting there. 2 Q. All right. I think -- I think we looked 3 at Kingwood Exhibit 20 recently. You should have 4 that. 5 A. Okay. 6 Q. Now, is the language -- that language 7 that your -- I guess you are actually quoting it, 8 page -- lines 1 through 3 of page 4 of your 9 testimony, that comes from page 2 of the actual 10 resolution Section 1; is that correct? 11 A. Yes. 12 Q. All right. 13 MR. SETTINERI: And one moment, your 14 Honor. 15 ALJ WILLIAMS: Off the record. 16 (Discussion off the record.) 17 ALJ WILLIAMS: Back on. 18 Q. (By Mr. Settineri) Next, Mr. Zeto, at 19 lines 3 to 6 of your testimony, page 4, you reference 20 a February 15, 2022, pleading; is that right? 21 A. Yes. 22 Q. Okay. Now, you -- is that a basis for 23 Staff's recommendation in the Staff Report? That the 24 Applicant was unable to establish that the facility 25 would serve the public interest, convenience, and</p>
<p style="text-align: right;">Page 290</p> <p>1 respective localities." Do you see that? 2 A. Line 13 you said? 3 Q. 19 to 21, page 3. "Two of these local 4 governmental bodies intervened base on anticipated 5 adverse effects of the project on their 6 representative localities." 7 A. Yes. 8 Q. Okay. And that would be Miami Township 9 and Cedarville Township, correct? 10 A. I believe that's the reference, yeah. 11 Q. All right. That relates back to the 12 notices of intervention we discussed previously that 13 were referenced in the Staff Report, correct? 14 A. Yes. 15 Q. And then you say in your testimony 16 "Additionally, on October 29, 2021, the Greene County 17 Board of Commissioners filed a resolution, stating 18 its opposition to the project, specifically that the 19 application 'is incompatible with the general health, 20 safety, and welfare of the residents of Greene 21 County.'" Do you see that? 22 A. Yes. 23 Q. Okay. Do you -- what to you is the 24 general health, safety, and welfare of the residents 25 of Greene County?</p>	<p style="text-align: right;">Page 292</p> <p>1 necessity? 2 A. It was a contributing factor. 3 Q. I am going to help you here a little bit. 4 That pleading was issued on February 15, 2022, right? 5 A. Okay. 6 Q. You may have misunderstood my question. 7 So the Staff Report -- the Staff Report was issued in 8 November of 20 -- October of 2021, right? 9 A. Uh-huh. 10 Q. Okay. And what I am trying to get at 11 here is -- the question to you is what is the basis 12 for Staff's recommendation that the Board did deny 13 the Applicant's request? So let me set it up a 14 different way, the Staff's recommendation to the 15 Board is contained in the Staff Report; is that 16 correct? 17 A. Yes. 18 Q. Okay. And so in your testimony you note 19 that February 15, 2022, there was a pleading filed by 20 the Board of Trustees for three -- of three Townships 21 but that wasn't considered in the Staff Report, 22 correct? Because it couldn't be considered. 23 A. Correct. 24 Q. I just want to make sure. And the -- you 25 are aware that that pleading was filed in response</p>

<p style="text-align: right;">Page 293</p> <p>1 and opposition to a motion to continue the case to 2 allow for settlement? 3 A. Please restate that. 4 Q. Sure. Are you aware -- do you know -- 5 strike that. 6 That February 15, 2022, pleading you 7 reference in that sentence, that was a memorandum 8 contra or an opposition, in other words, to a motion 9 by certain parties to continue the hearing to allow 10 for settlement conferences, correct? 11 MR. MARGARD: If you know. 12 A. I guess I don't know. 13 Q. Okay. And do you know whether that 14 pleading was actually -- was that signed by the 15 attorneys for the Board of Trustees of the three 16 Townships? 17 MR. MARGARD: Again, if you know. 18 A. I don't know. 19 Q. And I guess we can look at the footnote. 20 I should have directed you to that in the beginning. 21 You will see there in your footnote that that's 22 actually a memo in opposition to the joint motion. 23 You would agree your footnote is accurate there? 24 A. Yes. 25 Q. All right. Thank you. Now you will</p>	<p style="text-align: right;">Page 295</p> <p>1 A. Statewide impacts as well. 2 Q. Let's go back to the Staff Report then. 3 And starting at page 40 through the "Conclusion" and 4 "Recommended Findings." Can you identify any 5 analysis by Staff of the statewide impacts and I will 6 say or benefits of the project? 7 A. There's nothing described. 8 Q. Will this project have statewide 9 benefits? Now let me rephrase that. Do you believe 10 this project will have statewide benefits? 11 A. There are benefits and there are negative 12 aspects as well. 13 Q. Do you believe there are negative aspects 14 as to a statewide basis? 15 A. Off the top of my head, I don't know. 16 Q. Okay. You are aware that -- are you 17 aware that some coal plants in Ohio are retiring in 18 the near future? 19 A. I've heard that before, yes. 20 MR. SETTINERI: I am just going through 21 some notes here, in case you are wondering. 22 ALJ WILLIAMS: Do you want a few minutes, 23 sir? 24 MR. SETTINERI: You know what? If you 25 can give me 5 minutes, I can try to refine some</p>
<p style="text-align: right;">Page 294</p> <p>1 agree with me that lines 10 through 13 of your direct 2 testimony has language very similar to the Republic 3 Wind decision as well as to the Staff Report; is that 4 correct? 5 A. Yes. 6 Q. And did you refer to the Republic Wind 7 decision when you wrote your testimony? 8 A. I referred to the Staff Report. 9 Q. Now, there is a sentence -- let me see -- 10 let me. I notice in line 16 and line 17, there is a 11 reference to "negative impacts on the local 12 community" and that "any benefits to the local 13 community are outweighed by this overwhelming public 14 opposition." Do you see that? 15 A. Yes. 16 Q. All right. Should statewide impacts or 17 interests factor into Staff's recommendation? 18 A. I guess I don't know what you mean. 19 Q. Right. In terms of Staff's review and 20 analysis of an application and its recommendation to 21 the Board, do you believe that Staff should consider 22 only the local impacts? 23 A. No. 24 Q. What should Staff consider in addition to 25 local impacts?</p>	<p style="text-align: right;">Page 296</p> <p>1 things here. I have been through a lot here. 2 ALJ WILLIAMS: Okay. We will go off 3 until 5:40. 4 (Recess taken.) 5 ALJ WILLIAMS: Back on the record. 6 We were off about 5 minutes while 7 Attorney Settineri reorganized in the middle or 8 latter part of his cross. 9 Please proceed. 10 MR. SETTINERI: Thank you, your Honor. 11 Q. (By Mr. Settineri) Mr. Zeto, if you could 12 turn to page 12 of your testimony, please. 13 A. Page 12? Oh, sorry. 14 MR. MARGARD: That's a version I don't 15 have. 16 Q. I was going to write it for you, 17 Mr. Zeto. It will be a different story. Anyway page 18 12 of the Staff Report, sir. 19 A. Okay. 20 Q. Tell me when you're there. 21 A. Okay. I'm there. 22 Q. The section above -- paragraph right 23 above "Recreation," if I recall, subject to check, 24 but I believe Ms. DeLong may have testified about 25 this information, and she wasn't able to ascertain</p>

<p style="text-align: right;">Page 297</p> <p>1 who wrote these sections. Are you aware of who wrote 2 specifically the paragraph before "Recreation," the 3 last sentence which references Greene County Board of 4 Commissioners? And if you go to the paragraph above 5 the October 28 passing of the resolution by the 6 Commissioners and the -- also the reference to the 7 amendment made to this plan on August 26, 2021? Do 8 you know who wrote those sentences? 9 A. No, I don't. 10 Q. All right. Were you involved in any form 11 or fashion in the drafting of the language in this 12 section? 13 A. I reviewed it. 14 Q. You did. 15 A. Yeah. 16 Q. And did you review it prior to filing 17 the -- prior -- before the Staff Report was filed? 18 A. Yes. 19 Q. And that would have been on August 29, 20 2021? 21 A. October 29? 22 Q. Uh-huh. 23 A. Yes. 24 Q. And when you reviewed it, did you review 25 the entire Staff Report on that day before it was</p>	<p style="text-align: right;">Page 299</p> <p>1 our favorite section, page 40 -- page 44, right? 2 A. Okay. 3 Q. All right. Let's look at that one "While 4 some local opposition is common in many siting 5 projects, considering the above opposition filed in 6 the docket," so "the above opposition filed in the 7 docket," what's that referring to? 8 A. Public comments and the organizations 9 that intervened opposing the project. 10 Q. All right. And so the public comments, 11 the interventions, the Greene County resolution, with 12 the public information meetings, based on that, Staff 13 concluded that in this proceeding opposition -- local 14 opposition has been especially prominent, one-sided, 15 and compelling; is that correct? 16 A. All of those things were included in that 17 determination, yes. 18 Q. And as of the date the Staff -- that 19 Staff Report issued, you agree that there were 35 20 documents in the public comment docket, correct? 21 A. As of October 29th, yes. 22 Q. All right. And did you hear Mr. Butler's 23 testimony when we went through those comments on the 24 record? 25 A. I believe so.</p>
<p style="text-align: right;">Page 298</p> <p>1 filed? 2 A. Yes. 3 Q. Okay. Going to your direct testimony, 4 Staff Exhibit 11. 5 A. Okay. 6 Q. I just want to be clear here, line 11 7 again down to line 13, line 11 "While some local 8 opposition is common, many siting projects, 9 considering the above opposition filed in the 10 docket." Okay? What are you referring to when you 11 say "the above opposition filed in the docket"? 12 A. So I was referring to language in the 13 Staff Report putting this in there, so I guess it's 14 what the Staff Report is saying when it says. 15 Q. Okay. That's fine. And so you are 16 referring more than just to the interventions that 17 are referenced in your testimony at page 3, 20, and 18 the resolution for the Greene County Board of 19 Commissioners at page 3, line 22, right? 20 A. I'm referring to more than that; is that 21 what you said? 22 Q. Yeah, that's -- yeah. I just want to 23 make sure it's clear for the record. 24 A. Yes. 25 Q. Okay. Let's go to the Staff Report then,</p>	<p style="text-align: right;">Page 300</p> <p>1 Q. So you recognize there were comments 2 filed by Intervenor in the case that were counted? 3 A. Okay. Yes. 4 Q. And that some of those Intervenor filed 5 multiple comments? 6 A. I believe that's true, yes. 7 Q. And did you ever look at the number of 8 public comments in the Republic Wind case? 9 A. I don't know the number. 10 Q. Did you work on the Staff Report for the 11 Republic Wind case? 12 A. Yes. 13 Q. All right. Would you agree with me that 14 the Republic Wind case Staff recommended approval of 15 the application, subject to conditions? 16 A. Yes. 17 Q. Okay. Do you consider -- well, let's 18 just assume, all right, and this is an accurate 19 assumption in the sense it's not accurate meaning 20 let's just assume there were 35 public comments on 21 the project, right? Now, let me back up. One -- are 22 you aware that one document had 76 letters of support 23 from IBEW workers? 24 A. One letter on the docket in this case? 25 Q. Uh-huh.</p>

<p style="text-align: right;">Page 301</p> <p>1 A. Yeah.</p> <p>2 Q. That was prior to the Staff Report being</p> <p>3 filed, right?</p> <p>4 A. I don't know.</p> <p>5 Q. Okay. Fair enough. But just assume</p> <p>6 there were 35 public comments. Do you view 35 public</p> <p>7 comments in a case to be a lot of comments given your</p> <p>8 experience at the Board?</p> <p>9 MR. MARGARD: I am just going to object.</p> <p>10 We haven't established that he has much experience</p> <p>11 with the public comments' portion of Staff</p> <p>12 investigations.</p> <p>13 ALJ WILLIAMS: I am going to let him</p> <p>14 answer and explain if he thinks he has any</p> <p>15 limitations regarding his experience with the answer.</p> <p>16 A. I guess I've never done any kind of</p> <p>17 analysis on, you know, what constitutes a high number</p> <p>18 of public comments or not. I never ferreted that</p> <p>19 out.</p> <p>20 Q. Let me ask you, in regards to the</p> <p>21 "Recommended Findings" at page 44, who made the</p> <p>22 decision, the ultimate decision to recommend -- make</p> <p>23 that recommendation?</p> <p>24 A. I would say Staff as a whole.</p> <p>25 Q. All right. And when you say Staff as a</p>	<p style="text-align: right;">Page 303</p> <p>1 discussed in this hearing was after the hearing</p> <p>2 started, correct?</p> <p>3 A. Can you say that again, please?</p> <p>4 Q. Yeah. Let me ask it another way, prior</p> <p>5 to March 7, 2022, you were not aware of any</p> <p>6 communications by an Ohio Power Siting Board</p> <p>7 representative to any of the local governmental</p> <p>8 entities intervened in this proceeding other than any</p> <p>9 communications that may have occurred at the public</p> <p>10 information meetings and the local public hearing; is</p> <p>11 that correct?</p> <p>12 A. I believe I had knowledge that someone on</p> <p>13 Staff had reached out for information, but I don't</p> <p>14 know any specifics on that.</p> <p>15 Q. And in terms of you believe, how did you</p> <p>16 come to that -- by that belief?</p> <p>17 A. I don't remember. I think just it's a</p> <p>18 memory, I guess, a vague memory.</p> <p>19 MR. SETTINERI: All right. One moment,</p> <p>20 your Honor, please.</p> <p>21 ALJ WILLIAMS: Sure. Off record.</p> <p>22 (Discussion off the record.)</p> <p>23 ALJ WILLIAMS: Let's go back on record.</p> <p>24 MR. SETTINERI: Sure.</p> <p>25 Q. (By Mr. Settineri) Mr. Zeto, you've been</p>
<p style="text-align: right;">Page 302</p> <p>1 whole, are you saying every Staff member was able to</p> <p>2 contribute and to make that decision?</p> <p>3 A. Yes.</p> <p>4 Q. And how -- how was the Staff -- was that</p> <p>5 able to be accomplished?</p> <p>6 A. I believe there were calls made to Staff</p> <p>7 members, and everyone was afforded the opportunity to</p> <p>8 provide edits and input until it was filed.</p> <p>9 Q. And that all happened on October 29?</p> <p>10 A. Up to October 29, yes.</p> <p>11 Q. Okay. Now, your -- again, you are the</p> <p>12 Staff project lead, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Did you direct that any outreach take</p> <p>15 place in regards to this project to local</p> <p>16 governmental authorities?</p> <p>17 A. No.</p> <p>18 Q. Are you aware of any communications from</p> <p>19 any PUCO or Power Siting Board's Staff member to any</p> <p>20 of the governmental entities that intervened in this</p> <p>21 proceeding?</p> <p>22 A. Only what's been discussed in this</p> <p>23 hearing.</p> <p>24 Q. All right. So the first time you became</p> <p>25 aware of those communications that have been</p>	<p style="text-align: right;">Page 304</p> <p>1 at the Board for how long, approximately?</p> <p>2 A. Since 2011.</p> <p>3 Q. Okay. Would you agree with me that in</p> <p>4 terms of the process for an application at the Power</p> <p>5 Siting Board that the issuance of a Staff Report is a</p> <p>6 major milestone in the process?</p> <p>7 A. Sure. It's a milestone, yeah.</p> <p>8 Q. Okay. And would you agree with me that</p> <p>9 the Staff Report, given your experience, can affect</p> <p>10 the dynamics of a proceeding after its issued in</p> <p>11 regards to possible settlement conversations and how</p> <p>12 a case resolves?</p> <p>13 A. It's one thing that can, yeah.</p> <p>14 Q. Go to question and answer 8 at page 3 of</p> <p>15 your testimony, if you can, please.</p> <p>16 A. Okay.</p> <p>17 Q. The question says "What impacts did Staff</p> <p>18 review for the project in arriving at this</p> <p>19 conclusion?" And I am trying to figure out what</p> <p>20 conclusion is being referenced there. For reference</p> <p>21 turn back to page 2 and look at your answer on 7.</p> <p>22 A. Okay. What was your question?</p> <p>23 Q. Yeah. So in -- this question asked you</p> <p>24 what -- on page 8 -- sorry, page 3 on line 1,</p> <p>25 question 8, "What impacts did Staff review for the</p>

<p style="text-align: right;">Page 305</p> <p>1 project in arriving at this conclusion?" In</p> <p>2 answering that question, what conclusion did you</p> <p>3 believe you were being asked to discuss?</p> <p>4 A. The conclusion recommended denial.</p> <p>5 Q. And then your answer says "Staff reviewed</p> <p>6 the potential effect of the project on public</p> <p>7 interest, convenience, and necessity." Do you see</p> <p>8 that?</p> <p>9 A. Uh-huh.</p> <p>10 Q. All right. But then it says "Staff also</p> <p>11 reviewed various types of land use impacts including</p> <p>12 residential, recreational, institutional, ecological,</p> <p>13 cultural resources, agricultural, and overall</p> <p>14 geological suitability." Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, I use -- in your testimony today are</p> <p>17 you saying that Staff reviewed that information in</p> <p>18 arriving at its recommendation in the Staff Report</p> <p>19 at -- on that (A)(6) section, public interest,</p> <p>20 convenience, and necessity?</p> <p>21 MR. MARGARD: I think that</p> <p>22 mischaracterizes the testimony, your Honor.</p> <p>23 ALJ WILLIAMS: I will sustain the</p> <p>24 objection. The testimony speaks for itself, Staff</p> <p>25 reviewed, Staff also reviewed.</p>	<p style="text-align: right;">Page 307</p> <p>1 its recommendation on the (A)(6) criteria, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Let's work backwards. All right. Is</p> <p>4 there any reference to agricultural in the Staff</p> <p>5 Report on the pages 40 all the way through 44?</p> <p>6 MR. MARGARD: Your Honor, I am going to</p> <p>7 object again on the basis of mischaracterization.</p> <p>8 The witness didn't indicate that this conclusion was</p> <p>9 limited to the (A)(6) criteria.</p> <p>10 ALJ WILLIAMS: I am going to sustain the</p> <p>11 objection. Mr. Settineri, the witness has testified,</p> <p>12 and his testimony is right there, he reviewed the</p> <p>13 effect on the project on public interest,</p> <p>14 convenience, and necessity. Staff also reviewed,</p> <p>15 additionally Staff reviewed, so the testimony is</p> <p>16 right there. It's certainly a combined analysis that</p> <p>17 goes into the Staff's recommendation.</p> <p>18 MR. SETTINERI: Okay. I must be missing</p> <p>19 the boat here, your Honor, because my understanding</p> <p>20 of his testimony is the conclusion he is referencing</p> <p>21 in question 8 is the recommended denial of this -- of</p> <p>22 the application. And that's based solely on (A)(6)</p> <p>23 because that's the only place where it was</p> <p>24 recommended they didn't meet the criteria. And</p> <p>25 that's -- now I go back to the original question 7.</p>
<p style="text-align: right;">Page 306</p> <p>1 MR. SETTINERI: All right. Let me try it</p> <p>2 again.</p> <p>3 Q. (By Mr. Settineri) When you say "Staff</p> <p>4 also reviewed various types," and I won't go through</p> <p>5 the rest of the sentence, is that sentence in answer</p> <p>6 to the question that's being posed to you as to what</p> <p>7 Staff reviewed in arriving at the conclusion?</p> <p>8 A. Sorry. Could you restate that?</p> <p>9 Q. Yeah. I'll just tell you I'm confused on</p> <p>10 your answer. That's why I am trying to drill down on</p> <p>11 this. Again, your answer says "Staff also reviewed</p> <p>12 various types of land use impacts," et cetera. Is</p> <p>13 your testimony -- is that also reviewed, is that</p> <p>14 applying to what Staff reviewed for its conclusion</p> <p>15 and in recommending denial of the application?</p> <p>16 A. I guess in part it could be.</p> <p>17 Q. Yeah. And let me try it a different way</p> <p>18 just to -- so if I go to the considerations for RC</p> <p>19 4906.10(A)(6), page 40 of the Staff Report, that</p> <p>20 whole section all the way through page 44, okay?</p> <p>21 Does that section, anywhere in that section, discuss</p> <p>22 geological suitability?</p> <p>23 A. No.</p> <p>24 Q. All right. So that would be one that --</p> <p>25 so Staff did not reference geological suitability for</p>	<p style="text-align: right;">Page 308</p> <p>1 That's kind of a muddle because as you go through it,</p> <p>2 it talks about preparing the Staff Report,</p> <p>3 summarizing the investigation, as a result of Staff's</p> <p>4 investigation, Staff recommends that the Board deny</p> <p>5 the application. And then it says, however, should</p> <p>6 the Board choose to issue a certificate, Staff</p> <p>7 recommends 36 conditions. So it's kind of a muddle,</p> <p>8 and then it's a very targeted question next. What</p> <p>9 impacts does Staff review for the project in arriving</p> <p>10 at this conclusion? So it's a specific conclusion.</p> <p>11 He testified that it's a -- it's (A)(6) criteria to</p> <p>12 deny. And that's why I am going through each one of</p> <p>13 these painfully to show that those were not part of</p> <p>14 that section. The question is throwing me off.</p> <p>15 MR. MARGARD: So if I may, your Honor.</p> <p>16 ALJ WILLIAMS: I have what I need. The</p> <p>17 testimony was what did you review. I reviewed this.</p> <p>18 I also reviewed this. I additionally reviewed that.</p> <p>19 If you continue, the testimony continues at question</p> <p>20 9 to the information you are pressing which was what</p> <p>21 was ultimately pended as determinative.</p> <p>22 MR. SETTINERI: So it's the Bench's view</p> <p>23 that question 8 just is regarding what does the Staff</p> <p>24 consider overall for its Staff Report review?</p> <p>25 ALJ WILLIAMS: His testimony speaks for</p>

<p style="text-align: right;">Page 309</p> <p>1 itself. I mean, his testimony page 8 was please 2 summarize the investigation. He discusses the 3 investigation. And then he is asked what did you 4 review to rely -- to reach your conclusion. He 5 indicated the conclusion was ultimately to recommend 6 denial. And then the question 9 he then tapers 7 further in terms of, okay, tell me about what 8 impacted 4906.10(A)(6). 9 MR. SETTINERI: Your Honor, I have to be 10 a stickler for the record here. I've done a lot of 11 briefing. And this question is very dangerous, 12 question 8 answer -- if I am not allowed to fully 13 walk through it with him because he has said the 14 conclusion relates to the denial, on brief, and I 15 know Mr. Margard wouldn't do this, but at some point 16 on brief, you never know, that could come back and 17 say, well, Staff not only reviewed what was in answer 18 9, but they also reviewed what was in answer 8 even 19 though it's not in the Staff Report. So that's why I 20 am painstakingly going through it. If Mr. Margard 21 would want to stipulate to changing the question 22 maybe, that might work. 23 ALJ WILLIAMS: Here is what we are going 24 to do, his testimony speaks for itself. If you have 25 any questions regarding whether there is any error in</p>	<p style="text-align: right;">Page 311</p> <p>1 MR. SETTINERI: No further questions, 2 your Honor. 3 ALJ WILLIAMS: Thank you, Mr. Settineri. 4 Mr. Margard, do you need any time to 5 contemplate redirect? 6 MR. MARGARD: I do, your Honor. And I 7 would appreciate 5 minutes if I could, please. 8 ALJ WILLIAMS: That's a lot we went over 9 so it seems reasonable. We will come back at 6:13. 10 We are off the record. 11 (Discussion off the record.) 12 ALJ WILLIAMS: Back on. 13 Mr. Margard, any redirect? 14 MR. MARGARD: Thank you, your Honor. I 15 have no redirect for Mr. Zeto and renew my motion to 16 admit Staff Exhibit 11. 17 ALJ WILLIAMS: Mr. Zeto, thank you for 18 your testimony today. Have a great evening. 19 THE WITNESS: Thank you. 20 ALJ WILLIAMS: Any objection to the 21 admission of Staff Exhibit 11? 22 Hearing none, that's admitted. 23 (EXHIBIT ADMITTED INTO EVIDENCE.) 24 ALJ WILLIAMS: Mr. Settineri, you are not 25 going to move Kingwood 91 in, are you?</p>
<p style="text-align: right;">Page 310</p> <p>1 that testimony, you are welcome to explore those. 2 The question was what did you review in arriving at 3 your conclusion. He has indicated the three sections 4 or areas that he reviewed. We reviewed this, further 5 we reviewed that, additionally we reviewed this. So 6 to the extent what did you review, his answer speaks 7 for itself. There is no amount of cross-examination 8 that's going to change that answer. 9 MR. SETTINERI: All right. Let me just 10 try this a different way. 11 Q. (By Mr. Settineri) Mr. Zeto, in regards 12 to your answer at 8, that answer addresses the 13 various items that Mr. Margard -- that you were asked 14 in question 7 which relates to the overall Staff 15 Report of Investigation; is that correct? 16 A. Yes, I believe. If I understood your 17 question, yes. 18 Q. Okay. Thank you. And then question 9, 19 answer 9, that provides the specific basis for 20 Staff's recommendation the Board deny a certificate 21 on the statutory criteria of (A)(6); is that correct? 22 A. Yes. 23 MR. SETTINERI: Thank you, sir. 24 I think we got there, your Honor. 25 ALJ WILLIAMS: Okay.</p>	<p style="text-align: right;">Page 312</p> <p>1 MR. SETTINERI: No, I am not. 2 ALJ WILLIAMS: I think that concludes our 3 exhibits, and I believe that concludes our scheduled 4 witnesses. Let's go off the record briefly. 5 (Discussion off the record.) 6 ALJ WILLIAMS: All right. Karen, we are 7 back on the record. 8 So we spent a few minutes collecting 9 information regarding some lingering issues in the 10 case even after we closed the testimony of all the 11 scheduled witnesses. 12 We are intending to reconvene in person 13 on April 25 and 26 at the offices of the Public 14 Utilities Commission, and the matter will be noticed 15 via a short published entry to clarify what room, 16 clarify for time for arrival, et cetera, but the 17 parties are instructed to plan to participate in two 18 full days of hearing on April 25 and April 26 with 19 that hearing time will be dedicated to rebuttal 20 witnesses in the case. 21 The Bench has declared that the written 22 testimony for all rebuttal witnesses is due April 14 23 by the end of business. And this will be the only 24 indication that the parties receive relative to that 25 cutoff.</p>

<p style="text-align: right;">Page 313</p> <p>1 We also discussed offline the status of</p> <p>2 the motion for subpoenas that was filed by Applicant</p> <p>3 and that filing dates back to February 25. It was</p> <p>4 opposed by Staff pursuant to a filing March 4. And</p> <p>5 Applicant did file a reply at the outset of this</p> <p>6 hearing indicating that they would request the matter</p> <p>7 be held in abeyance to see how the testimony went and</p> <p>8 that was filed March 8.</p> <p>9 At this time the Bench is going to grant</p> <p>10 the subpoena solely with respect to ordering the</p> <p>11 presentation of Witness Julie Price who the testimony</p> <p>12 in the case came out had some interactive role with</p> <p>13 some of the Intervenor. It's been determined</p> <p>14 regarding -- determined by the Bench regarding the</p> <p>15 full nature of that outreach, but as part of</p> <p>16 Applicant's subpoena request No. 9, Board Staff</p> <p>17 members or employees of the Commission who spoke or</p> <p>18 communicated with any representative or employee of</p> <p>19 Greene County between 10-1 and 10-29, the Bench feels</p> <p>20 as though that question can and should be clarified</p> <p>21 likely through Witness Price. And so we are going to</p> <p>22 grant that portion of the subpoena request.</p> <p>23 The Bench is going to deny the remainder</p> <p>24 of the subpoena request. Applicant was instructed</p> <p>25 when we held this matter in abeyance that it was</p>	<p style="text-align: right;">Page 315</p> <p>1 Anything else we need to put on the</p> <p>2 record between now and our publication of the short</p> <p>3 entry and our reconvening?</p> <p>4 MR. MARGARD: Just as a matter of</p> <p>5 clarification, your Honor, with respect to</p> <p>6 Ms. Graham-Price, will that interrogation be limited</p> <p>7 to her contacts with the intervening entities in this</p> <p>8 case?</p> <p>9 ALJ WILLIAMS: The Bench's anticipation</p> <p>10 is that Ms. Graham-Price will be expected to respond</p> <p>11 to questions regarding her outreach to any and all</p> <p>12 parties relative to this case. So while the subpoena</p> <p>13 was originally structured as to communications with</p> <p>14 Greene County from 10-1 to 10-29, the Bench feels</p> <p>15 it's more appropriate to have the entirety of her</p> <p>16 testimony regarding interaction to the best of her</p> <p>17 records and memory with any parties to the case.</p> <p>18 MR. MARGARD: Thank you for the</p> <p>19 clarification, your Honor.</p> <p>20 ALJ WILLIAMS: You're welcome.</p> <p>21 MR. SETTINERI: And, your Honor, I would</p> <p>22 just obviously reserve any arguments as to the scope</p> <p>23 of my questioning at the time the questioning occurs.</p> <p>24 ALJ WILLIAMS: Arguments in favor of a</p> <p>25 more broad line of questioning or more narrow line of</p>
<p style="text-align: right;">Page 314</p> <p>1 expected to pursue full lines of questioning relative</p> <p>2 to the information requested, and the Bench is</p> <p>3 satisfied that with the questions that were asked,</p> <p>4 that the testimony in sponsorship of the Staff Report</p> <p>5 did come through. The witnesses were candid. The</p> <p>6 witnesses were thorough in response to the questions</p> <p>7 they received and the -- again, the salient issue is</p> <p>8 sponsorship of aspects of that Staff Report.</p> <p>9 Therefore, the Bench finds that the</p> <p>10 remaining portions of the subpoena have been</p> <p>11 satisfied and there's no remaining outstanding issue</p> <p>12 that the Bench would find need of any further</p> <p>13 witnesses.</p> <p>14 Mr. Settineri, I understand you wanted to</p> <p>15 put a comment in the record in response to that</p> <p>16 ruling. You are invited now.</p> <p>17 MR. SETTINERI: Yeah. I don't know if</p> <p>18 it's the appropriate way to do, but I will simply</p> <p>19 note for the record, your Honor, we obviously object</p> <p>20 to the ruling today and that's it.</p> <p>21 ALJ WILLIAMS: Okay. Short of thanking</p> <p>22 the parties for their organization in a very thorough</p> <p>23 and well litigated case, anything else that -- and</p> <p>24 our never ending appreciation to Ms. Gibson for</p> <p>25 yeoman's work.</p>	<p style="text-align: right;">Page 316</p> <p>1 questioning?</p> <p>2 MR. SETTINERI: Well, I will not let</p> <p>3 Mr. Margard pick that for me, but depending on where</p> <p>4 the questioning goes and what comes out of that</p> <p>5 questioning because our subpoena obviously was not --</p> <p>6 it covered many different areas, your Honor.</p> <p>7 ALJ WILLIAMS: So I anticipate that it's</p> <p>8 going to be clear where Ms. Price's testimony begins</p> <p>9 and ends, but we can reserve ruling for any</p> <p>10 objections that rightfully arise during the course of</p> <p>11 that presentation.</p> <p>12 MR. SETTINERI: Thank you, your Honor.</p> <p>13 ALJ WILLIAMS: Thank you.</p> <p>14 Judge Hicks, I am going to let you do the</p> <p>15 honors.</p> <p>16 ALJ HICKS: Okay. And with that, we're</p> <p>17 adjourned.</p> <p>18 (Thereupon, at 6:26 p.m., the hearing was</p> <p>19 adjourned.)</p> <p>20 ---</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<div>Page 317</div> <div>1 CERTIFICATE</div> <div>2 I do hereby certify that the foregoing is</div> <div>3 a true and correct transcript of the proceedings</div> <div>4 taken by me in this matter on Tuesday, March 15,</div> <div>5 2022, and carefully compared with my original</div> <div>6 stenographic notes.</div> <div>7</div> <div>8</div> <div>9 <div>Karen Sue Gibson, Registered</div><div>Merit Reporter.</div></div> <div>10</div> <div>11 (KSG-7249)</div> <div>12 ---</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	

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Summary: Request Interlocutory Appeal and Request for Certification and
Memorandum in Support electronically filed by Mr. Michael J. Settineri on behalf of
Kingwood Solar I LLC