

BEFORE THE OHIO POWER SITING BOARD

- - -

In the Matter of the :  
Application of Scioto :  
Farms Solar Project, LLC, :  
for a Certificate of :  
Environmental : Case No. 21-868-EL-BGN  
Compatibility and Public :  
Need to Construct a :  
Solar-Powered Electric :  
Generation Facility in :  
Pickaway County, Ohio. :

- - -

PROCEEDINGS

before Ms. Megan Addison, Administrative Law Judge,  
at the Ohio Power Siting Board, 180 East Broad  
Street, Room 11-C, Columbus, Ohio, called at 9:34  
a.m. on Tuesday, February 28, 2023.

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VOLUME II-PUBLIC PORTION

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On behalf of the IBEW Local 575 and Ohio  
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On behalf of the Ohio Farm Bureau  
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1 APPEARANCES: (Continued)

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9 On behalf of the Staff of the OPSB.

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Tuesday Morning Session,  
February 28, 2023.

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ALJ ADDISON: Let's go ahead and go on  
the record at this time.

Good morning, everyone. Today is the  
second day of hearing that the Board has set for Case  
No. 21-868-EL-BGN being captioned in the Matter of  
the Application of the Scioto Farms Solar Project,  
LLC, for a Certificate of Environmental Compatibility  
and Public Need to Construct a Solar-Powered Electric  
Generation Facility in Pickaway County, Ohio.

We will dispense with the taking of  
appearances this morning and dive right back into  
where we left off yesterday.

So at this time I will note that we will  
be leaving the public transcript and transferring  
over into the confidential session. And I would  
advise anyone if you have not executed a protective  
agreement with the Applicant or if you are not  
currently employed by the Board itself, I would just  
ask you to leave the room at this time.

(CONFIDENTIAL PORTION EXCERPTED.)

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(PUBLIC PORTION.)

ALJ ADDISON: Ms. Sheely, are you  
prepared to proceed with your redirect on the public  
transcript?

MS. SHEELY: Yes, your Honor.

ALJ ADDISON: Please proceed.

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REDIRECT EXAMINATION (Continued)

By Ms. Sheely:

Q. Mr. Woodruff, yesterday you were asked  
questions about whether the project has committed to  
using only panels for the project that pass the USEPA  
TCLP. Do you remember some testimony about that  
topic?

1           A.    I do.

2           Q.    Can you please turn to the application  
3 narrative at page 42.

4           A.    Yes.   Just a moment.   Yes.

5           Q.    So I believe yesterday you testified  
6 based upon pages 9 and 10 of the application  
7 narrative that the list of panels provided there were  
8 all TCLP-approved panels, but does this refresh your  
9 recollection as to whether there was also just a  
10 plain commitment in the application to use only  
11 TCLP-approved panels?

12          A.    It does.

13          Q.    And can you read the sentence that says  
14 that?

15          A.    Yes.   On page 42 of the application  
16 narrative under the heading "Solid Waste During  
17 Operation," at subsection B in the second sentence,  
18 it states "The Applicant will only utilize Tier 1  
19 equipment suppliers and expects solar panels to pass  
20 Toxicity Characteristic Leaching Procedure (TCLP)  
21 testing regulated by the USEPA to ensure they are not  
22 hazardous to people or the environment."

23          Q.    Thank you.   There was testimony yesterday  
24 regarding whether the project has made a commitment  
25 limiting grading to 15 percent.   You were familiar

1 with the discussions and execution of the Joint  
2 Stipulation as to certificate conditions in this  
3 case, correct?

4 A. Yes.

5 Q. Do you agree, and feel free to reference  
6 Joint Exhibit 1, if necessary, that in condition  
7 (10)b of that Stipulation appears that commitment  
8 from the project?

9 A. Which binder is that in?

10 Q. It would be the second volume of  
11 Applicant's exhibits. Last one.

12 A. Yes. Condition 10 of the stipulated  
13 provisions in Joint Exhibit 1 at subparagraph b which  
14 appears on page 4 states limits that the condition  
15 limits grading to no more than 15 percent of the  
16 agricultural lands within the project area, as  
17 defined in the application.

18 Q. Would you look at Exhibit 10, please,  
19 Applicant Exhibit 10.

20 A. Pardon me. Yes.

21 Q. Did you participate in preparing the  
22 memorandum dated December 15, 2022, and providing it  
23 to the Wayne Township Trustees and their counsel Tony  
24 Chamberlain?

25 A. Yes.

1           Q.    There were questions yesterday regarding  
2   a portion of this that starts at page 18.  It's  
3   actually Exhibit A to it.

4           A.    Yes.

5           Q.    And you would agree that this is a  
6   comparison of the conditions from the Staff Report  
7   for Scioto Farms Solar versus the adopted OPSB  
8   conditions for the Yellowbud Solar project?

9           A.    Correct.

10          Q.    And that you asked for this comparison to  
11   be prepared?

12          A.    It was prepared at my direction, yes.

13          Q.    Why did you do that?

14          A.    I did that because in the course of many  
15   of the discussions I had with the various Intervenors  
16   and more broadly observing the comments on the  
17   docket, there seemed to be a great deal of concern --  
18   most of the concerns were -- raised were associated  
19   with the Yellowbud project and the construction of  
20   that project and the conditions that were received  
21   there by the Intervenors and others and my intention  
22   here was to demonstrate to the Township that the  
23   subject matter of many of the concerns was addressed  
24   through more granular and robust conditions in the  
25   Scioto Farms' proposed conditions than what appeared

1 in the Yellowbud approved conditions.

2 Q. Did you determine how many additional  
3 conditions were part of the proposed Scioto Farms  
4 conditions from what had been adopted for the  
5 Yellowbud Solar project?

6 A. I did. Of the 39 conditions proposed in  
7 Scioto Farms by Staff, 18 were conditions which did  
8 not appear in the Yellowbud adopted conditions.

9 Q. Can you summarize the -- some of the  
10 subject matters on which the additional conditions  
11 proposed for Scioto Farms covered that were not  
12 included within the Yellowbud Solar conditions?

13 MR. VAN KLEY: Your Honor, I am going to  
14 object at this point. I think this is ranging well  
15 outside of the -- of the topics of cross-examination.  
16 There were some questions about grading during  
17 cross-examination in which the witness just testified  
18 about, but the cross-examination didn't deal with  
19 other issues that would entail any differences  
20 between the Yellowbud project and this project. So I  
21 think this is -- this is territory that should have  
22 been placed in Mr. Woodruff's direct testimony if  
23 they wanted to cover it.

24 ALJ ADDISON: Well, it is in an errata.

25 Ms. Sheely, any response?

1 MS. SHEELY: Yes, it is his testimony but  
2 also there was questioning yesterday regarding the  
3 comparison of condition No. 1 in this very document  
4 and it being a condition that's the same as Yellowbud  
5 and certainly I think that this proceeding will  
6 include criticisms of certain things in how Yellowbud  
7 was constructed as the basis for concern about how  
8 this project might be constructed. So I think that  
9 this is all fair game for redirect.

10 ALJ ADDISON: Thank you.

11 I'll allow the question.

12 A. What was the question?

13 Q. (By Ms. Sheely) Can you summarize some of  
14 the additional conditions that have been proposed  
15 relative to Scioto Farms Solar that were not included  
16 in the Yellowbud conditions based upon your analysis  
17 of it?

18 A. Well, I don't know that I can summarize.  
19 I mean, the table is -- is pretty clear on what  
20 provisions appear as to which project, but I can say  
21 that there is a provision for the Scioto Farms  
22 project on grading which does not appear at all in  
23 the Yellowbud certificate. There is a provision on  
24 topsoil management that does not appear, provision  
25 for an emergency response plan to be filed 30 days

1 prior to the pre-construction conference that does  
 2 not appear. A plan for pollutant discharge  
 3 elimination does not appear in Yellowbud's  
 4 certificate. There is a provision relating to  
 5 operational sound levels during construction.  
 6 Yellowbud has no analogue to that. Much more  
 7 extensive provision in the Scioto Farms conditions  
 8 regarding field tile management, remediation for  
 9 damage, surveying, a very complete and thorough  
 10 decommissioning condition which did not appear at all  
 11 in Yellowbud; provisions relating to end of life  
 12 disposal for solar panels; provisions for remediation  
 13 of the site and testing of the site following  
 14 decommissioning to ensure that it's returned to its  
 15 original agricultural purpose. Provisions regarding  
 16 vegetation during, after construction, during  
 17 operations, requiring compliance with ODNR levels of  
 18 pollinator vegetation and other types of vegetation,  
 19 none of which appeared in the Yellowbud certificate.

20 MS. SHEELY: No further questions. Thank  
 21 you.

22 ALJ ADDISON: Thank you, Ms. Sheely.

23 Mr. Dove?

24 MR. DOVE: No more questions.

25 ALJ ADDISON: Ms. Curtis?

1 MS. CURTIS: No questions, your Honor.

2 ALJ ADDISON: Mr. Van Kley?

3 MR. VAN KLEY: Yes, your Honor.

4 - - -

5 RECROSS-EXAMINATION

6 By Mr. Van Kley:

7 Q. Mr. Woodruff, go back to the narrative to  
8 the application page 42.

9 A. Yes.

10 Q. All right. You read some language from  
11 this page that included the statement that "The  
12 Applicant will only utilize Tier 1 equipment  
13 suppliers and expects solar panels to pass TCLP  
14 testing"; is that correct?

15 A. Yes.

16 Q. So are you interpreting the statement  
17 that the Applicant expects the panels to pass the  
18 TCLP as a commitment that the Applicant will purchase  
19 only panels that pass TCLP testing?

20 A. I am simply testifying as to what appears  
21 in the application. The expectation is any Tier 1  
22 panel will pass the TCLP test as all panels in that  
23 tier have for the last 15 years.

24 Q. So the Applicant is not making any  
25 promises to utilize only panels that pass TCLP



1 testing?

2 MS. SHEELY: Objection.

3 ALJ ADDISON: Grounds?

4 MS. SHEELY: Asked and answered and it  
5 mischaracterizes his prior answer.

6 MR. VAN KLEY: Well, I am asking him  
7 whether that's his position because he seems to be  
8 waving back and forth between a commitment and just  
9 an expectation.

10 ALJ ADDISON: Oh, Mr. Van Kley, I tend to  
11 agree with Ms. Sheely. He's answered the question  
12 and I do believe your question mischaracterizes  
13 earlier testimony and the Board can certainly look at  
14 his answers to those earlier questions and I am sure  
15 they will be well informed as to where he stands on  
16 that issue.

17 MR. VAN KLEY: All right. Very good,  
18 your Honor. I have nothing further at this point.

19 ALJ ADDISON: Thank you.

20 Mr. Chamberlain?

21 MR. CHAMBERLAIN: Nothing, your Honor.  
22 Thank you.

23 ALJ ADDISON: Thank you.

24 Mr. Eubanks?

25 MR. EUBANKS: No questions, your Honor.

1 ALJ ADDISON: Thank you.

2 - - -

3 EXAMINATION

4 By ALJ Addison:

5 Q. Mr. Woodruff, just very briefly, was  
6 Yellowbud Solar -- do you recall Ms. Sheely asked  
7 various questions regarding conditions that were  
8 contained in the Yellowbud Solar certificate,  
9 correct?

10 A. Yes.

11 Q. And you compared the conditions currently  
12 set forth in Joint Exhibit 1 which was the Joint  
13 Stipulation; is that correct?

14 A. No. The comparison that I made was  
15 between the Staff proposed conditions as they  
16 appeared in the application -- in the Staff Report.  
17 Since that time there have been additional  
18 modifications to the Staff proposed conditions which  
19 appear in the Joint Stipulation.

20 Q. Thank you for that clarification. And  
21 Yellowbud was the only additional case that you have  
22 included in Staff Exhibit 10 to make such a  
23 comparison, correct?

24 A. For Applicant's conditions, Exhibit 10,  
25 yes, yes.

1           Q.    And you -- so you did not engage in any  
2   sort of comparison between the certificates proposed  
3   in the Staff Report for Scioto Farms for this  
4   proceeding with any other certificate granted to a  
5   solar farm in any other proceeding, correct?

6           A.    Not for purposes of this exercise.  We  
7   did review the certificate and order in the Dodson  
8   case specifically with respect to setbacks which led  
9   to our seeking an amendment to the application in  
10  this case.  But that was the only other time we  
11  looked at a certificate.

12          Q.    Okay.  And you similarly did not compare  
13  the Staff proposed conditions in the Staff Report to  
14  any certificate to be granted in this proceeding with  
15  those proposed in any other solar farm proceeding  
16  before the Board whether or not a certificate had  
17  been issued, correct?

18          A.    Correct.  And to be clear, the purpose  
19  for making that comparison here is the proximity of  
20  the Yellowbud project to the Intervenor's property.  
21  And the rationale for making the comparison was  
22  concerns that we had heard about the Yellowbud  
23  project.  We hadn't heard that type of specific  
24  concern about any other project that had been  
25  certificated and in construction.

1           Q.    And you would agree that each one of  
2   these cases that I have referred to, any case dealing  
3   with a proposal to build a solar farm facility, all  
4   of those are fact specific, correct?

5           A.    Yes.

6           Q.    And some conditions that may apply in one  
7   case may not be very relevant in another proceeding,  
8   correct?

9           A.    Yes.

10           ALJ ADDISON:   Okay.   Those are all the  
11   questions I had, Mr. Woodruff.   You are excused.

12           THE WITNESS:   Oh, thank you.

13           MS. SHEELY:   Can I just make one brief  
14   clarification through a question to Mr. Woodruff as  
15   re-redirect?

16           ALJ ADDISON:   Oh, no.   We don't allow  
17   that.

18           MS. SHEELY:   No.

19           ALJ ADDISON:   Sorry.   The record stands.  
20   Thank you, Mr. Woodruff.   You are  
21   excused.

22           THE WITNESS:   Thank you, your Honor.

23           ALJ ADDISON:   All right.   Ms. Sheely, you  
24   had previously moved for the admission of Applicant  
25   Exhibits No. 8, 9, 10, 11, and 32 and Joint

1 Exhibit 1; is that correct?

2 MS. SHEELY: Yes.

3 ALJ ADDISON: Are there any objections to  
4 the admission of those exhibits?

5 MR. VAN KLEY: Could we get that list  
6 again?

7 ATTORNEY EXAMINER: Absolutely. It's  
8 Applicant Exhibit No. 8, 9, 10, 11, 32, and Joint  
9 Exhibit 1. And I'll give you a minute to review  
10 those.

11 MR. VAN KLEY: Yeah. We don't have any  
12 objection to those.

13 ALJ ADDISON: Thank you. Any other  
14 objections from any other party?

15 All right. Hearing no objections, we  
16 will now admit Applicant Exhibit Nos. 8, 9, 10, 11,  
17 32, and Joint Exhibit 1 into the record.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 ALJ ADDISON: Ms. Sheely, I believe we  
20 had an additional exhibit. Are you now moving that  
21 as well?

22 MS. SHEELY: Yes. I would like to move  
23 for the admission of Exhibit 33-C, Applicant Exhibit  
24 33-C.

25 ALJ ADDISON: Any objection?

1 MR. VAN KLEY: No.

2 ALJ ADDISON: I will note for the record  
3 that it is no longer Applicant 33-C. We will just  
4 refer to it as Applicant Exhibit 33 as we dealt with  
5 the confidentiality concerns with that particular  
6 document.

7 And, Mr. Van Kley, you already indicated  
8 you did not have an objection; is that correct?

9 MR. VAN KLEY: That's correct, your  
10 Honor.

11 ALJ ADDISON: Any other objections from  
12 other parties?

13 No? Okay. Hearing none, it will be  
14 admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 ALJ ADDISON: Mr. Van Kley, will you be  
17 moving any documents at this time?

18 MR. VAN KLEY: Yes, your Honor. We would  
19 move the admission of Ebenhack's Exhibits 4, 6, 7, 8,  
20 9, 10-C, 11-C, and 12-C.

21 ALJ ADDISON: Any objections to the  
22 admission of Ebenhack Exhibit Nos. 4, 6, 8, 9, 10-C,  
23 11-C, or 12-C?

24 MS. SHEELY: Yes, your Honor.

25 MR. VAN KLEY: Your Honor, did you

1 mention No. 7, or did I mention No. 7?

2 ALJ ADDISON: You did not mention No. 7.

3 MR. VAN KLEY: We would like to move that  
4 one.

5 ALJ ADDISON: Thank you. And just to be  
6 clear, Mr. Van Kley has also moved to admit Ebenhack  
7 Exhibit No. 7 in the event that you would like to  
8 review that document as well.

9 MS. SHEELY: I can address them one by  
10 one, if you would like.

11 ALJ ADDISON: Yes. Please proceed.

12 MS. SHEELY: Ebenhack Exhibit 6, we  
13 object to this as hearsay because the witness with  
14 whom it was covered -- actually I'm sorry. I may  
15 need to back up. Ebenhack Exhibit 5, was that the  
16 first of this group?

17 ALJ ADDISON: That was not moved for  
18 admission.

19 MS. SHEELY: 6 was moved?

20 ALJ ADDISON: 6 was moved.

21 MS. SHEELY: Yes. We object to this on  
22 the basis of a lack of foundation with the witness  
23 with whom it was covered and also the fact that it is  
24 hearsay.

25 ALJ ADDISON: Is that the only exhibit

1 you are objecting to, Ms. Sheely?

2 MS. SHEELY: No. We object to Exhibit 7  
3 for the same reasons, same objections.

4 We object to Exhibit 8. Just to clarify  
5 not on the basis of authenticity but on the basis of  
6 foundation insofar as the witness had no personal  
7 knowledge of these e-mails and was not copied on  
8 them.

9 We object to Exhibit 9 as hearsay.

10 We object to Exhibit 11-C for the lack of  
11 foundation because the witness has no personal  
12 knowledge and was not copied.

13 And we object to Exhibit 12-C on the same  
14 basis, lack of foundation and the witness has no  
15 personal knowledge because he was not copied.

16 Those are the objections to the exhibits  
17 you've referenced.

18 ALJ ADDISON: Thank you.

19 Mr. Van Kley, care to respond?

20 MR. VAN KLEY: Yes, your Honor. With  
21 regard to Exhibit 7, I would note that the witness  
22 did -- did acknowledge that that was a copy of a  
23 letter that he had seen. He also stated that his  
24 compilation of responses to the Township arguments  
25 and that are attached to his testimony do provide



1 some response to the statements in Exhibit 7.

2 Exhibits 8, 10, 11, and -- I guess 10  
3 wasn't objected to, the state -- the other documents  
4 are all authenticated as records of Scioto Farms  
5 Solar that has been -- have been produced in this  
6 proceeding as shown by the Bates numbers and the  
7 testimony of the witness acknowledging that had been  
8 produced, and the contents are statements of a party  
9 to this case that are admissible under that exception  
10 to the hearsay rule.

11 with regard to Exhibit 9, I think that  
12 was objected to, I'm not sure, if it was, then the  
13 witness did acknowledge that he addressed arguments  
14 in Exhibit -- that are in Exhibit 9 in his  
15 attachments to his testimony, so we believe that they  
16 should come in on that basis.

17 ALJ ADDISON: Thank you.

18 And just to be clear, Ms. Sheely, you are  
19 not objecting to the admission of Ebenhack Exhibit  
20 No. 4 or 10-C; is that correct?

21 MS. SHEELY: 10-C, no. And 4, no.

22 ALJ ADDISON: Okay. So we will take care  
23 of the easy ones first. Any other objections to the  
24 admission of Ebenhack Exhibit Nos. 4 or 10-C?

25 Hearing none, those will be admitted into

1 the record.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 ALJ ADDISON: I would just briefly note  
4 that the Board is not strictly bound by the Ohio  
5 Rules of Evidence. While the documents noted as  
6 Ebenhack Exhibit Nos. 6, 7, and 9 may or may not  
7 constitute hearsay under those rules, the Board can  
8 certainly look to those documents and afford the  
9 appropriate weight that it determines should be  
10 afforded to them.

11 So I will note your objection,  
12 Ms. Sheely, but I will admit Ebenhack Exhibit Nos. 6,  
13 7, and 9 into the record.

14 (EXHIBITS ADMITTED INTO EVIDENCE.)

15 ALJ ADDISON: However, based on the  
16 witness's responses to certain questions posed to him  
17 regarding Ebenhack Exhibit No. 8 and No. 12-C, I  
18 agree that the appropriate foundation had not been  
19 laid for those documents with this witness; and,  
20 thus, I will not be moving those into the record at  
21 this time.

22 Along those same lines, Ms. Sheely, your  
23 objection to Ebenhack Exhibit No. 11-C was based on  
24 hearsay; is that correct?

25 MS. SHEELY: 11-C was lack of foundation.

1 ALJ ADDISON: Lack of foundation. So  
2 based on those same lines, I will also similarly not  
3 move 11-C into the record.

4 I believe that is all of the documents.  
5 Correct me if I am wrong, Mr. Van Kley.

6 MR. VAN KLEY: You are correct, your  
7 Honor.

8 ALJ ADDISON: Okay. Ms. Sheely, will you  
9 be calling the next witness for the Applicant?

10 MS. SHEELY: Yes, your Honor. We would  
11 like to call Courtney Dohoney.

12 ALJ ADDISON: Ms. Dohoney, you have been  
13 patiently waiting. Would you please raise your right  
14 hand.

15 (Witness sworn.)

16 ALJ ADDISON: Thank you. Please be  
17 seated.

18 - - -

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

22 DIRECT EXAMINATION

23 By Ms. Sheely:

24 Q. Hello, Ms. Dohoney.

25 A. Good morning.

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

3           A.    Sure.   Courtney Dohoney, C-O-U-R-T-N-E-Y  
4   D-O-H-O-N-E-Y.

5           Q.    Who is your employer?

6           A.    Stantec Consulting.

7           Q.    What's your title?

8           A.    Senior Associate Project Manager.

9           Q.    Could you turn to Applicant Exhibit 12,  
10   please.

11          A.    I'm there.

12          Q.    Do you recognize that as your prefiled  
13   testimony which was filed in this proceeding on  
14   January 30, 2023?

15          A.    I do.

16          Q.    If I were to ask you the questions that  
17   are contained within it today, would your answers be  
18   the same?

19          A.    They would.

20          Q.    Could you please turn to Applicant  
21   Exhibit 13.

22          A.    Yes.

23          Q.    Do you recognize that to be the  
24   unanticipated discovery plan that was filed on May 2,  
25   2022, in this case?

1           A.    That appears to be missing from the  
2   folder.

3           Q.    No kidding.

4           A.    There is a cover page but.

5           Q.    Oh.   Just a moment.   Can you turn to  
6   Exhibit -- is there an Exhibit 3 that has a tab 10?

7                   ALJ ADDISON:   Should tab -- I have  
8   letters, tab J.   What did you say?

9                   MS. SHEELY:   Tab 10.

10                  ALJ ADDISON:   Tab J.

11                  MS. SHEELY:   Oh, are they letters?

12                  ALJ ADDISON:   Yes.

13           A.    I see an unanticipated discovery plan.

14           Q.    So that is an unanticipated discovery  
15   plan filed May 2, 2022, which is also Applicant  
16   Exhibit 13, we just didn't reproduce it in the binder  
17   multiple times; is that correct?

18           A.    Yes.

19                   MS. SHEELY:   Okay.   At this time I would  
20   like to move to enter Exhibits 12 and 13 into the  
21   record, subject to cross-examination, and tender the  
22   witness for cross.

23                   ALJ ADDISON:   Thank you very much,  
24   Ms. Sheely.

25                   Mr. Dove?

1 MR. DOVE: No questions, your Honor.

2 ALJ ADDISON: Ms. Curtis?

3 MS. CURTIS: No questions, your Honor.

4 ALJ ADDISON: Mr. Van Kley?

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

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Van Kley:

10 Q. Ms. Dohoney, I am hoping that you can  
11 clear up a question that we've had, from your smile I  
12 think you sat through at least part of it, concerning  
13 collection lines. Why don't we go to Exhibit A which  
14 is the preliminary site plan for the application  
15 which was marked as Applicant's Exhibit 2 and we will  
16 take a crack at answering my questions using this  
17 document. If we have to, we'll find another one  
18 that -- hopefully that will answer the question.

19 A. I found the site plan.

20 Q. Found it? Okay. Let's go to the map  
21 that is in Exhibit A of Applicant's Exhibit 2. And I  
22 have a question or two about what appears to be a  
23 collection line between the parcel on which the  
24 switchyard and substation for the project are located  
25 and the solar panel areas to the southeast of that.

1 And specifically I am looking at a -- what appears to  
2 be a corridor between the parcel with the substation  
3 and the panel area to the southeast of that. Do you  
4 see that corridor?

5 A. I do.

6 Q. Okay. Does -- is that corridor the  
7 location of a planned collection line?

8 A. Yes. There will be collection lines  
9 going through those.

10 Q. And the -- this collection line would  
11 convey electricity from all of the solar panel areas  
12 to the southeast of the substation into the  
13 substation; is that correct?

14 A. That's my understanding, yes.

15 Q. Is -- is that collection line located on  
16 land that is under lease to the Applicant?

17 A. The parcel where the solar panels are to  
18 the southeast is under lease and the parcel with the  
19 substation and switchyard and laydown area is also  
20 under lease and I believe there is an easement in  
21 between where those two parcels meet to allow for the  
22 collection to pass through.

23 Q. Okay. Is that easement on land that is  
24 not under lease to the Applicant?

25 A. I believe the easement is in place of a

1 lease.

2 Q. I'm sorry. I didn't hear the last part  
3 of your answer.

4 A. I believe the easement is in place of a  
5 lease. It's the mechanism to allow the cables to be  
6 installed in that area.

7 Q. Do you see a parcel to the northeast of  
8 that collection line that's under easement that is  
9 colored as kind of a brownish color in Exhibit A  
10 directly to the east of the substation?

11 A. Yes. That parcel appears to be outside  
12 the project boundary. Is that the parcel you are  
13 referencing?

14 Q. Yeah. Is that land under lease to the  
15 Applicant?

16 A. Not that I am aware. It's not part of  
17 the project boundaries, so it's not being considered  
18 as part of the project.

19 Q. Okay. How close is the collection line  
20 that is the subject of the easement to the boundary  
21 line of the parcel that is colored in brown to the  
22 northeast of it?

23 A. Without having exact measures wouldn't be  
24 able to tell you.

25 Q. Can you tell me whether the collection



1 line in that area will be located closer than  
2 150 feet to the boundary of the non-participating  
3 parcel to the northeast?

4 A. At the scale of this map, I can't tell  
5 for certain, but I would expect that it's closer than  
6 that.

7 Q. Do you know whether there is any  
8 agreement in place with the owner of that  
9 non-participating parcel to allow the siting of a  
10 collection line closer than 150 feet from the  
11 boundary?

12 A. I'm not aware of any sort of agreements  
13 that the Applicant may have with the landowners  
14 there.

15 Q. All right. Thank you for those answers.  
16 Could have saved a lot of time by starting with your  
17 testimony first, I guess. Appreciate that.

18 Let's talk a little bit about Exhibit Q  
19 to the application. Exhibit Q is labeled as  
20 "Ecological Resources Report" of Applicant's Exhibit  
21 2, correct?

22 A. Yes.

23 Q. And looking at the third page of that  
24 document which includes the cover page, your  
25 signature appears there as approving the document,

1 correct?

2 A. That's correct.

3 Q. Did you write any of Exhibit Q yourself?

4 A. I did not.

5 Q. Did you read the entire report that's in  
6 Exhibit Q before approving it?

7 A. I did.

8 Q. Let's go to page 27 of Exhibit Q which is  
9 the 32nd PDF page. Let me know when you have found  
10 that page, please.

11 A. I did.

12 Q. All right. Let's look at the section on  
13 "Bald Eagle Nest Search" which is No. 4.5.

14 A. Give me one second. My page numbers  
15 don't appear to be matching yours.

16 Q. Okay. It would be true page 27 of the  
17 report.

18 A. I found it. Thank you.

19 Q. Okay. Stantec conducted a search for  
20 bald eagle nests in the project area; is that  
21 correct?

22 A. That's correct.

23 Q. Did its search extend beyond the  
24 boundaries of the project area?

25 A. It did.

1 Q. How far?

2 A. It went out to a distance of 660 feet  
3 from the project boundary.

4 Q. Did Stantec find any bald eagle nests  
5 within that territory?

6 A. We did not.

7 Q. But there is a bald eagle nest that was  
8 identified by the U.S. Fish and Wildlife Service just  
9 outside of the 660 feet perimeter around the project  
10 area, correct?

11 A. That's correct. I believe it was  
12 six-tenths of a mile away from the project boundary.

13 Q. Do you know whether that bald eagle nest  
14 is still active?

15 A. As of today, no. We have not checked  
16 that nest.

17 Q. When is the last time you checked to  
18 determine whether that nest was active, if at all?

19 A. I don't believe we had access to the  
20 property where that nest was located, and it's in a  
21 wooded riparian area along the Scioto River, so we  
22 didn't have access to be able to check on the nest.

23 Q. Section 4.5 on page 27 of Exhibit Q  
24 states that an eagle nest search was conducted on  
25 November 17, 2021. Have any bald eagle nests surveys

1     been conducted since that date?

2             A.     They have not.

3             Q.     Did the Applicant perform any literature  
4     survey for plants within the project area or within  
5     one quarter mile of the project area?

6             A.     We completed consultation letters to the  
7     U.S. Fish and Wildlife Service and Ohio Department of  
8     Natural Resources looking for any records they may  
9     have of threatened, endangered plants or animals that  
10    may be present within the vicinity.

11            We also then completed a field survey  
12    which noted -- as part of our wetland delineation  
13    surveys, we also mapped the different habitat types  
14    within the project area and the dominant vegetation  
15    within each of those habitat types.

16            Q.     Other than the consultation with the  
17    wildlife agencies in which you requested information  
18    about threatened and endangered species, did the  
19    Applicant do any other literature survey for plants  
20    or for animals?

21            A.     Everything that is part of our search is  
22    contained within our ecological assessment report so  
23    there was background research done as in reviewing  
24    any of the threatened and endangered species that  
25    were flagged by the U.S. Fish and Wildlife Service or

1 Ohio Department of Natural Resources, and then a  
2 determination was made as to whether there was any  
3 potential suitable habitat for those plants within  
4 the project area which we did not find any.

5 Q. The Applicant did not do any field  
6 surveys to look for any animals or birds in the  
7 project area?

8 A. During the course of our surveys out at  
9 the site, we also made observations as you can see  
10 in -- on page 27. When we did the bald eagle nest  
11 search, we did observe a bald eagle flying through  
12 the project area, so we make observations about  
13 wildlife that are encountered while we are out at the  
14 site.

15 Q. But those aren't actually field surveys  
16 where you purposely -- where the purpose is to do an  
17 inventory of the species of birds or animals in the  
18 project area?

19 A. No, we did not do a comprehensive  
20 assessment of everything encountered in the field.

21 Q. Stantec noted that there is habitat in  
22 the project area that could be used by the endangered  
23 lark sparrow; is that correct?

24 A. That's correct.

25 Q. Did the Applicant survey those areas to

1 find out whether the lark sparrow was present?

2 A. We have not done presence/absence surveys  
3 for that species. As part of the Ohio Department of  
4 Natural Resources letter, they acknowledge that there  
5 may -- that species could be in the area but  
6 recommended either avoidance of the area to avoid  
7 impacts or clearing and construction outside of the  
8 breeding period which is the period when that species  
9 would be most susceptible to impact; and we've  
10 agreed -- the Applicant has agreed to abide by those  
11 avoidance and minimization measures.

12 Q. Are you -- are you aware that waterfowl  
13 follow the Scioto River during migrations?

14 A. Yes.

15 Q. Did the Applicant perform any studies to  
16 determine what waterfowl may follow the Scioto River  
17 during their migrations in the area east of the  
18 project area?

19 A. The evaluation would have been targeted  
20 to those threatened or endangered species that were  
21 flagged by the Fish and Wildlife Service or the Ohio  
22 Department of Natural Resources.

23 Q. Did the Applicant perform any study to  
24 determine whether waterfowl migrating along the  
25 Scioto River utilize the project area for foraging or

1 any other purposes?

2 A. No, we did not do any specific waterfowl  
3 migration studies. Our application does address the  
4 potential for waterfowl to use that area, and we are  
5 aware of that, but the project has been set back from  
6 the Scioto River, so we don't think there would be  
7 direct impacts.

8 Q. How far out do waterfowl travel from  
9 their migration routes in order to forage for food  
10 during migration?

11 A. It can vary widely by the species you are  
12 talking about and the conditions that exist on any  
13 given day with weather patterns or foraging habitat  
14 availability.

15 Q. Did the Applicant determine whether any  
16 of the species that migrate along the Scioto River  
17 would travel as far as the project area to forest --  
18 to forage?

19 A. We didn't specifically look at that, but  
20 I would assume that they could forage in the fields.

21 Q. You are aware that the U.S. Fish and  
22 Wildlife Service advised the Applicant of the  
23 existence of some endangered mussel in the Scioto  
24 River east of the project area?

25 A. That's correct.

1           Q.    Can you tell me whether any of the  
2 endangered mussels in the Scioto River are located in  
3 areas that are downstream from points where runoff  
4 from the project area would enter the river?

5           A.    We were not provided the exact locations  
6 of those species and where the records occur within  
7 the Scioto River. We have provided a list of those  
8 species and assumed their presence was in the Scioto  
9 River but that's the extent of our knowledge of their  
10 exact location.

11          Q.    The Applicant didn't do any fieldwork to  
12 determine where those endangered mussels are located  
13 in the river?

14          A.    No, because we don't have access to the  
15 river to do surveys. It's not within the project  
16 boundary or on leased land that we are able to  
17 survey.

18          Q.    What would it take to get access to the  
19 Scioto River to do a survey like that? It's a public  
20 river, isn't it?

21          A.    It is. There are also collection permits  
22 that need to be obtained from the U.S. Fish and  
23 Wildlife Service and the Ohio Department of Natural  
24 Resources to be able to handle threatened and  
25 endangered species so there would be a work plan and



1 permit needed from both of those entities to be able  
2 to do that.

3 In terms of coordination for actually  
4 accessing that, we would -- to get to the river, we  
5 would need to cross somebody's property to access the  
6 river unless we put in at a public access point and  
7 floated downstream but that's not necessarily a  
8 reliable way to go about that work.

9 Q. Did you check to see if there were any  
10 public access points to the Scioto River in that  
11 area?

12 A. We did not.

13 Q. Is there any reason why Stantec could not  
14 have obtained the permits necessary to survey for or  
15 look for endangered mussels in the Scioto River?

16 A. The project will not be directly  
17 impacting any habitat where those mussels would be,  
18 so we didn't feel there was a need for any further  
19 study. The project is designed, all the  
20 infrastructure, to avoid stream impacts within the  
21 project area which would be tributaries to the Scioto  
22 River.

23 Q. Going back to my question, Stantec --  
24 Stantec could have applied for the permits necessary  
25 to do that survey, correct?

1           A.    We could have, yes.  We didn't feel it  
2   was necessary.

3           Q.    I'm sorry.  Could you go to Exhibit R of  
4   the application that has been marked as Applicant's  
5   Exhibit 2.  And let me know when you have found that.

6           A.    I'm there.

7           Q.    Okay.  Now, you said that you didn't  
8   think that the project would impact the mussels in  
9   the Scioto River.  Am I stating that accurately as  
10  your position?

11          A.    We would avoid direct impacts to those  
12  species, correct.

13          Q.    Okay.  What's a direct impact as you view  
14  it?

15          A.    That would be disturbance of the  
16  streambed where the mussels rest and potential impact  
17  could result from the siltation covering the mussels.

18          Q.    Yeah.  In fact, the mussels are sensitive  
19  to silt that has been eroded off of land into their  
20  habitat, correct?

21          A.    That's correct.  That can affect them.

22          Q.    Yeah.  How does it affect them?

23          A.    The siltation and the runoff, like you  
24  mentioned, the turbidity, sediment comes in with the  
25  water and covers the bottom and makes it -- the

1 oxygen exchange more challenging for them, I believe.

2 Q. And what are the effects on the mussels  
3 if that occurs?

4 A. I believe fatality can result in extreme  
5 circumstances.

6 Q. Okay.

7 A. More likely it would be their avoidance.  
8 As areas become more silted, they will seek new areas  
9 in the stream where there is more -- less  
10 sedimentation and better habitat quality for them.

11 Q. So the Applicant did not do any studies  
12 to determine whether silt coming off of the project  
13 area may affect the mussels in the river?

14 A. We did not do a direct evaluation of that  
15 because the project will be required to get a  
16 National Pollution Discharge Elimination System  
17 Permit for stormwater which will protect soil runoff  
18 from leaving the site and entering adjacent  
19 waterways.

20 Q. Does the -- the implementation of such a  
21 permit mean that there will be zero siltation that  
22 will come off of a disturbed land area into a stream?

23 A. I don't believe that they can say it  
24 guarantees 100 percent of the sediment is captured,  
25 no.

1           Q.    Can you give me a rule of thumb as to  
2 what percentage of siltation will be controlled by  
3 the implementation of such a permit?

4           A.    I believe there are subsequent witnesses  
5 that can testify to this stormwater plan better than  
6 myself.

7           Q.    Do you know the answer to the question?

8           A.    I do not.

9           Q.    Going back to Exhibit R then, I would  
10 like to direct your attention to a letter from the  
11 U.S. Fish and Wildlife Service which starts on the  
12 first page after the cover page for Exhibit R. Do  
13 you see that letter?

14          A.    Yes.

15          Q.    That's a letter from U.S. Fish and  
16 Wildlife Service to you; is that correct?

17          A.    That's correct.

18          Q.    And it's -- this letter concerns this  
19 project, right?

20          A.    Correct.

21          Q.    If you go to the second page of that  
22 letter, do you see where the first paragraph lists a  
23 number of federally-listed freshwater mussels that  
24 are in the -- in the area of the proposed project?

25          A.    Yes.

1           Q.    It says there that these mussels are  
2 known from the Scioto River in Pickaway County,  
3 correct?

4           A.    Yes.

5           Q.    And then it says "Should the proposed  
6 project directly or indirectly impact the Ohio River  
7 or its naturally-vegetated riparian zone, we  
8 recommend that a survey be conducted to determine the  
9 presence or probable absence of these mussels in the  
10 vicinity of the proposed site." Did I read that  
11 correctly?

12          A.    Yes, that's correct.

13          Q.    But the Applicant did not perform such a  
14 survey in this case, correct?

15          A.    That's correct because we didn't feel as  
16 though there was a direct impact. As I said, all  
17 streams have riparian areas that have been avoided,  
18 and the indirect impacts we do not believe were  
19 significant to warrant a determination that there  
20 would be an impact.

21          Q.    Uh-huh. So even though this sentence in  
22 the letter of the U.S. Fish and Wildlife Service  
23 recommends a survey if the project directly or  
24 indirectly impacts the river or the  
25 naturally-vegetated riparian zone, the Applicant

1 decided that it was not going to perform such a  
2 study, correct?

3 A. That's correct because we did not believe  
4 that the indirect impacts would be significant enough  
5 to affect the species.

6 Q. Would you go to Applicant's Exhibit 3  
7 which is a compilation of the Applicant's responses  
8 to the Staff's Data Requests.

9 A. Yes.

10 Q. All right. Go to the response to the  
11 Twelfth Data Request if you can find that. And what  
12 you are looking for is an economic impact report  
13 which would serve as Attachment D to the response to  
14 the Twelve Data Request.

15 A. Yes.

16 Q. You are sponsoring this report in your  
17 testimony, correct?

18 A. That's correct.

19 Q. Did you write this report?

20 A. I did not.

21 Q. Who wrote it?

22 A. A Stantec economist.

23 Q. And you are not an economist, correct?

24 A. I am not, but I am the project manager  
25 responsible for quality control reviews.

1           Q.    The economist who actually wrote this  
2 report is not testifying in this hearing; is that  
3 correct?

4           A.    He is not.

5           Q.    Did you provide any data for use in this  
6 report?

7           A.    In coordination with the Applicant, yes.

8           Q.    So the Applicant gave you data, and then  
9 you passed that data onto your economist?

10          A.    That's correct.

11          Q.    What was the model that was used to come  
12 up with the economic statistics in this report?

13          A.    The program we use is called IMPLAN which  
14 is the input/output model that's used to quantify  
15 economic benefits from a project.

16          Q.    Are you familiar with the JEDI model?

17          A.    I am.

18          Q.    Was a JEDI model used for this -- for the  
19 preparation of this report?

20          A.    It was not.

21          Q.    Why was IMPLAN used instead of JEDI?

22          A.    JEDI is a model that was created by the  
23 National Renewable Energy Laboratories Group from the  
24 Department of Energy and they used to have a solar  
25 model, but because of the economics of solar, the

1 model was becoming very quickly obsolete and they  
2 weren't able to keep it updated, so the JEDI model is  
3 no longer supported for the solar energy. So we used  
4 IMPLAN which was actually part of the data that fed  
5 into the IMPLAN model -- or, sorry, the IMPLAN data  
6 feeds into the JEDI model.

7 Q. Can you tell me the number of  
8 construction employees that -- for this project that  
9 are expected to live in Pickaway County? Let me  
10 reword that because that was not very well worded.

11 Can you tell me the number of Pickaway  
12 County residents who will be employed in the  
13 construction of this project if it's constructed?

14 A. We are not able to forecast that  
15 percentage at this time. I believe the expectation  
16 is that at least 80 percent would be Ohio-domiciled  
17 workers in order to qualify for the PILOT. But  
18 beyond that we don't have a locational breakdown.

19 Q. Can you tell me whether the solar panels  
20 that will be used in this project will be  
21 manufactured in Ohio?

22 A. I believe the only Ohio manufacturing  
23 facility is First Solar, and I don't recall that  
24 First Solar is one of the potential solar modules  
25 being considered for this project.



1           Q.    Do you know whether any of the project  
2           area that will be used for solar panel construction  
3           is currently farmed?

4           A.    I would have to double-check the acreage,  
5           but I believe it's somewhere in the order of  
6           700 acres or so that's currently farmed that would be  
7           used for solar construction.

8           Q.    Okay.  And do you know the identity of  
9           the farmers who are currently farming that land?

10          A.    I know there are a handful of farmers  
11          that farm it.  I don't know exactly which parcels  
12          they farm.

13          Q.    Do you know how many people are involved  
14          in farming the land in the project area that would be  
15          replaced by solar panels?

16          A.    I do not.

17          Q.    Does this economic impact report provide  
18          any information about the number of farmers,  
19          including their employees, who may no longer be able  
20          to farm in the project area if this project is built?

21          A.    No.  Our economic impact report does not  
22          discuss that, and we are upfront in that report in  
23          stating that this does not consider anything besides  
24          the creation of jobs from the project.  It doesn't  
25          look at the net change in jobs.

1           Q.    So the report did not determine whether  
2           anybody would lose their jobs as a result -- in  
3           farming as a result of the building of this project;  
4           is that correct?

5           A.    That's correct.

6           Q.    Is there nothing in this economic report  
7           that evaluates the loss of income in crop seeds or  
8           fertilizer or custom application services or any  
9           other services or products that are currently used  
10          for agriculture in the project area?

11          A.    It does not include an assessment like  
12          that.

13          Q.    Let's go to Exhibit V of the application  
14          that was marked as Applicant's Exhibit 2.

15          A.    I'm at Exhibit V.

16          Q.    And you're familiar with Exhibit V?

17          A.    I am.

18          Q.    That's the visual impact mitigation and  
19          lighting -- lighting plan, correct?

20          A.    That's correct.

21          Q.    Did you play any role in preparing  
22          Exhibit V?

23          A.    Yes.  We assisted the Applicant with  
24          development of this document.

25          Q.    And what about you personally?  Did you

1 participate in its preparation?

2 A. I did.

3 Q. What was your role?

4 A. Advising on some measures that could be  
5 implemented that have been discussed in other  
6 projects in the State such as including the  
7 agricultural fencing instead of chain link fencing to  
8 help mitigate visual impacts.

9 Q. Are you familiar with the location of  
10 State Route 104?

11 A. I am.

12 Q. Okay. And you are familiar with its  
13 location near the project area?

14 A. Yes, running through the project area,  
15 correct.

16 Q. Let's go to the map that's in Exhibit  
17 V --

18 A. Yes.

19 Q. -- which is labeled "Preliminary  
20 Landscape Screen Plan" and let me know when you have  
21 found that.

22 A. I have it located.

23 Q. All right. And do you see where State  
24 Route 104 is on this map?

25 A. I do.

1 Q. It's not labeled, is it, as 104?

2 A. I believe it says "Ohio 104" about  
3 halfway up the figure.

4 Q. I think I found it. Okay. All right.  
5 So based on your visual impact study, the project  
6 will be visible from State Route 104, correct?

7 A. That's correct.

8 Q. What's your understanding as to how close  
9 the solar panels will be at their closest location to  
10 State Route 104?

11 A. I believe it varies. The project  
12 implemented a setback from the roadway to the fence  
13 line and then there is an offset from the fence to  
14 the module, so I don't know that I have an exact  
15 measurement of what that distance in total would be.

16 Q. The panels will be easily visible from  
17 the road, correct?

18 A. They will.

19 Q. And does this map in Exhibit V identify  
20 locations where vegetative screening is proposed by  
21 the Applicant?

22 A. Yes. I believe there are four locations  
23 on this plan where screening would be proposed to be  
24 placed as of this plan.

25 Q. And those are identified on the map of --

1 with green lines, correct?

2 A. That's correct.

3 Q. And the rest of the boundary around the  
4 project area will not have vegetative screening; is  
5 that correct?

6 A. At the time this plan was put together,  
7 those were the currently proposed locations.  
8 However, this was pulled together over a year ago and  
9 I believe there's -- the Applicant is open to  
10 additional screening along locations and continuing  
11 to work with landowners in the area to identify  
12 locations where additional screening might be  
13 warranted.

14 We also through coordination with the  
15 State Historic Preservation Office will be adding, I  
16 believe that is in future testimony with Anne Lee,  
17 adding some additional locations for screening due to  
18 historic structures and mitigating the impact of the  
19 project to those locations.

20 So there are already, I think, at least  
21 one or two more locations where screening will be  
22 added. And as I said, I know the Applicant is  
23 continuing to work to identify any additional  
24 locations that might warrant screening.

25 There's also a condition in the

1 certificate -- or proposed certificate conditions  
2 that requires an update to this plan and a  
3 documentation of either screening or good neighbor  
4 agreement or another mechanism to address concerns  
5 from landowners who have unobstructed views of the  
6 project.

7 Q. Let's just break down your answer into  
8 several components then. With regard to the  
9 screening that has been agreed to for purposes of the  
10 historic structures, can you tell me where that  
11 screening will be located?

12 A. I believe it's along Dungan Road and  
13 potentially the southern part of 104, but I would  
14 have to look at the map. It was in the agreement  
15 that we signed, the memorandum of understanding  
16 that's signed, with SHPO regarding the project.

17 Q. Can you tell me how many linear feet of  
18 screening is proposed for the purposes of shielding  
19 those cultural resources?

20 A. I would have to reference that report and  
21 agreement.

22 Q. That report is in the application?

23 A. I believe it's included as -- it was  
24 provided as a Data Request response to the docket.

25 Q. Okay. Other than that screening, is

1     there any other screening that has been identified in  
2     the application or in the responses to Data Requests  
3     as commitments by the Applicant to put in the  
4     screening?

5             A.     No, nothing at this stage.   But again, we  
6     would have to update this document prior to the start  
7     of construction and submit to OPSB for approval prior  
8     to that.   So they will continue to work to identify  
9     locations as the site layout evolves or as landowner  
10    coordination continues.

11            Q.     Are you familiar with the condition  
12    that's been proposed in the Staff Report to address  
13    the landscape plan?

14            A.     Yes.   That's what I referenced earlier.

15            Q.     And is it your understanding based on  
16    your review of that condition that the landscape plan  
17    is required to provide screening between the project  
18    in locations in direct line of sight of residences?

19            A.     Adjacent residents, I believe, with  
20    direct line of sight to the project, yes.

21            Q.     Yeah.   And so with regard to the views of  
22    the project from State Route 104, are there any areas  
23    other than those already marked on the map in Exhibit  
24    V as receiving vegetation that you believe are --  
25    will need screening because they are in the direct

1 line of sight between a residence and the project?

2 A. I'm unaware but there is also the  
3 condition allows for good neighbor agreements to be  
4 executed where they can waive the right -- or waive  
5 their request for any screening. So I'm not fully  
6 aware of where good neighbor agreements have been  
7 signed and where they haven't that would necessitate  
8 additional screening but we will do a full review of  
9 that with the Applicant prior to the start of  
10 construction.

11 Q. Other than the screening that has been  
12 committed for the cultural resources that you've  
13 mentioned, how many feet approximately of vegetative  
14 screening has been committed to in the application or  
15 responses to Data Requests?

16 A. I don't believe that the number of linear  
17 feet are provided in that document.

18 Q. Well, you have -- you have the -- the map  
19 with the screening locations identified in Exhibit V,  
20 correct?

21 A. That's correct.

22 Q. And there's a scale on that map?

23 A. There is but I don't know with the tools  
24 that are currently afforded to me I can make an  
25 accurate representation of that length.



1 Q. Can you tell me approximately how many  
2 linear feet there are in the boundary around the  
3 project area?

4 A. I don't know the answer to that.

5 Q. Do you know where the location of the  
6 Ebenhacks' fruit and vegetable farm is?

7 A. I do.

8 Q. Can you tell me whether according to  
9 Exhibit V any vegetative screening has been proposed  
10 to be located in the line of sight between the  
11 Ebenhacks' fruit and vegetable farm and the project?

12 A. Based on this plan there's no screening  
13 planned between the project and the Ebenhacks' stand.

14 MR. VAN KLEY: At this time, your Honor,  
15 I have no further questions for this witness.

16 ALJ ADDISON: Thank you very much,  
17 Mr. Van Kley.

18 Mr. Chamberlain?

19 MR. CHAMBERLAIN: No questions, your  
20 Honor.

21 ALJ ADDISON: Any questions from you,  
22 Mr. Eubanks?

23 MR. EUBANKS: No questions, your Honor.

24 ALJ ADDISON: Okay. Redirect?

25 MS. SHEELY: No, thank you, your Honor.

1 ALJ ADDISON: Thank you.

2 I have no additional questions. You are  
3 excused. Thank you very much.

4 THE WITNESS: Thank you.

5 ALJ ADDISON: Ms. Sheely, you had  
6 previously moved for the admission of Applicant's  
7 Exhibit 12 and No. 13; is that correct?

8 MS. SHEELY: Yes.

9 ALJ ADDISON: Are there any objections to  
10 the admission of these two exhibits?

11 MR. VAN KLEY: What were the numbers of  
12 those again, your Honor?

13 ALJ ADDISON: 12 and 13, Mr. Van Kley.

14 MR. VAN KLEY: We have no objection.

15 ALJ ADDISON: Thank you very much.

16 And hearing no other objections,  
17 Applicant Exhibits 12 and 13 will be admitted.

18 (EXHIBITS ADMITTED INTO EVIDENCE.)

19 ALJ ADDISON: This may be as good a time  
20 as any to take our lunch break for today. Let's go  
21 ahead and break until 1:00 p.m. We will reconvene  
22 then and begin with I believe we have Mr. Gebhardt,  
23 correct, next, Ms. Sheely?

24 MS. SHEELY: Yes.

25 ALJ ADDISON: All right. Thank you all.

1                   (Thereupon, at 12:15 p.m., a lunch recess  
2 was taken.)

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Tuesday Afternoon Session,  
February 28, 2023.

- - -

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

The Applicant may call its next witness.

MR. BRUGGEMAN: Yes. Karl Gebhardt.

ALJ ADDISON: Welcome, Mr. Gebhardt.

MR. GEBHARDT: Thank you.

ALJ ADDISON: Please raise your right  
hand.

(Witness sworn.)

ALJ ADDISON: Thank you. Please be  
seated.

- - -

KARL GEBHARDT

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

DIRECT EXAMINATION

By Mr. Bruggeman:

Q. Good afternoon, Karl.

A. Good afternoon.

Q. Could you please state your full name for  
the record and spell it, please.

A. Karl R. Gebhardt, K-A-R-L R

1 G-E-B-H-A-R-D-T.

2 Q. Thank you. And, Karl, who are you  
3 recently employed by?

4 A. I was recently employed by the Applicant  
5 Solar -- Scioto Solar Farms.

6 Q. Okay. And what is your current position?

7 A. I am currently retired from the previous  
8 job was Executive Director of the Ohio Lake Erie  
9 Commission.

10 Q. Okay. And, Karl, if you could turn in  
11 the notebook there to Applicant Exhibit 26.

12 A. Exhibit 26. I am not finding that.

13 Q. Is it in the other? This one here, Karl.

14 A. Oh, okay. Bigger books.

15 Q. Did you locate it?

16 A. Yes.

17 Q. And, Karl, do you recognize that exhibit?

18 A. Yes. It's my written comments.

19 Q. So is this the prefiled testimony that  
20 was filed on January 30, 2023?

21 A. Yes.

22 Q. And, Karl, if I were to ask you the same  
23 questions today that's in that exhibit, would you  
24 answer the same?

25 A. Yes.

1           Q.    So no modifications or corrections to  
2 your prefiled testimony.

3           A.    No.

4           MR. BRUGGEMAN:  Your Honor, with that I  
5 would just move for the admission of Applicant's  
6 Exhibit 26 pending cross-examination and tender  
7 Mr. Gebhardt for cross.

8           ALJ ADDISON:  Thank you very much.

9           Mr. Dove?

10          MR. DOVE:  No questions, your Honor.

11          ALJ ADDISON:  Ms. Curtis?

12          MS. CURTIS:  No questions, your Honor.

13          ALJ ADDISON:  Mr. Van Kley?

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

15                               - - -

16                               CROSS-EXAMINATION

17   By Mr. Van Kley:

18          Q.    Good afternoon, Mr. Gebhardt.

19          A.    Good afternoon.

20          Q.    Are you a farmer?

21          A.    I am not a farmer.

22          Q.    Have you ever been a farmer?

23          A.    I grew up on a small farm in northeast  
24 Ohio.

25          Q.    So how many years did you live on that

1 farm?

2 A. About 12.

3 Q. And that was during your childhood?

4 A. Yes.

5 Q. Are you a soil scientist?

6 A. I am not a soil scientist.

7 Q. Have you ever been a soil scientist?

8 A. I have not.

9 Q. Are you an agronomist?

10 A. I am not.

11 Q. Have you ever been an agronomist?

12 A. No.

13 Q. Let's go to page 4 of your testimony  
14 that's been marked as Applicant's Exhibit 26. And I  
15 would like to direct your attention to the top of the  
16 page where you have a discussion about the Scioto  
17 River mainstream. Do you see that?

18 A. Yes.

19 Q. And you state that "Currently the Scioto  
20 mainstream that flows within this HUC-12 is in full  
21 attainment with its designated warmwater habitat  
22 aquatic life use," correct?

23 A. Yes.

24 Q. Uh-huh. And that means that the -- the  
25 river essentially is of average quality, correct?

1           A.    Yes.  It's meeting the expectations of  
2   what would be there.

3           Q.    Uh-huh.  And then you say in the next  
4   sentence that, "However, the Ohio EPA is currently  
5   reviewing to possibly upgrade the Scioto mainstream  
6   to Exceptional Warmwater Habitat."  Do you see that?

7           A.    Yes.

8           Q.    Now, exceptional warmwater habitat is an  
9   upgrade to the warmwater habitat characterization,  
10  right?

11          A.    Yes.

12          Q.    It means that this would be the best  
13  habitat you would expect in the State of Ohio?

14          A.    Would be much higher than warmwater, yes.

15          Q.    It's the highest classification of a  
16  surface water stream in Ohio.

17          A.    Yes, exceptional, uh-huh.

18          Q.    And that's -- that's based on the habitat  
19  of the stream?

20          A.    It's based on habitat and the species  
21  that are within the stream.

22          Q.    The more diverse the species the higher  
23  the score is likely to be?

24          A.    The more diverse and the more unique,  
25  threatened, unusual, yes.



1           Q.    Do you know when Ohio EPA started  
2 reviewing to possibly upgrade the Scioto mainstream  
3 to exceptional warmwater habitat?

4           A.    I do not.

5           Q.    Continuing on with the same answer on the  
6 top of page 4, you state starting with the line 8  
7 that "This trend of improving water quality in the  
8 Scioto River Watershed can be attributed to efforts  
9 by local governments to upgrade wastewater treatment  
10 which have improved water quality from point  
11 sources." Do you see that?

12          A.    Yes.

13          Q.    And then you also say "Programs  
14 undertaken by the State of Ohio, the U.S. Department  
15 of Agriculture, and private organizations have helped  
16 farmers to reduce nutrient loading, soil erosion, and  
17 non-point run-off into tributaries in the main stem  
18 of the Scioto River further improving water quality."  
19 Do you see that?

20          A.    Yes.

21          Q.    So according to your testimony then, the  
22 farmers in the area around the project have helped  
23 reduce the nutrient loading, soil erosion, and  
24 non-point runoff into the Scioto River, correct?

25          A.    I would say some farmers probably have,

1 yes.

2 Q. And that has improved the quality of the  
3 river, right?

4 A. Yes.

5 Q. Let's go to page 4 answer 7 of your  
6 testimony. You have some discussion about the  
7 Conservation Reserve Program which is abbreviated as  
8 CRP and also the Conservation Reserve Enhancement  
9 Program abbreviated as CREP, correct?

10 A. Yes.

11 Q. Can you tell me whether Scioto Farms are  
12 eligible for CRP or CREP?

13 A. I am not aware if they are or not.

14 Q. Have you ever visited the project area  
15 for this project?

16 A. I have been in that area, but I have not  
17 been down there recently.

18 Q. Have you ever inspected the farmland that  
19 is included in the project area?

20 A. I have not.

21 Q. Have you ever walked on it?

22 A. I have not.

23 Q. Do you know whether any of the -- well,  
24 let me start with something else. You've testified  
25 about the management of farmland throughout your

1 testimony. Can you tell me whether the use of no  
2 till cultivation practices assist in keeping the  
3 productivity of the farmland higher than if it were  
4 extensively cultivated?

5 A. I would say as a general rule, yes. No  
6 till is better for the soil than the old moldboard  
7 plow.

8 Q. And just for the record, can you tell me  
9 what no till is?

10 A. No till is where they actually -- there  
11 is no tillage. Sometimes there is minimum tillage,  
12 but in a no till situation they actually go in and  
13 will cut furrows with a wheel basically and deposit  
14 the seed in that so there is really very little, if  
15 any, tillage going on.

16 Q. So the vegetation stays on the field?

17 A. Yes, for the most part.

18 Q. And the presence of that vegetation helps  
19 in maintaining the good quality of that farmland?

20 A. It can. Oftentimes there is what they  
21 call a burn down or where they will go in and spray  
22 with a herbicide and burn down all vegetation, weeds  
23 before they do a no till. But, yes, I think you  
24 are -- to answer your question, yes, there is no  
25 tillage and it can be beneficial.

1           Q.    And you mentioned minimum till.  What is  
2   that?

3           A.    Minimum till is where they will go in and  
4   do a surface, just kind of a turn up the surface of  
5   the soil just down a couple inches as opposed to  
6   going in and doing a deep tillage of the soil.

7           Q.    And what's the purpose of minimal till?

8           A.    Again, I think it's a matter of avoiding  
9   the compaction, avoiding having a lot of soil that's  
10  been disturbed, but yet you are down deep enough  
11  where you can get the seed down to a recommended  
12  planting depth.

13          Q.    And does that help to maintain the good  
14  quality of the farmland?

15          A.    It can, yes.

16          Q.    How does it do that?

17          A.    Again, through not disturbing the soil  
18  that much down to different soil profiles.  That's  
19  pretty much it.

20          Q.    Okay.  Do you know whether any of the  
21  farmland inside of the project area for this project  
22  is currently in no till?

23          A.    I do not.

24          Q.    Do you know whether any of it is in  
25  minimal till?

1           A.    No.

2           Q.    Do you know whether any of the land in  
3 the project area has erosion controls established on  
4 it?

5           A.    I do not.

6           Q.    Let's go to page 5 of your testimony,  
7 answer 10. Looking at the first part of your answer  
8 10, the first sentence states that "Unlike the  
9 government programs discussed above, this private  
10 sector approach will conserve agricultural land and  
11 improve water quality at no cost to the land --  
12 taxpayers." Do you see that?

13          A.    Yes.

14          Q.    When a farmer uses no till or minimal  
15 till for their land, does that have a cost to the  
16 taxpayers?

17          A.    Usually not. It depends on, you know,  
18 loan structures that the farmers have, but it usually  
19 is not like a -- the CRP where there is government  
20 monies that are directly paid to the farmer.

21          Q.    And moving further down into the answer  
22 to question 10, starting at line 18, there is a  
23 statement that "Farmers are not required to implement  
24 nutrient management plans, soil erosion controls, or  
25 stormwater management on their agricultural land."

1 Do you see that?

2 A. Yes.

3 Q. You already answered a question about  
4 whether you know of soil erosion controls in the  
5 project area so let me ask you about the other two  
6 things here. Do you know what, if any, stormwater  
7 management practices are being currently employed in  
8 the project area?

9 A. I do not.

10 Q. Do you know whether any of the land in  
11 the project area is the subject of a nutrient  
12 management plan?

13 A. I do not.

14 Q. Now, a nutrient management plan is a plan  
15 in which the farmer determines how much nutrition --  
16 how many -- how much nutrients are required for the  
17 crop and then -- and then balances that against the  
18 fertilizer and other nutrients that would be applied,  
19 correct?

20 A. That is correct.

21 Q. And the idea is over a period of years,  
22 you balance the amount of nutrition that the crop  
23 needs against what it has, correct?

24 A. Uh-huh, yes.

25 Q. All right. And the farmer has an

1 incentive to use only so much nutrients on the  
2 farmland as necessary to support the crop because  
3 that saves money on the purchase of the nutrients,  
4 correct?

5 A. That is usually the case, yes.

6 Q. Do you know whether any of the  
7 agricultural land in the project area is currently  
8 the recipient of government subsidies?

9 A. I am not aware if they are or not.

10 Q. How many solar projects have you seen in  
11 operation yourself personally?

12 A. Probably two or three.

13 Q. Have you ever visited a site that once  
14 had a solar project on it but has been  
15 decommissioned?

16 A. I have not.

17 Q. So you've never had the opportunity to  
18 determine the quality of the farmland that is -- that  
19 was located in the area where a solar project has  
20 been decommissioned?

21 A. I have not seen a project that has been  
22 decommissioned.

23 Q. Can you identify any solar projects,  
24 regardless of location, where decommissioning has  
25 occurred and the land is returned to agricultural

1 use?

2 A. I am not aware of any.

3 Q. Which solar project have you personally  
4 viewed?

5 A. I viewed -- there was one out in Arizona.  
6 My daughter lived in Arizona, and I viewed that one.  
7 I believe there was one in Kansas as we were driving  
8 out out west. And another one I believe was in  
9 southern California. But they were mainly just  
10 drive-bys.

11 Q. So you've never visited an operating  
12 solar facility in Ohio?

13 A. I have not.

14 Q. Do you happen to know how much of the  
15 agricultural land in the project area will be leased  
16 to the solar company versus being purchased by the  
17 solar company?

18 A. I do not know what the breakdown is other  
19 than it's approximately a thousand acres total, but I  
20 do not know how much has been leased versus  
21 purchased.

22 Q. With respect to any land that's being  
23 purchased by the solar company for this project, do  
24 you have any knowledge concerning whether -- whether  
25 that land will be placed back into agriculture after



1 this project has been decommissioned?

2 A. I do not know of any plans regardless  
3 of -- regarding the decommissioning of land  
4 purchased.

5 Q. Do you know how many of the owners of  
6 agricultural land in the project area actually farm  
7 that land themselves?

8 A. I do not.

9 Q. Are you aware of a condition that has  
10 been proposed for this solar project to govern  
11 grading and -- and the management of topsoil?

12 A. No, I am not aware of any special  
13 condition other than what's in the application.

14 Q. Do you know whether topsoil will be  
15 removed from the surface of the ground in the project  
16 area and stockpiled?

17 A. I believe -- I believe that I was aware  
18 that there was some -- could be some efforts made to  
19 do that depending on the amount of grading necessary.

20 Q. Do you know what, if any, effects the  
21 long-term stockpiling of topsoil has on the quality  
22 of the topsoil?

23 A. I do not. I assume it would be based on  
24 the conditions in which it was being stockpiled,  
25 stored.

1           Q.    Does the stripping of topsoil from the  
2 ground result in any changes in the topsoil?

3           A.    I don't know.

4           Q.    Do you know whether stockpiling topsoil  
5 reduces the potential for soil biomass?

6           A.    Reduces the potential, I don't know,  
7 speculative.

8           Q.    Do you know whether stockpiling of  
9 topsoil reduces the aeration of the soil in the  
10 stockpile?

11          A.    I do not know specifically, no.

12          Q.    Now, you've stated in your testimony that  
13 the land will be compacted during construction,  
14 correct?

15          A.    I understand that there will be some  
16 access roads constructed during construction and  
17 probably maintenance and, yes, that part will likely  
18 be compacted to an extent.

19          Q.    What about the rest of the soil that will  
20 be utilized for soil -- solar panel construction?  
21 Are you aware of grading that will be performed in  
22 any of those areas?

23          A.    Not specific grading levels, no.

24          Q.    Now, if heavy equipment is used in the  
25 process of grading the land during construction of

1 this facility, that will result in soil compaction,  
2 correct?

3 A. There will most likely be some soil  
4 compaction during the construction phase in some of  
5 those areas, yes.

6 Q. Are you aware that there is a requirement  
7 that this project be decommissioned after it has  
8 outlived its useful life?

9 A. Yes.

10 Q. And are you aware that heavy equipment  
11 will be utilized in that decommissioning?

12 A. I would imagine it would, but I don't  
13 know of specific -- what type of equipment that would  
14 be.

15 Q. If heavy equipment is used during  
16 decommission, that will result in soil compaction,  
17 correct?

18 A. There could be some resulting, yes.

19 MR. VAN KLEY: That concludes my  
20 questions at this time, your Honor.

21 ALJ ADDISON: Thank you very much,  
22 Mr. Van Kley.

23 Mr. Chamberlain?

24 MR. CHAMBERLAIN: Nothing, your Honor.  
25 Thank you.

1 ALJ ADDISON: Mr. Eubanks?

2 MR. EUBANKS: No questions, your Honor.

3 ALJ ADDISON: Thank you.

4 Any redirect?

5 MR. BRUGGEMAN: No, your Honor.

6 - - -

7 EXAMINATION

8 By ALJ Addison:

9 Q. I have just a couple of questions, if you  
10 will indulge me.

11 A. Yes, your Honor.

12 Q. Page 6 of your prefiled testimony, line  
13 12 specifically, you note that "Organic material from  
14 the cover crops and vegetation will be allowed to  
15 build up in the soil profile." Did I read that  
16 correctly?

17 A. Yes.

18 Q. What type of cover crop are you  
19 suggesting would be -- what cover crop are you  
20 referring to in that sentence?

21 A. Yeah. Cover crop can take many forms.  
22 Basically it's vegetation. Some of it is a specific  
23 type of cover crop, maybe an alfalfa or a clover,  
24 some perennial grass, but so it really -- cover crop  
25 is somewhat of a generic name, but usually it's

1 intentionally planted for a specific purpose.

2 Q. When I use that term, I infer that it is  
3 something to be harvested but that is not necessarily  
4 how you are using that term here, correct?

5 A. Not necessarily. Sometimes it's used  
6 just as a cover crop. Sometimes it's used -- it's  
7 plowed down after it reaches its purpose. A lot of  
8 time cover crops will be planted in the fall which  
9 will provide protection to the bare soil over the  
10 winter, and then as I said before, either burned down  
11 or sometimes tilled under, or it can also be  
12 harvested, yes.

13 Q. Thank you. And then on page 9 of your  
14 testimony, you note that you had experience as a  
15 township trustee. That was not for Wayne Township in  
16 Pickaway County, correct?

17 A. No. That is correct, it was not.

18 Q. Where were you a township trustee?

19 A. Genoa Township, Delaware County.

20 ALJ ADDISON: Thank you. That's all my  
21 questions. You are excused.

22 THE WITNESS: Thank you.

23 ALJ ADDISON: We appreciate your  
24 testimony, Mr. Gebhardt.

25 THE WITNESS: Thank you.

ALJ ADDISON: I'll note the Applicant previously moved to -- previously moved Applicant Exhibit No. 26; is that correct?

MR. BRUGGEMAN: That's correct, your Honor.

ALJ ADDISON: Are there any objections to the admission of Applicant No. -- or Applicant No. 26 into the record at this time?

MR. VAN KLEY: No, your Honor.

ALJ ADDISON: Hearing -- thank you, Mr. Van Kley.

And hearing no objections from other parties, it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ ADDISON: The Applicant may call its next witness.

MR. BRUGGEMAN: Yes. We call Matthew Hildreth.

ALJ ADDISON: Welcome, Mr. Hildreth. Please raise your right hand.

(Witness sworn.)

ALJ ADDISON: Thank you. Please be seated.

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MATTHEW HILDRETH

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

DIRECT EXAMINATION

By Mr. Bruggeman:

Q. Good afternoon, Mr. Hildreth.

A. Good afternoon.

Q. Could you please state your full name for  
the record and spell that, please.

A. Matthew Hildreth, M-A-T-T-H-E-W  
H-I-L-D-R-E-T-H.

Q. All right. Thank you. And,  
Mr. Hildreth, who are you currently employed by?

A. Westwood Professional Services.

Q. And what is your title at Westwood?

A. Water Resources Engineering Manager.

Q. So, Mr. Hildreth, if you could turn to  
Applicant Exhibit 23. It should be I think in the...  
All right. Do you recognize that exhibit?

A. Yes.

Q. And what is that exhibit?

A. This is my direct testimony.

Q. Okay. So that was the prefiled testimony  
filed on January 30 of 2023, correct?

A. Yes.

1           Q.    And if I were to ask you the same  
2           questions today that was in that exhibit, would your  
3           answers be the same?

4           A.    Yes.

5           Q.    There would be no modifications or  
6           corrections.

7           A.    No.

8                   MR. BRUGGEMAN:  Your Honor, with that I  
9           would just move for the admission of Exhibit 23  
10          pending cross, and I will tender Mr. Hildreth for  
11          cross.

12                   ALJ ADDISON:  Thank you.

13                   Mr. Dove?

14                   MR. DOVE:  No questions, your Honors.

15                   ALJ ADDISON:  Ms. Curtis?

16                   MS. CURTIS:  No questions, your Honor.

17                   ALJ ADDISON:  Mr. Van Kley?

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

20                                   - - -

21                                   CROSS-EXAMINATION

22          By Mr. Van Kley:

23                   Q.    Good afternoon, Mr. Hildreth.

24                   A.    Good afternoon.

25                   Q.    During the construction of a project that



entails earthmoving, it's expected that soil particles will be produced by that process and discharged into surface streams, correct?

A. Typically you would employ BMPs under your temporary construction permit to prevent that from happening.

Q. But those BMPs do not reduce the amount of soil particles that would reach the stream by 100 percent control; isn't that correct?

A. They are designed for a specific storm event, so if a greater storm event were received, then it would exceed their capacity.

Q. They would do what again?

A. It would exceed the capacity of the BMP, the best management practice, that's being utilized.

Q. Meaning that there will be runoff of soil particles into the receiving stream, correct?

A. If a larger storm event was received, yes, that could happen.

Q. Okay. So in order for the BMPs to completely prevent the discharge of soil particles into streams, those BMPs would have to completely trap all of the runoff in areas outside the stream, correct?

A. Yes, that is correct.

1           Q.   And soil and water is considered to be a  
2 water pollutant, correct?

3           A.   It can be, yes.

4           Q.   Are there any situations in which it  
5 would not be -- would not be considered as a water  
6 pollutant?

7           A.   I believe that it depends on the  
8 acceptable downstream limits of the receiving waters.

9           Q.   But that doesn't have anything to do with  
10 whether it's a water pollutant; it just means it  
11 meets the standard for water pollutants, right?

12          A.   Correct.

13          Q.   Okay. Is there anything in the  
14 application for the project in this case that  
15 provides a design for 100 percent control of all  
16 stormwater runoff during the construction of this  
17 project?

18          A.   No, it has not been.

19          Q.   Would you go to the preliminary  
20 stormwater management report that's attached to your  
21 testimony.

22          A.   Yes.

23          Q.   That's Attachment B to your testimony; is  
24 that right?

25          A.   I believe so.

1           Q.    Just by looking at the title, this is not  
2 a final stormwater management report?

3           A.    That is correct. It is preliminary.

4           Q.    Why has a final stormwater management  
5 report not been provided?

6           A.    A final stormwater management report is  
7 typically provided once the project moves to  
8 construction to account for any design changes that  
9 have occurred.

10          Q.    With respect to the best management  
11 practices that you and I had discussed here, those  
12 are practices that are required by a Water Pollution  
13 Control Permit issued by Ohio EPA; is that right?

14          A.    Yes.

15          Q.    The BMPs are the mechanism that that  
16 permit employs in order to reduce the amount of  
17 eroded soil that will run into a stream during storm  
18 events; is that right?

19          A.    Yes, that's the intent of a BMP.

20          Q.    Would you go to page 5 of the preliminary  
21 stormwater management -- management report that's  
22 attached to your testimony.

23          A.    Yep.

24          Q.    Looking at the heading for "Discharge  
25 Locations." Do you see that?

1           A.    Yes.

2           Q.    States that the project site has six  
3   ultimate discharge locations, three that eventually  
4   drain to the Scioto River and three that ultimately  
5   drain to Yellowbud Creek. Do you see that?

6           A.    Yes.

7           Q.    What do you mean by the term ultimate as  
8   applied to discharge locations?

9           A.    That after the water leaves the site, it  
10   will be flowing into the rivers.

11          Q.    So all six of these discharge locations  
12   from the project area flow into the Scioto River,  
13   correct?

14          A.    Eventually, yes, Yellowbud Creek does  
15   drain into the Scioto River, yes.

16          Q.    Yeah. Yellow -- is the headwaters to  
17   Yellowbud Creek in the project area?

18          A.    I don't believe so.

19          Q.    Okay. So but part of the Yellowbud Creek  
20   is in the project area, correct?

21          A.    Give me one second to look at my exhibit.  
22                Yellowbud Creek is -- is south of the  
23   project area.

24          Q.    Would you go to Applicant's Exhibit 2,  
25   which is the permit application, and go to the

1 preliminary site plan that is marked as Exhibit A.

2 A. Yeah.

3 Q. All right. I would like to refer you to  
4 the map that's in Exhibit A.

5 A. Yep.

6 Q. Now, do you know where the Ebenhacks'  
7 fruit and vegetable farm is located on this map?

8 A. I do not.

9 Q. Do you see a road that is labeled as  
10 Ebenhack Road in the southwest part of that map?

11 A. Yes.

12 Q. Okay. Now, if you work your way north  
13 along that line for Ebenhack Road, do you see  
14 markings just north of Dungan Road that are in a line  
15 that weaves kind of in and out?

16 A. Yes.

17 Q. Okay. Is that part of Yellowbud Creek?

18 A. It may be a tributary to it, but I don't  
19 believe it's the actual Yellowbud Creek.

20 Q. So you believe that this -- this may be a  
21 tributary to Yellowbud Creek?

22 A. Yes.

23 Q. And where does Yellowbud Creek flow?

24 A. Yellowbud Creek is -- is south of Dungan  
25 Road. In the image you are referring to, it's the

1 kind of line of trees that's running southeast.

2 Q. Okay. Now according to your preliminary  
3 stormwater management report, going back to page 5 of  
4 that report, the project area has three discharge  
5 locations that drain into the Scioto River; is that  
6 correct?

7 A. Yeah. That will -- yes.

8 Q. And these are discharge locations that  
9 flow directly to the Scioto River rather than flow  
10 first into another named stream?

11 A. That is correct, yes. They may not  
12 discharge directly into the river themselves. I  
13 believe a couple of them flow over land for -- for a  
14 little bit before reaching the Scioto River.

15 Q. Directing your attention to the paragraph  
16 on page 5 of the preliminary stormwater management  
17 report for that -- that is entitled "Soils," I would  
18 like to direct your attention to the second paragraph  
19 under that title --

20 A. Uh-huh.

21 Q. -- which reads as follows: "The site  
22 consists of Hydrologic Soil Group (HSG) C and D  
23 soils. Type C soils have moderate runoff potential  
24 and low infiltration rates. Type D soils have high  
25 runoff potential and low infiltration rates." Do you

1 see that?

2 A. Yes.

3 Q. Can you tell me what the characteristics  
4 of a type C soil are?

5 A. Yes. A type C soil typically has a  
6 higher clay content.

7 Q. Higher clay content?

8 A. Yes.

9 Q. And what does that mean so far as its  
10 potential for shedding stormwater?

11 A. So clay content in the soil does not  
12 allow infiltration so more water runs off from that  
13 type of soil.

14 Q. And what are the characteristics of a  
15 type D soil?

16 A. D soils have even more clay content so,  
17 you know, even less infiltration off a D type soil.

18 Q. Approximately what percentage of the land  
19 in the project area consists of type C soils?

20 A. Looking at my Exhibit 3, it's -- if I had  
21 to guess, it's a third of the soil is probably C  
22 soils.

23 Q. Right. The same question with regard to  
24 type D soils.

25 A. Probably the remaining two-thirds.

1           Q.    The type D soils as shown on Exhibit 3,  
2   the soils map to your preliminary stormwater  
3   management report, are shown as orange color, right?

4           A.    The type C soils are the orange, and the  
5   type D soils are the red.

6           Q.    The red, okay. Got it.

7           ALJ ADDISON: May I ask a quick question?  
8   I just want to make sure the copy on the docket of  
9   Mr. Hildreth's testimony that's been filed in the  
10   docket, it contains color copies, correct, not black  
11   and white?

12           MR. VAN KLEY: I printed it off by color  
13   so.

14           MR. BRUGGEMAN: I believe they are.

15           ALJ ADDISON: Perfect.

16           MR. BRUGGEMAN: Should be.

17           MS. HERRNSTEIN: I'll double-check.

18           ALJ ADDISON: Thank you very much.

19           Sorry, Mr. Van Kley.

20           MR. VAN KLEY: That's okay.

21           Q.    (By Mr. Van Kley) During the time that  
22   the project is being constructed, will there be any  
23   vegetation on those areas that are under  
24   construction?

25           A.    I believe that will depend on the EPC's



1 method of construction, if they want to plant a cover  
2 crop.

3 Q. So as you sit here today, you have no  
4 knowledge concerning whether or not there will be  
5 vegetation on those areas that are under  
6 construction; is that correct?

7 A. That is correct.

8 Q. That is correct?

9 A. I do not have knowledge of that.

10 Q. Okay. Does the application for this  
11 project contain any descriptions of the existing  
12 water quality of the receiving streams for the  
13 project area?

14 A. Not to my knowledge.

15 Q. Does the application include any  
16 estimates of the water quality of the discharges  
17 during site clearing and construction operations?

18 A. Not to my knowledge.

19 Q. Does the application describe any changes  
20 in flow pattern and erosion due to site clearing and  
21 grading operations?

22 A. We do describe in my stormwater report  
23 about any expected changes to drainage patterns and  
24 there are none.

25 Q. Does the application describe the

1 equipment proposed for the control of stormwater  
2 discharged into bodies of water during construction?

3 A. That would have to be covered under the  
4 construction stormwater -- general construction  
5 permit.

6 Q. So that would be done after the project  
7 has been approved?

8 A. I believe so, yes.

9 Q. Does anything in the application provide  
10 an estimate of the quantity of stormwater discharges  
11 from site clearing and construction operations?

12 A. During construction?

13 Q. Yes.

14 A. No, we have not looked at any runoff  
15 volumes during construction.

16 Q. And just to be clear, do you regard your  
17 preliminary stormwater management report attached to  
18 your testimony as being part of the application?

19 A. Yes.

20 Q. Does the application contain any  
21 quantitative flow diagrams or descriptions for water  
22 through the project area during construction?

23 A. No, we have not looked at construction  
24 conditions. But no flow patterns would change from  
25 the existing of the proposed flow patterns that we

1 show.

2 Q. Does anything in the application contain  
3 any descriptions of the quantity of discharges during  
4 operation of the facility?

5 A. Yes.

6 Q. Is that contained in your preliminary  
7 stormwater management report?

8 A. Yes. That is Table 4 and 5.

9 MR. VAN KLEY: I have nothing further at  
10 this time, your Honor.

11 ALJ ADDISON: Thank you very much.

12 Mr. Chamberlain?

13 MR. CHAMBERLAIN: Nothing, your Honor.

14 Thank you.

15 ALJ ADDISON: Anything on behalf of  
16 Staff, Mr. Margard?

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

18 ALJ ADDISON: Thank you.

19 Any redirect?

20 MR. BRUGGEMAN: Just a couple, please.

21 ALJ ADDISON: Please proceed.

22 - - -

23 REDIRECT EXAMINATION

24 By Mr. Bruggeman:

25 Q. Mr. Hildreth, you were testifying about

1 the BMPs that will be in place on the site. What  
2 were the types of storm events that you utilized in  
3 establishing those BMPs?

4 A. So typically a BMP is designed for around  
5 the two-year storm event which is -- it's specified  
6 in the state general permit what the exact storm  
7 event number is, but typically it's around the  
8 two-year storm event.

9 Q. Are you aware of any BMPs that are  
10 currently on the site?

11 A. I am not.

12 Q. And would you anticipate soil particle  
13 runoff in a storm event at the site currently?

14 A. Yes. There could very well be sediment  
15 runoff from the site in existing conditions.

16 MR. BRUGGEMAN: Nothing further, your  
17 Honor.

18 ALJ ADDISON: I think I may have not  
19 heard the end of your answer, Mr. Hildreth.

20 THE WITNESS: Yes. There could be  
21 existing soil runoff, particles runoff from the site  
22 in today's condition.

23 ALJ ADDISON: Okay. Thank you very much.  
24 I'm sorry for that.

25 THE WITNESS: No worries.

1 ALJ ADDISON: Mr. Dove, any questions?

2 MR. DOVE: No questions, your Honor.

3 ALJ ADDISON: Ms. Curtis?

4 MS. CURTIS: No questions, your Honor.

5 ALJ ADDISON: Mr. Van Kley?

6 MR. VAN KLEY: I think maybe one or two.

7 - - -

8 RECROSS-EXAMINATION

9 By Mr. Van Kley:

10 Q. With regard to the two-year stormwater  
11 event, can you define what a two-year stormwater  
12 event is?

13 A. Let me -- give me one second. So the  
14 two-year 24-hour runoff event at this site location  
15 is 2.62 inches of rain in a 24-hour time period.

16 Q. What kind of BMPs would control a  
17 two-year stormwater event?

18 A. So it depends on how large of a -- of a  
19 watershed area is contributing to the discharge point  
20 leaving the site. Typically it will be either a  
21 sediment basin for larger discharge locations, or you  
22 can use a silt fence or fiber rolls, sediment traps  
23 or berms, a combination of factors that can be used  
24 to control sediment from leaving the site.

25 Q. Do silt fences provide 100 percent

1 controls for the runoff of eroded soil?

2 A. For -- they have specified drainage areas  
3 that they can handle, so it's a specific amount of  
4 runoff they can handle, and up to that point they do,  
5 yes.

6 Q. Water passes through silt fences, doesn't  
7 it?

8 A. Yes, it does. The intent of silt fence  
9 is to capture the sediment particles, and then as it  
10 filters through that fabric, it's clean water that  
11 leaves on the other side.

12 Q. Uh-huh. And so what's the -- what's the  
13 efficiency for a silt fence to capture the silt  
14 particles?

15 A. I'm not aware of what efficiency level  
16 the manufacturers specify.

17 Q. It's not 100 percent, is it?

18 A. I don't know.

19 MR. VAN KLEY: Oh, okay. All right.  
20 Nothing further, your Honor.

21 ALJ ADDISON: Thank you.

22 Mr. Chamberlain?

23 MR. CHAMBERLAIN: Nothing, your Honor.

24 Thank you.

25 ALJ ADDISON: Mr. Margard?

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

2 ALJ ADDISON: I have no additional  
3 questions, Mr. Hildreth. You are excused.

4 THE WITNESS: Thank you, your Honor.

5 MR. BRUGGEMAN: Your Honor, I did want to  
6 note we had reviewed the online filing, and it was in  
7 color.

8 ALJ ADDISON: Wonderful. Thank you very  
9 much. Mr. Bruggeman, you had previously moved for  
10 the -- moved Applicant No. 26 -- or, I'm sorry,  
11 Applicant No. -- Exhibit No. 23; is that correct?

12 MR. BRUGGEMAN: That's correct, your  
13 Honor.

14 ALJ ADDISON: Any objections to the  
15 admission of this exhibit?

16 MR. VAN KLEY: No, your Honor.

17 ALJ ADDISON: Thank you all. It will be  
18 admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 ALJ ADDISON: The Applicant may call its  
21 next witness.

22 MR. BRUGGEMAN: Yes, Brady Stauffer.

23 ALJ ADDISON: Welcome, Mr. Stauffer.

24 MR. STAUFFER: Thank you.

25 ALJ ADDISON: Raise your right hand.

1 (Witness sworn.)

2 ALJ ADDISON: Thank you. Please be  
3 seated.

4 - - -

5 BRADY STAUFFER

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

8 DIRECT EXAMINATION

9 By Mr. Bruggeman:

10 Q. Good afternoon, Mr. Stauffer.

11 A. Good afternoon.

12 Q. Could you please state your full name for  
13 the record and spell it, please.

14 A. Brady Stauffer, B-R-A-D-Y  
15 S-T-A-U-F-F-E-R.

16 Q. And, Mr. Stauffer, who are you currently  
17 employed by?

18 A. Westwood Professional Services.

19 Q. And what is your title with Westwood?

20 A. Site Design Lead Engineer.

21 Q. And can you turn to Applicant Exhibit 24.  
22 Find it?

23 A. Yep.

24 Q. All right. And do you recognize that  
25 exhibit?



1 A. Yes.

2 Q. And what is that exhibit?

3 A. That is my direct testimony.

4 Q. All right. And so that was the prefiled  
5 testimony from -- filed on January 30, 2023; is that  
6 correct?

7 A. Yes.

8 Q. And if I were to ask you the same  
9 questions today that are in Exhibit 24, would your  
10 answers be the same?

11 A. Yes.

12 Q. So you have no modifications or  
13 corrections to your testimony; is that correct?

14 A. That is correct.

15 MR. BRUGGEMAN: All right. Your Honor, I  
16 move for the admission of Applicant Exhibit 24  
17 pending cross-examination and tender Mr. Stauffer for  
18 cross.

19 ALJ ADDISON: Thank you.

20 Mr. Dove, any questions?

21 MR. DOVE: No questions, your Honor.

22 ALJ ADDISON: Ms. Curtis?

23 MS. CURTIS: No questions, your Honor.

24 ALJ ADDISON: Mr. Van Kley?

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

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Good afternoon, Mr. Stauffer.

A. Good afternoon.

Q. Let's go to page 3 of your testimony, answer 11, lines 17 and 18. Line 17 starts as follows: "Within the Project Area, grading will be required to accommodate certain design features, such as the substation and access roads. In these limited areas, topsoil will not be restored." Do you see that?

A. Yes.

Q. Okay. How many acres of the land as described in this testimony will not be restored?

A. In regards to the graded area or just topsoil itself?

Q. Well, the -- in context the testimony that I read to you discusses grading to accommodate certain design features such as substation and -- and access roads. And then your next sentence says "In these limited areas, topsoil will not be restored." So my question is what's the acreage of these limited areas?

A. Since there has not been a final design yet, the access roads -- grading required for the

1 access roads is still to be determined. However,  
2 with discussions between myself and the project, we  
3 have committed that grading no more than 15 percent  
4 of the total project area.

5 Q. Does that 15 percent limitation of total  
6 surface area include the grading of the roads around  
7 the substation?

8 A. It would include that, yes.

9 Q. And is it your understanding that the  
10 15 percent limitation referred to in your testimony  
11 is a percentage of the entire project area?

12 A. That is correct.

13 Q. Do you know what the entire project  
14 area's acreage is?

15 A. I believe it's almost a thousand acres,  
16 probably right around 950, if I had --

17 Q. Okay. So approximately how many acres  
18 then would be subject to grading with a 15 percent  
19 limitation?

20 A. I don't have a calculator with me but  
21 whatever 15 percent of that total project area comes  
22 out to be.

23 Q. Uh-huh. When the application for this  
24 project was first submitted to the Board, was there a  
25 specific percentage of area that was envisioned to be

1 subject to grading at that time?

2 A. Not that I am aware.

3 Q. Uh-huh. Are you aware of any reduction  
4 in the overall amount of percentage for grading that  
5 has been committed to by the Applicant in this case  
6 versus its original intent?

7 A. No, I am not aware.

8 Q. So a limitation of grading to no more  
9 than 15 percent of the total project area is not  
10 really a reduction of the amount of area to be graded  
11 over and beyond what originally was planned; is that  
12 correct?

13 A. As far as I know, that's correct.

14 Q. Are you at all familiar with the  
15 Yellowbud Solar project?

16 A. I have heard of it.

17 MR. VAN KLEY: And for the record, your  
18 Honor, whenever I ask any questions or make any  
19 comments about the Yellowbud Solar project, I am  
20 making those solely on behalf of Wesley, Suzannah,  
21 and Thomas J. Ebenhack and not on behalf of Scarlett  
22 and Thomas E. Ebenhack for the reason explained in  
23 Thomas E. Ebenhack's testimony. I just want to make  
24 that clear for the record.

25 ALJ ADDISON: Well, Mr. Ebenhack can make

1 that clear when he takes the stand.

2 MR. VAN KLEY: Yeah. I just want to make  
3 that notation for the record so that he doesn't get  
4 sued by virtue of my asking questions about  
5 Yellowbud.

6 ALJ ADDISON: Certainly, certainly.  
7 Thank you, Mr. Van Kley.

8 Q. (By Mr. Van Kley) What do you know about  
9 the Yellowbud project?

10 A. I know that it's directly adjacent to  
11 Scioto Farms.

12 Q. It's what again?

13 A. Directly adjacent to Scioto Farms.

14 Q. Okay. Have you ever visited the project  
15 area for the Scioto Farms Solar project?

16 A. I have not.

17 Q. Have you ever visited the Yellowbud Solar  
18 project area?

19 A. I have not.

20 Q. Have you seen any information that would  
21 indicate the percentage, if any, of the Yellowbud  
22 Solar project that was graded?

23 A. I am not aware of what percentage of  
24 Yellowbud was graded.

25 MR. VAN KLEY: I have nothing further for

1 this witness, your Honor.

2 ALJ ADDISON: Thank you very much,  
3 Mr. Van Kley.

4 Mr. Chamberlain?

5 MR. CHAMBERLAIN: I have nothing, your  
6 Honor. Thank you.

7 ALJ ADDISON: Mr. Margard?

8 MR. MARGARD: No questions. Thank you,  
9 your Honor.

10 ALJ ADDISON: Any redirect?

11 MR. BRUGGEMAN: Nothing further, your  
12 Honor.

13 ALJ ADDISON: I have no additional  
14 questions, so you are excused. Thank you very much  
15 for your testimony.

16 I believe we have a motion to move  
17 Applicant Exhibit No. 24 into the record. Are there  
18 any objections to the admission of this exhibit at  
19 this time?

20 MR. VAN KLEY: No, your Honor.

21 MR. CHAMBERLAIN: No.

22 ALJ ADDISON: Thank you all. It will be  
23 admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 ALJ ADDISON: Mr. Bruggeman.

1 MR. BRUGGEMAN: Yes. Brian Karczewski.

2 ALJ ADDISON: Welcome. It's Karczewski?

3 MR. KARCZEWSKI: It is. First time.

4 ALJ ADDISON: Thank you. On a roll  
5 today. Please raise your right hand.

6 (Witness sworn.)

7 ALJ ADDISON: Thank you. Please be  
8 seated.

9 - - -

10 BRIAN KARCZEWSKI

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

13 DIRECT EXAMINATION

14 By Mr. Bruggeman:

15 Q. Good afternoon. And could you please  
16 state your full name and definitely spell your name  
17 for the record, please.

18 A. I don't get that a lot. My name is Brian  
19 Karczewski, B-R-I-A-N, Karczewski,  
20 K-A-R-C-Z-E-W-S-K-I.

21 Q. Thank you. And, Brian, who are you  
22 currently employed by?

23 A. Stantec Consulting.

24 Q. And what is your title with Stantec?

25 A. Principal Senior Project Manager.

1           Q.    Okay.  And can you turn in the binder to  
2   Applicant Exhibit 25?  Did you locate it and do you  
3   recognize that exhibit?

4           A.    I do.

5           Q.    And what is that exhibit?

6           A.    This is my testimony.

7           Q.    All right.  So that's the prefiled  
8   testimony from January 30, 2023; is that correct?

9           A.    That's correct.

10          Q.    And if I were to ask you the same  
11   questions today as what's in that exhibit, would your  
12   answers be the same?

13          A.    They would.

14          Q.    So there would be no modifications or  
15   corrections to any testimony in there, correct?

16          A.    No.

17               MR. BRUGGEMAN:  Your Honor, with that I  
18   would just move for the admission of Applicant  
19   Exhibit 25 pending cross, and I will tender Mr.  
20   Karczewski for cross.

21               ALJ ADDISON:  Thank you very much.

22               Mr. Dove?

23               MR. DOVE:  No questions, your Honor.

24               Thank you.

25               ALJ ADDISON:  Ms. Curtis?



1 MS. CURTIS: No questions, your Honor.

2 ALJ ADDISON: Mr. Van Kley?

3 MR. VAN KLEY: Yes, your Honor.

4 ALJ ADDISON: Please proceed.

5 MR. VAN KLEY: Thank you.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Van Kley:

9 Q. Let's go to page 2 of your testimony.

10 A. Yes.

11 Q. And I would like to direct your attention  
12 to the testimony starting at line 23 on that page.

13 A. I am there.

14 Q. All right. So you've listed a number of  
15 activities that you represent have been committed to  
16 by the Applicant in lines 23 through 27, correct?

17 A. That's correct.

18 Q. And one of the activities is the proper  
19 topsoil segregation and stockpiling during grading  
20 activities, correct?

21 A. That's correct.

22 Q. And what will happen to those stockpiles  
23 of topsoil after they've been piled up on their  
24 piles? Are they going to stay in the piles, or are  
25 they going to be redistributed on the fields?

1           A.    In areas where they will be  
2   reconstructing the soils prior to vegetation, they  
3   will be respread, but in areas like certain  
4   circumstances of access roads, the substation area,  
5   those areas probably would not get topsoil sent back  
6   to those areas.

7           Q.    So what will happen to that topsoil?

8           A.    Well --

9           Q.    Will it stay on piles?

10          A.    I'm not familiar with what this Applicant  
11   will do, but I have seen other -- other circumstances  
12   where some wingrow that topsoil for use later on the  
13   project meaning they don't remove it. They wingrow  
14   it, vegetate it; or they remove it, and they bring  
15   topsoil in later for decommissioning.

16          Q.    What happens to the aeration of topsoil  
17   when it is piled on stockpiles?

18          A.    The aeration on topsoil, when you -- the  
19   major soil types on the -- on this site are Crosby,  
20   Miamian, and Kokomo, primarily a silt loam topsoil.  
21   The aeration of a topsoil when it's moved, or  
22   temporarily staged in this case, you are not going to  
23   see a dramatic decrease in aeration -- in aeration of  
24   the soil because you will basically mix it and put it  
25   back. Aeration is more of a factor in the subsoil.

1 Q. In subsoil?

2 A. Subsoil.

3 Q. And why is that?

4 A. Because there is a higher silt clay -- or  
5 a silty clay or clay content for the subsoils.

6 Q. Is it true that soils that are buried  
7 deeper below the surface of the ground will generally  
8 have less aeration?

9 A. It's true that soils that are buried  
10 deeply below the ground? I don't quite understand  
11 your question.

12 Q. Well, let me rephrase then. If a soil  
13 is -- if a -- if soil is deeper below the surface of  
14 the ground, does that mean that generally it will  
15 have less air in it?

16 A. Not necessarily, no. If it has a good  
17 deep rooting structure and the soil and that material  
18 has a lot of microbial activity, good structure,  
19 aeration goes down into the soil profile quite a bit,  
20 internal drainage, infiltration, but from -- I mean,  
21 if you are comparing it to like a topsoil, just  
22 because of the separation to the atmosphere, it's  
23 going to have less oxygen in it, less aeration in it  
24 at depth than say a topsoil.

25 Q. If -- if topsoil is stockpiled for 40

1 years, what changes, if any, will occur to the  
2 topsoil in that pile?

3 A. If topsoil is stockpiled for that long of  
4 time, the soils that are deeper within that pile  
5 would -- would probably undergo some changes. There  
6 would be less aerobic activity deep within that --  
7 within that profile, probably less of an interaction.  
8 One benefit of it you wouldn't lose as much organic  
9 matter from that topsoil because there was no --  
10 there is not much aerobic -- or much air getting down  
11 to it.

12 Q. If -- if topsoil is stockpiled for 40  
13 years and then it is utilized in a decommissioning  
14 process for a solar facility, will it be necessary to  
15 recommission that topsoil or make any changes to it  
16 in order to restore its productive capabilities?

17 A. You know, much like if you and I were to  
18 order some topsoil from -- from a nursery and add it  
19 to our garden, no, I don't suspect that -- I mean,  
20 you typically see that soil react and be capable of  
21 supporting plant material -- plant life within the  
22 first few feet that it is deposited.

23 Q. But if you get topsoil from a nursery,  
24 what's the depth of the pile or the bags that you  
25 receive compared to a stockpile of topsoil that you

1 would expect to be produced by a solar facility  
2 construction?

3 A. Well, I -- I don't know if I can really  
4 comment too much on that other than I've seen topsoil  
5 stockpiled at nurseries, and they can be 10, 15 feet  
6 high.

7 Q. Going back to your testimony on page 2,  
8 lines 24 and 25 refer to limiting disturbance through  
9 phasing of construction. Do you see that?

10 A. Yes.

11 Q. What does that mean?

12 A. Basically not opening the entire site up  
13 to construction all at once.

14 Q. And then continuing on with that  
15 sentence, there is a reference to limiting grading  
16 where possible by relying on the selected raking  
17 manufacturer's slope tolerances. What does that  
18 mean?

19 A. Actually I -- it was meaning to say  
20 selected racking manufacturer's slope tolerances. My  
21 understanding of the racking systems, they have  
22 certain slopes that they -- that they can  
23 accommodate, 7, 10, some in the order of 15 percent.

24 Q. How many, if any, solar projects have you  
25 personally watched being constructed?

1           A.    Approximately 14 in different phases,  
2    everywhere from just the early development process  
3    all through construction.

4           Q.    Have you watched any solar projects under  
5    construction in Ohio?

6           A.    No.

7           Q.    Are you aware of the Yellowbud Solar  
8    project in Pickaway -- in Ross County?

9           A.    Other than it's mentioned within --  
10   within these testimonies.

11          Q.    You've never seen that project?

12          A.    No, I have not.

13          Q.    Have you ever seen the project area for  
14   the Scioto Farms Solar project?

15          A.    No, I have not.

16               MR. VAN KLEY:  I have nothing further,  
17   your Honor.

18               ALJ ADDISON:  Thank you very much,  
19   Mr. Van Kley.

20               Mr. Chamberlain?

21               MR. CHAMBERLAIN:  Nothing, your Honor.

22               ALJ ADDISON:  Mr. Margard?

23               MR. MARGARD:  No questions, your Honor.

24               ALJ ADDISON:  Any redirect?

25               MR. BRUGGEMAN:  Nothing, your Honor.

1           ALJ ADDISON: I have no additional  
2 questions. You are excused, Mr. Karczewski. Almost  
3 got me there.

4           Mr. Bruggeman previously moved for the  
5 admission of Applicant No. -- Exhibit No. 25 into the  
6 record. Are there any objections at this time?

7           MR. VAN KLEY: No, your Honor.

8           MR. CHAMBERLAIN: No, your Honor.

9           ALJ ADDISON: Thank you all. It will be  
10 admitted.

11           (EXHIBIT ADMITTED INTO EVIDENCE.)

12           ALJ ADDISON: Let's go off the record for  
13 a moment.

14           (Discussion off the record.)

15           ALJ ADDISON: Let's go ahead and go back  
16 on the record.

17           The Applicant may call its next witness.

18           MR. BRUGGEMAN: Yes, your Honor. We  
19 would call Rhett Sloan.

20           ALJ ADDISON: Welcome, Mr. Slone.

21           MR. SLOAN: Hello.

22           ALJ ADDISON: Please raise your right  
23 hand.

24           (Witness sworn.)

25           ALJ ADDISON: Thank you. Please be

1     seated.

2                                 - - -

3                                 RHETT SLOAN

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

6                                 DIRECT EXAMINATION

7     By Mr. Bruggeman:

8                 Q.     Good afternoon, Mr. Sloan.

9                 A.     Good afternoon.

10                Q.     Could you please state your name and  
11     spell that for the record, please.

12                A.     Rhett Sloan, R-H-E-T-T S-L-O-A-N.

13                Q.     Thank you. And, Mr. Sloan, who are you  
14     currently employed by?

15                A.     Surveying And Mapping, LLC.

16                Q.     And can you describe your title with the  
17     company?

18                A.     Senior Project Manager.

19                Q.     And I am going to have you turn to  
20     Applicant Exhibit 29.

21                A.     Okay.

22                Q.     Okay. And are you familiar with that  
23     exhibit, Mr. Sloan?

24                A.     I am.

25                Q.     What is the exhibit?



1           A.    This would be my filed testimony.

2           Q.    All right.  So that was the prefiled  
3 testimony from January 30, 2023, correct?

4           A.    Correct.

5           Q.    And if I were to ask you the same  
6 questions today that's in that Applicant exhibit,  
7 would your answers be the same?

8           A.    They are.

9           Q.    So there would be no changes or  
10 corrections to any of the testimony.

11          A.    No changes.

12               MR. BRUGGEMAN:  Your Honor, I move for  
13 the admission of Applicant Exhibit 29 pending cross  
14 and would tender Mr. Sloan for cross.

15               ALJ ADDISON:  Thank you very much.

16               Mr. Dove?

17               MR. DOVE:  No questions, your Honor.

18               ALJ ADDISON:  Thank you.

19               Ms. Curtis?

20               MS. CURTIS:  No questions, your Honor.

21               ALJ ADDISON:  Mr. Van Kley?

22               MR. VAN KLEY:  Yes, your Honor.

23                               - - -

24

25

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Good afternoon, Mr. Sloan.

A. Afternoon.

Q. Would you pull out Exhibit W of the application. The application is in Applicant Exhibit 2.

MR. BRUGGEMAN: Probably the other binder by itself. One of these two.

THE WITNESS: This one here?

A. Okeydoke.

Q. (By Mr. Van Kley) Have you seen that Exhibit W before?

A. I have.

Q. Did you prepare it?

A. I did not.

Q. Who prepared it?

A. This was provided to me by the Applicant.

Q. This is entitled "Drain -- Drainage Tile Assessment and Construction Impact Report," right?

A. Correct.

Q. Have you reviewed this report?

A. I have.

Q. The report has a number of techniques for tile detection in it, right?

1           A.     It does.

2           Q.     Are there any tile detection techniques  
3 included in this report that are not available to any  
4 solar company that constructs a solar project?

5           A.     I don't believe so.

6           Q.     Are you familiar with a Yellowbud Solar  
7 project?

8           A.     I have heard it by name and mentioned in  
9 the other testimonies.

10          Q.     You have never seen that project?

11          A.     I have not.

12          Q.     Have you visited the project area for the  
13 Scioto Farms Solar project?

14          A.     I have not.

15          Q.     Do you know what, if any, drainage tile  
16 detection techniques were used by the Yellowbud  
17 project?

18          A.     I have no knowledge of that.

19          Q.     With respect to your direct testimony  
20 identified as Applicant's Exhibit 29, are there any  
21 tile detection techniques described in it that are  
22 not already identified in Exhibit W?

23          A.     So you are asking if there is additional  
24 technologies mentioned in my testimony that are not  
25 in the impact form?

1 Q. Correct.

2 A. I believe we discussed ground penetrating  
3 radar applications that are not in the impact form.

4 Q. Okay. Are there any others?

5 A. The aerial identification doesn't go into  
6 great detail in the impact form, but I believe it's  
7 trying to describe the same thing we described in my  
8 testimony.

9 Q. So the -- the penetrating radar  
10 technology that is described in your testimony is not  
11 a commitment that has been made by Scioto Farms Solar  
12 in its application; is that correct?

13 A. Going forward that is -- that is what we  
14 plan to apply in an effort of detecting drain tiles.

15 Q. Uh-huh. Who do you mean by we?

16 A. My -- the company I work for in providing  
17 that service to Scioto Farms.

18 Q. Uh-huh. Has your company signed a  
19 contract with Scioto Farms Solar to do any work  
20 related to drainage tiles for this project?

21 A. I don't believe so.

22 MR. VAN KLEY: I have nothing further,  
23 your Honor.

24 ALJ ADDISON: Thank you, Mr. Van Kley.

25 Mr. Chamberlain?

1 MR. CHAMBERLAIN: Nothing, your Honor.

2 Thank you.

3 ALJ ADDISON: Thank you.

4 Mr. Margard?

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

6 MR. BRUGGEMAN: Nothing further, your  
7 Honor.

8 ALJ ADDISON: Thank you.

9 I have no additional questions. You are  
10 excused, Mr. Sloan. Thank you very much.

11 THE WITNESS: Thank you.

12 ALJ ADDISON: I believe Mr. Bruggeman  
13 previously moved for the admission of Applicant  
14 Exhibit No. 29. Are there any objections to the  
15 admission of this exhibit?

16 MR. VAN KLEY: No, your Honor.

17 MR. CHAMBERLAIN: No, your Honor.

18 ALJ ADDISON: Thank you all. It will be  
19 admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 ALJ ADDISON: With that I will stay true  
22 to my promise. Let's go ahead and break until 2:45.  
23 Give everyone a chance to stretch their legs a bit  
24 and then we will proceed with the last two scheduled  
25 witnesses. In the event we would -- well, let's go

1 ahead and go off the record.

2 (Recess taken.)

3 ALJ ADDISON: At this time we will go  
4 back on the record.

5 The Applicant may call its next witness.

6 MS. HERRNSTEIN: Okay. The Applicant  
7 calls JoAnne Blank.

8 ALJ ADDISON: Welcome, Ms. Blank.

9 MS. BLANK: Hi.

10 ALJ ADDISON: Please raise your right  
11 hand.

12 (Witness sworn.)

13 ALJ ADDISON: Thank you. Please be  
14 seated.

15 - - -

16 JoANNE BLANK

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

19 DIRECT EXAMINATION

20 By Ms. Herrnstein:

21 Q. All right. Good afternoon, Ms. Blank.  
22 Could you please state your full name and spell it  
23 for the record.

24 A. JoAnne, J-o-A-N-N-E, Blank, B-L-A-N-K.

25 Q. And where are you currently employed?

1           A.    At Stantec Consulting.

2           Q.    And what is your title?

3           A.    I am a Senior Associate, Senior  
4   Scientist.

5           Q.    Okay.  Could you please turn to what has  
6   been marked as Applicant's Exhibit 21.

7           A.    Okay.

8           Q.    Have you seen this document before?

9           A.    I have.

10          Q.    Okay.  What is this document?

11          A.    This is a copy of my testimony.

12          Q.    Okay.  If I were to ask you the questions  
13   in that document today, would your answers be the  
14   same?

15          A.    They would.

16          Q.    Okay.  Do you have any modifications or  
17   corrections to your testimony?

18          A.    I do not.

19                MS. HERRNSTEIN:  Okay.  I would move for  
20   admission of Applicant's Exhibit 21, subject to  
21   cross-examination.

22                ALJ ADDISON:  Thank you.

23                Mr. Dove?

24                MR. DOVE:  No questions, your Honor.

25                ALJ ADDISON:  Ms. Curtis?

1 MS. CURTIS: No questions, your Honor.

2 ALJ ADDISON: Mr. Van Kley?

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

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Van Kley:

7 Q. Good afternoon, Ms. Blank.

8 A. Good afternoon.

9 Q. Do you have any degrees in acoustics?

10 A. My degree is not in acoustics.

11 Q. Do you have any educational background in  
12 acoustical engineering?

13 A. Not specifically. I have been completing  
14 some studies for over 10 years.

15 Q. You've been completing some studies you  
16 said?

17 A. Sound studies, sound and noise.

18 Q. Sound studies.

19 A. Modeling and studies for over 10 years.

20 Q. So this is job experience, not education.

21 A. Yes.

22 Q. How -- how many acoustical studies have  
23 you performed during your career?

24 A. More than 25. I don't have an exact  
25 count but more than 25.



1 Q. Uh-huh.

2 A. Probably closer to 50.

3 Q. You haven't had any formal training in  
4 acoustics?

5 A. Not in acoustics, no.

6 Q. Did you set up the sound monitoring  
7 stations for this project?

8 A. I did not personally set them up.

9 Q. Have you ever personally set up a sound  
10 monitoring station?

11 A. I have.

12 Q. How many?

13 A. Several, not -- 5 to 10.

14 Q. In 2022 approximately how much of your  
15 time was spent with acoustical work?

16 A. I would say about 25 to 30 percent of my  
17 time.

18 Q. Uh-huh. Would you go to Exhibit O of  
19 Applicant's Exhibit 2.

20 MS. HERRNSTEIN: It will be in the -- it  
21 will be in the binder -- that binder.

22 THE WITNESS: Thank you.

23 MS. SHEELY: No.

24 MS. HERRNSTEIN: Not that one.

25 MS. SHEELY: The one at her elbow.

1 MS. HERRNSTEIN: Oh, I'm sorry. Yeah.

2 A. I didn't know I was going to get a  
3 workout today too.

4 Thank you. I'm there.

5 Q. (By Mr. Van Kley) Okay. Exhibit O is the  
6 pre-construction sound report and predictive  
7 operational sound assessment in the application,  
8 correct?

9 A. Correct.

10 Q. Did you write this report?

11 A. I oversaw the writing of the report.

12 Q. So you did not write it yourself?

13 A. Not word for word, no.

14 Q. Did you write any part of it?

15 A. I likely wrote some of it, some of the  
16 paragraphs. I didn't specifically write the report.  
17 It was my team that wrote the report.

18 Q. Let's go to page 3 of your written  
19 testimony. I would like to direct you to the answer  
20 to question 10 at the bottom. The question asks for  
21 you to summarize the findings of the sound report  
22 with respect to construction of the project. Do you  
23 see that?

24 A. Yes.

25 Q. And the sound report is a reference to

1 Exhibit O of the application?

2 A. Yes.

3 Q. And in the first part of your answer to  
4 question 10, you state that "Heavy construction  
5 equipment including, but not limited to backhoes,  
6 bulldozers, and haul trucks may be present and  
7 operational at different times during the first phase  
8 of the construction period." Do you see that?

9 A. Yes.

10 Q. Are you aware that solar construction  
11 commonly involves the use of rollers?

12 A. Yes.

13 Q. How about the use of pans?

14 A. I'm sorry. For what?

15 Q. Pans.

16 A. Pans?

17 Q. Pans, P-A-N-S.

18 A. No, I am not familiar with that.

19 Q. Are you aware that the construction of  
20 solar projects may entail the use of gravel?

21 A. Yes.

22 Q. Did you do any study in your report as to  
23 the sound levels from dumping gravel on a solar  
24 project?

25 A. The construction equipment that we looked

1 at included large haul and dump trucks and the sound  
2 that would come from those trucks.

3 Q. What about the sound of the gravel  
4 actually being dumped out of the truck? Did you  
5 study that?

6 A. We didn't study the exact gravel dumping  
7 out of the trucks. However, in our study we looked  
8 at different actions that would take place, and the  
9 gravel trucks would -- would be determined to be  
10 above an 84 to 85 dBA.

11 Q. Have you ever heard the sound of gravel  
12 being dumped out of a dump truck?

13 A. I have.

14 Q. It's a pretty loud sound, isn't it?

15 A. Yes.

16 Q. Go to page 4 of your testimony. Starting  
17 with line 3 you have a statement about the "Sound  
18 levels associated with the type of equipment expected  
19 to be used will vary from approximately 80 to 90 dBA  
20 at 50 feet," and so forth. Do you see that?

21 A. Yes.

22 Q. Is this the sound level you would expect  
23 from each machine or a combination from all machines  
24 that would be used?

25 A. That -- that is a -- that is a specific

1 piece of machinery. I mean, it's a range of 80 to 90  
2 for the different pieces of machinery.

3 Q. That's what you would expect the noise  
4 level for each piece of machinery to be?

5 A. Yes.

6 Q. Okay. Ordinarily during the construction  
7 of a solar project, there is one -- there is more  
8 than one piece of machinery being used at a time;  
9 isn't that correct?

10 A. Yes.

11 Q. Did you do any calculations to determine  
12 what the cumulative volume of more than one piece of  
13 equipment at a time would be?

14 A. Yes. So the combination of equipment  
15 would only add a few dBA to the total if they are  
16 near each other. In general the equipment is not  
17 going to be right next to each other, so you wouldn't  
18 have that additive effect, and the machinery is  
19 also -- all of it is run at, you know, intermittent  
20 intervals. They are not going to be all running at  
21 the same time in one place.

22 Q. If you look at lines 7 through 9 on page  
23 4 of your testimony, you stated "however, not all  
24 equipment will be operating at the same time, and  
25 activities will be spread throughout the Project Area

1 and will be temporary in duration." Do you see that?

2 A. Yes.

3 Q. What do you mean by temporary in  
4 duration? Can you provide us with a time frame for  
5 that?

6 A. So to use your example of the gravel  
7 truck, that gravel truck would be arriving and it  
8 would dump its load and then there may not be another  
9 such noise event for 15 minutes, half an hour,  
10 whatever that time period would be, so they would not  
11 be all occurring at the same time, and they would be  
12 temporary in nature and short duration.

13 Q. Do you regard the use of earthmoving  
14 machinery as temporary in duration?

15 A. It would depend on the -- on the task  
16 that the machinery would be doing.

17 Q. Do you -- can you provide me with a  
18 number of hours that a project of this size would  
19 require the use of heavy earthmoving equipment?

20 A. I wouldn't have that number off the top  
21 of my head.

22 Q. Going back to lines 3 through 6 on page 4  
23 of your testimony, can you provide me with the range  
24 of sound levels that would be heard at 700 feet away?

25 A. So the sound at 700 feet away, to use the

1 example of the 80 at the source, or the 80 at 50 feet  
 2 which is 54 at a thousand feet, it would be  
 3 approximately 51. And I would have to -- I would  
 4 have to do the calculation. I'm not saying exact. I  
 5 am giving you an estimate. I'm sorry. That's going  
 6 in the wrong direction. At 700 feet it would be  
 7 about 57.

8 Q. 57 dBA?

9 A. Yes.

10 Q. In lines 9 through 11, you discuss that  
 11 the "Construction activity will be limited to the  
 12 hours of 7 a.m. to 7 p.m., or dusk if sunset occurs  
 13 after 7 p.m."

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. That includes weekends too, right?

18 A. Yes.

19 Q. And holidays?

20 A. I would assume so, yes.

21 Q. And then in line 7 -- or lines 11 and 12,  
 22 you assert that "Noise from construction activities  
 23 may be heard at off-site locations, the sound will  
 24 vary over time and be temporary in nature." What do  
 25 you mean by temporary in nature there?

1           A.     That would be the same temporary in  
2     nature as we discussed earlier, that the machines do  
3     not operate all at one time or continuously. So many  
4     of them operate and then shut down, move to another  
5     part of the project, operate again for a temporary  
6     amount of time.

7           Q.     Do you know what length of time a project  
8     of this size will take in order to do the pile  
9     driving for the solar panel racks?

10          A.     I don't know that offhand. That might be  
11     best to ask the project team that.

12          Q.     In lines 12 through 15 -- or 14, you  
13     state that construction activities from the solar  
14     project will generate sounds that are familiar to  
15     residents due to other construction, industrial, and  
16     agricultural activities in the area. Do you see  
17     that?

18          A.     Yes.

19          Q.     What other activities are already being  
20     experienced in this area that you believe are  
21     familiar to the residents that are similar to the  
22     construction sounds for a solar facility?

23          A.     The agricultural equipment that's used on  
24     the -- on the crops would be very similar. An  
25     agricultural tractor would have similar sound to some



1 of the earthmoving equipment.

2 Q. What -- what kind of solar construction  
3 equipment sounds like an agricultural tractor?

4 A. The -- the level of sound from it. It  
5 may not sound exactly like it, but the -- the  
6 graders, the equipment that has approximately an 84  
7 dBA at 50 feet is very similar to the sound level  
8 that is -- is found from an agricultural tractor.

9 Q. Uh-huh. Do you know how long it takes to  
10 harvest a typical acre of crops?

11 A. I'm a farm girl, but I don't really  
12 remember to tell you the truth.

13 Q. I mean, harvest occurs for grain crops  
14 other than wheat during the fall, right?

15 A. Yes.

16 Q. How long does the fall harvest usually  
17 last?

18 A. Well, depending on the crop and the size,  
19 the season usually lasts September through October  
20 and even into November.

21 Q. And how long does planting usually last  
22 in the spring?

23 A. It's usually done in the April or May  
24 time frame.

25 Q. Are you aware of any agricultural

1 equipment used in the project area or around the  
2 project area that produces the sound similar to pile  
3 driving?

4 A. No, I am not aware of any.

5 Q. Have you ever heard the operation of a  
6 pile driver?

7 A. I have.

8 Q. What does it sound like?

9 A. It is an intermittent pinging sound.

10 Q. It's a pounding of metal on metal, right?

11 A. Yes.

12 Q. In lines 14 to 16 of your testimony on  
13 page 4, you state that "The overall noise impact on  
14 nearby sensitive receptors during construction of the  
15 Project is not expected to be significant." Do you  
16 see that?

17 A. Yes.

18 Q. What do you mean when you say it's not  
19 expected to be significant?

20 A. So the -- the sound of the construction  
21 equipment will again be limited in the time frame,  
22 and it will add a thousand feet. It goes down to  
23 about 64 dBA. And most of the residential area is  
24 well beyond the thousand feet, so it's going to  
25 dissipate to, you know, to even lower than that so

1 those are not significant sound levels.

2 Q. Do you think that the noise from the pile  
3 driving is -- is not significant?

4 A. That's hard to say. If it -- if you are  
5 standing right next to it, it would be significant  
6 but at the -- at the residences, no.

7 Q. How far away can a person hear pile  
8 driving?

9 A. I don't know that offhand.

10 Q. Do you know what sound level a pile  
11 driver will be heard at a distance of 700 feet?

12 A. At 700 feet I would -- I would estimate  
13 it to be likely about 67 dBA, but I have to say that  
14 I don't have a calculator in front of me, and sound  
15 is a logarithmic number, so I can't do a simple  
16 calculation.

17 Q. Are you familiar with the sounds produced  
18 by inverters in a solar project during operation?

19 A. Yes.

20 Q. How would you describe that sound?

21 A. I would -- it's a sound of a -- of a  
22 motor and -- and sometimes a fan running.

23 Q. Uh-huh. Would you characterize the sound  
24 as being a hum?

25 A. Yeah, a low level hum, yes.

1 Q. Does it sound like bees humming?

2 A. I wouldn't characterize it that way.

3 Q. Do you know what, if any, operation the  
4 inverters will have in this project during the  
5 nighttime?

6 A. In the nighttime the inverters generally  
7 go into a standby mode just to keep the motor warm,  
8 and the sounds that come out of them is not enough  
9 to -- to go beyond the -- generally to go beyond the  
10 edges of the project boundary.

11 Q. In the case of this project, are there  
12 any plans to operate the inverters at night for any  
13 purpose?

14 A. I can't imagine why inverters would ever  
15 be operated at night since the solar panels do not  
16 generate any power at night. Again, that may be best  
17 asked of the project proponents, if they know of a  
18 reason why -- I have never heard of an inverter  
19 running at night.

20 Q. Go to page 5 of your testimony, lines 10  
21 through 12.

22 A. Yes.

23 Q. States "Nighttime sound from the Project  
24 will be substantially less than daytime, as  
25 photovoltaic and electrical equipment will be

1 operating in stand-by mode, as the sun is not  
2 shining, and power is not being produced." Do you  
3 see that?

4 A. Yes.

5 Q. What's the stand-by mode as referenced in  
6 this sentence?

7 A. It has been described to me as just a  
8 mode where the electricity still goes to the -- it's  
9 still connected to the system but -- and there is  
10 enough to keep it warm if it's a very cold night, but  
11 it is not actually operating and creating the noise  
12 that you would expect to hear during the daytime.

13 Q. Did you conduct any modeling to determine  
14 what the noise level of the inverters will be in a  
15 stand-by mode at the property boundary?

16 A. The information that we have of the sound  
17 level from the manufacturers at the -- during  
18 stand-by mode is not enough to go beyond the project  
19 boundaries, so we did not specifically model it.

20 Q. Would you go to the narrative of the  
21 application, please, which is in Applicant's Exhibit  
22 2.

23 MS. HERRNSTEIN: Applicant Exhibit 2 is  
24 the application, so it's the binder below.

25 THE WITNESS: This one? Okay.

1           Q.     (By Mr. Van Kley) All right. I would  
2     like to direct your attention to the sentence that  
3     starts at the bottom of page 48 of the narrative,  
4     specifically the first part of that sentence which  
5     reads "Because the inverters only run during the  
6     daytime when the modules are producing energy, no  
7     noise producing equipment would operate at  
8     nighttime." Do you see that?

9           A.     Yes.

10          Q.     Now, that's not a true statement, is it?

11          A.     It is not an -- not an absolutely true  
12     statement, no. They are running in stand-by mode.

13          Q.     Go back to Exhibit O of the application.

14          A.     I'm sorry, Exhibit?

15          Q.     O. Your noise report in Applicant's  
16     Exhibit 2. And I don't see any page numbers in this  
17     report. We are going to look for Figure 2 which is  
18     PDF page 22 for those who are online. Have you found  
19     it?

20          A.     Uh-huh.

21          Q.     Okay.

22          A.     Yes.

23          Q.     Good. All right. Now, Figure 2 is a map  
24     showing the sound levels that are -- that have been  
25     modeled for operational noise for the project,

1 correct?

2 A. Correct.

3 Q. Now, do you know where the Ebenhack fruit  
4 and vegetable farm is located on this map?

5 A. I do not.

6 Q. Well, do you see where Ebenhack Road is  
7 in the southwest portion of the map?

8 A. I do.

9 Q. Okay. Just to the southeast of the  
10 intersection of Ebenhack Road and Dungan Road, do you  
11 see that area?

12 A. I do.

13 Q. Uh-huh. Have you done any modeling to  
14 determine what the sound level from the inverters  
15 will be in that location?

16 A. Yes.

17 Q. And what will it be?

18 A. It would be approximately 40 dBA at that  
19 kind of teal-colored line, so it's going to be lower  
20 than that to the outside of that line.

21 MR. VAN KLEY: I have no more questions  
22 at this time, your Honor.

23 ALJ ADDISON: Thank you very much,  
24 Mr. Van Kley.

25 Mr. Chamberlain?

1 MR. CHAMBERLAIN: Nothing, your Honor.

2 Thank you.

3 ALJ ADDISON: Mr. Margard?

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

5 ALJ ADDISON: Any redirect?

6 MS. HERRNSTEIN: Just briefly, your  
7 Honor.

8 ALJ ADDISON: Please.

9 - - -

10 REDIRECT EXAMINATION

11 By Ms. Herrnstein:

12 Q. Ms. Blank, how often is a field  
13 harvested?

14 A. Well, it depends on the crop, but hay is  
15 harvested several times a year but generally just in  
16 the fall.

17 Q. And is that a one-time thing, or is it  
18 every year?

19 A. It's every year.

20 Q. And how many times is a single solar  
21 project constructed?

22 A. Just once.

23 Q. Okay. And would there be earthmovers  
24 working the project area after construction is  
25 complete?



1 A. No.

2 Q. Would there be pile drivers?

3 A. No.

4 MS. HERRNSTEIN: No further questions.

5 ALJ ADDISON: Thank you.

6 Mr. Dove?

7 MR. DOVE: No follow-up.

8 ALJ ADDISON: Ms. Curtis?

9 MS. CURTIS: No, your Honor.

10 ALJ ADDISON: Mr. Van Kley?

11 MR. VAN KLEY: None, your Honor.

12 ALJ ADDISON: Mr. Chamberlain?

13 MR. CHAMBERLAIN: No, your Honor.

14 ALJ ADDISON: Mr. Margard?

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

16 ALJ ADDISON: I have no additional  
17 questions. You are excused, Ms. Blank. Thank you  
18 very much.

19 THE WITNESS: Thank you.

20 ALJ ADDISON: I believe Ms. HerrNSTEIN  
21 had previously moved for the admission of Applicant  
22 Exhibit No. 21. Are there any objections to the  
23 admission of that exhibit at this time?

24 MR. MARGARD: No, your Honor.

25 MR. CHAMBERLAIN: No, your Honor.

1 ALJ ADDISON: Then it will be admitted.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 ALJ ADDISON: Let's go off the record for  
4 a moment.

5 (Discussion off the record.)

6 ALJ ADDISON: Let's go ahead and go back  
7 on the record.

8 The Applicant may call its next witness.

9 MS. FLINT: We call Jennifer Brunty.

10 ALJ ADDISON: Thank you.

11 Ms. Brunty, raise your right hand.

12 (Witness sworn.)

13 ALJ ADDISON: Thank you. Please proceed.

14 MS. FLINT: Thank you, your Honor.

15 - - -

16 JENNIFER BRUNTY

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

19 DIRECT EXAMINATION

20 By Ms. Flint:

21 Q. Would you please state your full legal  
22 name and spell it.

23 A. Jennifer Lee Brunty, J-E-N-N-I-F-E-R  
24 L-E-E B-R-U-N-T-Y.

25 Q. Who are you employed by?

1           A.     Stantec Consulting Services.

2           Q.     Ms. Brunty, you should have in front of  
3     you a document that's marked Applicant Exhibit 22.  
4     Do you recognize that document?

5           A.     Yes.

6           Q.     Is that your prefiled testimony that was  
7     filed on January 30, 2023?

8           A.     Yes.

9           Q.     If I were to ask you the same questions  
10    today that are in Applicant Exhibit 22, would your  
11    answers be the same?

12          A.     Yes.

13          Q.     Do you have any modifications or  
14    corrections to your prefiled testimony?

15          A.     No.

16                 MS. FLINT: Your Honor, I move for  
17    admission of Applicant Exhibit 22 pending  
18    cross-examination, and I tender Ms. Brunty for cross.

19                 ALJ ADDISON: Thank you very much.

20                 So big it obstructs my view. Mr. Dove,  
21    any questions?

22                 MR. DOVE: No questions, your Honor.

23                 ALJ ADDISON: Ms. Curtis?

24                 MS. CURTIS: No questions, your Honor.

25                 ALJ ADDISON: Mr. Van Kley?

1 MR. VAN KLEY: Yes, your Honor.

2 - - -

3 CROSS-EXAMINATION

4 By Mr. Van Kley:

5 Q. Good afternoon, Ms. Brunty. Let's go to  
6 page 2 of your testimony. I would like to refer you  
7 to answer 6 and answer 7. Can you tell me why these  
8 questions and answers were included in your  
9 testimony?

10 A. No. I don't know why.

11 Q. And the conditions that are referred to  
12 in the portion of the Staff Report do not deal with  
13 glare, right?

14 A. I don't know. I don't understand.

15 Q. Well, your testimony is about glare,  
16 right?

17 A. Right, yes.

18 Q. Okay. And did you review the Staff  
19 Report pages 48 to 55 and the certificate conditions  
20 recommended to find out whether they deal with glare?

21 A. I must have for me to have answered this,  
22 but I don't recall. It's been a long time.

23 Q. Okay. Would you go to Exhibit A of  
24 Applicant's Exhibit 2 which will be a preliminary  
25 site plan.

1 MS. SHEELY: That's the application, that  
2 binder. He is asking you to go to tab A.

3 THE WITNESS: To?

4 MS. SHEELY: Tab A.

5 THE WITNESS: Exhibit A?

6 MS. SHEELY: Yes.

7 A. Okay.

8 Q. (By Mr. Van Kley) All right. I would  
9 like to refer you to the map in Exhibit A. Can you  
10 tell me where on this map we would find the Ebenhack  
11 fruit and vegetable farm?

12 A. I don't know.

13 Q. Okay. Let's go then to Ebenhack Road on  
14 this map which is in the southwest corner of the map.

15 A. Okay.

16 Q. Do you see that?

17 A. Yes.

18 Q. Okay. And just to the east of the label  
19 for Ebenhack Road do you see a white rectangle and  
20 some other -- and some building depicted there?

21 A. Yes.

22 Q. Okay. Did you or anybody else for the  
23 Applicant evaluate the amount of glare, if any, from  
24 the solar project that will occur at the location  
25 that I pointed out east of Ebenhack Road?

1           A.    I don't believe so.  I would need to see  
2 my analysis map, but I believe everything I analyzed  
3 was houses.

4           Q.    Are you aware of a farm market that's  
5 operated by some of the Ebenhack family?

6           A.    No.

7           Q.    So you didn't do any glare analysis with  
8 respect to that market?

9           A.    No, not that I am aware of.

10          Q.    Did you do a model in order to calculate  
11 the expected amount of glare from the project?

12          A.    I used the ForgeSolar model.

13          Q.    Okay.  Now, when you ran that model to do  
14 your calculations for the expected amount of glare  
15 from the project, did you make any assumptions about  
16 the characteristics of the panels that may be  
17 pertinent to glare?

18          A.    The characteristics of the panels, the  
19 one thing that you need to enter into the program is  
20 if it's smooth glass, smooth glass with  
21 antireflective coating, smooth glass -- or lightly  
22 textured glass with antireflective coating or  
23 without, or deeply textured glass.  This one had  
24 smooth glass with antireflective coating and that's  
25 the only thing I entered.  That's the only thing you

1 can enter in this program.

2 Q. So when you ran your model, you assumed  
3 that the panels would have antireflective coating?

4 A. That's what -- the information I was  
5 given by the client.

6 Q. Okay. The answer to that is yes?

7 A. Yes.

8 MR. VAN KLEY: Okay. All right. Nothing  
9 further, your Honor.

10 ALJ ADDISON: Thank you, Mr. Van Kley.  
11 Mr. Chamberlain?

12 MR. CHAMBERLAIN: Nothing, your Honor.

13 ALJ ADDISON: Mr. Margard?

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

15 ALJ ADDISON: Any redirect?

16 MS. FLINT: Yes.

17 - - -

18 REDIRECT EXAMINATION

19 By Ms. Flint:

20 Q. The ForgeSolar program that you used for  
21 the modeling, does that program have you -- what does  
22 it have you analyze in terms of glare and who -- and  
23 what or where glare might occur?

24 A. It gives you the option to enter  
25 sensitive receptors that are called observation

1 points. It gives you the option to enter airplanes  
2 landing at airports which were analyzed within  
3 10 miles of the project, and it gives you the option  
4 of entering vehicles traveling down roadways using a  
5 route tool that's a continuous line along any  
6 roadway.

7 Q. Any other sensitive receptors?

8 A. You can add any -- helicopters in this  
9 case hovering 500 feet over the helipads, but you can  
10 add anything that you want to. It doesn't give you  
11 a -- come back with a blanket -- it doesn't tell you  
12 everywhere there is going to be glare. It tells you  
13 whether or not the points you enter will experience  
14 glare.

15 Q. Sorry. Does that include residences as a  
16 sensitive receptor?

17 A. Yes. That's the primary sensitive  
18 receptor that I use.

19 MS. FLINT: No further questions.

20 ALJ ADDISON: Thank you.

21 Mr. Dove?

22 MR. DOVE: No questions, your Honor.

23 ALJ ADDISON: Ms. Curtis?

24 MS. CURTIS: No questions, your Honor.

25 ALJ ADDISON: Mr. Van Kley?



1 MR. VAN KLEY: None.

2 ALJ ADDISON: Mr. Chamberlain?

3 MR. CHAMBERLAIN: None, your Honor.

4 ALJ ADDISON: Mr. Margard?

5 MR. MARGARD: No, thank you.

6 ALJ ADDISON: Thank you.

7 - - -

8 EXAMINATION

9 By ALJ Addison:

10 Q. And, Ms. Blank, you indicated in your  
11 testimony on page 2 that there were 38 residences  
12 analyzed using the model which were not predicted to  
13 experience glare from the project; is that correct?

14 A. Yes, that's correct.

15 ALJ ADDISON: Thank you. That's all I  
16 have. I certainly appreciate you changing your  
17 schedule to be here to testify today so thank you.

18 THE WITNESS: Thank you.

19 ALJ ADDISON: I believe Ms. Brunty's  
20 testimony has already been moved to be admitted. Any  
21 objections to the admission of Applicant Exhibit No.  
22 22 at this time?

23 MR. VAN KLEY: No, your Honor.

24 MR. CHAMBERLAIN: No.

25 ALJ ADDISON: Thank you.

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With that it will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ ADDISON: Let's go off the record.

(Discussion off the record.)

ALJ ADDISON: We will at this time go ahead and go back on the record.

That concludes the scheduled testimony for today including the unscheduled testimony of Ms. Brunty so we certainly appreciate that.

We will reconvene tomorrow at 9:30 starting with Mr. Bensen, Mr. Bensen's testimony, and I believe that's it unless we have anything the parties would like to raise at this time.

MS. SHEELY: No, thank you, your Honor.

ALJ ADDISON: Thank you.

We are adjourned.

(Thereupon, at 3:31 p.m., the hearing was adjourned.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Tuesday, February 28,  
2023, and carefully compared with my original  
stenographic notes.

\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7420)

- - -

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Summary: Transcript of Scioto Farms Solar Project, LLC hearing held on 02/28/23 -  
Volume II - Public electronically filed by Mr. Ken Spencer on behalf of Armstrong &  
Okey, Inc. and Gibson, Karen Sue Mrs..