

BEFORE THE OHIO POWER SITING BOARD

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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 9:32  
a.m. on Wednesday, March 1, 2023.

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VOLUME III-PUBLIC PORTION

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On behalf of the IBEW Local 575 and Ohio  
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Ohio Farm Bureau Federation  
By Ms. Leah Finney Curtis  
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On behalf of the Ohio Farm Bureau  
Federation.

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1 APPEARANCES: (Continued)

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5 and Mr. Werner L. Margard, III  
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9 On behalf of the Staff of the OPSB.

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1 Wednesday Morning Session,  
2 March 1, 2023.

3 - - -

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

6 Good morning, everyone. It's our third  
7 day of the evidentiary hearing scheduled for Case  
8 No. 21-868-EL-BGN captioned in the Matter of the  
9 Application of Scioto Farms Solar Project, LLC, for a  
10 Certificate of Environmental Compatibility and Public  
11 Need to Construct a Solar-Powered Electric Generation  
12 Facility in Pickaway County, Ohio.

13 Ms. Flint, I believe the Applicant is  
14 ready to call its next witness.

15 MS. FLINT: Yes, we are, your Honor. We  
16 call Thomas Bensen.

17 ALJ ADDISON: Welcome, Mr. Bensen.

18 MR. BENSEN: Thank you, your Honor.

19 ALJ ADDISON: Please raise your right  
20 hand.

21 (Witness sworn.)

22 ALJ ADDISON: Thank you. Please be  
23 seated.

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THOMAS A. BENSEN

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

DIRECT EXAMINATION

By Ms. Flint:

Q. Good morning, Mr. Bensen.

A. Good morning.

Q. If you could please state your full legal  
name and spell it for the record.

A. Thomas A. Bensen B-E-N-S-E-N.

Q. And who are you employed by?

A. Energy Safety Response Group.

Q. Mr. Bensen, you should have in front of  
you a document that's in that binder right in front  
of you marked Applicant Exhibit 30. If you take a  
look at that, let me know when you are ready.

A. I'm ready.

Q. Do you recognize Applicant Exhibit 30?

A. Yes, I do.

Q. Is that your prefilled testimony that was  
filed on January 30, 2023?

A. Yes, it is.

Q. If I were to ask you the same questions  
that are in Applicant Exhibit 30, would your answers  
be the same?

1           A.     Yes, they would.

2           MS. FLINT:   Your Honor, I move for  
3 admission of Applicant Exhibit 30, pending  
4 cross-examination, and I do tender Mr. Bensen for  
5 cross.

6           ALJ ADDISON:   Thank you.

7           Mr. Dove?

8           MR. DOVE:   No questions, your Honor.

9           ALJ ADDISON:   Ms. Curtis?

10          MS. CURTIS:   No questions, your Honor.

11          ALJ ADDISON:   Mr. Van Kley?

12          MR. VAN KLEY:   Ah, yes, your Honor.

13                         - - -

14                         CROSS-EXAMINATION

15          By Mr. Van Kley:

16                 Q.     Good morning, Mr. Bensen.

17                 A.     Good morning, sir.

18                 Q.     Let's go to page 4 of your testimony.

19                 And I would like to direct your attention to the  
20 sentence that starts on line 24 on that page.

21                 A.     Yes.

22                 Q.     That sentence states as follows:   "The  
23 appropriate response to a fire incident within the  
24 facility will be to manage the incident by utilizing  
25 the reach of the hose stream to contain the fire

1 incident while staying a safe distance away from  
2 electrical hazards." Did I read at that correctly?

3 A. Yes, sir.

4 Q. What -- what's meant by your use of the  
5 term manage as applied to managing the incident as  
6 stated in this sentence?

7 A. Yes, sir. So in the fire department  
8 terminology, a lot of times you'll hear the words or  
9 terminology of offensive or defensive attacks. So an  
10 offensive attack if we are talking about say a house  
11 fire would be to aggressively go into that structure,  
12 find the seed of the fire, and suppress the fire.  
13 Defensive attack would be to stay outside the house  
14 and let the fire do its thing.

15 So what we are talking about here is  
16 through the training that will be provided, public  
17 safety will enter the facility, be aware of the  
18 hazards that exist there, and they are going to  
19 utilize the water that they have on the trucks along  
20 with the reach, how far the hose stream will go to  
21 contain that fire to an area so they are not actively  
22 running up or going to the scene of that fire.

23 Q. So the responding fire department  
24 employees will let the fire burn itself out; is that  
25 what would happen?

1           A.    Yes, through training with the local  
2 first responders. Most of the time it's the  
3 vegetation, the brush that is the fire. So as we do  
4 typically in the fire service, how we are trained to  
5 do on any other vegetation or brush fire, we are  
6 going to set up a zone and say this is where the fire  
7 is going to burn, and we are going to contain it to  
8 that area or manage that fire to that area.

9           Q.    And that would result in the burning of  
10 some of the solar panels, at least some of them?

11          A.    The solar panels would be damaged by the  
12 fire, but the solar panels themselves are not a good  
13 fuel load.

14               ALJ ADDISON: And what do you mean by  
15 fuel load?

16               THE WITNESS: So when we talk about fuel  
17 loads, we look at wood, paper, combustibles like  
18 that, they will sustain a fire. Within the solar  
19 panels, there's not a lot of material that's going to  
20 sustain a flame for a period of time. It's not going  
21 to burn itself. The material that's going to burn on  
22 there is going to be mostly the plastics.

23               ALJ ADDISON: Thank you.

24          Q.    (By Mr. Van Kley) Have you ever  
25 personally fought a fire at a solar facility?

1           A.    No, sir.

2           Q.    Have you seen anybody else fight a fire  
3   at a solar facility?

4           A.    No, sir.

5           Q.    Have you ever seen a video of a fire at a  
6   solar facility?

7           A.    Yes, sir.

8           Q.    Okay.  How many of those videos have you  
9   seen?

10          A.    Not many of them.  You know, solar fires  
11   aren't something that occur on a regular basis, so  
12   it's not something where there's a lot of videos out  
13   there like a house fire or commercial fire or vehicle  
14   fire.

15          Q.    With respect to the videos that you have  
16   seen, can you describe the amount of damage you could  
17   see to the solar facility based on the videos?

18          A.    Yes.

19          Q.    Okay.  And could you describe that,  
20   please?

21          A.    Yes.  So -- so the videos that I have  
22   seen, like I stated previously, the arrays do have a  
23   little bit of fire damage to them.  The videos show  
24   basically the vegetation that is burning around the  
25   solar arrays.

1           Q.    Can you tell me for any of those videos  
2   how much acreage in the solar facility was burned?

3           A.    It is tough to say based on video, to  
4   give you an amount of acreage.  I can tell you the  
5   videos I have seen it has been well contained within  
6   the perimeter of the facility.

7           Q.    Uh-huh.  But you don't know how many  
8   acres of the facility were burned?

9           A.    No, sir.

10          Q.    Okay.  Would you go to page 5 of your  
11   testimony.  And I would like to refer you to answer 9  
12   on that page where you refer to a letter filed by the  
13   Pickaway County Fire Chiefs' Association.  Do you see  
14   that?

15          A.    Yes, sir.

16          Q.    Okay.  I put in front of you on the Bench  
17   there what's been previously marked and admitted as  
18   Ebenhack's Exhibit No. 9.  Can you tell me whether  
19   that's the letter that you referenced in answer 9 to  
20   your testimony?

21          A.    Could you state your question again,  
22   please?

23          Q.    Yes.  Is Ebenhack's Exhibit No. 9 the  
24   letter filed by the Pickaway County Fire Chiefs'  
25   Association you referred to in answer 9 of your

1 testimony?

2 A. Yes, sir.

3 Q. Okay. All right. Then let's go back to  
4 your testimony, page 5, question and answer 11, the  
5 question asks "After providing these responses, did  
6 the Pickaway County Fire Chiefs raise any additional  
7 concerns?" Do you see that?

8 A. Yes, sir.

9 Q. And your answer was "No," right?

10 A. Yes, sir.

11 Q. Did you receive any message from the fire  
12 chiefs stating that they did not have any concerns  
13 after you provided responses or after Scioto Farms  
14 Solar responded to the letter?

15 A. No, sir.

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: I have nothing, your  
22 Honor.

23 ALJ ADDISON: Mr. Margard?

24 MR. MARGARD: No questions. Thank you,  
25 your Honor.

1 ALJ ADDISON: Any redirect, Ms. Flint?

2 MS. FLINT: No.

3 ALJ ADDISON: I have no additional  
4 questions, Mr. Bensen. You are excused.

5 THE WITNESS: Thank you, your Honor.

6 ALJ ADDISON: Thank you very much for  
7 your testimony.

8 Ms. Flint, you had previously moved for  
9 the admission of Applicant Exhibit No. 30.

10 MS. FLINT: Yes, your Honor.

11 ALJ ADDISON: And only 30, correct?

12 MS. FLINT: Yes, your Honor, only 30.  
13 Hold on one second, your Honor.

14 ALJ ADDISON: Absolutely. I thought you  
15 might need a minute.

16 MS. FLINT: We have another exhibit.  
17 It's Exhibit 31.

18 ALJ ADDISON: Thank you, Ms. Flint. And  
19 is Exhibit -- Applicant Exhibit No. 31 that's been  
20 previously marked, is it the same exhibit noted as --  
21 that has been admitted into the record as Ebenhack  
22 Exhibit No. 9?

23 MS. FLINT: I don't believe so.

24 MS. SHEELY: It is not.

25 ALJ ADDISON: Thank you. So you have

1 moved Exhibits 30 and 31 into the record; is that  
2 correct, Ms. Flint?

3 MS. FLINT: Yes, your Honor.

4 ALJ ADDISON: Any objection to the  
5 admission of these exhibits into the record at this  
6 time?

7 MR. VAN KLEY: No, your Honor.

8 MR. CHAMBERLAIN: No.

9 ALJ ADDISON: Thank you all. Hearing  
10 none, they will be admitted.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 ALJ ADDISON: The Applicant may call its  
13 next witness.

14 MS. FLINT: Your Honor, we would call  
15 Adam Poll.

16 ALJ ADDISON: Welcome, Mr. Poll.

17 MR. POLL: Good morning.

18 ALJ ADDISON: Please raise your right  
19 hand.

20 (Witness sworn.)

21 ALJ ADDISON: Thank you. Please be  
22 seated.

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ADAM POLL

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

DIRECT EXAMINATION

By Ms. Flint:

Q. Good morning.

A. Good morning.

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

A. Adam Alexander Poll, P-O-L-L.

Q. And who are you employed by?

A. Dudek.

Q. How do you spell that?

A. D-U-D-E-K.

Q. And you should have in front of you it's  
going to have a tab Applicant Exhibit 28.

A. I do.

Q. Could you take a look at that and let me  
know when you are ready.

A. I'm ready.

Q. Do you recognize Applicant Exhibit 28?

A. I do.

Q. Is that your prefiled testimony filed on  
January 30, 2023?

A. Yes, it is.

1           Q.    If I were to ask you the same questions  
2 today that are in Applicant Exhibit 28, would your  
3 answers be the same?

4           A.    Yes, they would be.

5           MS. FLINT: Your Honor, I move for  
6 admission of Applicant Exhibit 28, pending  
7 cross-examination.

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 morning, Mr. Poll.

19          A.    Good morning.

20          Q.    Is it fair to say that in your testimony  
21 you opine that the solar facility being proposed in  
22 this case will have air quality benefits?

23          A.    Yes, sir.

24          Q.    That's pretty much the gist of your  
25 testimony, correct?

1           A.     That's correct.

2           Q.     Okay.  And do you believe that air  
3     emissions in one part of the world affect the air  
4     quality in the rest of the world?

5           A.     No, sir.  To clarify, there are air  
6     pollutants that are localized as well as regional  
7     pollutants.  Hazardous air pollutants are localized.  
8     Criteria air pollutants are regional.  Greenhouse gas  
9     emissions are worldwide.

10          Q.     Okay.  Let's talk about the greenhouse  
11     emissions then.  Is it your testimony that -- that  
12     this solar project will improve the air quality in  
13     the world with regard to greenhouse emissions?

14          A.     That is correct.

15          Q.     So air pollution in China or Africa, for  
16     example, would affect the quality of the air in the  
17     United States with regard to greenhouse gases?

18          A.     That is correct.

19          Q.     Okay.  Do you believe that deforestation  
20     affects greenhouse gases?

21          A.     That is not part of my testimony.

22          Q.     Well, do you have any expertise in that?

23          A.     In deforestation?

24          Q.     Yeah.  As to whether deforestation  
25     increases greenhouse gases?

1           A.    It does.

2           Q.    Can you identify the sources of the raw  
3 materials that will be used in the solar panels in  
4 this project?

5           A.    Some of the sources would be metals, rare  
6 earth metals, plastics. It could be wood used in  
7 certain parts of the construction.

8           Q.    Okay. And are those metals mined?

9           A.    Presumably, yes.

10          Q.    Okay. Do you know what part of the world  
11 the metals are mined that are used in solar panels?

12          A.    Specific to this project, no.

13          Q.    Do you know generally speaking where --  
14 where most of the metals used in solar panels are  
15 mined?

16          A.    That's a very broad question. You know,  
17 generally speaking to an industry, it's different for  
18 every manufacturer. And I don't know specific to  
19 this manufacturer where they are mined.

20          Q.    Well, you don't even know which  
21 manufacturer is going to provide panels for this  
22 project, do you?

23          A.    Not at this point.

24          Q.    Can you tell me whether the process of  
25 mining metals for the solar panels produces air

1 pollution?

2 MS. FLINT: Objection. This is beyond  
3 the scope of his testimony.

4 MR. VAN KLEY: Well, it's relevant. I  
5 mean, I've never heard any court ever -- ever limit  
6 the first cross-examination of a witness to the scope  
7 of their -- their own testimony. The question is  
8 whether it's relevant to the case. And it's  
9 certainly relevant to his opinion that this project  
10 is going to have a worldwide benefit for greenhouse  
11 emissions to determine whether it actually will by  
12 virtue of the materials used in the panels and  
13 whether they are going to have a negative effect on  
14 greenhouse emissions that will offset the benefit  
15 that he says the solar panels themselves will have,  
16 so it's directly relevant.

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

18 I will note that the entire reason for  
19 having prefiled testimony is to designate the scope  
20 of which a witness is sponsoring certain testimony.  
21 I tend to agree with Ms. Flint that this does exceed  
22 that scope.

23 I will allow this one question. We'll  
24 provide Mr. Poll an ample amount of latitude to  
25 answer this question, but I don't see how going down

1 this road will be very beneficial in the long run for  
2 this hearing.

3 So with that -- with that noted, and,  
4 Mr. Poll, I will advise you to pause after  
5 Mr. Van Kley's questions, provide your attorney an  
6 opportunity to object before you dive right in.

7 THE WITNESS: Thank you.

8 ALJ ADDISON: Yes. Absolutely.

9 A. Can you repeat the question, please?

10 Q. (By Mr. Van Kley) Yeah. I think the  
11 question was whether the process of mining metals to  
12 manufacture the solar panels will produce greenhouse  
13 gases.

14 A. Yes, it would.

15 MR. VAN KLEY: Your Honor, that's the end  
16 of my questions with regard to the metals. I would  
17 like to also inquire as to whether the manufacturing  
18 plant for the solar panels would also produce  
19 greenhouse gases.

20 ALJ ADDISON: Well, you can ask a  
21 question, and if there is an objection, we can take  
22 it up then.

23 MR. VAN KLEY: Okay. Thank you, your  
24 Honor.

25 Q. (By Mr. Van Kley) Mr. Poll, can you tell

1 me whether the manufacturing plants for solar panels  
2 that are -- are used in the solar industry produce  
3 greenhouse gases?

4 MS. FLINT: Objection.

5 ALJ ADDISON: Grounds?

6 MS. FLINT: Relevancy. I think Mr. Poll  
7 already testified that he does not know the  
8 manufacturer of these panels.

9 ALJ ADDISON: Ms. Flint raises a good  
10 point, Mr. Van Kley.

11 MR. VAN KLEY: Well, I think -- I think  
12 it is a good point, your Honor, but it kind of works  
13 against the Applicant which means that -- that --

14 ALJ ADDISON: No. I mean that he has  
15 already indicated he does not know the manufacturer  
16 of whatever panels the Applicant ultimately decides  
17 to use.

18 MR. VAN KLEY: Uh-huh, yeah, yeah. And I  
19 think my question is a little broader, your Honor,  
20 because I think -- I think the answer to my question  
21 is going to be the same regardless of which  
22 manufacturer it is because I think it's generally --  
23 generally true that any manufacturing plant for solar  
24 panels is going to produce greenhouse gases and  
25 that's -- that's essentially the question I am asking

1 him.

2 ALJ ADDISON: So you are asking him to  
3 agree with your testimony you just put on the record.

4 MR. VAN KLEY: Well, it's going to be a  
5 leading question for sure, your Honor.

6 ALJ ADDISON: Yes. I think we've dug  
7 ourselves a hole in that respect.

8 MS. FLINT: Just for the record I do want  
9 to object. I understand the ALJ is well aware the  
10 comments by counsel are not testimony or evidence  
11 which I think you just pointed out but that was a --  
12 that was basically --

13 ALJ ADDISON: Thank you.

14 MS. FLINT: -- testimony.

15 ALJ ADDISON: Thank you. And I would  
16 advise counsel to refrain from such comments, and  
17 certainly the Board is well aware of what constitutes  
18 the evidentiary record in this case and what does not  
19 so.

20 With that being said, I will allow  
21 Mr. Poll to answer this one last question. I do feel  
22 that we are deviating a little bit from his prefiled  
23 testimony, so I would like to revert back to that  
24 after he provides his answer to this question.

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

1 Honor.

2 ALJ ADDISON: Yes.

3 Q. (By Mr. Van Kley) Let me rephrase the  
4 question just to make sure I have it right then.  
5 Mr. Poll, isn't it true that the manufacturing  
6 process for solar panels produces greenhouse  
7 emissions?

8 A. I would say it would be speculative to  
9 consider without knowing the specific manufacturing  
10 plant that it is coming from to say whether or not  
11 there are greenhouse gas emissions. However, there  
12 is potential for greenhouse gas emissions generated  
13 during the manufacturing process.

14 MR. VAN KLEY: I have nothing further,  
15 your Honor.

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

18 Mr. Chamberlain?

19 MR. CHAMBERLAIN: Nothing, your Honor.  
20 Thank you.

21 ALJ ADDISON: Mr. Margard?

22 MR. MARGARD: No questions, thank you,  
23 your Honor.

24 ALJ ADDISON: Ms. Flint, any redirect?

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

1 ALJ ADDISON: Excellent. I have no  
2 additional questions, Mr. Poll. You are excused.

3 THE WITNESS: Thank you.

4 ALJ ADDISON: Thank you very much.

5 Ms. Flint previously moved Applicant  
6 Exhibit No. 28 for admission into the record. Are  
7 there any objections at this time?

8 MR. VAN KLEY: No, your Honor.

9 MR. CHAMBERLAIN: No.

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

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 ALJ ADDISON: The Applicant may call its  
14 next witness.

15 MS. FLINT: Applicant calls Rohit Pant.

16 ALJ ADDISON: Welcome, Mr. Pant. Please  
17 raise your right hand.

18 (Witness sworn.)

19 ALJ ADDISON: Thank you. Please be  
20 seated.

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ROHIT PLANT, PE

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

DIRECT EXAMINATION

By Ms. Flint:

Q. Good morning, Dr. Pant. Could you please  
state your full legal name and spell it for the  
record, please.

A. It's Rohit R. Pant, R-O-H-I-T, last name  
P-A-N-T.

Q. And who are you employed by, Dr. Pant?

A. I'm employed by RRC Power & Energy, LLC.

Q. In front of you you should have a binder.  
If you could take a look at Applicant Exhibit 19.

A. 19.

Q. 19.

A. Yes.

Q. Yes. Do you recognize Exhibit 19?

A. Yes, I do.

Q. Is that your prefiled testimony that was  
filed on January 30, 2023?

A. Yes.

Q. If I were to ask you the same questions  
today that are in Applicant Exhibit 19, your prefiled  
testimony, would the answers be the same?

1           A.    Yes.

2           Q.    And then if you could take a look at  
3 another binder, it should be Volume II.  It's up on  
4 the -- it's not in that binder.  Volume II.  It might  
5 be to your left.

6                   ALJ ADDISON:  You may approach the  
7 witness if you need to.  There is quite a bit up  
8 there.

9           Q.    (By Ms. Flint) Go to the Exhibit 20.

10          A.    Yes.

11          Q.    Would you take a look at that.  Let me  
12 know when you are ready.

13          A.    Sure.

14          Q.    Okay.  What is Exhibit 20?

15          A.    It's the geotechnical report for Scioto  
16 solar project prepared by RRC.

17          Q.    That's your employer?

18          A.    Yes, that is my employer.

19          Q.    And is that -- Exhibit 20, is that the  
20 report that you are sponsoring?

21          A.    Yes, I am.

22          Q.    And is Exhibit 20 a true and correct copy  
23 of that geotech report?

24          A.    Yes, it is.

25                   MS. FLINT:  Your Honor, I move for the

1 admission of Applicant Exhibits 19 and 20 pending  
2 cross-examination, and I tender Dr. Pant for cross.

3 ALJ ADDISON: Thank you. And, Dr. Pant,  
4 if you wouldn't mind just speaking a little louder  
5 with your responses, I am having a hard time hearing.  
6 Thank you very much.

7 THE WITNESS: Yes.

8 ALJ ADDISON: Thank you.

9 Mr. Dove, any questions?

10 MR. DOVE: No questions, your Honor.

11 Thank you.

12 ALJ ADDISON: Ms. Curtis?

13 MS. CURTIS: No questions, your Honor.

14 ALJ ADDISON: Mr. Van Kley?

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

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Van Kley:

19 Q. Would you go to page 3 of your testimony.

20 A. Sure.

21 Q. All right. I would like to direct your  
22 attention to answer 8 on that page. In lines 3 and  
23 4, it's stated "RRC recommends that an adequate  
24 program of geotechnical text -- tests and  
25 consultation be provided by a licensed geotechnical

1 engineer during construction." Do you see that?

2 A. Yes.

3 Q. What kind of geotechnical tests and  
4 consultation do you recommend?

5 A. Those are outlined in our geotechnical  
6 report but primarily those consist of performing  
7 institute testing, for example, when the excavation  
8 is open for the foundation, it has to be observed.  
9 You perform the density test and, for example, some  
10 kind of SPT or CPT to verify the material's stable.  
11 It is a routine procedure on any of the construction  
12 projects.

13 Q. Is the purpose of that testing to  
14 determine whether the soils will essentially hold up  
15 to structures that are going to be placed on them?

16 A. Yes. To verify, yes.

17 Q. And looking down into line 7 of your  
18 testimony on page 3, it is stated that a licensed  
19 geotechnical engineer can provide recommendations for  
20 design changes. Do you see that?

21 A. Yes.

22 Q. Okay. What kind of design changes are  
23 you envisioning may be recommended?

24 A. So as I mentioned, when -- during the  
25 construction if any of the subgrade conditions differ

1 than those in the geotechnical report, the on-site  
2 technicians or the geotechnical engineer may, for  
3 example, work to eliminate those conditions or  
4 alternate the structure type but most commonly the  
5 process is to say, for example, change the embedment  
6 depths or to mitigate the soils.

7 MR. VAN KLEY: All right. I have nothing  
8 further, your Honor.

9 ALJ ADDISON: Thank you very much,  
10 Mr. Van Kley.

11 Mr. Chamberlain?

12 MR. CHAMBERLAIN: Nothing, your Honor.

13 ALJ ADDISON: Mr. Margard?

14 MR. MARGARD: No, thank you.

15 ALJ ADDISON: Ms. Flint, any redirect?

16 MS. FLINT: No, thank you, your Honor.

17 ALJ ADDISON: Thank you. I have no  
18 additional questions, Dr. Pant. Thank you very much  
19 for your time.

20 THE WITNESS: You are welcome. Thank  
21 you.

22 ALJ ADDISON: Ms. Flint had previously  
23 moved for admission of Applicant's Exhibit Nos. 19  
24 and 20. Are there any objections to the admission of  
25 those exhibits at this time?

1 MR. CHAMBERLAIN: No.

2 MR. VAN KLEY: No, your Honor.

3 ALJ ADDISON: Thank you.

4 Hearing none, they will be admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 ALJ ADDISON: The Applicant may call its  
7 next witness.

8 MS. FLINT: If you could give me just a  
9 minute.

10 ALJ ADDISON: Absolutely.

11 Let's go off the record.

12 (Discussion off the record.)

13 ALJ ADDISON: We'll go back on the  
14 record.

15 Ms. Flint.

16 MS. FLINT: The Applicant would call Anne  
17 Lee.

18 ALJ ADDISON: Welcome, Ms. Lee.

19 (Witness sworn.)

20 ALJ ADDISON: Thank you. Please be  
21 seated.

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ANNE LEE

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

DIRECT EXAMINATION

By Ms. Flint:

Q. Ms. Lee, could you state your full name  
and spell it, please.

A. Anne Beatrice Lee, L-E-E.

Q. How do you spell Anne?

A. A-N-N-E.

Q. I'm an Ann too but no E, middle name.  
Who are you currently employed by?

A. I am currently employed by Stantec  
Consulting Services.

Q. Prior to Stantec, who were you employed  
by?

A. Prior to Stantec I was employed by  
Commonwealth Heritage Group.

Q. And it was when you were employed by  
Commonwealth that you were involved with the previous  
history, ar -- archaeology studies --

A. Yes.

Q. -- and reports --

A. Yes.

Q. -- for the Scioto Farms Project?

1           A.    Yes.

2           Q.    Okay.  We are going to go through some  
3   exhibits so lots of binders in front of you.  First,  
4   if you could -- I am not sure which binder it is, but  
5   it would have a tab of Applicant Exhibit 14.  It  
6   might be the one -- yeah.

7                   ALJ ADDISON:  Again, you can approach the  
8   witness.

9           Q.    (By Ms. Flint) It's probably not there in  
10   that one.

11          A.    Yeah.  Exhibit 14, right?  Yes.

12          Q.    I was wrong.

13          A.    There it is.

14          Q.    If you could take a look at Applicant  
15   Exhibit 14 and let me know when you are ready.  Okay.  
16   Do you recognize Applicant Exhibit 14?

17          A.    I do.

18          Q.    And is that your prefiled testimony that  
19   was filed on January 30, 2023?

20          A.    Yes.

21          Q.    And if I were to ask you the same  
22   questions that are in Applicant Exhibit 14 today,  
23   would your answers be the same?

24          A.    Yes.

25          Q.    I would also like you to find Exhibit 15.

1                   That was easy.

2           A.     Exhibit 3, tab 11.

3           Q.     Pardon me?

4           A.     It says "For a copy of this document, see  
5 Exhibit 3, tab 11."

6           Q.     Okay.

7                   MS. SHEELY:  It's Exhibit 3 and it's  
8 going to be like tab K.  Exhibit 3 will be in the  
9 first binder.  That's the application.  Do you want  
10 help?

11                   ALJ ADDISON:  Please.

12                   MS. SHEELY:  Can I approach?

13                   ALJ ADDISON:  Please.

14                   MS. SHEELY:  The binder wrangler.  What  
15 am I looking for?

16                   ALJ ADDISON:  It's tab 10.

17                   MS. SHEELY:  Data Requests?

18                   MS. FLINT:  Yes.

19           Q.     (By Ms. Flint) Do you have Exhibit --

20                   ALJ ADDISON:  Let's go off the record.  
21 (Discussion off the record.)

22                   ALJ ADDISON:  Let's go back on the  
23 record.

24                   Ms. Flint.

25           Q.     (By Ms. Flint) Do you have in front of

1 you Exhibit 15 which is the Phase 1 archaeology  
2 survey?

3 A. Yes. There are two separate reports  
4 here.

5 Q. Which reports?

6 A. There is the interim report dated  
7 January 25, 2022, and there is the final report dated  
8 August 5, 2022.

9 Q. Okay. The interim report would be  
10 Exhibit 15. The final is Exhibit 16, the updated  
11 final Phase 1 archaeology survey. Okay. And are  
12 those -- those appear to be true and accurate copies  
13 of those reports.

14 A. Yes.

15 Q. They're big. All right. So that was  
16 Exhibit 15 and Exhibit 16.

17 Okay. This should be the tab Exhibit 17.  
18 You are getting an arm exercise today. Have you  
19 looked at Exhibit 17?

20 A. Yes.

21 Q. And is that Exhibit 17 the SHPO  
22 concurrence on the Phase 1 archaeology survey report?

23 A. Yes.

24 Q. Is that a true and accurate copy of that  
25 SHPO concurrence?

1           A.    Yes.

2           Q.    One more, Exhibit 17 -- I'm sorry, 18,  
3   which hopefully is located --

4           A.    Right behind it.

5           Q.    -- right behind it in numerical order.  
6   All right. Do you recognize Exhibit 18?

7           A.    Yes.

8           Q.    What is Exhibit 18?

9           A.    That is the Memorandum of Understanding  
10   between the State Historic Preservation Office and  
11   the Applicant.

12          Q.    And is that a true and accurate copy  
13   of -- of the MOU between SHPO and the Applicant?

14          A.    Yes.

15                MS. FLINT: Your Honor, I move for the  
16   admission of Applicant Exhibits 14, 15, 16, 17, and  
17   18 pending cross-examination; and I tender Ms. Lee  
18   for cross.

19                ALJ ADDISON: Thank you very much.

20                Mr. Dove?

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 morning.

A. Good morning.

Q. Could you go to page 5 of your testimony, please.

A. All right.

Q. All right. Let's go to the bottom of page 5, answer 12.

A. Uh-huh.

Q. And to provide context for the rest of this answer, the introduction to your answer states that "Two historically significant history/architecture resources will have their viewshed impacted by the Project. The resources impacted are." Did I read that correctly?

A. Yes.

Q. Okay. And so then we go over to page 6 of your testimony, and you've listed two cultural or architectural resources there, right?

A. Yes.

Q. Okay. The first one is found at 27960 State Route 104, correct?

A. Correct.

Q. Could you describe that resource.

1           A.     That is a two-room brick schoolhouse that  
2     has been converted to a residence.

3           Q.     Okay. And can you tell me when that  
4     house was built?

5           A.     It's late 1800s.

6           Q.     And then a second resource that you've  
7     listed there is at 2995 Dungan Road/Township Highway  
8     104, correct?

9           A.     Yes.

10          Q.     And what's the nature of that resource?

11          A.     That resource is a -- what they call a  
12     double pen framed structure with a brick foundation,  
13     also a residence.

14          Q.     Okay. And can you tell me when that was  
15     built?

16          A.     It's also late 1800s, early 1900s.

17          Q.     Then under your listing for those two  
18     resources, you stated on lines 5, 6, and 7 that  
19     "Impacts to the viewshed of these two resources will  
20     be mitigated through vegetative screening as  
21     memorialized in the MOU, which, as of the date of  
22     this written testimony, is under review by SHPO." Do  
23     you see that?

24          A.     Yes.

25          Q.     Okay. Now, has -- has that vegetative

1 screening at this point in time been approved or  
2 disapproved by SHPO?

3 A. It is in the MOU which is one of the  
4 exhibits, and it has been executed.

5 Q. Well, what are you referring to in your  
6 testimony where you say that as of the date of this  
7 written testimony, something is under review by SHPO?

8 A. That it was still being looked at and  
9 that is an error. It should have been revised to say  
10 it was completed.

11 Q. The review by SHPO has been completed?

12 A. Yes. And the MOU is signed and executed.

13 Q. Okay. Let's go to answer 15 on page 6 of  
14 your testimony. Referring to lines -- or line 26,  
15 you refer to site 33P110. Do you see that?

16 A. Yes. It's actually 33PI10.

17 Q. Okay. And that's a prehistoric earthwork  
18 known as the Kreisel-Simkins Fort?

19 A. Correct.

20 Q. Is that located inside the project area  
21 for this project?

22 A. Possibly.

23 Q. Why don't you know for sure?

24 A. Because we have not verified its location  
25 and the mapping is notoriously inaccurate. It's

1 based on very old mapping.

2 Q. So at this point you don't know exactly  
3 where that fort is located?

4 A. I do not.

5 ALJ ADDISON: Would that be verified  
6 prior to construction?

7 THE WITNESS: Yes. It is part of the MOU  
8 that additional testing would take place to attempt  
9 to locate it.

10 ALJ ADDISON: Attempt to locate it.

11 THE WITNESS: Depending on what the  
12 testing shows, yes.

13 Q. (By Mr. Van Kley) That testing hasn't  
14 been done as of this point in time?

15 A. No, it has not.

16 Q. In line 27 on page 6 of your testimony,  
17 you refer to site 33PI22; is that correct?

18 A. Yes.

19 Q. And that's a prehistoric mound also known  
20 as the Ward H. Peck Mound?

21 A. Correct.

22 Q. And what is the nature of that resource?

23 A. It is a low earthen mound. We do not  
24 have direct data suggesting that there are human  
25 remains inside it but there could be. Others of this

1 type have them.

2 Q. And is that mound located inside the  
3 project area?

4 A. It is. It is in a wooded lot in the  
5 southeast.

6 Q. Can you tell me what the purpose of the  
7 use for the prehistoric earthwork known as the  
8 Kreisel-Simkins Fort was at the time it was being  
9 used?

10 A. Presumably it was ceremonial in nature.

11 Q. Other than what you have described in  
12 your answers to my questions, are there any other  
13 cultural, architectural, or historical tasks that  
14 SHPO has requested that have not yet been performed?

15 A. Not that I am aware of.

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

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

19 MR. WARNOCK: Mr. Chamberlain?

20 MR. CHAMBERLAIN: No, thank you, your  
21 Honor.

22 ALJ ADDISON: Mr. Margard?

23 MR. MARGARD: No questions. Thank you.

24 ALJ ADDISON: Any redirect, Ms. Flint?

25 MS. FLINT: Yes, your Honor.

1 ALJ ADDISON: Please proceed.

2 - - -

3 REDIRECT EXAMINATION

4 By Ms. Flint:

5 Q. Mr. Van Kley asked you several questions  
6 about -- make sure I get the name, it's 33PI10.

7 A. Yes.

8 Q. It goes by different names but Kreisel,  
9 Kreisel, if I am saying that correctly, Simkins Fort,  
10 correct?

11 A. Correct.

12 Q. And would it be accurate to say that it  
13 is actually unknown if that resource or that fort as  
14 we are calling it actually exists?

15 MR. VAN KLEY: Objection, your Honor,  
16 leading the witness.

17 ALJ ADDISON: Rephrase your question.

18 Q. (By Ms. Flint) Do you know if that fort,  
19 in fact, exists?

20 A. No.

21 Q. Why has it been identified or how was it  
22 identified?

23 A. It was identified by early settlers as an  
24 earthen embankment feature, landscape feature, and  
25 recorded by early antiquarians reporting on its

1 presence.

2 Q. If you could take a look at Exhibit 18  
3 which is the MOU between the Applicant and SHPO on  
4 the first page of the MOU. It's the fifth WHEREAS.

5 A. Yes.

6 Q. I'll just read it. "WHEREAS, subsurface  
7 remnants of site 33PI10 (the Kreisel-Simkins Fort, a  
8 precontact Middle Woodland earthwork) may be present  
9 in the project footprint." Did I read that  
10 correctly?

11 A. Yes.

12 Q. And so that coincides with what you just  
13 testified to that you don't -- that you do not know  
14 that it exists there.

15 A. I have no proof that it exists there.

16 Q. Okay. And SHPO has recognized that as  
17 well in this MOU?

18 A. Correct.

19 Q. In your -- meaning Commonwealth's final  
20 phase 1 archaeological survey, did you recommend that  
21 a geophysical survey be performed to confirm if the  
22 Evans Fort exists in the project area?

23 A. We did recommend a geophysical survey be  
24 conducted, yes.

25 Q. And back to the MOU, if you could go -- I

1 don't think the MOU has page numbers, but it would be  
2 Section II at the top. It says "STIPULATIONS." And  
3 then under Subsection B1, if you could take a look at  
4 that. Would I be correct that in Section II B1 of  
5 the MOU that prior to construction a geophysical  
6 survey of the portion of the site 33PI10 will be  
7 completed?

8 A. Yes.

9 Q. And in terms of does Section II B1 also  
10 indicate that a work plan for that geophysical survey  
11 will be submitted to SHPO for review and comment?

12 A. Yes.

13 Q. Does that mean that SHPO will be looking  
14 at the work plan for that survey and providing  
15 feedback?

16 A. Yes.

17 Q. And does that section of the MOU also  
18 require the Applicant to provide the results of that  
19 geophysical survey to enter a report submitted to  
20 SHPO?

21 A. Yes.

22 Q. Do you know if the MOU with SHPO also  
23 addresses what, if anything, the Applicant must do if  
24 that earthwork is found?

25 A. I do not see that here. Could you direct

1 me to it?

2 Q. Yes. Actually again no page numbers.  
3 This would be in -- in an exhibit. It's Exhibit B to  
4 the MOU. I'm sorry again because there is no page  
5 numbers.

6 A. A.

7 Q. Okay.

8 A. Yes, mitigation is in Exhibit B to the  
9 MOU.

10 Q. Okay. And what -- under the MOU what is  
11 the Applicant required to do if that earthwork is  
12 actually located within the project area?

13 A. If there is evidence of the earthwork,  
14 then the fence line will be moved during construction  
15 and operation to protect it. The protective fencing  
16 is 50 feet from the edge of the earthwork remnants,  
17 and it will be installed to prevent inadvertent  
18 damage during construction and operation.

19 Q. If you could turn to your testimony page  
20 3.

21 ALJ ADDISON: I like how you almost look  
22 apologetic when you ask.

23 Q. (By Ms. Flint) Page 3, question 7, and  
24 your answer addresses condition 39. If you can take  
25 a look at that just to refresh your memory and in

1 particular the MOU.

2 A. Correct. I see that.

3 Q. So condition 39, this proposed condition  
4 from Staff requires that an MOU be finalized with  
5 SHPO; is that correct?

6 A. Correct.

7 Q. And that MOU has, in fact, been  
8 finalized?

9 A. Yes. It was executed October 7, 2022.

10 Q. Okay. That's what we just went over with  
11 Exhibit 17, the MOU. And does the MOU also address  
12 mitigation to view -- viewsheds of the two residences  
13 that you and Mr. Van Kley were discussing earlier, I  
14 think you said it's a schoolhouse, now a residence,  
15 and then a brick facade residence?

16 A. Yes, it does.

17 MS. FLINT: Okay. I have no further  
18 questions.

19 ALJ ADDISON: Thank you.

20 Mr. Dove?

21 MR. DOVE: No questions, your Honor.

22 Thank you.

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, a few.

2 - - -

3 RECROSS-EXAMINATION

4 By Mr. Van Kley:

5 Q. So I take it then from your responses to  
6 counsel's questions that the geophysical survey  
7 you've described has not been performed, correct?

8 A. It has not.

9 Q. At this point in time, has the Applicant  
10 done anything to try to locate that fort, if it  
11 actually exists?

12 A. Not that I'm aware of.

13 MR. VAN KLEY: I have nothing further,  
14 your Honor.

15 ALJ ADDISON: Thank you.

16 And just so the record is clear, in  
17 response to Mr. Van Kley's question, the fort that he  
18 was referring to is the Kreisel-Simkins Fort; is that  
19 correct?

20 THE WITNESS: Yes, 33PI10.

21 ALJ ADDISON: Thank you.

22 Mr. Chamberlain?

23 MR. CHAMBERLAIN: Nothing, your Honor.

24 ALJ ADDISON: Mr. Margard?

25 MR. MARGARD: No, thank you.

1           ALJ ADDISON: I don't believe I have any  
2 additional questions. You are excused. Thank you  
3 very much for your testimony.

4           I'm a little offended with how quickly  
5 she left the room.

6           MS. FLINT: I know. I am too.

7           ALJ ADDISON: I didn't think it was that  
8 bad.

9           All right. Ms. Flint had previously  
10 moved for the admission of Applicant's Exhibit  
11 Nos. 14, 15, 16, and 17, and 18 as well, correct,  
12 Ms. Flint?

13          MS. FLINT: Yes.

14          ALJ ADDISON: Thank you.

15          Any objection to the admission of those  
16 exhibits at this time?

17          MR. VAN KLEY: No.

18          MR. CHAMBERLAIN: No.

19          ALJ ADDISON: Thank you.

20          Then we will admit Applicant Exhibit  
21 Nos. 14, 15, 16, 17, and 18 into the record.

22          (EXHIBITS ADMITTED INTO EVIDENCE.)

23          MS. FLINT: Thank you, your Honor.

24          ALJ ADDISON: Let's go off the record for  
25 a moment.

1 (Discussion off the record.)

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

4 The Applicant may call its next witness,  
5 I believe it's last witness.

6 MS. SHEELY: It is, yes. We would like  
7 to call Dr. Tao Yang, please.

8 ALJ ADDISON: Welcome, Doctor. It's  
9 Yang?

10 DR. YANG: Yes, your Honor, correct.

11 ALJ ADDISON: Thank you. Please raise  
12 your right hand.

13 (Witness sworn.)

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

16 - - -

17 TAO YANG, PhD

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

20 DIRECT EXAMINATION

21 By Ms. Sheely:

22 Q. Good morning, Dr. Yang.

23 A. Good morning.

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

1           A.    Yes.  My name is Tao Yang spelled as T in  
2 Tom, A in apple, O in orange, Yang, Y-A-N-G.

3           Q.    Who is your employer?

4           A.    Currently I am employed by GridBright,  
5 LLC.

6           Q.    What is your title?

7           A.    My title currently is Senior Principal  
8 Engineer.

9           Q.    Could you open -- actually I opened it  
10 for you -- the binder to Exhibit 27, please.

11          A.    Yes.

12          Q.    Do you recognize Exhibit 27 to be your  
13 prefiled direct testimony in this proceeding which  
14 was filed on January 30, 2023?

15          A.    Yes, it is.

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

19          A.    Yes, it is.

20               MS. SHEELY:  Okay.  So I would like to  
21 move for the admission of Exhibit 27, subject to  
22 cross-examination, and tender the witness for cross.

23               ALJ ADDISON:  Thank you, Ms. Sheely.

24               And just so the record is clear, while  
25 Dr. Yang's testimony was initially filed on January

1 3, 2023, that upon learning that there was an  
2 inadvertent confidential document included in that  
3 testimony, it was at my direction that that testimony  
4 be removed from the public docket and refiled. And  
5 do you have the date on which it was refiled,  
6 Ms. Sheely?

7 MS. SHEELY: I believe it was filed  
8 yesterday.

9 ALJ ADDISON: And just so the record is  
10 clear, obviously there's been no change in the  
11 testimony other than taking out that confidential  
12 document; and as such, it will be considered timely.

13 MS. SHEELY: That's correct. Nothing has  
14 changed.

15 ALJ ADDISON: Thank you very much,  
16 Ms. Sheely.

17 Mr. Dove, any questions?

18 MR. DOVE: No questions, your Honor.

19 ALJ ADDISON: Ms. Curtis?

20 MS. CURTIS: No questions, your Honor.

21 ALJ ADDISON: Mr. Van Kley?

22 MR. VAN KLEY: Yes, your Honor. Thank  
23 you.

24 - - -

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Let's go to page 7 of your testimony, please.

A. Yes.

Q. And I would like to direct your attention to answer 17 on that page.

A. Okay.

Q. Now, you have defined what you've called the local grid in that answer, correct?

A. Yes, yes.

Q. Currently is all of the electricity provided to the local grid produced inside of the local grid?

A. Can you repeat your question, please? If you can.

Q. Sure. Is all of the electricity used by the local grid as you've described it in your answer produced inside of the local grid?

A. The answer is no.

Q. No?

A. No.

Q. Okay. Where does that electricity currently come from?

A. So, first of all, according to our

1 answer, there is literally no generator within the  
2 load pocket or local grid as we described here. To  
3 answer your question where the power comes from, we  
4 did not specifically do an analysis to determine  
5 which specific generator it comes from, as we might  
6 know that the power transmission system's job is to  
7 deliver generation from everywhere I would say  
8 available to anywhere which might be used.

9 That's the general concept of the  
10 transmission system so it's not a regional system.  
11 So to answer your question strictly, I would state  
12 that any nearby generation from the 345 kV system  
13 injection would be able to supply the power within  
14 the local power grid.

15 Regarding where exactly it comes from, it  
16 depends on operating scenarios which generators will  
17 be dispatched in the nearby system or which  
18 transmission system would be available to deliver  
19 power from the site to the load grid.

20 According to the study as assumption we  
21 used originally, we assumed the system is intact  
22 which means that there is no transmission outage.  
23 However, the base dispatch of the existing generator  
24 follows the PJM capacity market. So any generator  
25 who has capacity injection rights would contribute to

1 supplying power to the local grid. But again, you  
2 know, I don't know which exact generator is that.

3 Q. Okay. In answer 17 on page 7 of your  
4 testimony, you've listed a number of what you  
5 referred to as transmission elements.

6 A. Yes.

7 Q. Okay. And those are the five  
8 transmission elements that are in the bullet points  
9 in that answer, correct?

10 A. Correct.

11 Q. As used in this answer, does your  
12 reference to transmission elements mean a  
13 transmission line or a transformer of some sort?

14 A. Can you repeat that question, please?

15 Q. Yeah. Sure. I'm just trying to figure  
16 out what the term transmission elements means. Maybe  
17 you can define that.

18 A. I see. I see. Thank you very much.  
19 Yes, I can answer that question. So transmission  
20 elements or transmission equipment usually refers to  
21 the transmission line including 138 kV levels, 345 kV  
22 levels, and 765 kV levels in the transmission system  
23 and transformers connect even the voltages together,  
24 they are referred as passive transmission circuits to  
25 construct the backbone of the transmission system.

1 We do not consider injection transmission systems  
2 such as capacitor banks to support the reactive power  
3 but only consider the transmission system to deliver  
4 power from one point to another as part of the  
5 interface definition.

6 Q. Looking at the attachment to your  
7 testimony which appears to be labeled as Exhibit C;  
8 is that correct? It's not clear in my copy.

9 A. Are you talking about the map or --

10 Q. The map of the local grid.

11 A. That's confidential contents.

12 Q. It's what?

13 A. It's confidential contents.

14 Q. It's confidential?

15 A. Yeah. That is the reason Sommer needs to  
16 file it in a confidential matter so just FYI.

17 Q. Okay. Let's go to page 10 of your  
18 testimony, answer 22.

19 A. Page 10, 22, okay.

20 Q. And I would like to refer you to the  
21 sentence that starts at line 12.

22 A. Okay.

23 Q. And the first part of the sentence states  
24 "If the Biers Run 345/138 kV transformer, Beatty  
25 substation, and Bixby - Marion 138 kV line were to be

1 out of service, then the southern part of the City of  
2 Columbus and City of Circleville would be in a load  
3 pocket that would be subject, to grid  
4 operator-initiated load shedding." Did I read that  
5 correctly?

6 A. Yes, you did.

7 Q. Now, are you stating in this sentence  
8 that the load shedding would occur only if all three  
9 of those transmission elements were out of service?

10 A. May I beg your pardon to rephrase that  
11 question again?

12 Q. I'm sorry. What did you say?

13 A. May I -- may I hear the question again?

14 Q. Sure, sure. All right. All right. The  
15 sentence that I just read to you refers to the Biers  
16 Run 345/138 kV transformer, the Beatty substation,  
17 and the Bixby - Marion 138 kV line. Do you see that?

18 A. Yes, I see that.

19 Q. Do all three of those elements have to be  
20 out of service in order to produce a situation where  
21 the City of -- the southern part of Columbus and the  
22 City of Circleville would be in a load pocket that  
23 would be subject to grid operator-initiated load  
24 shedding?

25 A. The answer to the question is no, and the

1 reason behind it is because that's just one example  
 2 of having load shedding. There are -- there are  
 3 quite a few other situations as we review in the  
 4 study report that can cause load shedding. The  
 5 example show up over here just to show the coherence  
 6 between the study report reviewed and what has really  
 7 happened back in June 2022 that the load shedding has  
 8 happened with certain line outages nearby caused by  
 9 the storm.

10 So to clarify more, the answer if -- if  
 11 the question is if those three elements are taken out  
 12 of service, will there be any chance for load  
 13 shedding, the answer is yes but that's not the only  
 14 scenario that the load shedding will happen.

15 Q. Yeah. Okay. So going back to my  
 16 question then, maybe I just need to rephrase it a  
 17 little bit, referring specifically to the  
 18 one incident of load shedding involving the southern  
 19 part of the City of Columbus that you've referred to  
 20 in your testimony, were all three of these elements  
 21 that I've -- that are in your sentence out of service  
 22 in that incident?

23 A. In the June 2022?

24 Q. Yes.

25 A. The answer is no. As a matter of fact,

1 Biers Run, or Biers Run by the way, I hope I am  
 2 pronouncing it correctly, Biers Run, right? So Biers  
 3 Run transformer was not taken out of service and the  
 4 Bixby - LSII to Marion Road which was taken out of  
 5 service during the event of June 2022, so it's not  
 6 exactly overlapping between the operational scenario  
 7 with blackouts that happened last year that the study  
 8 revealed over there, but some circuits have overlaps.

9 Q. In that particular incident, did the  
 10 removal from service of some of these elements result  
 11 in the ability to get electricity into the area of  
 12 southern Columbus from any particular generation  
 13 source?

14 A. The answer to that question is no. If  
 15 you don't mind, I would like to rephrase what I  
 16 answered for the previous question you asked. So in  
 17 the transmission grid because it's a meshed grid,  
 18 there is no -- usually there is no direct connection  
 19 between a particular generator to a particular load.  
 20 So you can only say -- you can't -- sorry. The  
 21 system can only say that the load that gets served  
 22 will be limited by certain transmission circuits.  
 23 But usually it won't say that it will be limited by  
 24 the transmission circuits to some particular  
 25 generators as the transmission grid is very meshed,

1 and the power or the electrons can go from anywhere,  
2 from any generator to the load.

3 So the rule of thumb is that it will cut  
4 off the direct power supply from the north parts. As  
5 you can see, these transmission lines are close to  
6 the Columbus Southern, Columbus Metro, so probably  
7 for the north parts the generators may not be that  
8 easy to deal with power but still they can find a  
9 path somewhere else. And because you lose the direct  
10 connection and you have deliveries from a very long  
11 path, that's the risk or that's the potential that  
12 you have -- you have to drop load because the re --  
13 like redirect routing of the transmission system, you  
14 would add additional burden to the power transferred  
15 to serve the local load.

16 Q. So there's not just one route by which  
17 electricity gets into what you refer to as the local  
18 grid, right?

19 A. You are correct. That's why we have  
20 defined the interface with five -- more than five  
21 circuits and if we lose only three of them, we will  
22 have difficulty using the rest to deliver power to  
23 the load.

24 Q. Yeah. So going back to your answer to 17  
25 on page 7, with regard to the five transmission

1 elements that are in the bullet points of that  
2 answer, are those the only transmission elements that  
3 convey electricity into the local grid or are there  
4 others?

5 A. There are others but the others are 69 kV  
6 which is much lower which their ability -- they  
7 just -- I would say topologically, is that a word we  
8 can use here, to show you on the map that they are  
9 connected, but they are not capable of delivering  
10 that much of power as demanded. So if you lose some  
11 of the 138 kV, then I would say the rest of the  
12 transmission circuit can be negligible even though  
13 they exist.

14 Q. Going to page 9 of your testimony, I  
15 would like to look at lines 21 and 22 where there is  
16 a sentence that says "There is currently no local  
17 generation in this local system." Do you see that?

18 A. Correct.

19 Q. Are you aware of the existence of the  
20 Yellowbud Solar facility?

21 A. Yes, I am aware of that.

22 Q. Yeah. Is that a facility that is in the  
23 local system?

24 A. The answer to your question is that that  
25 is planned to be. However, I'm not exactly sure if

1 that is -- that project is 100 percent in service or  
2 not.

3 Q. You are not sure it's 100 percent up and  
4 running; is that what you are saying?

5 A. That's right.

6 Q. Once it's -- it's operational though,  
7 that -- that facility will be inside of the local  
8 grid?

9 A. Correct.

10 Q. Okay. What about the Atlanta Farms solar  
11 facility, is that located in the local grid?

12 A. Atlanta Farms. I'm sorry. I am not  
13 aware of that project. However, please, you know,  
14 forgive me because, you know, I work in PJM, so I'm  
15 more familiar with the PJM queue number. Atlanta  
16 Farms, if any of us can provide the queue number,  
17 then we can easily identify whether it is in the  
18 local generation -- I mean local load pocket or not.

19 Q. Well, let's take a look at page 11 of  
20 your testimony and maybe that will refresh your  
21 recollection. Take a look at footnote 2.

22 A. Footnote 2.

23 Q. Where it's stated "The Atlanta Farms  
24 Solar Project is under construction and has 4  
25 positions." Do you see that?

1           A.    Oh, okay.  Oh, AC1-166.  Okay.  The  
2   answer is -- the answer is no.  Atlanta Farms is not  
3   in the local load pocket because it connects to DPL,  
4   not AEP system, so maybe geographically it's not far  
5   away, but electrically it's, I would say, isolated  
6   from the other side of the 35kV system.  So 35 kV is  
7   the backbone.  You go from 35 kV to one side is 69;  
8   one is 138.  And the Scioto is on the east side of  
9   the backbone, I believe the 69 kV.  Atlanta Farms  
10  Solar is on the west side.

11           Q.    Well, does the Atlanta Solar Farm  
12  transmit its electricity into the same electric grid  
13  that the Scioto Farms Solar system would transmit its  
14  electricity into?

15           A.    To answer your question, Scioto Farms is  
16  within the local grid.  If you want to have the  
17  Atlanta Farms generating power and serve the load in  
18  the 130 kV local grid, it has to go through 345 kV,  
19  and the 345 kV, as we mentioned, Bix -- Biers Run,  
20  sorry, I keep saying Biers Run.  The Biers Run  
21  transformer is the one of the equipment needed to  
22  deliver power from At -- Atlanta Farms Solar project  
23  to the 130 kV load pocket where Scioto Farms resides  
24  in.

25                       So from the transmission grid perspective

1 it's very far away, but it can still serve the load.  
 2 But again, it needs to go through the transmission  
 3 system, so when you consider transmission outage,  
 4 when that happens, then answer is no, that Atlanta  
 5 Farms cannot help with the local grid reliability.

6 Q. But the electricity from the Atlanta  
 7 Farms Solar project can still be used to serve the  
 8 local grid, correct?

9 A. Only if the contingency will not be  
 10 taken.

11 Q. Only if what again?

12 A. Only if those lines -- well, every line  
 13 will be in service, like Biers Run transformer and  
 14 also this Don Marquis transformer will be in service.  
 15 If that is the case, then we can say some of the  
 16 power for Atlanta Farms will be able to supply  
 17 generation to the local grid.

18 Q. Are you familiar with a solar project  
 19 named Pleasant Prairie Solar?

20 A. No. Again, if you can provide that PJM  
 21 queue number, it may ring a better bell to me.

22 Q. What about the Ross County Solar project?  
 23 Are you familiar with that one?

24 A. No, I'm not.

25 Q. How about the Madison Fields Solar

1 project, are you familiar with that one?

2 A. No, I am not.

3 MS. SHEELY: Objection. I'm sorry. We  
4 had an answer but I -- I'll -- I guess the answer is  
5 out for that one. I'll have to wait.

6 ALJ ADDISON: Thank you, Ms. Sheely.

7 Go ahead, Mr. Van Kley.

8 Q. (By Mr. Van Kley) Yeah. Are you familiar  
9 with a solar project named Spring Water?

10 MS. SHEELY: Objection.

11 ALJ ADDISON: Grounds?

12 MS. SHEELY: He's already testified that  
13 he needs to refer to these projects by the PJM queue  
14 numbers, and so I just -- he's saying he is not  
15 familiar with them by name, but I don't want there to  
16 be confusion because he's already said he needs the  
17 PJM queue numbers.

18 ALJ ADDISON: Thank you.

19 THE WITNESS: Thank you.

20 ALJ ADDISON: Oh, Dr. Yang, when there is  
21 an objection, you don't have to say anything. You're  
22 okay.

23 Mr. Van Kley, do you have the PJM queue  
24 numbers to provide Dr. Yang?

25 MR. VAN KLEY: I might. Let me look.

1           ALJ ADDISON: Why don't you go ahead and  
2 take a moment. We'll go off the record.

3           (Discussion off the record.)

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

6           Mr. Van Kley.

7           MR. VAN KLEY: Yes, your Honor. I do not  
8 have in my possession the -- the PJM queue numbers  
9 for these projects, so I won't be able to identify  
10 them in that way.

11           Q.     (By Mr. Van Kley) Let me just ask some  
12 more general questions, see if we can get at the  
13 question that way. When you did the research for  
14 your testimony in this case, did you take a look at  
15 all of the solar projects that have been approved by  
16 the Power Siting Board?

17           A.     The answer to your question is no. This  
18 is because I'm not aware of which specific project  
19 has been approved. The only project that I am aware  
20 of might have been approved, which might be also  
21 under construction, is Yellowbud, that project,  
22 because that project is right next to Scioto Farms.  
23 So we -- I mean, I considered that project as the  
24 same effect as Scioto Farms because they are in the  
25 same area. They connect with almost the same place.

1 Their benefit to the grid is almost equal.

2 Other than that I'm not aware of any of  
3 the PJM queue projects nearby. Again, I apologize.  
4 I don't go by the name of the, you know, projects. I  
5 go by the PJM queue numbers, so if you look at some  
6 other exhibit, you will see that all the other  
7 projects that can be considered within the studies of  
8 the benefit to the local grid. But again, I'm not  
9 aware of any project that has been either approved or  
10 not by the Siting Board.

11 Q. Okay. Let's go to page 9 of your  
12 testimony, answer 20. And there you have some  
13 scenarios in which things going wrong with the grid  
14 would or could require some load to be dropped; am I  
15 stating that accurately?

16 A. Yes, you are.

17 Q. Okay. And by your reference to a load  
18 being dropped, you mean that -- that a certain amount  
19 of megawatts used by customers would no longer be  
20 available to those customers?

21 A. Yes, you can say it in that way.

22 Q. Okay. So in the first scenario you --  
23 you state that 80 megawatts of the local load would  
24 be dropped; is that correct?

25 A. Correct.

1           Q.    Okay.  And then you state on line 7 and 8  
2   that "The addition of the Scioto Farms Solar Project  
3   to the grid, without any additional generation  
4   sources coming on line, could reduce the load dropped  
5   in that scenario by 25 megawatts," right?

6           A.    Correct.

7           Q.    Now, when you say that you took that into  
8   account without any additional generation sources  
9   coming online, does that exclude the Yellowbud  
10  project?

11          A.    That is correct.

12          Q.    That's correct?  Okay.  So if the  
13  Yellowbud project comes fully online, how much would  
14  that project reduce the load dropped under your first  
15  scenario?

16          A.    That scenario is not -- was not studied  
17  and was not the scope of the study.  The scope of  
18  study only demonstrate that -- how much benefit we  
19  can get from Scioto Farms.  I did not perform any  
20  study to analyze that -- how Yellowbud would help  
21  with the local power grids.

22          Q.    Okay.

23          A.    I believe --

24                THE WITNESS:  May I, your Honor?

25                ALJ ADDISON:  You can continue your

1 answer.

2 THE WITNESS: I can continue my answer?

3 A. But if you look at the reports, the  
4 Scioto Farms and Yellowbud are considered together in  
5 the study that if both of them are online, then you  
6 don't need to drop load.

7 Q. Well, did you do any study to determine  
8 whether just putting Yellowbud Solar online would  
9 result in there being no drop of load? Did you study  
10 that?

11 A. No, I did not study that.

12 MR. VAN KLEY: Okay. No further  
13 questions, your Honor.

14 ALJ ADDISON: Thank you very much.

15 Mr. Chamberlain?

16 MR. CHAMBERLAIN: Nothing, your Honor.

17 Thank you.

18 ALJ ADDISON: Mr. Eubanks?

19 MR. EUBANKS: No questions, your Honor.

20 Thank you.

21 ALJ ADDISON: Any redirect?

22 MS. SHEELY: Yes, just briefly.

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REDIRECT EXAMINATION

By Ms. Sheely:

Q. Dr. Yang, you've talked about load pocket before. I just wanted to make sure we had a working definition of that term as we talked about it today. Could you define that for us?

A. Yes. Load pocket usually is defined as a section of the area whose load can only be served by a limited number of transmission circuits in the region manner, so you lose the meshed network capability that the power company delivered from any direction from the power grid. Instead the power can only be delivered on certain regional connected transmission lines to the load area. So that's what I would define as load pocket.

Q. And so in relation to the geographic area here, kind of the Columbus area extending into Pickaway County, is there something about this area that makes a load pocket analysis especially useful?

A. Can you repeat your question?

Q. It wasn't a great question if I'm honest. Is there something about this geographic region that you identified load pocket potential?

A. Yes. So according to the powerflow and connectivity study, if you lose certain -- I would

1 say two or three of the five identified transmission  
2 circuits, then the rest of the load in the local area  
3 can only be served by the rest of three. So in that  
4 scenario that is a load pocket because your local  
5 grid can only be served by only three transmission  
6 circuits from the external system and that fulfills  
7 the requirements of being defined as a load pocket.

8 Q. Does that scenario that you just  
9 described make that area especially susceptible to  
10 issues with -- with the grid and load dropping?

11 MR. VAN KLEY: Objection, leading.

12 ALJ ADDISON: Perhaps you could rephrase.

13 Q. (By Ms. Sheely) Can you just explain what  
14 that means that we have this load pocket construction  
15 scenario here?

16 A. Yes. So probably from a study  
17 perspective, we do not distinguish which exact line  
18 we would like to drop to cause the load pocket.  
19 Instead during the study we try to drop every line in  
20 the PJM footprint and see if that would cause any  
21 load pocket or violation, operating limit violation  
22 in AEP footprint. So those are the lines we  
23 identified in the study to reveal that if you lose  
24 two or three of those lines, that the load pocket  
25 will be forged. That is how the load pocket has been

1 identified. I'm not sure if that answers the  
2 question.

3 ALJ ADDISON: When you say the -- I'm  
4 sorry. I may have missed a word, where the load  
5 pocket would be forged?

6 THE WITNESS: Where it will be forged by  
7 the loss of the transmission lines.

8 ALJ ADDISON: Thank you.

9 Q. (By Ms. Sheely) You were asked a couple  
10 of questions about the June 2022 electricity outage  
11 that affected this area. Do you remember some of  
12 those questions?

13 A. Yes.

14 Q. You have in your report scenarios that  
15 are defined by, you know, 3-1, 3-1-1, 3-1-1-1. I  
16 don't know if there is a shorthand term for that, but  
17 can you tell us which scenario type that outage was?  
18 Do you know?

19 A. Scenario type.

20 Q. Was it 3-1-1-1?

21 A. Okay. I can tell. So scenario one is  
22 N-1-1 which means --

23 Q. Oh, it's N. I'm saying 3. My apologies.  
24 My notes are wrong.

25 A. N refers to system impact that you have,

1 N, number of network equipment. N-1 means that you  
2 lose any random transmission equipment in the system.  
3 N-1-1 means that you lose -- any combination of the  
4 random events that you will lose transmission  
5 circuits so that was -- that was -- that's been  
6 taking place in the analyses.

7 Q. So of the scenarios that you considered  
8 in your analysis, how does that compare to what's in  
9 your report?

10 A. Yes. So are you referring to the June 3  
11 event or?

12 Q. Yes.

13 A. Yes. So June 3 event is a max 6, so I  
14 think there are quite a lot of transmission circuits  
15 being taken out of service during that storm event.  
16 We found out that at least two of the transmission  
17 equipment which were taken out of service in the  
18 June 2022 blackout was also included in the study  
19 scenarios. We found out that we forged the load  
20 pocket and potentially caused load drop within the  
21 load pocket.

22 Q. So which of the scenarios is that  
23 June 2022 outage the most like essentially?

24 A. Scenario three.

25 Q. And is scenario three more or less likely

1 to happen than the other scenarios you considered?

2 A. Technically because it's N-1-1-1, it's a  
3 minus three scenario. The possibility it would  
4 happen is less. However, it happened.

5 Q. Okay. Are you able from your information  
6 there if I gave you two queue positions to say  
7 whether those would be able to service the local  
8 grid?

9 A. Yes.

10 Q. Okay. The queue positions are AE2-214.

11 A. The answer to your question is no.  
12 AE2-214 is not going to help with the local grid.

13 Q. Okay. How about AF1-275?

14 A. AF1-275 is not going to help with the  
15 local grid either.

16 Q. Okay. I actually have more. How about  
17 AC2-060?

18 A. Can you repeat? AC2?

19 Q. Yes, AC2-060.

20 A. It is not.

21 Q. And how about AD1-073?

22 A. It is not.

23 Q. Let's do a few more while we are at it.  
24 AC1-166, same question.

25 A. No, it's not.

1 Q. AC1-165?

2 A. No, it's not.

3 Q. AC1-068?

4 A. AC1-068, it's not.

5 Q. AC1-069?

6 A. No, it's not.

7 Q. Are you able to tell just from those why  
8 that would be the case or just that they would not  
9 be?

10 A. I can tell based on the distribution  
11 factor of the generator to the most constrained  
12 transmission circuit after certain connection has  
13 been taken because we have a load pocket which means  
14 that only the generation within the load pocket can  
15 help relieve the transmission constrict from the  
16 power transferring from the outside of the grid from  
17 any generator to the local generation -- I mean to  
18 the local load.

19 So as long as your generator is within  
20 the load pocket, which you may be able to find out  
21 from Attachment D of the report, that once you have  
22 the generator with PJM queue number, again, I  
23 apologize for not remembering the name of the  
24 project, it changes all of the time, but the PJM  
25 queue number never change for generation project.

1 That's why I go by that.

2 So if you are referring to any project  
3 within the Attachment D showing that you have listed  
4 a DFAX larger than 0.05, then you can help with the  
5 local power grid by relieving the transmission  
6 constrict, but if it's not within the load pocket,  
7 then you cannot help with the local transmission  
8 constrict under those scenarios.

9 ALJ ADDISON: What was the DFAX threshold  
10 number one more time?

11 THE WITNESS: I use the DFAX number --  
12 distribution factor number as about 0.05 which is  
13 small enough.

14 ALJ ADDISON: Can you explain just for  
15 the record why that is the number that you chose to  
16 create that threshold?

17 THE WITNESS: Yes, yes. I can answer  
18 that question, your Honor. So distribution factor is  
19 a technology term, describes how the generation from  
20 a particular generator can flow through a certain  
21 transmission line across a system. So it will tell  
22 us that where -- where the power flows from a  
23 generator on the line. So usually 5 percent is the  
24 number used by PJM to determine if a generation  
25 project will be subject to transmission network

1 operate by impacting adversity, impact the power  
2 grids which would cause system upper limit and that  
3 is the typical judgment we use, engineering judgment  
4 we use for screening out which generator would  
5 contribute to the line overload in the system. So  
6 that's why we use 5 percent, your Honor.

7 ALJ ADDISON: Thank you very much.

8 I apologize, Ms. Sheely.

9 MS. SHEELY: No, that's okay. Actually I  
10 have no further questions.

11 ALJ ADDISON: Thank you.

12 Mr. Dove?

13 MR. DOVE: No questions, your Honor.

14 ALJ ADDISON: Ms. Curtis?

15 MS. CURTIS: No questions, your Honor.

16 ALJ ADDISON: Mr. Van Kley?

17 MR. VAN KLEY: Yes, your Honor.

18 - - -

19 RECROSS-EXAMINATION

20 By Mr. Van Kley:

21 Q. So with respect to the PJM queue  
22 positions that you have just stated are not part of  
23 the local grid, does that mean that the electricity  
24 produced by those facilities can't get into the local  
25 grid?

1           A.    You can state it that way, yes, yes.  You  
2   can state it that way.

3           Q.    I'm sorry.  I didn't understand you.

4           A.    Yes, you can state it in that way.

5           Q.    Okay.  So it -- if a -- if electricity  
6   was produced by one of those facilities that you were  
7   provided the PJM number for, are you saying that the  
8   electricity produced by that facility cannot get into  
9   the local grid?

10          A.    Can you repeat your question again?

11          Q.    Sure.  Yeah.

12          A.    Spinning here.

13          Q.    With regard to the facilities that you've  
14   been provided the PJM queue numbers for, can the  
15   electricity from any of those facilities get into the  
16   local grid?

17          A.    You mean I provided as in my attachment  
18   or?

19          Q.    No.  That question is a little more  
20   simple than that.  My question is -- all right.  
21   Let's just take, for example, grid position AD2-214.

22          A.    AD2-214?

23          Q.    Yeah.  That is one -- that was one of  
24   those your counsel listed and asked you about.

25               MS. SHEELY:  Objection.

1                   ALJ ADDISON: Hold on, Mr. Van Kley. We  
2 have an objection.

3                   Grounds?

4                   MS. SHEELY: That wasn't one of the  
5 numbers I provided. AE2-214.

6                   MR. VAN KLEY: A-D.

7                   MS. SHEELY: A-E?

8                   MR. VAN KLEY: A-D. Did you say A-E?

9                   MS. SHEELY: Yes.

10                  MR. VAN KLEY: Okay. All right. We'll  
11 use that then.

12                  ALJ ADDISON: Thank you.

13                  Q. (By Mr. Van Kley) All right. So the  
14 project that goes by AE2-214, that was the one -- one  
15 of the ones you talked about, right?

16                  A. That was a question where I have been  
17 asked, not the one I referred in my report.

18                  Q. Right. Your attorney asked you a  
19 question --

20                  A. Yes, yes.

21                  Q. -- about that.

22                  A. Yes.

23                  Q. And you said that that project's not part  
24 of the local grid.

25                  A. Correct. That's what I answered.

1           Q.    So does that mean that no electricity  
2 produced by that project can get into the local grid?

3           A.    Instead of saying no, I would say  
4 negligible. I'm sorry. I'm an engineer. I want to  
5 be very accurate that no means absolutely no, but  
6 negligible means barely no. So you can see that the  
7 electricity provided by that project can -- cannot be  
8 delivered to the load pocket.

9           Q.    Uh-huh. And why is that the case?

10          A.    Yes. I can answer that question.  
11 Because if you look at the distribution factor table  
12 that I provided in the Attachment D, I actually go --  
13 I actually went through every generator within the  
14 PJM footprint and screened out and sorted by the  
15 distribution factor from the largest one to the  
16 smallest one.

17                   So by doing that, I can know which  
18 generator can provide the most impact and which ones  
19 will provide the least impact. As you can see, I cut  
20 off back there by 0.05. And because your generator  
21 distribution factor is very small, then you have only  
22 a very -- like maybe 1 out of -- maybe 0.1 out of 100  
23 megawatt can be delivered back to the load pocket so  
24 which means that you cannot serve the load.

25                   So by the DFAX analyses that I performed

1 from top to bottom by the -- the -- from the largest  
2 to smallest, they are not on the 5 percent lease, and  
3 they are excluded from the 5 percent lease by the  
4 network under contingencies. We can prove that the  
5 generation from the generators you referred to and I  
6 have been asked had not been delivered to the load  
7 pocket.

8 Q. Now, if that's the case then, would the  
9 electricity produced by that project serve another  
10 area besides the local grid thereby allowing  
11 electricity from that area that's being served to  
12 make its way into the local grid?

13 A. The answer to your question is no because  
14 this is a load pocket. So load pocket means that you  
15 have no generation to offset any need from the rest  
16 of the system. So in your case I understand your  
17 question asks that if your generation cuts off by  
18 baseloads, then you don't need transmission from  
19 other area to free this load. But in this case it's  
20 not as simple as that because you already have a load  
21 pocket, and the load pocket has no generation, so it  
22 has no impact to the rest of the system that -- how  
23 the power would flow across the network because it's  
24 limited by the -- by the selected local constricts  
25 only.

1                   So any generation outside of the  
2 network -- I mean outside the load pockets but within  
3 network basically have nothing to do with how the  
4 local load pocket can be served or vice versa.

5                   MR. VAN KLEY: Okay. Very good. I have  
6 nothing further, your Honor.

7                   ALJ ADDISON: Thank you very much.

8                   Mr. Chamberlain?

9                   MR. CHAMBERLAIN: Nothing, your Honor.  
10 Thank you.

11                  ALJ ADDISON: Mr. Eubanks?

12                  MR. EUBANKS: No questions, your Honor.

13                  ALJ ADDISON: Okay. I have no additional  
14 questions Dr. Yang. You are excused.

15                  THE WITNESS: Thank you, your Honor.

16                  ALJ ADDISON: Thank you very much.

17                  (Discussion off the record.)

18                  ALJ ADDISON: All right. Ms. Sheely had  
19 previously moved for the admission of Applicant  
20 Exhibit No. 27, Dr. Yang's testimony, into the  
21 record. Are there any objections?

22                  MR. VAN KLEY: No, your Honor.

23                  MR. CHAMBERLAIN: No.

24                  ALJ ADDISON: Thank you.

25                  It will be admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 ALJ ADDISON: I believe that concludes  
3 our list of Applicant witnesses; is that correct,  
4 Ms. Sheely?

5 MS. SHEELY: Yes, it does.

6 ALJ ADDISON: Thank you.

7 Mr. Dove?

8 MR. DOVE: Yes, your Honor.

9 International Brotherhood of Electrical Workers Local  
10 575 would call Daniel Shirey.

11 ALJ ADDISON: Welcome, Mr. Shirey.

12 (Witness sworn.)

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

15 - - -

16 DANIEL SHIREY

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

19 DIRECT EXAMINATION

20 By Mr. Dove:

21 Q. Good morning, Mr. Shirey. Would you  
22 please state and spell your name for the record.

23 A. Yes. Daniel L. Shirey, that's  
24 S-H-I-R-E-Y.

25 Q. Do you have a copy of your prefiled

1 testimony dated February 13, 2023, in front of you?

2 A. I do.

3 Q. Is this a true and accurate copy of your  
4 testimony?

5 A. Yes, it is.

6 Q. Was this testimony prepared by you or  
7 under your direction?

8 A. Yes.

9 Q. And if I asked the same questions today,  
10 would you give me the same answers?

11 A. Yes, sir.

12 Q. Do you have any changes or corrections  
13 you would like to make?

14 A. No.

15 MR. DOVE: Your Honor, I would like to  
16 mark the direct testimony of Daniel L. Shirey as IBEW  
17 Exhibit 1.

18 ALJ ADDISON: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. DOVE: And move for admission,  
21 subject to cross-examination.

22 ALJ ADDISON: Thank you, Mr. Dove.

23 Do we have any agreement among the  
24 parties as who is going to complete cross-examination  
25 first?

1                   None, okay. Does the Applicant have any  
2 questions for this witness?

3                   MS. SHEELY: No, your Honor.

4                   ALJ ADDISON: Thank you.

5                   Ms. Curtis?

6                   MS. CURTIS: No questions, your Honor.

7                   ALJ ADDISON: Mr. Van Kley?

8                   MR. VAN KLEY: Yeah, your Honor.

9   - - -

10                                       CROSS-EXAMINATION

11 By Mr. Van Kley:

12               Q. Does your membership include people who  
13 would be expected to work for a solar facility during  
14 its operation?

15               A. Not really. I mean, it's possible; but,  
16 you know, we are mainly construction, in  
17 construction, construct things. We do maintenance  
18 work as well, but it would depend on if one of our  
19 signatory contractors was awarded that operation work  
20 and maintenance work. It's possible. Really it's  
21 hard to say one way or another. It's possible but in  
22 my opinion probably not.

23               Q. Can you tell me how many members of your  
24 union reside in Wayne Township?

25               A. I don't have specifics, no. We don't

1 have many. I know of one that recently retired.  
 2 Outside of that I don't know if we have any that  
 3 reside right in Wayne Township, no.

4 Q. Let's go to page 5 of your testimony.  
 5 And there in the lines 21 through 23 and spilling  
 6 over into lines 1, 2, and 3 of the next page, you  
 7 talk about the IBEW members being supportive but  
 8 reluctant or refusing to speak out in support of the  
 9 project, right?

10 A. Yes.

11 Q. And you say that they have a fear of  
 12 negative repercussions within the community. Do you  
 13 see that?

14 A. Yes.

15 Q. Have you ever been present when any  
 16 member of your union was threatened with physical  
 17 violence by any member of the community with respect  
 18 to this project?

19 A. I wasn't present, no.

20 Q. So when you refer to negative  
 21 repercussions, you are not talking about any physical  
 22 violence, are you?

23 A. Based on what one member told me, it  
 24 didn't get physical but that's why he didn't want to  
 25 get involved, basically because he didn't want it to

1 escalate to, you know, to that.

2 Q. It was an argument?

3 A. Basically.

4 Q. Okay. And is that the only incident that  
5 you heard of that fits the description that you  
6 provided in lines 21, 22, and 23 on page 5 and lines  
7 1, 2, and 3 on page 6?

8 A. The only one I have direct knowledge of,  
9 yes.

10 Q. Okay. And then with regard to lines 1,  
11 2, and 3 on page 6, you state that there -- that "It  
12 seems there are circumstances within Pickaway County  
13 that are impacting their willingness to speak out."  
14 Do you see that?

15 A. Yes.

16 Q. When you say there seems to be those  
17 circumstances, what, if any, empirical evidence do  
18 you have to support that statement?

19 A. Well, you know, there's signs, you know,  
20 where folks are voicing their opinion about solar  
21 projects, I guess, and just based on one member's  
22 reluctance to even sign on the letter, to write a  
23 letter, to come testify based on the fact, you know,  
24 that the neighbors, you know, they see things  
25 differently when it comes to these projects and just

1 the -- I guess the mood, if you will, in the  
2 community.

3 So, you know, some of our members, even  
4 though they support these projects, they -- you know,  
5 they are reluctant to testify or to speak at public  
6 hearings because of -- of the negative light of the  
7 community.

8 Q. All right. And with respect to the one  
9 individual you just mentioned, that's the same  
10 individual you previously mentioned in response to my  
11 questions?

12 A. Yeah, the only one I am aware of  
13 personally but, you know, I know there's others.

14 Q. And when you refer to the mood of the  
15 community, you are talking about the community's  
16 opposition to this project?

17 A. Yes, some of the community it appears.

18 Q. And with respect to the signs, those are  
19 signs indicating opposition to the project?

20 A. Correct.

21 Q. Now, some of your union's members did  
22 submit letters supporting the project, right?

23 A. They weren't my local members. They were  
24 members of 683, but they live in the area.

25 Q. Oh, okay. They are still IBEW members.

1           A.    They are IBEW, just out of a different  
2 local, yes.

3           Q.    And you are aware that they did submit  
4 some support letters?

5           A.    Yes.

6           Q.    Okay.  And do you know who authored those  
7 letters?

8           A.    The IBEW helped, you know, with the  
9 letters, the 4th District Office.

10          Q.    Did IBEW work with the solar company to  
11 craft the language of those letters?

12          A.    Not that I am aware of.

13          Q.    Were you involved in the authorship of  
14 those letters?

15          A.    Personally, no.

16          Q.    Okay.  All right.  So you wouldn't  
17 necessarily know if IBEW worked with the solar  
18 company to write those letters; that's not within  
19 your personal knowledge.

20          A.    I can't say they didn't for sure, but I  
21 know who penned the letters, so I am pretty certain  
22 they didn't.  I know who helped with the talking  
23 points.

24          Q.    Now, those letters that were submitted  
25 were all form letters, right?

1           A.    I believe so, yes.

2           Q.    Yeah.  Those letters were not actually  
3 written by the -- by the IBEW members whose names  
4 appear on those letters?

5           A.    I don't know that for sure.

6           Q.    Are you aware of any letters in support  
7 of the project that were submitted by IBEW in names  
8 of persons who did not authorize IBEW to submit those  
9 comments on their behalf?

10          A.    No, sir.

11          Q.    Was it IBEW that submitted those letters  
12 of support to the docket in this case, or did each  
13 individual signer or each individual person whose  
14 name appears on the letters submit those to the  
15 docket?

16          A.    I don't know.

17          Q.    Do you know what, if anything, was done  
18 to verify that the persons whose names appear on  
19 those letters of support actually authorized IBEW to  
20 submit those letters to the Board?

21          A.    Could you repeat the question, please?

22          Q.    Yeah.  Can you tell me whether there was  
23 anything done to verify that the person whose names  
24 were on those letters actually authorized the  
25 submittal of those letters to the Board?

1           A.    It's -- to my knowledge, you know, the  
2   folks that signed onto them were given the letters to  
3   look at, to change, to draft, and then submit, but I  
4   wasn't part of that process.

5           Q.    Okay. All right. So you don't have any  
6   personal knowledge --

7           A.    No.

8           Q.    -- that occurred? Are you aware of an  
9   IBEW member named Charles McKnight?

10          A.    I believe he is a member of 683.

11          Q.    You are aware of that person?

12          A.    Not personally but I know he was -- I  
13   believe he submitted a letter.

14          Q.    Uh-huh. Do you know that he later  
15   informed the Board that he did not authorize that  
16   letter to be submitted?

17          A.    I was not aware of that.

18                MR. VAN KLEY: I have nothing else, your  
19   Honor.

20                ALJ ADDISON: Thank you very much.

21                Mr. Chamberlain?

22                MR. CHAMBERLAIN: Nothing, your Honor.

23                ALJ ADDISON: Mr. Eubanks?

24                MR. EUBANKS: No questions, your Honor.

25                ALJ ADDISON: Mr. Dove, any redirect?

1 MR. DOVE: No, your Honor.

2 ALJ ADDISON: I have no additional  
3 questions at this time, Mr. Shirey. You are excused.

4 THE WITNESS: Thank you.

5 ALJ ADDISON: Thank you. Mr. Dove had  
6 previously moved for the admission of IBEW Exhibit 1.  
7 Are there any objections to the admission of that  
8 exhibit at this time?

9 MR. VAN KLEY: Yes, your Honor. I am  
10 going to object to the testimony starting on page 5,  
11 line 21, with the sentence that starts with "IBEW  
12 members are supportive" and going through the end of  
13 line 3 on page 6. It was evident from the witness's  
14 answers that what's stated in here is purely  
15 speculation, especially with regard to his statement  
16 that there are -- that it seems there are  
17 circumstances within the county that are impacting  
18 their willingness to speak out. That was just purely  
19 speculation. He had no empirical evidence of that.  
20 So I would move to strike that from the -- from the  
21 exhibit.

22 Otherwise, I don't have any objection to  
23 the exhibit.

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

25 Mr. Dove, would you like to respond?

1           MR. DOVE: Yes, your Honor. I would  
2 argue to the extent these statements were to be  
3 struck, it should have occurred before there was  
4 extensive questioning on these statements and now  
5 they are in the record. So for clarity of the  
6 record, they should be maintained.

7           To the extent there is concerns about the  
8 potential speculative nature, I believe the witness  
9 indicated that he was in communication with a member  
10 and had direct knowledge through him.

11           And then further I would also note that  
12 as we've noted previously, the Commission is well  
13 aware of the --

14           ALJ ADDISON: The Board you mean.

15           MR. DOVE: I'm sorry, force of habit.  
16 The Board is not bound by the rules of evidence and  
17 is sophisticated enough to give all testimony the  
18 appropriate weight it deems fit.

19           ALJ ADDISON: Thank you. I tend to agree  
20 with Mr. Dove. Just to preserve clarity of the  
21 record, Mr. Van Kley, you were afforded quite a bit  
22 of latitude in the questions regarding Mr. Shirey's  
23 statement in his testimony. The Board will certainly  
24 look at his responses to those questions in  
25 evaluating how much weight to afford to these

1 statements contained on pages 5 and 6 of his  
2 testimony.

3 But with that I will go ahead and deny  
4 the motion to strike at this time.

5 And you indicated you had no additional  
6 objections to the admission of the exhibit; is that  
7 correct, Mr. Van Kley?

8 MR. VAN KLEY: Correct, your Honor.

9 ALJ ADDISON: All right. Any additional  
10 objections?

11 All right. It will be admitted.

12 (EXHIBIT ADMITTED INTO EVIDENCE.)

13 ALJ ADDISON: And by it I mean IBEW  
14 Exhibit 1. I would also like to note that is not a  
15 tornado warning.

16 I believe it makes the most sense to go  
17 ahead and take a break for lunch at this time. I  
18 would like to keep -- well, let's go ahead and go off  
19 the record.

20 (Discussion off the record.)

21 ALJ ADDISON: Let's go back on the  
22 record. We will take a brief recess and return at  
23 1:00 p.m. Thank you.

24 (Thereupon, at 12:01 p.m., a lunch recess  
25 was taken.)

1 Wednesday Afternoon Session,  
2 March 1, 2023.

3 - - -

4 ALJ ADDISON: Let's go on the record.  
5 Mr. Van Kley.

6 MR. VAN KLEY: Yes, your Honor. I  
7 believe at this point in time we would mark three  
8 exhibits. The first exhibit, which would be  
9 Ebenhack's Exhibit 1, will be the direct testimony of  
10 Thomas E. Ebenhack. The second exhibit, which will  
11 be marked as Ebenhack Exhibit 2, is the direct  
12 testimony of Suzannah Ebenhack. And then the third  
13 exhibit, which we will mark as Ebenhack's Exhibit 3,  
14 is the direct testimony of Wesley Ebenhack.

15 ALJ ADDISON: Thank you. And they will  
16 be so marked.

17 (EXHIBITS MARKED FOR IDENTIFICATION.)

18 MR. VAN KLEY: And, your Honor, do you  
19 need copies of these testimonies? I have extra if  
20 you need them.

21 ALJ ADDISON: No. I actually have  
22 copies. Does anyone else in the room need copies of  
23 their testimony?

24 Thank you, Mr. Van Kley.

25 Before we move on with the next

witnesses, I do note that we have a pending motion to strike certain improper Intervenor testimony and exhibits filed by the Applicant on February 24, 2023.

In addition, Mr. Van Kley did file a memorandum contra to that motion to strike on February 27, 2023. I have reviewed the arguments contained therein but would like to open it up to any other party that would like to weigh in on this issue before I ask questions and provide my rulings.

MR. DOVE: Yes, your Honor. On behalf of OP&E, there were -- in the memorandum contra there were references to the admission of OP&E's Witness Robert Svets and a characterization that his testimony was almost entirely hearsay. I don't have access to the transcript, but it was my recollection that his testimony was challenged on the basis of qualifications, not on hearsay. And so to raise it after it is admitted to me is -- is not fair to OP&E's witness. I understand that it's admitted but just wanted to raise the concern.

And, additionally, I think the subject matter is different. To the extent that the objection is to Witness Svets' use of studies that laid the foundation for his discussion of the impacts of the project on low-income customers, that's well

1 within the hearsay exceptions for expert witnesses.  
 2 To the extent we are talking about a list of  
 3 petitioners that are signing a rogue form that makes  
 4 statements regarding their beliefs as to the project  
 5 and then offered on behalf of someone -- like  
 6 directly on behalf of another party, I believe that  
 7 fits the definition of hearsay without a relevant  
 8 exception.

9 ALJ ADDISON: Thank you.

10 Ms. Curtis, anything?

11 MS. CURTIS: Nothing to add.

12 ALJ ADDISON: Mr. Chamberlain?

13 MR. CHAMBERLAIN: Nothing, your Honor.

14 ALJ ADDISON: Mr. Eubanks?

15 MR. EUBANKS: Nothing, your Honor.

16 ALJ ADDISON: Thank you.

17 Mr. Van Kley, I will allow you an  
 18 opportunity to respond to Mr. Dove.

19 MR. VAN KLEY: Yeah, sure, your Honor.

20 First of all, part of the grounds for the -- our  
 21 objection to Mr. Svets' testimony was lack of  
 22 foundation. That witness neither had the expertise  
 23 nor the -- nor -- and he also relied on hearsay with  
 24 respect to his testimony and those are the grounds  
 25 upon which we moved that it be stricken. And, of

1 course, your Honor did -- did allow that testimony in  
2 as it has just allowed in hearsay testimony from  
3 Mr. Shirey that we moved to strike with the -- with  
4 the advisory that it would be admitted into evidence  
5 and given the weight that the Board in its expertise  
6 chooses to give it. And so we believe that it would  
7 be only consistent to provide us with the opportunity  
8 to introduce the evidence that the Applicant has  
9 asked to be struck as well.

10 We would also note that unlike the  
11 testimony in the Sa -- in the Hartford -- or the  
12 Harvey case, that this -- this testimony about the  
13 petitions is much different in that extreme care was  
14 taken to make sure that the people who are signing  
15 the petitions were who they represented they were and  
16 that they lived in the area. So we believe that  
17 that -- that evidence is reliable and should be  
18 admitted.

19 ALJ ADDISON: Thank you.

20 Anything else before?

21 MR. DOVE: I would just note the  
22 difference between the hearsay that was alleged with  
23 Witness Shirey's testimony was there have been no  
24 questions asked about this petition; whereas, the  
25 motion to strike on Mr. Shirey came after extensive

1 questioning which would create a confused record if  
2 the underlying statements weren't offered into the  
3 record.

4 ALJ ADDISON: Thank you, Mr. Dove.

5 As to Mr. Svets' testimony, I don't  
6 recall any hearsay objections coming up; and,  
7 Mr. Van Kley, I take very good notes, so I don't  
8 believe that that was an objection initially raised  
9 for his testimony but that's neither here nor there.

10 Ms. Sheely, the Harvey Solar case cited  
11 in your motion to strike in which you indicate that  
12 the Board has previously found such petitions  
13 including lists of individuals who oppose the project  
14 not to be reliable sources of evidence; is that  
15 correct?

16 MS. SHEELY: Yes.

17 ALJ ADDISON: But that -- those petitions  
18 attached to the testimony cited in your motion to  
19 strike, those were not struck at the time of hearing,  
20 correct?

21 MS. SHEELY: I thought that they were,  
22 but I would have to go back and check to be sure.  
23 Yeah, I don't think they were allowed to become part  
24 of the record, but again, I would have to check to be  
25 sure, and I don't want to misstate that.

1           ALJ ADDISON: Subject to check, would you  
2 agree that the Board responded to an interlocutory  
3 appeal filed by Harvey Solar --

4           MS. SHEELY: Yes.

5           ALJ ADDISON: -- in which it argued that  
6 that information should have been struck --

7           MS. SHEELY: Yes.

8           ALJ ADDISON: -- but was not?

9           MS. SHEELY: Yes.

10          ALJ ADDISON: And, in fact, in paragraph  
11 158 of the Harvey Solar Opinion and Order that you  
12 cite, the Board essentially determined that that  
13 testimony would not be afforded any weight and didn't  
14 necessarily speak as to whether or not it was  
15 improper for it to be admitted at the time of the  
16 hearing, correct?

17          MS. SHEELY: Yes. That's the statement.

18          ALJ ADDISON: However, with that being  
19 said, I would agree the Board's statement is  
20 informative obvious of how it would like future  
21 occurrences of this type of information to be  
22 handled. I -- I find the petitions attached to the  
23 testimony to -- attached to Ebenhack's Exhibits 1, 2,  
24 and 3, particularly I believe it's Exhibit A for both  
25 Mr. Thomas Ebenhack and Exhibit A for Ms. Suzannah

1 Ebenhack as well as Attachments A and B to Mr. Wesley  
 2 Ebenhack's testimony, I find them more akin to the  
 3 public exhibits that Staff routinely receives in all  
 4 Board proceedings. These individuals are not here to  
 5 be cross-examined. The Ebenhacks are in no position  
 6 to act on behalf of these individuals. My concern,  
 7 however, is that these individuals may not have been  
 8 informed of the Board's routine process for the  
 9 collection of public comment in cases in which it is  
 10 considering applications for solar facilities or  
 11 other electric-generating facilities.

12 I would be remiss to not allow these  
 13 individuals to raise concerns for the Board's  
 14 consideration. I agree that to some extent the Board  
 15 will afford the appropriate weight to these  
 16 signatures. However, I believe it's more appropriate  
 17 for this type of document to be filed in the public  
 18 comment portion of the Board's website as it relates  
 19 to this proceeding rather than being included as an  
 20 exhibit to any one particular witness's testimony.

21 So with that being said, I will be  
 22 granting the motion to strike but will instruct the  
 23 petitions to be filed in the public comment section  
 24 on the Board's website.

25 Are there any questions or clarifications

1 for that ruling?

2 Okay. Mr. Van Kley, given my ruling, do  
3 you need a moment before proceeding with your  
4 witness?

5 MR. VAN KLEY: No, your Honor. We can  
6 proceed.

7 ALJ ADDISON: Excellent.

8 MR. VAN KLEY: We will call Thomas E.  
9 Ebenhack.

10 ALJ ADDISON: Welcome. Please raise your  
11 right hand.

12 (Witness sworn.)

13 ALJ ADDISON: Please be seated.

14 - - -

15 THOMAS E. EBENHACK, DVM  
16 being first duly sworn, as prescribed by law, was  
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Van Kley:

20 Q. Would you state your name, please, for  
21 the record.

22 A. Thomas E. Ebenhack. Ebenhack is --

23 Q. And -- oh, go ahead.

24 A. Ebenhack is spelled E-B-E-N-H-A-C-K.

25 Q. All right. And do you have in front of

1 you a copy of your written direct testimony that's  
2 been marked as Ebenhack's Exhibit 1?

3 A. Yes.

4 Q. Did you or somebody under your  
5 supervision prepare this testimony?

6 A. Yes.

7 Q. Do you have any corrections to make to  
8 this testimony?

9 A. Yes. Page 3, question 9, two words to be  
10 changed to one, before the events barn was finished,  
11 did we know that the Scioto Farms Solar was planning  
12 to construct the Project.

13 Q. All right. Does that conclude your  
14 revisions to your testimony?

15 A. Yes.

16 Q. With this revision if I asked you the  
17 questions that are in your testimony today, would  
18 your answers be the same as are written in your  
19 written testimony?

20 A. Yes.

21 MR. VAN KLEY: At this time, your Honor,  
22 we would move for admission of Ebenhack's Exhibit No.  
23 1, subject to cross-examination.

24 ALJ ADDISON: Thank you very much,  
25 Mr. Van Kley.

1 Mr. Dove?

2 MR. DOVE: Same agreement applies.

3 Sorry.

4 ALJ ADDISON: Thank you for cutting me  
5 off there.

6 I'm very sorry, Ms. Sheely. Go ahead.

7 MS. SHEELY: That's quite all right.

8 Thank you.

9 - - -

10 CROSS-EXAMINATION

11 By Ms. Sheely:

12 Q. Good afternoon, Dr. Ebenhack. I called  
13 you doctor. You have -- you are a veterinarian,  
14 correct?

15 A. Yes, Doctor of Veterinary Medicine.

16 Q. Your occupation is not as a farmer,  
17 correct?

18 A. Not full-time operation -- occupation. I  
19 do a little bit of farming.

20 Q. Your wife is Scarlett Ebenhack?

21 A. Correct.

22 Q. And you and your wife Scarlett Ebenhack  
23 are the majority landowners on approximately  
24 482 acres of land in Ross and Pickaway Counties; is  
25 that right?

1           A.     That's right. Part -- one portion is  
2 partially owned by our sons.

3           Q.     And they have a small ownership interest  
4 in about a 29-acre parcel of land?

5           A.     Yes.

6           Q.     About 10 percent ownership?

7           A.     I think that's about right.

8           Q.     And the remainder is owned by yourself  
9 and your wife?

10          A.     Correct.

11          Q.     You have two children, right, Wesley and  
12 Thomas J. Ebenhack; is that correct?

13          A.     That's correct.

14          Q.     And never pleasant questions but are you  
15 and your wife's estate plans when you eventually  
16 pass, your sons Thomas J. and Wesley will inherit  
17 your land?

18          A.     Yes.

19                MS. SHEELY: At this time I would like to  
20 mark what I believe will be Exhibits 34 and 35 for  
21 the Applicant.

22                ALJ ADDISON: I believe that's correct.

23                MS. SHEELY: So Exhibit 34 is a  
24 Corrective Recording in Ross County of a Memorandum  
25 of Land Lease and Solar Easement and 35 is the First

1 Amendment to Memorandum of Land Lease and Solar  
2 Easement.

3 ALJ ADDISON: They will be so marked.

4 (EXHIBITS MARKED FOR IDENTIFICATION.)

5 Q. (By Ms. Sheely) Dr. Ebenhack, do you have  
6 in front of you what's been marked Applicant's  
7 Exhibit 34, the title is "Corrective Recording in  
8 Ross County, Ohio"?

9 A. Yes. I was looking for the 34 but, yes.

10 Q. That's actually left over from your  
11 deposition is what that sticker is there so we had to  
12 give it a new number today.

13 A. Yes.

14 Q. Do you recognize this document?

15 A. Yes.

16 Q. And if you look at page 6 of 8, the  
17 numbers are in the lower right-hand corner.

18 A. Yes.

19 Q. Do you recognize the signatures there at  
20 the -- on that page to be those of yourself and your  
21 wife?

22 A. Yes.

23 Q. And this document is dated just below  
24 that January 20, 2021; is that right?

25 A. Yes.

1           Q.    And does this reflect a mem -- a lease --  
2   a land lease and solar easement whereby you enrolled  
3   acreage owned by yourself and your wife in the  
4   Yellowbud Solar project?

5           A.    Yes.

6           Q.    And if you look at the very last page on  
7   the back.

8           A.    Yes.

9           Q.    Do you agree with me it says there --  
10   around here lease area contains approximately 224.8  
11   acres? Do you see that?

12          A.    Yes.

13          Q.    Is that the acreage you enrolled in the  
14   Yellowbud Solar project?

15          A.    Yes.

16          Q.    And this land happens to be located in  
17   Ross County, correct?

18          A.    Correct.

19          Q.    Just across the line though from Pickaway  
20   County.

21          A.    Correct.

22          Q.    Would you look for me, please, at  
23   Exhibit 35.

24          A.    Yes.

25          Q.    Do you recognize this document?

1           A.     Yes.

2           Q.     And this is a First Amendment to  
3 Memorandum of Land Lease and Solar Easement, correct?

4           A.     Yes.

5           Q.     And the date -- actually if you would,  
6 please, turn to pages 4 of 6 and 5 of 6 of this one.

7           A.     Yes.

8           Q.     Do you recognize the signatures there to  
9 be those of yourself and your wife?

10          A.     Yes.

11          Q.     And the date here is June 19, 2021,  
12 correct?

13          A.     Correct.

14          Q.     Is there anything about this first  
15 amendment that changes the fact that you enrolled  
16 224.8 acres of land owned by yourself and your wife  
17 in the Yellowbud Solar project?

18          A.     No.

19                MS. SHEELY: Okay. I would like to mark  
20 this Applicant Exhibit 36, please. This is a -- it's  
21 actually a document we pulled from the public docket  
22 in Yellowbud Solar, Case No. 20-972-EL-BGN, dated  
23 March 24, 2022, which is some final engineering  
24 drawings for Yellowbud Solar.

25                ALJ ADDISON: Thank you. And it will be

1 so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. (By Ms. Sheely) If you would, please,  
4 Dr. Ebenhack, I am not expecting that you are going  
5 to have seen that whole thing but the part I am going  
6 to reference -- we just included the whole thing in  
7 the interest of completeness but would you turn to  
8 the first map that's included in there.

9 A. Okay.

10 Q. And do you recognize that to be a map of  
11 the project area of the Yellowbud Solar Project?

12 A. Yes.

13 Q. Okay. If you'll indulge me, I gave you a  
14 Sharpie. Would you be able to, please -- yes, take  
15 the Sharpie and just roughly outline the acreage that  
16 you and your wife own that's within that project?

17 ALJ ADDISON: I can't wait to see how you  
18 reflect this on the record.

19 MS. SHEELY: The black line is my  
20 intention.

21 A. And in the last meeting this one section  
22 there is -- half this area is approximately mine or  
23 ours, and the other half is the Dunlap property. I  
24 have to guess about where that is at. And I  
25 accidentally went the line too far down the road but,

1 yes, got it.

2 Q. And so the line where you made an  
3 estimated mark is kind of the southern most --

4 A. Right here.

5 Q. Thank you.

6 A. Okay. And then I carried it too far  
7 here. This should not be there.

8 MS. SHEELY: Your Honor, may I just show  
9 that briefly to the group? Would that make sense? I  
10 am not going to ask a lot of questions about it  
11 actually.

12 ALJ ADDISON: Well, I am more worried  
13 about the transcript reflecting what he has marked,  
14 so while it would be beneficial for the group to see,  
15 as long as you are planning on describing the area in  
16 which he has designated.

17 Q. (By Ms. Sheely) Yeah. Do you agree with,  
18 Mr. -- Dr. Ebenhack, what you have just drawn is the  
19 thickest black line on that map?

20 A. Yes.

21 Q. And so do you agree with me that property  
22 you own is also adjacent to that area? Additional --

23 A. Of the property, yes.

24 Q. And your residence is on adjacent  
25 property to that area?

1           A.    Yes.

2           Q.    The acreage that you enrolled and that's  
3 reflected by the thick black line there, was all or  
4 part of it previously cultivated for food production?

5           A.    Most of it was probably would be the  
6 correct answer.

7           Q.    So would you say 70 percent or more of  
8 that land was cultivated for food production?

9           A.    Yes.

10           ALJ ADDISON: Can we talk about where the  
11 thick black line is?

12           MS. SHEELY: Yes. Can I approach?

13           ALJ ADDISON: You may.

14           MS. SHEELY: Minus this line here. Is  
15 that going to be clear enough for the record do we  
16 think?

17           ALJ ADDISON: Clear enough for me but  
18 enough for the record I don't know.

19           MS. SHEELY: I can have a notation marked  
20 on it itself.

21           MR. EUBANKS: Are you planning to admit  
22 that as an exhibit?

23           ALJ ADDISON: Let's go off the record.

24           (Discussion off the record.)

25           ALJ ADDISON: Let's go back on the

1 record.

2 Ms. Sheely.

3 Q. (By Ms. Sheely) Yes. Dr. Ebenhack, can  
4 you look at Applicant's Exhibit 34. It's this one.

5 A. Oh, okay.

6 Q. Can you look at page 7 of 8 in that  
7 document.

8 A. Okay.

9 Q. And right at the top you agree with me  
10 that it says tax parcel Nos. 370902018000 and  
11 370902021000 as the description of the property?

12 A. Correct.

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

15 (Discussion off the record.)

16 ALJ ADDISON: Let's go back on the  
17 record.

18 Ms. Sheely.

19 MS. SHEELY: Yes. I would like to mark  
20 Exhibit 37 which is just that single page that  
21 Dr. Ebenhack just drew the thick black line.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 ALJ ADDISON: And, Dr. Ebenhack, the area  
24 in which you've denoted with the thick black line is  
25 the best representation you can make for your

1 property on the spot on the bench today, correct?

2 THE WITNESS: For the solar project  
3 because there were -- well, actually the one woods is  
4 not in the solar project too. Do you want that?

5 ALJ ADDISON: Does the area in which  
6 you've denoted on Applicant Exhibit 37, that includes  
7 all the area in which -- was included in the  
8 Yellowbud Solar project?

9 THE WITNESS: Except for the one woods.

10 ALJ ADDISON: And where would I see the  
11 woods location?

12 THE WITNESS: I'm sorry. I did not think  
13 about that. There is a little black line right  
14 across here.

15 ALJ ADDISON: So the southern most  
16 corner --

17 THE WITNESS: Yes.

18 ALJ ADDISON: -- of that parcel that  
19 you've kind of identified with the black marker?

20 THE WITNESS: I just realized that. I'm  
21 sorry.

22 ALJ ADDISON: That's fine. As long as  
23 the record is clear as to what -- what the area we  
24 are talking about is.

25 THE WITNESS: There is a small black line

1 crossing it and that excludes that woods.

2 ALJ ADDISON: Perfect. Thank you.

3 Q. (By Ms. Sheely) Dr. Ebenhack, there was a  
4 tenant farmer farming all or part of the land that  
5 you enrolled in the solar bid -- Yellowbud Solar  
6 project at the time you enrolled it?

7 A. Yes.

8 Q. And you agree with me that on the far  
9 east side of this map appears State Route 104; is  
10 that correct?

11 A. Part, yes.

12 Q. Can you tell where the Pickaway County  
13 line is in this particular map?

14 A. The county line comes across as an angle.  
15 I could give you an approximate. That's about it.

16 Q. Can you do approximately just to orient  
17 folks?

18 A. You want with the black marker again or?

19 Q. Just point this time, if you would,  
20 please.

21 A. Okay. See this field right here?

22 Q. You are looking at the field immediately  
23 to the north of the thick black line that you --

24 A. It comes across.

25 Q. -- marked?

1           A.    Wait a minute.  No.  It comes across like  
2   this.  I'm sorry.  This field here has 40 acres in  
3   Ross County, and the county line is right about at  
4   the edge of this field right here.  And then it  
5   crosses cutting off about two-thirds of it into Ross  
6   County.

7           Q.    Okay.  That's sufficient for why I am  
8   asking it.

9           A.    Okay.

10          ALJ ADDISON:  Thank goodness.

11          Q.    (By Ms. Sheely) And you continue to own  
12   and live on land surrounding this property, correct?

13          A.    Well, not surrounding but close to it.

14          Q.    Close to it.  Just for the sake of the  
15   record, if I were to ask you any questions regarding  
16   concerns you have about the way in which the  
17   Yellowbud Solar project was constructed, you would  
18   decline to answer those, correct?

19          A.    Yes.

20          Q.    And that's because you've been instructed  
21   by counsel not to do so and been precluded from doing  
22   so based upon Yellowbud Solar's position, correct?

23          A.    Correct.

24          MR. VAN KLEY:  Your Honor, at this point  
25   we would -- we would note that although it is true as

1     stated in the witness's testimony that -- that  
2     Yellowbud's attorneys have threatened to sue  
3     Mr. Ebenhack if he discusses the Yellowbud --  
4     problems with the Yellowbud facility, that does not  
5     preclude the Bench in its discretion from going into  
6     an attorney eyes only session so that counsel can ask  
7     her questions if she wishes.

8             ALJ ADDISON:   Thank you.

9             MS. SHEELY:   That was not my plan.   Can I  
10    go ahead, please, and mark Applicant's Exhibit 38.  
11    This is a public comment from the docket in both this  
12    case and in Case No. 20-0972 which was filed on  
13    April 5, 2022.

14            ALJ ADDISON:   It will be so marked.

15            (EXHIBIT MARKED FOR IDENTIFICATION.)

16            Q.    (By Ms. Sheely) Dr. Ebenhack, do you  
17    recognize this document?

18            A.    Yes.

19            Q.    Is this a letter that you wrote to the  
20    Director of the Ohio Department of Agriculture  
21    Dorothy Pelanda?

22            A.    Yes.

23            Q.    Did you file this to the docket in this  
24    case and in Case 20-0972 on or around April 5, 2022?

25            A.    That sounds right.

1 Q. And you drafted this yourself?

2 A. Yes.

3 Q. The -- this letter, was it also sent  
4 directly to Director Pelanda's office?

5 A. Yes.

6 Q. This is after you intervened in this  
7 proceeding, correct?

8 A. Yes.

9 Q. And are you aware that Director Pelanda  
10 is a member of the Ohio Power Siting Board?

11 A. Yes.

12 Q. So in the context of this letter, you  
13 agree with me that one of the purposes of this letter  
14 is to oppose the solar projects that were proposed in  
15 Pickaway County?

16 A. This -- at that time I did not realize I  
17 was going to be threatened about making statements  
18 so, yes.

19 Q. Understand, yes. And but the purpose of  
20 the letter; is that correct? At the time you wrote  
21 it.

22 A. Would you say it again, please?

23 Q. One of the purposes of this letter was to  
24 express your opposition to the Scioto Farms Solar  
25 project and other solar projects in Pickaway County?

1           A.    Yes, yes.

2           Q.    You did not disclose anywhere in this  
3 letter to Director Pelanda, did you, even though you  
4 mention the Yellowbud Solar project that you were a  
5 participating landowner in it, did you?

6           A.    No.

7           Q.    And you stated in here looking at the  
8 second full paragraph about midway through "In  
9 Pickaway County alone it sounds like the loss of  
10 10,000 to possibly 20,000 acres of good farm land."  
11 Do you see where I am?

12          A.    Yeah, yeah.

13          Q.    You agree with me that is not an accurate  
14 number, correct?

15          A.    To projects that have been filed or being  
16 proposed, that's -- that is not accurate.

17          Q.    Okay. And at the time you wrote this, it  
18 wasn't 10,000, was it?

19          A.    I had been told of other farmers -- well,  
20 landowners that had been approached and had been  
21 signing up which sounded like it would probably be in  
22 the 10,000 possibly plus area.

23          Q.    But you didn't have knowledge of anything  
24 like 10,000 acres signed up at that time and  
25 certainly not 20,000 acres, correct?

1           A.     That's the reason I said it sounds like.

2           Q.     Would you read for me on the front page  
3 of this. There is a file name associated with --  
4 where it says "Attachments." What is it?

5           A.     It says "Opposition to Yellowbud Solar  
6 Project." I don't know where that came from.

7           Q.     So you are saying that wasn't the name of  
8 the file you uploaded to the OPSB docketing system?

9           A.     No. None of that looks familiar to me.

10           MS. SHEELY: I would like to mark  
11 Exhibit 39. This is a public comment that was filed  
12 to the Docket from Dr. Ebenhack on April 21, 2022.

13           ALJ ADDISON: You said April 1?

14           MS. SHEELY: April 21, 2022.

15           ALJ ADDISON: Thank you. It will be so  
16 marked.

17           (EXHIBIT MARKED FOR IDENTIFICATION.)

18           Q.     (By Ms. Sheely) Dr. Ebenhack, do you  
19 recognize this document?

20           A.     Yes.

21           Q.     Do you agree that it is a public comment  
22 that you filed on April 21, 2022, in this proceeding?

23           A.     Approximately then, yes.

24           Q.     Did you also file the same public comment  
25 in Case 20-0972 which is the Yellowbud Solar case?

1           A.    Wait.  I'm sorry, please.

2           Q.    Sure.  Did you also file this same public  
3 comment on the Yellowbud docket?

4           A.    On Yellowbud docket?

5           Q.    Yes.

6           A.    Not to my knowledge, no.

7           Q.    Okay.  Was that your writing at the top  
8 or was that someone else's?

9           A.    That's someone else's.  I have no idea.  
10 That was definitely not me.

11          Q.    Thank you.  You had discussions regarding  
12 your opposition to solar projects in Pickaway County  
13 with Mr. Matt Butler who is with OPSB Staff, correct?

14          A.    Yes, I talked with Matt.

15          Q.    And you reference some concerns and some  
16 discussion with him about -- in this letter, correct?

17          A.    Yes.

18          Q.    You spoke -- one of the topics you spoke  
19 with him about was a concern about the potential of  
20 solar panels providing contamination that could be  
21 leached off into the ground and then eventually into  
22 the water source; is that correct?

23          A.    I questioned that, yes.

24          Q.    And Mr. Butler responded that the panels  
25 are tested and sealed; is that right?

1 A. Correct.

2 Q. You don't have any expert witness and you  
3 are not an expert yourself in electromagnetic fields,  
4 correct?

5 A. That's correct.

6 Q. Fire suppression?

7 A. That's correct.

8 Q. Other than your personal observations  
9 about protection of wildlife?

10 A. What do you mean?

11 Q. So you raised concerns in here about -- I  
12 am looking at the last paragraph in your letter.

13 A. Okay.

14 Q. How -- last paragraph on page 1, I'm  
15 sorry.

16 A. Oh, yes.

17 Q. You don't have any particular knowledge  
18 or training about deer travel or migration patterns,  
19 right?

20 A. I've observed a lot in my life. I think  
21 I do know a good bit about it but this I was  
22 questioning him if there was more information.  
23 That's what I was asking for. I wanted to know is  
24 there anything that would show good or bad about what  
25 this might affect. And their answer was there is no

1 studies.

2 Q. Okay. Anywhere in this letter to the  
3 Ohio Power Siting Board where you disclosed the fact  
4 you were a participating landowner in the solar  
5 bid -- I keep calling it that, I'm sorry, so sorry,  
6 the Yellowbud Solar project?

7 A. No.

8 Q. And so when you say in the second line of  
9 the letter at the beginning "The Yellowbud Solar --  
10 the Yellowbud Project is on my south side and if you  
11 approve the Scioto Project, my family will be  
12 sandwiched between them. How can you consider that  
13 fair," one of those projects is one in which you were  
14 a participating landowner, correct?

15 A. Unfortunately, yes, regrettably.

16 MS. SHEELY: At this point, your Honor, I  
17 have some questions about the way in which the  
18 petitions were prepared. Is it still fair game for  
19 me to ask those questions even though the petitions  
20 themselves will be moved to the public comments?

21 ALJ ADDISON: Mr. Van Kley, do you care  
22 to respond before I?

23 MR. VAN KLEY: I would be okay with that.

24 ALJ ADDISON: Yes, I think it would be  
25 informative if the Board is to consider the comments

1 as filed in the public comment section. It would be  
2 helpful to see how they were generated, sure.

3 MS. SHEELY: Thank you.

4 Q. (By Ms. Sheely) Dr. Ebenhack, would you  
5 turn to Exhibit A that's within your prefiled  
6 testimony that Mr. Van Kley gave you.

7 A. This -- oh, yes. I know what you mean  
8 now. Okay.

9 Q. Do you recognize --

10 A. Yes.

11 Q. -- this exhibit?

12 A. Uh-huh.

13 Q. You would agree with me that there is no  
14 date on any of these pages, correct?

15 A. That's correct.

16 Q. I believe your testimony says the  
17 initials to the right-hand column that say TE or just  
18 T were ones that you took responsibility for?

19 A. To the best of my knowledge, yes.

20 Q. You did not review identification for any  
21 of the persons who signed this petition, correct?

22 A. Correct.

23 Q. And none of those people are here at the  
24 hearing, of course, correct?

25 A. Correct.

1           Q.    You did not provide people with any  
2 information elaborating on any of the statements in  
3 the top prewritten portion of the petition page, did  
4 you?

5           A.    Ask that again.  I'm not quite sure.

6           Q.    You did not provide people who were being  
7 asked to sign a petition with any -- and I will  
8 clarify.  I meant written information explaining any  
9 of the statements at the top of the petition,  
10 correct?

11          A.    No.

12          Q.    And you indicated on some occasions to  
13 people if they needed information that you opposed  
14 the project, correct?

15          A.    I don't know that I said I opposed it,  
16 but I would think it was obvious.

17          Q.    From the content of the petition itself?

18          A.    Yes.

19          Q.    You don't have any personal knowledge  
20 that there has not been an established basis of need  
21 for the facility's electric generation and  
22 transmission, correct?

23               MR. VAN KLEY:  Objection.  The question  
24 is ambiguous.

25               ALJ ADDISON:  I think he can answer.

1           A.    Okay.  Ask it again.

2           Q.    You -- I am look -- I am just reading  
3   from the petition in case I didn't make that obvious.  
4   I apologize.  There is a statement that says three  
5   sentences down, "There has NOT been an established  
6   basis of need for the facility's electric generation  
7   and transmission."  Do you see where I am?

8           A.    Yes.  Okay.  I see.

9           Q.    You do not have personal knowledge of  
10  that fact, do you?

11          A.    Personal knowledge, I guess no.

12          Q.    And same question with regard to the next  
13  question -- or the next statement which is "There has  
14  NOT been a realistic and accurate nature of  
15  understanding to the environmental impact within the  
16  rural community."  You do not have personal knowledge  
17  about that statement, correct?

18          A.    I would say no.

19          Q.    The same with regard to the next one,  
20  "There is NOT quantifiable," I believe it's meant to  
21  be data, "established to determine whether the  
22  facility represents minimum adverse environmental  
23  impact and there have been NO alternative solutions  
24  proposed."  Do you see where I am?

25          A.    To what I found at that point in time,

1 that seemed correct.

2 Q. And by what you found you mean in  
3 conducting independent research?

4 A. When I --

5 Q. For articles and on the internet and  
6 such.

7 A. Yes.

8 Q. Yes?

9 A. Yes.

10 Q. But you do not have other independent  
11 knowledge about --

12 A. Huh-uh.

13 Q. -- that statement, correct?

14 A. Correct.

15 Q. And you do not have expert -- you have  
16 not consulted with an expert regarding that  
17 statement, correct?

18 A. I talked with EPA office. I would sort  
19 of think that would be expert.

20 Q. But EPA did not give you information that  
21 the facility had not met the standard to be the  
22 minimum adverse environmental impact, correct?

23 A. They said there was no studies at all.

24 Q. Regarding what?

25 A. Solar facilities and any adverse effect

1 to the environment.

2 Q. EPA -- Ohio EPA told you there were no  
3 studies regarding solar facility impacts to the  
4 environment?

5 A. You are also asking me something from  
6 over a year ago trying to remember exactly. I asked  
7 if there was any studies on the long-term effects of  
8 I think contamination, and they said there was no  
9 studies.

10 Q. And other than that you have no --

11 A. Correct.

12 Q. -- information regarding that statement,  
13 correct?

14 A. Correct.

15 Q. You do not have personal knowledge of the  
16 next sentence either, right? "This facility is NOT  
17 consistent with regional expansion plans for the Ohio  
18 power grid. There is also NO evidence that the  
19 facility will serve the interest of electric system  
20 economy and reliability"; is that right?

21 A. The first sentence I would say you are  
22 correct. On the second one I talked with a -- I am  
23 trying to think, it's a board member for the South  
24 Central Power, and he indicated that he did not like  
25 solar-generated electric because it was unreliable.

1 MS. SHEELY: And I would move to strike  
2 the last hearsay statement that was provided  
3 regarding the statement of the unnamed board member.

4 ALJ ADDISON: Thank you.

5 Mr. Van Kley?

6 MR. VAN KLEY: I think it's responsive to  
7 the question that was asked, so you asked a question;  
8 you get the answer.

9 ALJ ADDISON: Thank you. I'll invoke my  
10 old rule of one bite at the apple. I'll allow the  
11 witness's answer to stand.

12 However, Dr. Ebenhack, I will instruct  
13 you for Ms. Sheely's questions -- any questions in  
14 the future that you just answer her question  
15 directly. And Mr. Van Kley can certainly bring out  
16 any additional information you would like to bring  
17 out on redirect at that point.

18 THE WITNESS: So I have to just say yes  
19 or no?

20 ALJ ADDISON: I wouldn't necessarily say  
21 it like that but, yes, if the answer does -- if the  
22 question does say -- or pose itself to be answered in  
23 a yes or no fashion, you are likely safer to answer  
24 it yes or no.

25 THE WITNESS: Okay.

1 ALJ ADDISON: Please proceed, Ms. Sheely.

2 MS. SHEELY: Thank you.

3 Q. (By Ms. Sheely) The next statement is  
4 "This facility does NOT serve the public interest."  
5 You believe it does not, correct?

6 A. I believe it does not.

7 Q. But you do not know how the Ohio Power  
8 Siting Board or the Ohio Supreme Court determined if  
9 a project serves the "public interest," correct?

10 A. Correct.

11 Q. And then finally "The facility's impact  
12 on the continued agricultural viability of any land  
13 had NOT been substantiated and evidence of any such  
14 actual land viability post facility conversion has  
15 not been substantiated." You do not have personal  
16 knowledge of those factual statements, do you?

17 A. No.

18 Q. Do you know who wrote the contents of  
19 this petition?

20 A. My son and daughter-in-law provided them  
21 for me. That's as much as I can tell you.

22 MS. SHEELY: At this time I would like to  
23 mark Applicant Exhibit 40. This is a public comment  
24 filed by Dr. Ebenhack on the docket in this case on  
25 February 14, 2023.

1 ALJ ADDISON: It will be so marked.

2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 Q. Dr. Ebenhack, do you recognize this  
4 document?

5 A. Yes.

6 Q. This is a -- is this a letter that you  
7 wrote to Brian Baldridge, the Ohio Director --  
8 Director of the Ohio Department of Agriculture?

9 A. Yes.

10 Q. And you filed this on the docket on  
11 February 14, 2023?

12 A. That sounds correct.

13 Q. The articles attached to this were pulled  
14 from the internet, correct, or from --

15 A. Magazines.

16 Q. -- magazines; is that correct?

17 A. I know this first one was magazine.  
18 Second one was magazine. Third one is magazine.  
19 Fourth one is magazine. This on the System Energy  
20 and Environmental Performance was provided by the  
21 Third Solar Company. The next two pages were  
22 magazine, magazine, fliers sent out by a group trying  
23 to protect farmland. American Farm Trust I think is  
24 the name of the group.

25 Q. Okay.

1           A.    That would be one, two, three pages of  
2   theirs and then another magazine.

3           Q.    Did you write this on or around the date  
4   that you filed it on the docket?

5           A.    Yes.

6           Q.    And there's nowhere in here that you  
7   disclose that you are a participating landowner in  
8   the Yellowbud Solar project either, right?

9           A.    No.

10          Q.    And, in fact, you reference in here that  
11   you have solar panels on your barn.

12          A.    Correct.

13          Q.    But don't disclose your participation in  
14   a utility-scale solar project, correct?

15          A.    Correct.

16                MS. SHEELY:  At this time point, your  
17   Honor, I have a short few questions that I do think  
18   will need to be attorney eyes only and handled in  
19   confidential session.  I waited until the end, so I  
20   wanted to advise you of that.

21                ALJ ADDISON:  Thank you.

22                Will any other parties anticipate  
23   questions in a confidential session?

24                MS. CURTIS:  No.

25                MR. CHAMBERLAIN:  No.

1           ALJ ADDISON: Will any other parties have  
2 questions for the public session?

3           MR. DOVE: I think she has covered  
4 everything I would have so.

5           MS. CURTIS: No, your Honor.

6           MR. CHAMBERLAIN: No, your Honor.

7           MR. EUBANKS: No, your Honor.

8           ALJ ADDISON: Okay. Let's go ahead and  
9 finish up just going around the table and noting  
10 that -- well, I will just say it. There will be no  
11 other questions for cross-examination for this  
12 witness in the public session; is that correct?

13          MR. DOVE: Yes, your Honor.

14          MR. EUBANKS: Yes, your Honor.

15          MS. CURTIS: Yes, your Honor.

16          ALJ ADDISON: Thank you all. At this  
17 time we will move back into confidential session.

18                 (CONFIDENTIAL PORTION EXCERPTED.)

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(PUBLIC PORTION.)

MR. VAN KLEY: Can we take a short break?

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

(Recess taken.)

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

Mr. Van Kley, do you have any redirect  
for the public portion of our transcript?

MR. VAN KLEY: I do.

ALJ ADDISON: Please proceed.

- - -

REDIRECT EXAMINATION

By Mr. Van Kley:

Q. Dr. Ebenhack, how would you describe the  
quality of the farmland that you signed up for the  
Yellowbud project?

A. It was not the best. It was the worst of  
the land I had, yes.

1 Q. Okay. Can you elaborate on that at all?

2 A. A lot of wetland which meant there was  
3 good years when the weather was correct and there  
4 were bad years when the weather didn't cooperate.

5 Q. Okay. Let's talk a little bit about the  
6 petitions, petition signatures that you collected.  
7 You were asked about the date -- or you were asked  
8 whether the petitions have the date of their  
9 collection identified on them. So let me ask you, do  
10 you recall that a public information session was held  
11 by the Applicant in the community for this project?

12 A. Yes.

13 Q. Okay. Were the signatures that you  
14 collected on the petitions collected before or after  
15 that public information session --

16 A. After.

17 Q. -- the Applicant held?

18 A. After that.

19 ALJ ADDISON: I'm sorry, Mr. Ebenhack.  
20 What was the last part of your answer?

21 THE WITNESS: After that meeting.

22 ALJ ADDISON: Thank you.

23 THE WITNESS: I'm sorry. Still a little  
24 shaken.

25 Q. (By Mr. Van Kley) Now, where did you go

1 to collect the signatures for these petitions?

2 A. I went door to door, highways, the county  
3 roads, the township roads.

4 Q. Okay. Did you -- did you collect the  
5 petition signatures at the homes of the persons who  
6 signed the petitions?

7 A. Yes.

8 Q. Did you personally know any of the people  
9 who signed the petitions?

10 A. I would have to go back through to try to  
11 give you an exact, but I would think half or -- were  
12 people that I knew that were there but to really know  
13 them probably about half of them.

14 Q. And did you verify the addresses --

15 A. Yes.

16 Q. -- of the persons that you obtained  
17 signatures from?

18 A. Yes.

19 Q. And did you verify that the addresses on  
20 the petitions were the addresses of the homes that  
21 you visited to get the signatures from those people?

22 A. Yes, yes.

23 Q. And did you verify that all of those  
24 persons who signed the petitions resided in Pickaway  
25 County?

1           A.    All of the houses I went to were in  
2   Picka -- in Pickaway County and in Wayne Township.  
3   If there were extra family members, I may not have  
4   asked if they were.

5           Q.    Do you recall that any family members who  
6   were not residents signed these petitions?

7           A.    To the best of my knowledge, no.

8           Q.    And with respect to the petitions, the  
9   signatures on the petitions, did you verify that you  
10  were the person who collected the petitions that are  
11  marked in some way on the petitions?

12          A.    My initials, yes.

13          Q.    Okay.  And what are your initials that  
14  you put down?

15          A.    I had to put down T or TE.

16          Q.    And you marked that next to the signature  
17  of each person from whom you obtained a signature  
18  from on the petitions?

19          A.    Yes.

20          Q.    And when you were collecting these  
21  petitions, did -- did any of the people you asked for  
22  a signature decline to sign the petition?

23          A.    Yes.

24          Q.    How many?

25          A.    I think three.  If you wish, one I

1       advised not to.

2               Q.     You advised a person not to sign?

3               A.     They could have been in jeopardy of being  
4       evicted.

5               MR. VAN KLEY:  Oh, okay.  All right.  I  
6       have no further questions, your Honor.

7               ALJ ADDISON:  Thank you.

8               Ms. Sheely, any additional questions?

9               MS. SHEELY:  No, thank you.

10              ALJ ADDISON:  Thank you.

11              Mr. Dove?

12              MR. DOVE:  No questions, your Honor.

13              ALJ ADDISON:  Ms. Curtis?

14              MS. CURTIS:  No questions, your Honor.

15              ALJ ADDISON:  Mr. Chamberlain?

16              MR. CHAMBERLAIN:  No, your Honor.

17              ALJ ADDISON:  Mr. Eubanks?

18              MR. EUBANKS:  No questions, your Honor.

19              ALJ ADDISON:  I have no additional  
20       questions, Dr. Ebenhack.  You are excused.  Thank you  
21       very much for your testimony.

22              THE WITNESS:  Okay.

23              ALJ ADDISON:  Mr. Van Kley, had you  
24       previously moved Dr. Ebenhack's testimony into the  
25       record?

1 MR. VAN KLEY: I did, your Honor. I will  
2 say it again for the record.

3 ALJ ADDISON: Thank you.

4 Any objection to the admission of  
5 Ebenhack Exhibit No. 1 into the record at this time,  
6 subject to, of course, the motion to strike that had  
7 been granted?

8 MS. SHEELY: Other than that, no, your  
9 Honor.

10 ALJ ADDISON: Okay. Of course, subject  
11 to the motion to strike, that exhibit will be  
12 admitted.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 ALJ ADDISON: Ms. Sheely, would you like  
15 to move any exhibits into the record at this time?

16 MS. SHEELY: Yes. I would like to move  
17 Exhibits 34 through 40 into the record, please.

18 ALJ ADDISON: And, I'm sorry, 34 through  
19 40?

20 MS. SHEELY: Yes.

21 ALJ ADDISON: Okay. Any objection to the  
22 admission of Applicant Exhibit Nos. 34, 35, 36, 37,  
23 38, 39, or 40?

24 MR. VAN KLEY: No, your Honor.

25 ALJ ADDISON: Hearing none, they will be

1 admitted.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 ALJ ADDISON: Mr. Van Kley.

4 MR. VAN KLEY: Thank you, your Honor. At  
5 this time we will call Suzannah Ebenhack.

6 ALJ ADDISON: Welcome.

7 MS. EBENHACK: Hi.

8 (Witness sworn.)

9 ALJ ADDISON: Thank you. Please be  
10 seated.

11 - - -

12 SUZANNAH M. EBENHACK

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

15 DIRECT EXAMINATION

16 By Mr. Van Kley:

17 Q. State your name for the record, please.

18 A. Suzannah M. Ebenhack.

19 Q. Do you have a copy of your written direct  
20 testimony that has been marked as Ebenhack's Exhibit  
21 No. 2 in front of you?

22 A. Yes.

23 Q. Did you or someone under your supervision  
24 prepare this testimony?

25 A. Yes.

1           Q.    Do you have any corrections to your  
2 testimony?

3           A.    I do not.

4           Q.    If I asked you the questions in your  
5 testimony today, would your answers be the same as  
6 are written in your testimony?

7           A.    Yes.

8           MR. VAN KLEY:  At this time, your Honor,  
9 I would move for the admission of Ebenhack's Exhibit  
10 No. 2, subject to cross-examination.

11           ALJ ADDISON:  Thank you very much,  
12 Mr. Van Kley.

13           Ms. Sheely, any questions?

14           MS. SHEELY:  Yes.  Thank you, your Honor.

15                               - - -

16                               CROSS-EXAMINATION

17   By Ms. Sheely:

18           Q.    Good afternoon.

19           A.    Good afternoon.

20           Q.    Ms. Ebenhack, you live at 28620 Ebenhack  
21 Road, correct?

22           A.    That is correct.

23           Q.    And that is essentially next door to your  
24 in-laws; is that right?

25           A.    That is correct.

1           Q.    You operate a business from your  
2 property, right?

3           A.    That's correct.

4           Q.    And it's called the Farmstead Market as  
5 you said in your testimony?

6           A.    Yes.

7           Q.    And one of the different things that the  
8 business does is allows people to come to the  
9 property and pick produce?

10          A.    That is correct, yes.

11          Q.    And when they pick it, you refer to it  
12 commonly as the U-Pick?

13          A.    Yes.

14          Q.    And you -- you testified that your  
15 concern is that the project will create dust or noise  
16 or traffic that would interfere with the Company's  
17 U-Pick business, correct?

18          A.    Yes.

19          Q.    The entrance to the Farmstead Market is  
20 off of Dungan Road, correct?

21          A.    No.  It's off Ebenhack Road.

22          Q.    Ebenhack Road, okay.  And then  
23 perpendicular to Ebenhack Road is Dungan Road,  
24 correct?

25          A.    Yes.

1           Q.    So people visiting your business would  
2   take Dungan Road and then turn into the business on  
3   Ebenhack Road?

4           A.    They come multiple different directions.  
5   They can either come Dungan, turn on Ebenhack; or  
6   they can come from the south, come up Ebenhack, and  
7   turn on that way so; or they could come from Westfall  
8   Road to Dungan into Ebenhack Road.

9           Q.    The Farmstead Market business is not open  
10   year round, correct?

11          A.    No, it's not.

12          Q.    It's open from May through about  
13   mid-November; is that correct?

14          A.    Yes.

15          Q.    And same with U-Pick is not offered year  
16   round, right?

17          A.    That is correct.

18          Q.    So you have a strawberry and blackberry  
19   season that is about two weeks long for U-Pick; is  
20   that correct?

21          A.    That is not correct.  Strawberries about  
22   two to four and then blackberries are four to six.

23          Q.    And what months of the year are  
24   strawberries?

25          A.    May and June.

1 Q. And blackberries?

2 A. July-August.

3 Q. And you have a U-Pick pumpkin season as  
4 well?

5 A. We do, yes.

6 Q. When's the U-Pick pumpkin season?

7 A. We have done different things over the  
8 years. It mostly starts beginning of September.

9 Q. And runs into when?

10 A. Halloween.

11 Q. The U-Pick business represents about  
12 10 percent of the income from the Farmstead Market  
13 business; is that correct?

14 A. That is correct currently. However,  
15 we've been working to transition that to be a much  
16 larger part of our business over the past couple  
17 years.

18 Q. Your produce is also sold off the site at  
19 a variety of farmers' markets around Columbus; isn't  
20 that right?

21 A. That is correct.

22 Q. Maybe six on a weekly basis?

23 A. Depends on the year but around six.

24 Q. And the well more than half of the income  
25 for your business is derived from selling produce at

1 farmers' markets off-site, correct?

2 A. That is correct but that is not our  
3 future business plan.

4 Q. With regard to the U-Pick business, is it  
5 fair to say that the peak business for that is on  
6 Sundays?

7 A. It is, yes, that is correct. It's peak  
8 on Sundays.

9 Q. Is it also more on the weekends than  
10 during the weekdays?

11 A. Yes. It depends though because it is in  
12 the summer, so it depends on if it's the pumpkin or  
13 strawberry season, busier on the weekend, and in the  
14 summer blackberries can be depending on when people  
15 come out.

16 Q. You do not know the construction schedule  
17 that the project would follow if approved, correct?

18 A. I do not.

19 Q. And so you don't know whether the --

20 A. Actually, sorry. I take that back. I do  
21 believe that it was 7:00 a.m. to 7:00 p.m. or dusk,  
22 and then I don't know whose testimony I was listening  
23 to, but it did not specify that it was just on the  
24 weekdays.

25 Q. Okay. And I appreciate the

1 clarification. What I was actually referring to is  
2 when construction would start in terms of like a  
3 month or a year.

4 A. Yes. Nobody knows.

5 Q. And so you don't know where in the  
6 construction area project construction might be  
7 taking place at any given time, right?

8 A. I don't believe anybody knows.

9 Q. And you don't know whether construction  
10 would actually be taking place at all during the  
11 U-Pick seasons that you referenced, right?

12 A. Correct.

13 Q. And you don't know one way or the other  
14 whether construction would be taking place on  
15 Saturday or Sunday, right?

16 A. I do not know that for a fact.

17 Q. You testified that some of the access  
18 points for your Farmstead Market are off of Dungan  
19 Road, correct?

20 A. You mean the driveways off of Dungan Road  
21 or some of -- we have the option to get into the  
22 farm -- a customer -- yeah, rephrase it.

23 Q. Customers could drive down Dungan Road to  
24 turn onto Ebenhack Road to get into the market,  
25 correct?

1           A.    That is correct.

2           Q.    And so you expressed some concerns about  
3 construction traffic that might take place on Dungan  
4 Road?

5           A.    Yes.

6           Q.    Are you aware of the fact that the  
7 project has offered not to use Dungan Road for  
8 construction traffic?

9           A.    Yes.

10          Q.    That's true, isn't it, that it did say it  
11 would not use Dungan Road for construction traffic?

12          A.    Yes, but I am not aware they said  
13 anything about the workers using it to and from the  
14 location.

15          Q.    And you would agree that that would  
16 address part of your concern or all of your concern  
17 about Dungan Road if the construction workers also  
18 did not use Dungan Road for construction traffic?

19          A.    No.

20          Q.    So if Dungan Road was not used for  
21 construction traffic, that would not alleviate some  
22 of your concern about construction traffic on that  
23 road?

24          A.    No, because they will still have to  
25 travel on 104.

1                   ALJ ADDISON: But in terms of Dungan  
2 Road.

3                   THE WITNESS: If there was absolutely  
4 zero traffic, then, yes, that would alleve some  
5 concern.

6                   Q. You testified that -- in your direct that  
7 you can see fields to the north and east of the  
8 events barn on your property where Scioto Farms is  
9 proposing the site, right?

10                  A. Correct, yes.

11                  Q. Would you turn for me, please, in the  
12 binder right to your elbow there --

13                  A. This one?

14                  Q. Yes. And tab A within it. This is a  
15 copy of the application that was filed by Scioto  
16 Farms, and tab A should be a map.

17                  A. Yes.

18                  Q. On the map there is kind of a white area  
19 reflecting where your events barn is, correct?

20                  A. The big white area is actually the  
21 blackberries but that's close to where the events  
22 barn is at.

23                  Q. And that happens to be field cover on the  
24 blackberries at the time that the photo was taken?

25                  A. Yes. It's frost blankets.

1           Q.    So from the events barn there, if you  
2 look across the street to where the project area is,  
3 do you see a triangular-shaped carve out from where  
4 the panels will be placed in the project area?

5           A.    I do, yes.

6           Q.    Are you aware of the fact that the  
7 project made that change to its design to accommodate  
8 your family's request for further setback from the  
9 events barn?

10          A.    I do, but I don't believe it takes into  
11 consideration that we are at a higher elevation, and  
12 we'll still be able to see it, direct line of sight.

13          Q.    You cannot --

14               ALJ ADDISON:  Ms. Sheely, we are going to  
15 shut the door.

16               MR. DOVE:  Sorry.  Something is leaking  
17 out there.

18               ALJ ADDISON:  We are going to go off the  
19 record.

20               (Discussion off the record.)

21               ALJ ADDISON:  Let's go back on the  
22 record.

23               We will try to press on while we can  
24 until we find out more.

25          Q.    (By Ms. Sheely) And you are not taking

1 the position that you can force your neighbors not to  
2 put anything in that field and keep it an open field,  
3 right?

4 A. That is correct.

5 Q. You testified you own an events space  
6 where you could host weddings, right?

7 A. That is correct.

8 Q. You have not had a paid wedding event in  
9 that venue, right?

10 A. We have not because we don't know what's  
11 going on with this. Weddings take years in advance  
12 to book sometimes, and I am not going to have a bride  
13 book a wedding and then find out construction is  
14 starting in six months and say, hey, guess what, you  
15 might need to find a new venue. That's just not good  
16 business practices.

17 Q. This project isn't going to be  
18 constructed in 2023 across from your property, is it?

19 A. We don't know.

20 Q. You don't have any events planned for  
21 2023 in that events barn, right?

22 A. Yes, because we don't know when  
23 construction is going to start.

24 Q. Okay. So anything up until, you know,  
25 the next few months or something like that, is it

1 fair to say we would know construction was not going  
2 to be occurring during those months?

3 A. Yeah, but I would have to book up months  
4 and months in advance, and we just don't know the  
5 timeline for anything. We haven't known that. When  
6 I would have had to book the events in the next  
7 couple of months would have been far enough back I  
8 wouldn't have known that construction wouldn't be  
9 going on in these next couple of months.

10 Q. So your events barn was finished in 2020,  
11 correct?

12 A. That is correct.

13 Q. And you are taking the position you  
14 couldn't book any paid events from 2020 through the  
15 present because you wouldn't know what was going on  
16 with this project?

17 A. Yes.

18 Q. You mentioned visibility of the project.  
19 Any visibility at all of the project would be  
20 unacceptable to you, correct?

21 A. That is correct, yes.

22 Q. And so you would oppose any project that  
23 was visible from your property.

24 A. That is correct.

25 Q. And you would oppose any project that is

1 visible from Route 104, right?

2 A. That is correct.

3 Q. And you would agree though the Yellowbud  
4 Solar project is visible from Route 104?

5 A. Oh, yes.

6 Q. And you did not oppose the Yellowbud  
7 Solar project?

8 A. No. I oppose it.

9 Q. You did not file --

10 A. I never filed -- I never filed anything.

11 Q. Okay. So you did not publicly oppose it  
12 on the docket anyway.

13 A. Not on the docket but publicly, yes, I  
14 have.

15 Q. There are other businesses where the  
16 customers would have to drive past the Yellowbud  
17 project on 104, right?

18 A. Uh-huh.

19 Q. Yes?

20 A. Yes. My bad.

21 ALJ ADDISON: Thank you.

22 Q. (By Ms. Sheely) You weren't concerned  
23 about that at the time that you have opposed this  
24 project but had not publicly filed something on the  
25 docket opposing Yellowbud, correct?

1           A.    Correct, but nobody knew what it was  
2 going to look like. I had no experience with what  
3 the solar panels would look like from -- so I  
4 wouldn't know what it would look like, so how it  
5 would affect those businesses.

6           Q.    How long do you think construction was  
7 going on in the area near you for the Yellowbud Solar  
8 project?

9           A.    I can't be exact, but it's been at least  
10 a year.

11          Q.    So can you give us just the ballpark  
12 timing of when it started?

13          A.    You know, I don't recall.

14          Q.    Your business though meaning the amount  
15 of customers remained relatively stable during the  
16 time of the construction of the Yellowbud Solar  
17 project, correct?

18          A.    Not really. We were down a little bit  
19 this year, and it is included in my testimony. It  
20 says that.

21               ALJ ADDISON: Can you point to a specific  
22 reference?

23               THE WITNESS: Oh, sorry. It's question  
24 14, answer A, it says "But the number appeared to be  
25 somewhat less than in 2021."

1           Q.     (By Ms. Sheely) So you had records for  
2 your customers for 2020 and 2021 but did not keep  
3 records for the number of customers in 2022.

4           A.     That is correct.

5           Q.     Once you learned about Scioto Farms Solar  
6 project, you knocked on doors and spoke to hundreds  
7 of residents in Wayne Township about the project?

8           A.     Yes.

9           Q.     And you expressed to them that you oppose  
10 the project?

11          A.     That's not exactly what I was doing. I  
12 was going to get them to sign those petitions. It  
13 wasn't necessarily to express my opposition. It was  
14 to inform them about some of the issues and asking  
15 them if they would also oppose the project, but I  
16 never specifically said I'm opposed to this; you be  
17 opposed to it too.

18          Q.     But you asked for them to join you in  
19 opposing the project.

20          A.     Yes.

21          Q.     And the content of the petitions  
22 themselves, which in your case are attached as  
23 Exhibit A right now and will be moved to the public  
24 comments, indicates reasons for opposition, correct?

25          A.     That is correct, yes.

1           Q.    And you were present for the questioning  
2 of Dr. Ebenhack, correct?

3           A.    Part of it, yes.

4           Q.    So when I asked him a series of questions  
5 about whether he had personal knowledge about the  
6 statements or backup information essentially about  
7 the statements that are contained in the top of the  
8 petitions, you do not have personal knowledge about  
9 those items either, do you?

10          A.    The only one that I would say is probably  
11 the understanding the environmental impact within the  
12 rural community because I got to see what the  
13 Yellowbud was doing to the community and to the  
14 actual environment that they were working on.

15          Q.    Okay. And so just to be clear, the  
16 Yellowbud Solar project is a different developer,  
17 correct?

18          A.    That is correct.

19          Q.    And has different conditions imposed on  
20 the construction of that project than are proposed to  
21 be imposed here?

22          A.    I am not aware of any specifics.

23                ALJ ADDISON: I'm so sorry. If everyone  
24 could just speak up to elevate our voices above  
25 whatever is happening in the hallway.

1 THE WITNESS: I'm loud. It's okay.

2 Q. (By Ms. Sheely) In the course of speaking  
3 with residents, you in some cases informed them what  
4 you expected this project to be like based upon  
5 things you had seen for Yellowbud, correct?

6 A. That is correct, yes.

7 Q. And some of the concerns that you  
8 expressed to them at that time were concerns about  
9 the safety of the materials used in the panels,  
10 right?

11 A. That is correct.

12 Q. And about impacts to wildlife that might  
13 occur?

14 A. That is correct.

15 Q. Also about potential impacts to bats?  
16 Was that one of the items you referenced?

17 A. No. I didn't reference that when I  
18 talked to anybody. I think it was just one of the  
19 studies I read.

20 Q. And you do not -- you have not and your  
21 family members that have intervened in this  
22 proceeding have not hired expert witnesses to consult  
23 with or to testify on topics like electromagnetic  
24 fields, right?

25 A. That's correct.

1 Q. Environmental impacts, right?

2 A. That's correct.

3 Q. Benefits to the electric grid as a whole,  
4 correct?

5 A. That is correct.

6 Q. Any improvements to air quality, right?

7 A. That is correct.

8 Q. Anything related to potential toxicity  
9 from the panels, right?

10 A. Well, that one is hard because we don't  
11 know what panels you are going to use so we can't  
12 research that if we don't know what panels are going  
13 to be used.

14 Q. But you haven't hired an expert --

15 A. No, we did not.

16 Q. -- that could talk about the panels  
17 regardless of the types that were used, correct?

18 A. No, we did not.

19 Q. And just to shortcut this, you -- you are  
20 not presenting any expert testimony at all regarding  
21 any of the impacts of the project, correct?

22 A. That is correct.

23 Q. You don't believe that there are  
24 sufficient state regulations on solar projects; is  
25 that right?

1           A.    That is correct.

2           Q.    And but you don't yourself know what  
3 state regulations are in place.

4           A.    I know generally, but I don't know any  
5 specifics.

6           MS. SHEELY:  Your Honor, I have no  
7 further questions.

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. Chamberlain?

14          MR. CHAMBERLAIN:  Nothing, your Honor.

15          ALJ ADDISON:  Mr. Eubanks?

16          MR. EUBANKS:  No questions, your Honor.

17          ALJ ADDISON:  Thank you.

18          Any redirect, Mr. Van Kley?

19          MR. VAN KLEY:  Yes, your Honor.

20          ALJ ADDISON:  Please proceed.

21          MR. VAN KLEY:  Okay.

22                               - - -

23                               REDIRECT EXAMINATION

24          By Mr. Van Kley:

25          Q.    Ms. Ebenhack, why does Farmstead Market

1 sell some of its produce by U-Pick?

2 A. Sorry.

3 ALJ ADDISON: Take your time.

4 A. Sorry.

5 ALJ ADDISON: Let's go off the record for  
6 a moment.

7 (Off the record.)

8 ALJ ADDISON: Let's go back on the  
9 record.

10 A. Okay. I have a 1-year-old daughter, and  
11 I don't want to have to come to Columbus six days a  
12 week and spend all day away from her. I want to be  
13 able to work off the farm and spend that time with  
14 her.

15 Q. How many hours a week are you currently  
16 working during the season where you are selling  
17 produce?

18 A. I work from 6:30 in the morning until  
19 about 10 o'clock at night almost every single day  
20 because I have to do the farm in the morning and go  
21 in the markets in the afternoon or we have all day  
22 markets going on or I'm maybe doing wholesale  
23 deliveries or things like that. I don't know how  
24 many hours that is a week but 16 hours a day so  
25 probably 80 hours.

1           Q.    Okay.  Now, according to your written  
2   testimony, you started the Farmstead Market in 2018,  
3   correct?

4           A.    Yes.

5           Q.    Okay.  And at the time that you and  
6   Wesley, your husband, started the Farmstead Market,  
7   what, if any, plans did you have to develop the  
8   U-Pick trade?

9           A.    It was in our business plan, but  
10   initially to start our capital and everything, we had  
11   to start with where the markets were already  
12   established in order to be able to invest in our  
13   business so that we could actually build the U-Pick.

14          Q.    Uh-huh.  Okay.  So how did you go about  
15   developing the U-Pick trade?  In other words, how did  
16   you attract those customers?

17          A.    So I had a stand in Circleville that was  
18   actually a farm market in Circleville, little  
19   roadside stand, and then also our customers here in  
20   Columbus.  So over the years we built really good  
21   relationships with our customers and that helps  
22   encourage them to come out to the farm.  It spreads  
23   word of mouth.  We also, you know, advertise online,  
24   Instagram, Facebook, handing out fliers at the  
25   farmers' markets.

1           Q.    Does it take some time in order to  
2   develop a U-Pick trade?

3           A.    Yes.  I mean, that's why we had to start  
4   with going to farmers' markets first because it takes  
5   time to build up a customer base.

6           Q.    What happens to the U-Pick trade if it's  
7   interrupted for some reason?

8           A.    You are going to lose those customers  
9   because if you think about one of your favorite  
10   stores closing and they are closed for six months,  
11   you forget to go there, and you stop going.  It  
12   becomes a habit for them to come out every single  
13   year, especially the farm U-Picks.  Those are big  
14   traditions for families.  So if you stop for a year,  
15   they are going to go somewhere else, and maybe they  
16   keep going back to the other place and not back to  
17   ours.

18          Q.    Now, if -- if you had to go to  
19   100 percent self-pick instead of U-Pick for the crops  
20   that are grown by Farmstead Market, what -- what, if  
21   anything, would that do to the viability of the  
22   business?

23          A.    We would actually lose crops.  We would  
24   have crops loss because we just wouldn't be able to  
25   get all the fruit and vegetables picked, so they

1 would just rot in the fields.

2 Q. How long in advance is a wedding  
3 typically booked for a venue?

4 A. It depends on every single location.  
5 Some are -- typically brides want to book their  
6 wedding a year in advance.

7 Q. Okay. And did that time frame play any  
8 role in your decision not to open up the venue for  
9 weddings while the -- while this project was pending?

10 A. Yes.

11 Q. And why did it?

12 A. Because I don't -- again, like I said, I  
13 don't want -- I never wanted to book a wedding and  
14 then -- because we don't know the time line for any  
15 of this stuff, I didn't want to book a wedding and  
16 then tell the bride, you know, six months away, hey,  
17 you know, construction is going to be starting; here  
18 are the things that we expect construction to have  
19 and then forced to find another venue. And I would  
20 never have another -- they are going to write a bad  
21 review, and I would never have another booking.

22 Q. You know where the Yellowbud project is  
23 located?

24 A. That is correct, yes.

25 Q. Can you see the Yellowbud project from

1 the Farmstead Market?

2 A. In the winter when you look through the  
3 trees, yes, but barely.

4 Q. Okay. What about during the periods  
5 where you have U-Pick trade?

6 A. No.

7 Q. Can you see the Yellowbud project from  
8 the events barn?

9 A. No.

10 Q. Can you see the Yellowbud project from  
11 Dungan Road?

12 A. Not during season.

13 Q. During crop growing season?

14 A. Yeah, yeah. Only when the tree leaves  
15 are off in the winter.

16 MR. VAN KLEY: All right. I have nothing  
17 further at this time, your Honor.

18 ALJ ADDISON: Thank you very much.

19 Ms. Sheely?

20 - - -

21 RECROSS-EXAMINATION

22 By Ms. Sheely:

23 Q. You do not have a written business plan  
24 for expansion of the -- or for a shift in business  
25 from farmers' markets outside the site to expansion

1 of business on the site, right?

2 A. No. Since I am the owner and the sole  
3 proprietor for the LLC, I feel like that's my  
4 decision to make.

5 MS. SHEELY: No further questions.

6 ALJ ADDISON: Thank you.

7 Mr. Dove?

8 MR. DOVE: No questions, your Honor.

9 ALJ ADDISON: Ms. Curtis?

10 MS. CURTIS: No questions, your Honor.

11 ALJ ADDISON: Mr. Chamberlain?

12 MR. CHAMBERLAIN: No questions, your  
13 Honor.

14 ALJ ADDISON: Mr. Eubanks?

15 MR. EUBANKS: No questions, your Honor.

16 - - -

17 EXAMINATION

18 By ALJ Addison:

19 Q. Just very briefly --

20 A. Yeah, no worries.

21 Q. -- if you will indulge me. Are there any  
22 other similarly-situated U-Pick markets in the area?

23 A. No. The closest -- well, no, not that I  
24 know of. The Hirschs down in Chillicothe, they'll do  
25 one apple U-Pick a year. There used to be another

1 strawberry U-Pick. Not that I am aware of. I think  
2 they retired. I know for a fact nobody does  
3 blackberry picks. The closest pumpkin U-Pick is  
4 about 35 miles, 35 minutes away. That's close to  
5 Mount Sterling.

6 Q. Okay. So generally speaking you would  
7 have to at least drive 30 some odd minutes to have  
8 the same -- same type of experience your customers  
9 experience at your farmstead; is that correct?

10 A. Yeah. Blackberries we may be the only  
11 one in the whole state to do the size -- the scale  
12 blackberry U-Pick that we do.

13 Q. And how large is the blackberry U-Pick?

14 A. I think it's 5 acres currently in  
15 blackberries.

16 Q. I think there is one on Route 4 that  
17 currently exists.

18 A. Where is Route 4 at?

19 Q. North.

20 A. Oh, yeah, that's probably farther  
21 farther.

22 Q. Much farther than 30 minutes, I sure you.

23 A. Yes.

24 Q. But --

25 A. Sorry, in central Ohio, southern central

1 Ohio.

2 Q. Thank you for that clarification. I know  
3 from experience so. Okay. And then you had  
4 indicated that you had not booked any weddings or  
5 events after you finalized the events barn, correct?

6 A. Correct. And the barn is not completely  
7 finished. We wanted to add a couple more things  
8 before we started really booking weddings. Like we  
9 want to add a commercial kitchen, build a pavilion,  
10 but I don't want to put that money into those  
11 investments unless I know it's going to happen  
12 because it's not a small amount of money.

13 Q. Has anyone approached you about booking  
14 an event at your barn?

15 A. I've gotten -- not weddings but I have  
16 gotten like graduation parties or, you know, birthday  
17 parties, things like that.

18 Q. But you still said no to those requests  
19 as well?

20 A. Yes. I am hoping to do some this year, I  
21 am.

22 Q. And that's regardless if the project at  
23 issue in this proceeding is approved.

24 A. Well, as of right now, the timeline, I  
25 understand I can get some in before construction

1 would start so.

2 ALJ ADDISON: Okay. Those are all my  
3 questions. Thank you very much.

4 THE WITNESS: Yes. Do you want me to  
5 leave this up here or take it back?

6 ALJ ADDISON: You might as well leave it  
7 up just in case we have to reference it later.

8 MR. VAN KLEY: The court reporter will  
9 enjoy that copy.

10 ALJ ADDISON: If all the parties could  
11 just ensure the court reporter has copies of all  
12 exhibits that have been provided that day at the end  
13 of the day, we would certainly appreciate it. The  
14 onus is on you.

15 I believe Mr. Van Kley had previously  
16 moved Ebenhack Exhibit No. 2 into the record. Are  
17 there any objections, subject, of course, to the  
18 motion to strike that had been previously granted,  
19 for the admission of this exhibit at this time?

20 MS. SHEELY: No, your Honor.

21 ALJ ADDISON: Hearing none, it will be  
22 admitted.

23 (EXHIBIT ADMITTED INTO EVIDENCE.)

24 ALJ ADDISON: Mr. Van Kley.

25 MR. VAN KLEY: Yes, your Honor. At this

1 time we would call to the stand Wesley Ebenhack.

2 ALJ ADDISON: Welcome, Mr. Ebenhack.

3 Please raise your right hand.

4 (Witness sworn.)

5 ALJ ADDISON: Thank you. Please be  
6 seated.

7 - - -

8 WESLEY EBENHACK

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

11 DIRECT EXAMINATION

12 By Mr. Van Kley:

13 Q. Would you state your name for the record,  
14 please.

15 A. Wesley Ebenhack.

16 Q. Do you have in front of you a copy of  
17 your written direct testimony in this case that has  
18 been marked as Ebenhack's Exhibit 3?

19 A. Yes.

20 Q. Did you or someone under your supervision  
21 prepare this testimony?

22 A. Yes.

23 Q. Do you have any corrections to this  
24 testimony?

25 A. I do.

1           Q.    Would you tell us where to find any such  
2 corrections and then make them for us.

3           A.    On page 10, answer 26, line 10 -- well,  
4 line 9 and 10, "Often I see deer move from west to  
5 east towards the Scioto River," and I want to add  
6 after River "or from east to west."

7           Q.    Okay. Do you have any other corrections?

8           A.    No.

9           Q.    All right. If I asked you the questions  
10 in your testimony today with the correction that  
11 you've just made, would your answers be the same as  
12 are written in your testimony?

13          A.    Yes.

14               MR. VAN KLEY: Your Honor, I would move  
15 for the admission of Ebenhack's Exhibit 3, subject to  
16 cross-examination.

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

19               Ms. Sheely?

20               MS. SHEELY: Thank you.

21                               - - -

22                               CROSS-EXAMINATION

23 By Ms. Sheely:

24           Q.    Hello, Mr. Ebenhack.

25           A.    Hi.

1           Q.    You also live at the address 28620  
2   Ebenhack Road in Circleville, correct?

3           A.    Yes.

4           Q.    And you live there with your wife and  
5   your child?

6           A.    Yes.

7           Q.    And that is the place in which you  
8   operate the business as well that was referenced, the  
9   Farmstead Market?

10          A.    Yes.

11          Q.    Your brother is Thomas J. Ebenhack who  
12   has intervened in this proceeding, correct?

13          A.    Yes.

14          Q.    Your only sibling?

15          A.    Yes.

16          Q.    He does not live or work in Pickaway  
17   County, correct?

18          A.    For the most part he does not live, but  
19   he does have some work that does involve going into  
20   Pickaway County.

21          Q.    Okay.  He lives in Columbus?

22          A.    Yes.

23          Q.    He is not involved with the business that  
24   occurs on your property, correct?

25          A.    Not with Farmstead Market.

1           Q.    And your mother and father are Scarlett  
2   and Thomas E. Ebenhack, correct?

3           A.    Yes.

4           Q.    They are also not involved with the  
5   business at the Farmstead Market; is that correct?

6           A.    They volunteer time.

7           Q.    They do not -- they are not paid  
8   employees or anything like that or assist in running  
9   the business, right?

10          A.    No.

11               MS. SHEELY:  At this time I would like to  
12   mark Applicant Exhibit 41, please.  This is a May 10,  
13   2022, public comment from Mr. Ebenhack that was filed  
14   on the docket in this case.

15               ALJ ADDISON:  It will be so marked.

16               (EXHIBIT MARKED FOR IDENTIFICATION.)

17          Q.    (By Ms. Sheely) Mr. Ebenhack, do you  
18   recognize this document?

19          A.    Yes.

20          Q.    Okay.  Is this a letter that you filed on  
21   the docket in this case on May 10, 2022?

22          A.    Yes.

23          Q.    That was after you intervened in the  
24   proceeding, correct?

25          A.    I believe so.

1           Q.    This is a letter that you wrote to the  
2 Ohio Power Siting Board?

3           A.    Yes.

4           Q.    Did you write it yourself?

5           A.    Yes.

6           Q.    I am looking at the second sentence at  
7 the top.  It says "My family farm adjoins both the  
8 Yellowbud Solar Project to the south and the proposed  
9 Scioto Farms Solar Project to the north with only a  
10 half mile between the two projects."  Do you see  
11 where I am?

12          A.    Yes.

13          Q.    "Part of the Yellowbud Solar Project can  
14 be seen from my parents house while the entire  
15 stretch of line that is signed up for the Scioto  
16 Farms Solar Project can be seen at my house."  Do you  
17 see where I am?

18          A.    Yes.

19          Q.    There's nowhere in this letter that you  
20 disclose the fact that your family are participating  
21 owners in one of those projects, right, the Yellowbud  
22 Solar project?

23          A.    No.

24          Q.    And looking at the second paragraph there  
25 is a sentence that says "The use of productive

1 farmland is not only a mistake but also  
2 irresponsible." Do you see that?

3 A. Yes.

4 Q. And the Yellow -- a significant portion  
5 of the land that your father enrolled in the  
6 Yellowbud Solar project was, in fact, cultivated  
7 farmland before it was enrolled in the project,  
8 correct?

9 A. Not productive farmland.

10 Q. It was farmed by a tenant farmer,  
11 correct?

12 A. Yes.

13 Q. And yet you would consider it to be not  
14 productive farmland?

15 A. Yes.

16 Q. Looking through the remainder of this  
17 comment, particularly focusing on the third paragraph  
18 that says "It is concerning that these projects are  
19 being approved without properly testing the  
20 environmental impact or maybe more concerning is that  
21 we are going to be the guinea pigs to test the  
22 environmental impact." You don't have any source for  
23 reaching that conclusion, do you?

24 A. We have checked with main sources that  
25 should be the testing sources like the EPA and Ohio

1 Department of Agriculture and the Natural Resources.  
2 None of them have tests.

3 Q. You are familiar with the fact that part  
4 of what this very application process though is is  
5 that the Ohio Power Siting Board conducts and takes  
6 information on the potential environmental impact of  
7 a project, correct?

8 A. Some of them.

9 Q. What do you mean by some of them? I am  
10 not sure I follow.

11 A. Do they do a proper test?

12 Q. Meaning you think the Ohio Power Siting  
13 Board considers some environmental impact but doesn't  
14 do proper testing?

15 A. I mean, that proper -- there isn't proper  
16 testing.

17 Q. Your occupation is as a farmer, correct,  
18 and you are also employed by Federal Express?

19 A. Yes.

20 Q. So just -- you do not particularly have  
21 training or expertise in items such as  
22 electromagnetic fields, right?

23 A. No.

24 Q. Chemical leaching, correct?

25 A. Depends on what chemicals.

1           Q.    Chemical leaching alleged to be from  
2 solar panels?

3           A.    No.

4           Q.    Fire suppression?

5           A.    Not for solar, if that's what you are  
6 asking.

7           Q.    And throughout the remainder of this  
8 letter, you don't have expert -- you have not  
9 consulted with an expert or hired an expert to opine  
10 on any of these topics, correct?

11          A.    Can you list the topics?

12          Q.    Well, I am looking at really the  
13 remainder of this paragraph that begins with "It is  
14 concerning," but my question is whether you have  
15 hired a -- any experts or consultants to provide  
16 information to the Ohio Power Siting Board on any of  
17 these topics.

18          A.    Not information to the Power Siting  
19 Board.

20          Q.    You don't know one way or the other  
21 whether the panels that are used in solar projects  
22 that pass the USEPA TCLP test have PHAS chemicals or  
23 forever chemicals in them?

24          A.    If they pass a TCLP, they should not have  
25 them.

1           Q.    Mr. Ebenhack, you had a number of  
2           communications wherein you expressed your concerns  
3           about the solar project in Pickaway County to the  
4           Staff of the Ohio Power Siting Board, correct?

5           A.    Yes.

6           Q.    You also had a number of communications  
7           and meetings with project representatives directly  
8           from Candela Renewables which is the developer of  
9           this project, right?

10          A.    Yes.

11          Q.    And you agree with me that those meetings  
12          were initiated by Candela Renewables and the stated  
13          reasons were to attempt to understand your and your  
14          family's concerns about the project?

15          A.    Not all of them were, were  
16          representatives.

17          Q.    Okay. So you think there was somebody  
18          who contacted you that was not a representative of  
19          Candela?

20          A.    We initiated it.

21          Q.    I'm sorry?

22          A.    The first one we initiated.

23          Q.    To speak with Candela Renewables about  
24          your concerns?

25          A.    Yes.

1 Q. Okay. And then you had a number of  
2 follow-up communications with representatives from  
3 Candela Renewables about your concerns?

4 A. Yes.

5 Q. And some of those were via text, some  
6 were via e-mail, some were in person; is that right?

7 A. Yes.

8 Q. And you had a number of in-person  
9 meetings where they came out to your farm and sat  
10 down with you and your family members to have lengthy  
11 discussions about your concerns, correct?

12 A. Yes.

13 MS. SHEELY: At this time I would like to  
14 mark Applicant Exhibit 42, please. This is a  
15 compilation of e-mails that were sent on dates  
16 between August and September 2022 from the project to  
17 Mr. Ebenhack.

18 ALJ ADDISON: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 ALJ ADDISON: Just to be sure,  
21 Ms. Sheely, this is a stack of papers that are not  
22 necessarily bound?

23 MS. SHEELY: They are internally bound by  
24 e-mail, and I collected them into one exhibit in  
25 hopes that it would be not so time consuming but I

1 can run through them but the ones that are stapled  
2 are a single e-mail.

3 ALJ ADDISON: Thank you.

4 Q. (By Ms. Sheely) Mr. Ebenhack, do you  
5 recognize the top page of this which is dated  
6 August 23, 2022, at 1:23 p.m. to be an e-mail from  
7 Jim Woodruff to yourself?

8 A. Yes.

9 Q. Did you have discussions about the  
10 project wherein you raised concerns regarding water  
11 well containment which is the subject line of this?

12 A. Can you repeat that?

13 Q. Yeah. Did you have discussions with the  
14 project about a concern you raised about water well  
15 containment or leaching of chemicals including into  
16 the water supply?

17 A. I believe so.

18 Q. Is this a response that the project  
19 provided to you about that topic once you raised the  
20 concern?

21 A. It looks like it.

22 Q. Can you look at the next page.

23 A. Yes.

24 Q. Do you agree this is dated August 25,  
25 2022, at 1:31 p.m. and it's an e-mail from Jim

1 Woodruff to you?

2 A. Yes.

3 Q. And the subject is "Scioto Farms Solar  
4 Project - Concerns Regarding Grading and Top Soil  
5 Management." Do you see where that is?

6 A. Yep.

7 Q. Have you raised concerns about grading  
8 and about topsoil management during project  
9 construction if the project is approved?

10 A. Yes.

11 Q. And is this a response to you from the  
12 project?

13 A. Yes, it looks like it.

14 Q. Are you also familiar with the fact that  
15 the proposed conditions in this case, including the  
16 stipulated conditions, include a maximum amount of  
17 grading for the whole project area of no more than 15  
18 percent?

19 A. That's what's been told to me.

20 Q. Do you -- if you would look at the next  
21 page, please.

22 A. Yes.

23 Q. This is an e-mail dated August 26, 2022,  
24 at 2:31 p.m., I guess these are pacific times, from  
25 Jim Woodruff to you?

1           A.    Yes.

2           Q.    And subject line is "Scioto Farms Solar  
3 Project - Fire Safety Concerns." Do you see that?

4           A.    Yes.

5           Q.    Had you raised concerns to the project  
6 about fire safety issues?

7           A.    Yes.

8           Q.    And is this a response to you from the  
9 project about fire safety concerns?

10          A.    Yes.

11          Q.    Next page, please.

12          A.    Okay.

13          Q.    Do you see this is an August 27, 2022,  
14 e-mail from 4:51 p.m. pacific from Jim Woodruff to  
15 you?

16          A.    Yes.

17          Q.    And the subject line for this one is  
18 "Scioto Farms Solar Project - Traffic Safety and  
19 Visibility"?

20          A.    Yes.

21          Q.    Do you see that? Have you raised  
22 concerns about traffic safety and visibility to the  
23 project?

24          A.    Yes.

25          Q.    And is this a response to you?

1 A. Yes.

2 Q. And if you look at the second page and  
3 the third page, these are some maps that were  
4 provided to you by the project, correct?

5 A. Yes.

6 Q. And are you aware these were maps that  
7 were specifically prepared by the project to be able  
8 to respond to you and answer your concerns?

9 A. Yes. I believe that they were meeting  
10 ODOT regulations or something like that, and it  
11 wasn't good enough for us.

12 Q. Okay. And so you wanted -- you are  
13 talking about one of the things that you raised a  
14 concern about was that there would be adequate  
15 visibility around the panels at corners so that there  
16 wasn't an impact to traffic?

17 A. Well, panels and fencing.

18 Q. Okay. Anything that would impede your  
19 view that's associated with the project?

20 A. Yes.

21 Q. And they were responding to you about  
22 that concern?

23 A. Yes.

24 Q. You particularly have concerns about  
25 traffic as it relates to Dungan Road; is that right?

1           A.    And 104 and Westfall and Dungan.

2           Q.    But I believe at least Dungan Road would  
3 potentially be the most significant of those issues  
4 for your family's business?

5           A.    It could be.

6           Q.    Are you aware of the fact that the  
7 project had offered to make sure that there was no  
8 construction traffic on Dungan Road?

9           A.    I am aware of that along with Yellowbud  
10 gave us the same thing for Ebenhack Road.

11           MS. SHEELY: I move to strike the last  
12 sentence of that as not responsive to my question.

13           MR. VAN KLEY: I believe it is  
14 responsive, your Honor, the point being that --

15           MS. SHEELY: Respectfully, I think we are  
16 about to have testimony from Mr. Van Kley.

17           ALJ ADDISON: One moment. I have already  
18 instructed no comments like that, so I would be  
19 dismayed to hear Mr. Van Kley testify at this point.

20           You may respond, Mr. Van Kley.

21           MR. VAN KLEY: Yeah. I think if counsel  
22 would inquire further, counsel would realize why  
23 that -- the rest of that response was responsive.

24           ALJ ADDISON: Well, that certainly sounds  
25 like a good thing to bring up on redirect then.

1 MR. VAN KLEY: Will do.

2 ALJ ADDISON: However, given my prior  
3 ruling for the first bite of the apple, I will allow  
4 Mr. Ebenhack's answer to stand for this one  
5 particular answer.

6 But, Mr. Ebenhack, I will instruct you to  
7 listen carefully to Ms. Sheely's questions and answer  
8 only that question or answer why you can't answer  
9 that question, and certainly Mr. Van Kley can bring  
10 up any additional information on redirect.

11 THE WITNESS: Okay.

12 ALJ ADDISON: Thank you.

13 Q. (By Ms. Sheely) If you would please turn  
14 to the next page in that packet.

15 A. You mean the last one?

16 Q. Second to last, sorry. You had already  
17 turned. You are ahead of me. Do you see the date of  
18 this one is August 28, 2022, at 5:26 p.m. and it's an  
19 e-mail from Jim Woodruff to you?

20 A. Yes.

21 Q. And the subject of this one is "Scioto  
22 Farms Solar Project - Delivery Vehicle Staging and  
23 Parking." Do you see that?

24 A. Yes.

25 Q. Had you raised concerns to the project

1 regarding delivery vehicles staging and parking?

2 A. Yes.

3 Q. And you were particularly concerned that  
4 there not be allowed to be traffic backups on several  
5 roads around the project area and those would include  
6 especially Route 104?

7 A. Yes.

8 Q. And is this a response from the project  
9 to you about that subject?

10 A. Yes.

11 Q. And attached to this is a figure that the  
12 project provided to you that was an attempt to  
13 respond to your concern and show some of the planned  
14 areas for construction traffic staging and vehicle  
15 staging and parking?

16 A. Yes.

17 Q. If you could turn to the last page,  
18 please.

19 A. Okay.

20 Q. Do you recognize this as a September 6,  
21 2022, e-mail from 10:06 p.m. -- a.m. from Jim  
22 Woodruff to you?

23 A. Yes.

24 Q. And this one is -- the subject line says  
25 "Scioto Farms Solar Project; Fire Incident at

1 California Valley Solar Project."

2 A. Yes.

3 Q. Do you see that? Have you raised a  
4 concern regarding a fire incident in California to  
5 the project?

6 A. Yes.

7 Q. And is this a response to you from the  
8 project about that concern?

9 A. Yes.

10 Q. If you would, please, there are two large  
11 exhibit binders in -- on the cover it will say right  
12 at the bottom "Volume 2 of 2." Could you get Volume  
13 2, please.

14 A. Okay.

15 Q. And can you turn to the very last tab in  
16 there which should say Joint Exhibit 1.

17 A. Okay.

18 Q. Do you know what this document is?

19 A. Somewhat but not fully.

20 Q. Are you aware there are things that the  
21 project voluntarily asked to be included in this  
22 Stipulation to accommodate concerns that you and your  
23 family had raised about the project?

24 A. I did not read it, but I was told that,  
25 yes.

1 Q. Okay. What kinds of things were you told  
2 were being included voluntarily?

3 A. Actually at this point I don't know if I  
4 can fully remember enough to tell you.

5 Q. Okay. Well, let's look at page 5 in  
6 there at No. 16, please.

7 A. Okay.

8 Q. Middle of the paragraph there it says  
9 "The Applicant will provide staging and parking  
10 within the Project boundaries for construction  
11 vehicles and will consult with appropriate  
12 authorities to request signage prohibiting  
13 construction vehicles from parking along Route 104.  
14 The Applicant will ensure that 'sight distance' on  
15 Dungan Road and at the intersection of Route 104 and  
16 Dungan Road meets or exceeds what is required by Ohio  
17 law." Do you see that?

18 A. Yes.

19 Q. And you agree this is on the same topic  
20 of the construction traffic concerns that you raised  
21 about 104, Route 104?

22 A. Yeah. This is most of our topic.

23 Q. And about sight distance on Dungan Road  
24 at that intersection?

25 A. Yes.

1           Q.    If you turn the page, still part of  
2   No. 16, there is a sentence that starts "This plan  
3   shall include road damage repair, track-out  
4   construction entrances and routine road cleaning,  
5   measure to stage the arrival and departure times of  
6   the construction workforce, manage traffic flows to  
7   prioritize farming activities including equipment  
8   movement, labor vehicles and trucking, and also  
9   include a program to incentivize carpooling." Do you  
10 see where I am?

11           A.    Yes.

12           Q.    Specifically track -- track-out  
13 construction entrances, do you know what that is?

14           A.    That would probably be where they beef up  
15 the construction entrances but I have not heard it  
16 stated that way.

17           Q.    Okay. So do you know whether this is to  
18 specifically provide essentially a track across the  
19 construction entrances so that mud and dirt are  
20 knocked off of the construction vehicle tires as they  
21 exit the property so they don't track dirt onto the  
22 roadway?

23           A.    I guess that would make sense.

24           Q.    And that was a concern that you and your  
25 family raised, right, that there would be mud being

1 tracked from the construction site onto the roadway?

2 A. Yes.

3 Q. And same with routine road cleaning, you  
4 had raised a concern relative to mud being tracked  
5 onto the roadway, and here we see inclusion of  
6 routine road cleaning in the conditions, proposed  
7 conditions?

8 A. Yeah.

9 Q. Yes?

10 A. Yes, sorry.

11 Q. Do you know one way or the other whether  
12 there would have been some accommodations that the  
13 project would have made to include in this  
14 Stipulation if your family had continued to be part  
15 of the discussion for the Stipulation?

16 A. When was this filed?

17 Q. This was filed on February 23, I believe.  
18 I can confirm in a moment.

19 ALJ ADDISON: That's correct.

20 Q. (By Ms. Sheely) 2023.

21 A. There is a possibility they would have  
22 had a chance.

23 Q. But your family had declined to  
24 participate in conversations about additional  
25 conditions for a certificate before that time,

1 correct?

2 A. That is correct.

3 Q. Do you recall what the last date was or  
4 approximate date that you spoke with folks from  
5 Candela Renewables was?

6 A. It would have been the very beginning of  
7 this year.

8 Q. And after that point, you determined to  
9 cut off any communications about any further  
10 potential resolutions to your family's concerns about  
11 the project?

12 A. Yes.

13 Q. You -- you run a Facebook solar  
14 opposition page called Pickaway County Citizens for  
15 Responsible Solar, correct?

16 A. Yes.

17 Q. And you are one of the administrators of  
18 that Facebook page?

19 A. Yes.

20 Q. Are you the only administrator?

21 A. No.

22 Q. Is your wife the other one?

23 A. Yes.

24 Q. So if we see posts on that Facebook page  
25 that come from the page itself, not comments, those

1 would be posterred by you or your wife?

2 A. Yes.

3 Q. You personally spoke to many people about  
4 potentially opposing this project, did you not?

5 A. I guess can you restate that?

6 Q. Yeah. You personally spoke to many  
7 people about potentially joining you in opposing the  
8 project, didn't you?

9 A. Yes.

10 Q. And some people you spoke to in person,  
11 right?

12 A. Yes.

13 Q. Some people you texted, right?

14 A. Some, yeah.

15 Q. Some -- did you e-mail people as well?

16 A. It wouldn't have been to state my opinion  
17 but there were e-mails with groups that were already  
18 opposed.

19 Q. Did you also have e-mails with people to  
20 determine if they would join in opposing the project?

21 A. I do not believe so.

22 Q. Did you have communications with people  
23 to encourage them to attend the Wayne Township  
24 Trustee meeting at which ultimately the Wayne  
25 Township Trustees adopted a resolution against the

1 project?

2 A. Did you ask if I e-mailed?

3 Q. I just said communications of any kind.

4 A. Yes, there were communications.

5 Q. You would say you talked -- would you say  
6 you talked to hundreds of people?

7 A. Over a hundred, yes.

8 Q. And you've personally spoken with all  
9 three of the Wayne Township Trustees to state your  
10 opposition to this project, correct?

11 A. Yes.

12 Q. And other members of your family have  
13 done the same?

14 A. I believe so.

15 Q. And you contacted the Pickaway County  
16 Commissioners as well?

17 A. Yes.

18 Q. Did you encourage people to write letters  
19 opposing the project and post them on the docket?

20 A. I asked people what they wanted to write.  
21 I did not encourage them.

22 Q. If people did not answer you about  
23 whether they wanted to, did you continue to reach out  
24 to them?

25 A. I would reach out to them. I wouldn't be

1 pushing them.

2 Q. Did you continue to text people who  
3 didn't respond to you about whether they wanted to  
4 write a letter and post it on the docket?

5 A. Not about writing a letter. I would text  
6 them to see if they have information. It wasn't  
7 necessarily about writing letters.

8 Q. And if they didn't indicate that they  
9 wanted to write a letter, you would continue to reach  
10 out to them?

11 A. I would continue to reach out to people.  
12 It doesn't matter if they didn't want to write a  
13 letter.

14 Q. But you continued to reach out to find  
15 out if they would write a letter.

16 A. No. That wouldn't be the reason for  
17 reaching out to them.

18 Q. You continued to reach out to people who  
19 you didn't know one way or the other that were going  
20 to support or oppose the project in an effort to  
21 cause them to oppose the project, right?

22 A. No.

23 Q. Did you go to places where people work to  
24 speak with them about joining the opposition to this  
25 project?

1           A.    I guess I am not positive what you just  
2 asked because, of course, I went to farms. People  
3 work at farms. I mean, what are you asking there?

4           Q.    Did you go to other places where people  
5 work to talk with them about potentially opposing  
6 this project?

7           A.    You must ask me what you want an answer  
8 to.

9           Q.    Did you speak to people in their places  
10 of employment about potentially opposing this  
11 project?

12          A.    I just said yes. A farm is a place of  
13 employment.

14          Q.    Did you speak to people at other places  
15 of employment about potentially opposing this  
16 project?

17          A.    Possibly.

18          Q.    You are saying possibly. What causes you  
19 to say possibly? Are you thinking of an example?

20          A.    I am trying to think of an example. And  
21 I feel like you have an example that you want the  
22 answer to so you ask if you want an answer.

23          Q.    I am asking if you are thinking of any  
24 example --

25          A.    I am not.

1           Q.    -- right now.  But you may have done  
2   that.

3           A.    I might have.

4           Q.    You expressed concerns about potentially  
5   there being panels placed on the east side of Route  
6   104 relative to the fact that deer occasionally go in  
7   that area, right?

8           A.    Not occasionally.

9           Q.    Okay.  Based on concern that deer are  
10   there and it might cause issues with deer, right?

11          A.    Yes.

12          Q.    Are you aware of the fact that Candela  
13   expressed a willingness to eliminate panels from the  
14   east side of Route 104 to address that concern?

15          A.    In a Settlement Agreement.

16          Q.    You have an objection to the project  
17   based upon the fact that it would be visible from  
18   your property, correct?

19          A.    Yes.

20          Q.    And you believe though that no amount of  
21   vegetation and no amount of screening would be  
22   sufficient if any portion of the project were still  
23   visible, right?

24          A.    Yes.

25          Q.    And you have basically a wholesale

1 objection to using agricultural -- productive  
2 agricultural farmland for solar panels, correct?

3 A. Yes.

4 Q. So it wouldn't just be this project; it  
5 would be all projects that might be placed on  
6 agricultural land, correct?

7 A. On productive agricultural land.

8 Q. You don't think that your neighbor had an  
9 obligation to obtain your approval before entering  
10 into leasing with Candela Renewables for this solar  
11 project, do you?

12 A. I never said that; and, no, I do not.

13 Q. So you believe it is their right to enter  
14 into a solar lease to utilize their property in that  
15 way?

16 A. Yes.

17 MS. SHEELY: No further questions.

18 ALJ ADDISON: Thank you, Ms. Sheely.

19 Mr. Dove?

20 MR. DOVE: I just have a handful of  
21 questions, your Honor.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Dove:

25 Q. Hello. My name is Robert Dove. It's

1 nice to meet you.

2 A. Hi.

3 Q. You mentioned a group or answered  
4 questions regarding Pickaway County Citizens for  
5 Responsible Solar. How did you come to be involved  
6 in that group?

7 A. My wife and I had the group started.

8 Q. Okay. Do you and your wife have  
9 experience starting groups like that?

10 A. No. We had somebody come in and help us.

11 Q. Okay. Who?

12 A. Lindsey -- Lindsey Murphy and she is  
13 involved with a lot of social media and other -- I  
14 apologize.

15 ALJ ADDISON: Take your time.

16 A. She has a -- actually I can't answer that  
17 right now. I totally blanked what her business  
18 really is.

19 Q. But it was a we'll say third-party  
20 consultant.

21 A. Yes.

22 Q. Okay. Did you reach out to anyone else  
23 for advice or any other similarly-situated groups as  
24 to your approach to the opposition to this project?

25 A. Are you asking before we started it or?

1 Q. Either before or after.

2 A. Yes.

3 Q. Do you remember who any of those  
4 individuals were?

5 A. I probably could list some of them. I  
6 don't know if I can give you a full list.

7 Q. Was Jim Thompson one of them?

8 A. Yes.

9 Q. And do you remember how you connected  
10 with Mr. Thompson?

11 A. I don't know if I remember the first time  
12 connecting with him. I'm not positive if it was even  
13 myself that was the first one to connect with him,  
14 but I do remember many of the occasions of connecting  
15 with him.

16 Q. How would you characterize his expertise  
17 or involvement in -- in providing services or advice  
18 to -- to the group?

19 A. I -- like I don't know if I believe -- I  
20 don't like using the word expert because I don't know  
21 if I feel that people should really be considered  
22 experts in anything, but I believe that he had a lot  
23 of knowledge about what we were going to be getting  
24 involved with, and it was very useful.

25 Q. Is this -- did you ask him to come help

1     you, or did he reach out to you?

2             A.     I feel that we had to reach out to him at  
3     some point, but I can't remember how that situation  
4     happened.

5             Q.     Okay. And you are not sure -- you  
6     couldn't remember any other name at this point as to  
7     individuals who may have helped direct the  
8     opposition?

9             A.     Possibly if you gave me names, I could  
10    tell you. Some of them were actually just groups,  
11    like the group that was opposing other projects in  
12    Pickaway County and not necessarily individuals.

13            MR. DOVE: Okay. That's all I have for  
14    the present time. Thank you.

15            THE WITNESS: Thanks.

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

18            Ms. Curtis?

19            MS. CURTIS: No questions.

20            ALJ ADDISON: Thank you.

21            Mr. Chamberlain?

22            MR. CHAMBERLAIN: No, your Honor. Thank  
23    you.

24            ALJ ADDISON: Mr. Eubanks?

25            MR. EUBANKS: No questions, your Honor.

1 ALJ ADDISON: Thank you.

2 Redirect, Mr. Van Kley?

3 MR. VAN KLEY: Yes. Could we have 5  
4 minutes to talk to the witness to figure it out?

5 ALJ ADDISON: Absolutely. Let's go off  
6 the record.

7 (Recess taken.)

8 ALJ ADDISON: Let's go back on the  
9 record.

10 Mr. Van Kley, redirect?

11 MR. VAN KLEY: Yes, your Honor. Thank  
12 you.

13 - - -

14 REDIRECT EXAMINATION

15 By Mr. Van Kley:

16 Q. Mr. Ebenhack, you were asked some  
17 questions about whether parking the delivery trucks  
18 inside of the project area would alleviate concerns  
19 about the solar company's use of State Route 104. Do  
20 you remember those questions?

21 A. Yes.

22 Q. Do you have concerns other than the  
23 parking of delivery trucks on State Route 104?

24 A. Yes.

25 Q. And what are those concerns?

1           A.    104 is a major road for traffic going  
2 north and south and not only just to people who live  
3 right in that area. It's just there's -- if there's  
4 anything obstructing traffic, it becomes an issue and  
5 that's with any vehicles involved with the project,  
6 whether it is the trucks that are delivering or the  
7 vehicles of the employees and just the deer  
8 themselves and just seeing that alone is like right  
9 now this is considered a rural area that people enjoy  
10 looking at what's off the road. They are not going  
11 to enjoy watching all this.

12           Q.    Okay. And by those people, are you  
13 referring to the customers for the Farmstead Market?

14           A.    For the most part, yes.

15           Q.    You were asked some questions about  
16 whether Scioto Farms promised not to use Dungan Road  
17 would alleviate your concerns about Dungan Road. Do  
18 you remember those questions?

19           A.    Yes.

20           Q.    Would -- would a promise from Scioto  
21 Farms not to use Dungan Road alleviate your concerns?

22           A.    No.

23           Q.    Why not?

24           A.    Because we had those promises before  
25 from, yes, another solar company. But that was a

1 promise and a promise means something -- well, did  
2 mean something in our community at one point.

3 Q. Okay. Elaborate, please, on what this  
4 promise was from another company and who it was.

5 MS. SHEELY: Objection.

6 ALJ ADDISON: Grounds?

7 MS. SHEELY: Relevance and it's outside  
8 the scope of cross. I never asked him anything about  
9 his complaints about another solar company.

10 MR. VAN KLEY: Well, this is directly --  
11 directly pertinent to whether a promise from Scioto  
12 Farms not to use Dungan Road is a promise that will  
13 alleviate the witness's concerns based on his  
14 experience so I think his -- I think it's relevant  
15 and also responsive to cross-examination to explain  
16 what those experiences have been because they are  
17 informative to what may happen here on Scioto Farms.

18 ALJ ADDISON: Well, noting that the --  
19 those are two -- we have two very different  
20 facilities at issue in that question, it is the basis  
21 of his concerns, so I will allow you to answer the  
22 question.

23 THE WITNESS: Sorry.

24 ALJ ADDISON: You're fine.

25 Can you repeat the question?

1           Q.     (By Mr. Van Kley) Yeah. The question is  
2 does Scioto Farms promise not to use Dungan Road  
3 alleviate your concerns about its use of Dungan Road  
4 and if not, why not?

5           A.     No, because of our promise that we had  
6 received from Yellowbud Solar project and that  
7 promise was broken when they told us that the  
8 northern half of Ebenhack Road was not going to be  
9 traveled by any solar traffic, whether it was their  
10 company trucks or employees, and their employees were  
11 constantly traveling it multiple times a day through  
12 the time of construction.

13          Q.     Okay. Prior to the time that you ended  
14 your discussions with Scioto Farms Solar,  
15 approximately how many meetings had you had with  
16 them?

17          A.     I believe it was over 10. I don't know  
18 if I can give the exact number.

19          Q.     Okay. And in addition to the meetings  
20 that you had with them, did you also have other means  
21 of communicating with them?

22          A.     Yes, through phone, text, and e-mails.

23          Q.     Why did you cut off further discussions  
24 after having all of those meetings and  
25 communications?

1           A.    We realized that nothing that they could  
2 provide would fix any of our issues.

3           Q.    And what issues are those?

4           A.    The traffic, the view, the wildlife  
5 concerns, dust concerns, and just our way of living.

6           Q.    You were asked whether you believe a  
7 neighbor has a -- has an obligation to inform you  
8 about their plans to lease their land for the solar  
9 project. Do you remember that question?

10          A.    Yes.

11          Q.    Other than what may be a legal obligation  
12 that may or may not exist, do you believe that a  
13 neighbor has a social obligation to inform you about  
14 their plans to put in their land in a solar project?

15          A.    I believe my community, yes, for this  
16 that was what was the case, that neighbors let you  
17 know what -- what's going on.

18          Q.    Well, in this particular case, I believe  
19 that your testimony states that you did not know  
20 about any plans to build the solar facility prior to  
21 the time that you built the events barn. Do you  
22 recall that testimony?

23          A.    Yes. We did not know until the barn was  
24 already complete at its state right now.

25          Q.    Uh-huh. If your neighbors had informed

1 you about their plans to lease land to the solar  
2 project for the Scioto Farms Project, would that have  
3 changed the plans that you had to build the events  
4 barn?

5 A. Yes.

6 Q. Why?

7 A. We would have rotated the barn in a  
8 different direction and possibly even a different  
9 location.

10 Q. And what would have rotating the barn to  
11 a different orientation have done?

12 A. It would have made the project area less  
13 visible from the barn.

14 Q. Okay. Would there still have been the  
15 same concerns about the visibility of the project on  
16 the grounds of the events barn?

17 A. Yes.

18 Q. And why is that?

19 A. Because there is very few spots that you  
20 can stand around the events barn that you wouldn't  
21 see the project.

22 MR. VAN KLEY: Okay. I have nothing  
23 further at this time, your Honor.

24 ALJ ADDISON: Thank you very much.

25 Ms. Sheely?

1 MS. SHEELY: Yes, just briefly.

2 - - -

3 RECROSS-EXAMINATION

4 By Ms. Sheely:

5 Q. There was no condition in the Yellowbud  
6 Solar certificate that precluded them from using  
7 Ebenhack Road, correct?

8 A. Actually there were conditions. I cannot  
9 fully state to that, but I sat in on meetings that it  
10 said it was going to be put in and unfortunately that  
11 would require my parents to answer that truthfully.

12 Q. So if a condition were put into the  
13 certificate for this project not to use Dungan Road  
14 for construction traffic, would that alleviate your  
15 concern?

16 A. No.

17 Q. You said before that you felt like, I  
18 think, promises can be broken, but if a condition  
19 were put in the certificate, that still wouldn't  
20 alleviate your concern?

21 A. Sorry. You are going -- it would not fix  
22 my concern, yes.

23 Q. I think you just said you had a -- that  
24 there should be a social obligation to notify the  
25 neighbors of the intention to enter into a lease,

1 right?

2 A. Yes.

3 Q. Your parents when entering into their  
4 lease did not notify even half of the neighbors to  
5 that project area, did they?

6 A. To their property?

7 Q. To the project area.

8 A. They didn't know the project area.

9 Q. And they didn't notify all the neighbors  
10 once they did know, right?

11 A. I can't answer to that, but I know they  
12 didn't answer -- notify all of them.

13 Q. And here it wouldn't -- had you been  
14 informed first by your neighbors before they entered  
15 into a solar lease, that would not have changed the  
16 fact that you opposed the project, correct?

17 A. No. I would still oppose the project.

18 Q. You had a question from I believe it was  
19 Mr. Dove and your answer was if you told me a name, I  
20 might know with regard to people who provided  
21 information for using on your opposition website?  
22 Did you -- do you know if you had communications with  
23 Susan Ralston?

24 A. Yes.

25 Q. Did you? Did she provide information to

1 you for using in the Facebook page?

2 A. I don't believe for the Facebook page,  
3 but she did provide some information I think more to  
4 direct me to other sources.

5 Q. So did she provide information about, you  
6 know, opposition articles or other opposition groups,  
7 that kind of thing?

8 A. I believe so.

9 Q. And you communicated with the opposition  
10 group for the Birch Solar project, correct?

11 A. Yes. I think there were multiple groups.  
12 Or I can't remember. Things changed throughout the  
13 process.

14 Q. Did you encourage or ask other land --  
15 neighbors to the project to intervene in the project?

16 MR. VAN KLEY: Objection, your Honor.  
17 This goes beyond the scope of redirect. She fully  
18 covered that topic in her initial cross-examination.  
19 I didn't ask any questions about this topic.

20 ALJ ADDISON: Ms. Sheely?

21 MS. SHEELY: I can withdraw that  
22 question.

23 ALJ ADDISON: Thank you. Please do.

24 Q. (By Ms. Sheely) So with regard to the  
25 Facebook page, did you do anything independently to

1 validate the validity of the content that is posted  
2 there?

3 A. I don't believe so.

4 Q. Did you ever send the content to any  
5 independent experts to determine whether it's valid  
6 content or not in terms of it's valid meaning  
7 accurate?

8 A. I do not believe so. A lot of them  
9 actually probably came from other opposition pages.

10 Q. Did you ever give a forum for any pro  
11 solar folks to post their content in response to the  
12 content you were posting opposing solar projects?

13 MR. VAN KLEY: Objection. Again, your  
14 Honor, we are traveling way beyond the scope of  
15 redirect at this point.

16 MS. SHEELY: This content was all covered  
17 by Mr. Dove I believe in his questioning.

18 ALJ ADDISON: Which was on cross but not  
19 redirect.

20 MS. SHEELY: Oh, not in redirect. Okay.  
21 I can withdraw that question too.

22 ALJ ADDISON: Thank you.

23 Q. (By Ms. Sheely) Is it fair to say with  
24 regard to your other concerns that if they were put  
25 into conditions in the certificate, that the fact of

1       them being in a condition would not alleviate the  
2       concern?

3               A.     No.

4               Q.     No meaning it's fair to say that or, no,  
5       they would not alleviate your concerns?

6               A.     Sorry. They would not alleviate my  
7       concern.

8               MS. SHEELY: Thank you. I don't have any  
9       further questions. Thank you.

10              ALJ ADDISON: Thank you very much.

11              Mr. Dove?

12              MR. DOVE: No questions, your Honor.

13              ALJ ADDISON: Ms. Curtis?

14              MS. CURTIS: No questions, your Honor.

15              ALJ ADDISON: Mr. Chamberlain?

16              MR. CHAMBERLAIN: Nothing, your Honor.

17              ALJ ADDISON: Mr. Eubanks?

18              MR. EUBANKS: No questions, your Honor.

19                               - - -

20                               EXAMINATION

21       By ALJ Addison:

22              Q.     Okay. Just very briefly, Mr. Ebenhack,  
23       if I may ask a few questions. I don't know if you  
24       have it in front of you. It was Applicant Exhibit  
25       41. It was your public comment submitted to the

1 Board Staff on Tuesday, May 10, 2022, if this helps.

2 A. Yes, I have it.

3 Q. On page 2 of that comment you note a  
4 concern or you had heard about a concern of various  
5 PHAS chemicals in the water that have had a  
6 devastating effect on livestock, most of all dairy  
7 cows; is that correct?

8 A. Yes.

9 Q. And you do not currently raise dairy  
10 cattle, correct?

11 A. No.

12 Q. Do you raise any livestock on the  
13 Farmstead?

14 A. Not Farmstead.

15 Q. Have you raised livestock otherwise?

16 A. Yes.

17 Q. And what capacity?

18 A. We have a small scale livestock farm when  
19 I was younger and -- I probably shouldn't answer any  
20 more. We had considered bringing livestock back, but  
21 it wouldn't have been probably at the market area.

22 Q. But just full circle, there is currently  
23 no livestock at your Farmstead today, correct?

24 A. Not that parcel.

25 Q. Not that parcel.

1           A.     So can I answer? My parents just down  
2 the road, we do have livestock there.

3           Q.     And what kind of livestock do you raise?

4           A.     We have horses and llamas right at the  
5 moment.

6           ALJ ADDISON: All right. Thank you.  
7 That's all the questions I have so you are excused.

8           I believe Mr. Van Kley had previously  
9 moved for the admission of Ebenhack Exhibit No. 3.  
10 Are there any objections to the admission of that  
11 exhibit at this time, subject to, of course, the  
12 motion to strike?

13           Hearing none, it will be admitted.

14           (EXHIBIT ADMITTED INTO EVIDENCE.)

15           ALJ ADDISON: Ms. Sheely?

16           MS. SHEELY: Yes.

17           ALJ ADDISON: Did I get you mid-move?

18           MS. SHEELY: Sorry. We were trading  
19 seats. I have slightly lost track of the numbers.

20           ALJ ADDISON: I believe we have  
21 Applicant --

22           MS. SHEELY: On cross I know 41 and I  
23 believe I just marked it as 42 and put it together as  
24 a compilation, right?

25           ALJ ADDISON: Yes.

1 MS. SHEELY: I would move for the  
2 admission of those two exhibits, please.

3 ALJ ADDISON: Any objection?

4 MR. VAN KLEY: Nope.

5 ALJ ADDISON: Thank you all. Applicant  
6 Exhibit Nos. 41 and 42 will be admitted.

7 (EXHIBITS ADMITTED INTO EVIDENCE.)

8 ALJ ADDISON: All right. Let's just take  
9 a brief 5-minute break to reorient ourselves as we  
10 move into Staff's witnesses.

11 All right. Let's go off the record.

12 (Recess taken.)

13 ALJ ADDISON: Let's go back on the  
14 record.

15 Mr. Eubanks.

16 MR. EUBANKS: Yes, your Honor. First, I  
17 would like to have marked as Staff's Exhibit 1 the  
18 Staff Report filed on May 10, 2022.

19 ALJ ADDISON: It will be so marked.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 ALJ ADDISON: Mr. Eubanks, I'm sorry. So  
22 just for the fan, if you can speak up, that would be  
23 certainly appreciated.

24 MR. EUBANKS: Okay. And with that I  
25 would like to call to the stand Matt Butler.

1 ALJ ADDISON: Welcome, Mr. Butler.

2 Please raise your right hand.

3 (Witness sworn.)

4 ALJ ADDISON: Thank you. Please be  
5 seated.

6 - - -

7 MATTHEW BUTLER

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

10 DIRECT EXAMINATION

11 By Mr. Eubanks:

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

14 A. Sure. It's Matthew Butler, M-A-T-T-H-E-W  
15 B-U-T-L-E-R.

16 Q. Did you file prefiled testimony in this  
17 matter?

18 A. I did.

19 Q. Was it prepared by you or with your  
20 assistance?

21 A. Yes.

22 Q. If I was to show it to you, would you  
23 recognize it?

24 A. Yes.

25 MR. EUBANKS: May I approach the witness?

1 ALJ ADDISON: You may.

2 Q. (By Mr. Eubanks) Could you please  
3 identify the document I placed in front of you.

4 A. This is my prefiled testimony.

5 Q. And it was docketed on February 13, 2023?

6 A. Correct.

7 MR. EUBANKS: I would like to have marked  
8 as Staff's Exhibit 2 the prefiled testimony of Matt  
9 Butler.

10 ALJ ADDISON: It will be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. (By Mr. Eubanks) Is the testimony in  
13 front of you a true and accurate copy?

14 A. Yes.

15 Q. And if I were to ask you the same  
16 questions that are -- that is found in your  
17 testimony, would you provide the same answers?

18 A. Yes.

19 Q. Are there any corrections you would like  
20 to make?

21 A. Nope.

22 MR. EUBANKS: With that I would like to  
23 move to have Staff's Exhibit 2 placed into evidence,  
24 subject to cross-examination, and I will offer the  
25 witness for cross-examination.

1                   ALJ ADDISON: Thank you very much,  
2 Mr. Eubanks.

3                   Do we have an arrangement between the  
4 parties as to who is going to cross first?

5                   MS. HERRNSTEIN: We do not.

6                   ALJ ADDISON: Do I have any volunteers?

7                   MS. HERRNSTEIN: I don't know if -- Jack,  
8 what was your estimate for Mr. Butler?

9                   MR. VAN KLEY: I'm not sure what it was.  
10 It's going to be about 15 minutes is all.

11                  MS. HERRNSTEIN: About 15 minutes? If  
12 you would like to go first.

13                  MR. VAN KLEY: I have been going first  
14 the whole hearing. I am going to turn it over to  
15 somebody else to now go ahead first.

16                  MS. HERRNSTEIN: I don't believe I  
17 have -- I can probably get done today, but I didn't  
18 know if we wanted to wrap up the quicker ones.

19                  ALJ ADDISON: We are going to be here  
20 tomorrow anyway so please proceed.

21                  MS. HERRNSTEIN: Okay. Happy to start  
22 off.

23                                 - - -

CROSS-EXAMINATION

By Ms. Herrnstein:

Q. All right. Good afternoon, Mr. Butler.

A. Good afternoon.

Q. Afternoon. Do you have in front of you the Staff Report of Investigation that was previously marked as Staff Exhibit 1?

A. I don't believe I do.

MR. EUBANKS: May I approach?

ALJ ADDISON: You may.

A. I do now.

Q. All right. So you now have the Staff Report of Investigation previously identified -- marked as Staff Exhibit 1?

A. Yes.

Q. All right. Could you please turn to page 43 of that document.

A. Sure.

MR. EUBANKS: Would you repeat that page? I couldn't hear you.

MS. HERRNSTEIN: 43.

A. Okay.

Q. (By Ms. Herrnstein) Okay. Are you sponsoring the section titled "Public Interaction and Participation" of the Staff -- of the Staff Report on

1     this page?

2             A.     Yes, I am.

3             Q.     Okay. Are you sponsoring the section  
4     titled "Senate Bill 52"?

5             A.     Yes.

6             Q.     Okay. Are you sponsoring the section  
7     titled "Public Comments" which is on page 44?

8             A.     Yes.

9             Q.     Okay. Going backwards what about the  
10    section titled "Public Safety" on page 42?

11            A.     No, I am not.

12            Q.     Do you know who is sponsoring that?

13            A.     I'm not certain.

14            Q.     Okay. Are you sponsoring the section  
15    titled "Electromagnetic Fields"?

16            A.     No.

17            Q.     Okay. Do you know who is?

18            A.     I don't.

19            Q.     Okay. And are you sponsoring the  
20    "Conclusion" section on page 44?

21            A.     I am not.

22            Q.     Okay. Do you know who is?

23            A.     That would be Tom Crawford.

24            Q.     And are you sponsoring the "Recommended  
25    Findings" section on page 44?

1 A. That would also be Mr. Crawford.

2 Q. All right. Starting with the "Public  
3 Interaction" section back on page 43, isn't it  
4 correct to say you summarized the public interactions  
5 in the project, in the community?

6 A. Yes.

7 Q. Okay. How did you decide which  
8 interactions to include?

9 A. We typically kind of have a template for  
10 each report that would typically include those same  
11 interactions for each report so it's standard across  
12 cases.

13 Q. And you included interaction with the  
14 Township, correct?

15 A. I included interaction -- I am not sure  
16 what you mean by the Township.

17 Q. Interaction with Township Trustees?

18 A. In that first section? I'm sorry. I am  
19 just reading through here.

20 Q. Please do. Take your time.

21 A. Well, in our recommendation which was one  
22 of the conditions we did recommend that notices be  
23 mailed to Township Trustees, if that's what you are.

24 Q. I'll rephrase. That was a bad question.  
25 Actually I am just going to move on. Did you speak

1 to anyone at Wayne Township in preparing this  
2 section?

3 A. No.

4 Q. Did you speak to anyone at Wayne Township  
5 at all?

6 A. I may have spoken to them at the public  
7 informational meeting, but I don't recall.

8 Q. Okay. Nothing since then?

9 A. Not that I can recall.

10 Q. Okay. Did you speak to anyone -- any of  
11 the Pickaway County Commissioners preparing this  
12 section?

13 A. No.

14 Q. Did you speak to them at all?

15 A. I did attend a meeting with Pickaway  
16 County Commissioners. I believe it was one of their  
17 standard open public sessions. With a colleague we  
18 went down to sort of brief them on the requirements  
19 of Senate Bill 52 and what was going on with that  
20 because that was a relatively new bill at the time  
21 that some of the projects were in Pickaway County.

22 Q. Was that meeting in connection with  
23 Scioto Farms?

24 A. I think it was more general in nature to  
25 the projects across the county.

1 Q. Do you know when that meeting took place?

2 A. I don't.

3 Q. Was it 2021? 2022?

4 A. I know I was getting over COVID. I had  
5 to wear a mask. Gosh, it was either '21 or early  
6 '22.

7 Q. Okay. Any communication with the  
8 Commissioners since then?

9 A. Not to my knowledge.

10 Q. Okay. If we could look back at the Staff  
11 Report, at the very last line, "Public Interaction"  
12 section, I am going to read it, "Wayne Township filed  
13 notice of a resolution against the project."

14 A. Uh-huh.

15 Q. Did I read that right?

16 A. Yes.

17 Q. Okay. And did you speak with anyone at  
18 Wayne Township regarding that resolution?

19 A. I do not believe so.

20 Q. Okay. Do you know if anyone from Staff  
21 spoke with anyone at Wayne Township regarding the  
22 resolution?

23 A. Not that I am aware of.

24 Q. Do you know what objections to the  
25 project the Wayne Township Trustees have?

1           A.    I would not without looking at that  
2 resolution.

3           Q.    In your view is the Township's basis for  
4 opposition to the project relevant to Staff's  
5 analysis of the public interest?

6           A.    Again, without looking at the document,  
7 I'm not -- I can't speak to the basis of their  
8 argument. I would let the Township do that as Staff  
9 was aware that the Township is opposed to the  
10 project.

11          Q.    Is the basis of that opposition relevant  
12 to Staff?

13          A.    I think the opposition from the Township  
14 is what's relevant to Staff.

15          Q.    Is it accurate to say Staff is concerned  
16 with whether a local jurisdiction is opposed to a  
17 project, not why it's opposed?

18          A.    I think primarily we are interested with  
19 whether or not they are opposed or in support of the  
20 project.

21          Q.    And so the reasons for that opposition  
22 aren't relevant to Staff.

23          A.    I think they are relevant. I don't  
24 believe that they are the primary relevance.

25          Q.    Okay. The existence of opposition is

1 primary relevance.

2 A. Correct.

3 Q. Okay. Do you know what sort of public  
4 process Wayne Township undertook before passing the  
5 resolution?

6 A. I do not.

7 Q. Okay. So you did not know that the  
8 Township only held one public meeting regarding the  
9 project?

10 A. I did not know.

11 MR. EUBANKS: Objection, asked and  
12 answered.

13 ALJ ADDISON: I think he already  
14 answered.

15 But, Mr. Butler, if you want to take a  
16 brief pause before answering any questions.

17 THE WITNESS: Sure.

18 ALJ ADDISON: Thank you.

19 Q. (By Ms. Herrnstein) In your view is the  
20 process the Township undertook before passing the  
21 resolution relevant to the Staff's public interest  
22 analysis?

23 MR. EUBANKS: Objection, asked and  
24 answered, calls for speculation, lack of foundation.

25 MS. HERRNSTEIN: Your Honor, I am asking

1 for his opinion on whether or not the Township's  
2 process is -- was considered by Staff and is relevant  
3 to Staff.

4 MR. EUBANKS: He says he doesn't know  
5 what the process is, so you are asking him first to  
6 speculate about what the process is and then based  
7 off of that speculation draw a conclusion as to  
8 whether or not it's relevant.

9 MS. HERRNSTEIN: I could rephrase it.

10 ALJ ADDISON: Please.

11 Q. (By Ms. Herrnstein) Okay. In general,  
12 regardless of what that process was, would a  
13 Township's process in reaching a resolution regarding  
14 a project be relevant to Staff?

15 A. No.

16 Q. If we can move on to the "Public Comment"  
17 section on page 44.

18 A. Okay.

19 Q. All right. Do you know how many  
20 individuals posted comments in this -- on the docket?

21 A. At the time of the filing, there were 49  
22 document records that were filed and I looked  
23 recently, either yesterday or this morning, and I  
24 believe there were 141 document records.

25 Q. Do you know how many -- how many

1 individuals are responsible for those filings?

2 A. I don't.

3 Q. Okay. If a single person posts multiple  
4 comments, is that considered one public comment or  
5 multiple public comments?

6 A. That would be considered multiple  
7 comments.

8 Q. Okay. Do you know what percentage of  
9 Wayne Township filed public comments?

10 A. I do not.

11 Q. Okay. So I assume you also don't know  
12 what percentage of Pickaway County filed public  
13 comments?

14 A. That's correct.

15 Q. Mr. Butler, did you receive an e-mail  
16 directly from a landowner indicating that he or she  
17 supported the project but did not feel comfortable  
18 publicly doing so?

19 A. I don't know. I don't know. I may have  
20 talked to someone along those lines. I don't recall  
21 a specific communication.

22 Q. You don't recall a specific e-mail?

23 A. I don't.

24 Q. Do you recall a specific e-mail from the  
25 landowner in the project area regarding personal

1 intimidation by opponents of the project?

2 A. No.

3 Q. In general does Staff consider potential  
4 intimidation by opponents of a project in its public  
5 interest analysis?

6 A. No.

7 Q. Would that be relevant to the Staff's  
8 public interest analysis at all?

9 A. No.

10 Q. All right. If we could look at page 44  
11 which we might already be on actually.

12 A. Okay. Yeah.

13 Q. Do you see that there is a bulleted list?

14 A. Uh-huh.

15 Q. We are going to go through that list.

16 A. Okay.

17 Q. Do you see where in the list it states  
18 resolution of Pickaway County?

19 A. Yes.

20 Q. Okay. Are you aware that this resolution  
21 was passed 2 to 1?

22 A. Yes.

23 Q. Do you know what objections to the  
24 project Pickaway County has?

25 A. I do not.

1           Q.    And similar to the Township, is it your  
2 position that those objections would not be of  
3 primary importance to Staff?

4           A.    Yes.

5           Q.    So the existence of Pickaway County's  
6 opposition is what is relevant?

7           A.    Yes.

8           Q.    And is the public process that the County  
9 undertook before passing the resolution relevant to  
10 Staff?

11          A.    No.

12          Q.    All right. Looking at the Staff  
13 Report -- sorry.

14          A.    Sure.

15          Q.    Do you see where it lists a memorandum  
16 from the Pickaway County Emergency Management Agency  
17 Director to the Pickaway County Board of  
18 Commissioners sharing concerns regarding the  
19 development of solar projects?

20          A.    Yes.

21          Q.    Do you know if members of the Pickaway  
22 County Emergency Management Agency are elected?

23          A.    I do not know.

24          Q.    Did you speak with anyone from the  
25 Pickaway County Emergency Management Agency?

1           A.    I don't believe so.

2           Q.    Do you know if anyone from Staff did?

3           A.    I don't believe so.

4           Q.    Are you aware of what concerns -- well, I  
5 guess they say. Are you aware of what concerns the  
6 Pickaway County Board of Commissioners had?

7           A.    Not without reviewing the memo.

8           Q.    Whatever those concerns might be, would  
9 they have been relevant to Staff's consideration?

10          A.    I think here we are simply noting that we  
11 did receive that interaction from the -- from the  
12 Emergency Management Agency Director. Concerns in  
13 all the comments are relevant, but they are not  
14 necessarily weighted one way or another.

15          Q.    So Staff is not taking any position on  
16 the validity or accuracy of any concerns that would  
17 be in that memo?

18          A.    No.

19          Q.    Okay. Do you see further down on the  
20 list a letter from the Pickaway County Parks District  
21 expressing concerns with potential impacts to  
22 waterfowl migration, the historical Erie-Ohio Canal,  
23 and road traffic and wildlife crossings?

24          A.    Yes.

25          Q.    Do you know if members of the Pickaway

1 County Parks District are elected?

2 A. I do not know.

3 Q. And did you speak to anyone from the  
4 Pickaway County Parks District?

5 A. I don't believe so.

6 Q. Do you know if anyone from Staff did?

7 A. I don't believe so.

8 Q. Did Staff conduct any sort of  
9 investigation into impacts -- I'm sorry, into the  
10 concerns expressed by Pickaway County Parks District?

11 A. Not specific to that letter. Certainly  
12 some of those topic areas are areas that my  
13 colleagues would have reread in there when reviewing.

14 Q. Okay. Did the Staff Report identify any  
15 concerns relating to those topics?

16 A. I don't know. I would have to let my  
17 colleagues speak to those sections.

18 Q. How much weight did Staff give this  
19 letter in reaching its public interest analysis  
20 conclusion?

21 MR. EUBANKS: I am having trouble  
22 hearing.

23 MS. HERRNSTEIN: I'm sorry. I asked how  
24 much weight did Staff give this letter in reaching  
25 its conclusion if he knows.

1           A.    Generally one letter over others isn't  
2 weighted one, you know, over another letter.

3           Q.    When you say one letter, are you  
4 referring to one letter from a government entity or  
5 just one letter from anyone?

6           A.    From anyone.

7           Q.    So a letter from the landowner would be  
8 weighed the same way as a letter from the Parks  
9 District?

10          A.    There is not -- we don't have a weighted  
11 scale that we apply to any of these, so even that  
12 concept of weighting isn't something that we -- that  
13 we do.

14          Q.    Moving to the next point on the list,  
15 "Commenters opposed" -- I'm sorry. This one is a  
16 little bit longer. I am going to start over.  
17 "Commenters opposed to the proposed project expressed  
18 concerns about issues including impacts to  
19 agricultural land use, farmland preservation, and  
20 agricultural production and livestock; fire hazard;  
21 impacts to wildlife; impacts to drinking water;  
22 erosion and flooding; runoff and drainage;  
23 construction traffic, noise, and dust; operational  
24 noise; property values; cultural resources;  
25 decommissioning; public health; aesthetics;

1 recreation; and fencing."

2 A. Uh-huh.

3 Q. Of those concerns listed, which, if any,  
4 does Staff share?

5 A. In that section I'm simply noting for the  
6 Board's reference the issues that were raised by  
7 commenters.

8 Q. So you are not indicating one way or the  
9 other whether or not those concerns are valid or  
10 accurate?

11 A. I am simply stating that individuals  
12 expressed those concerns.

13 Q. Were you consulted regarding the  
14 "Conclusion" section on page 44?

15 A. Not directly. I mean, Staff through our  
16 preparation, everyone has an opportunity to read it  
17 through, a draft, but I don't recall being  
18 specifically consulted regarding the conclusion.

19 Q. And you didn't draft the "Conclusion"  
20 section?

21 A. I did not.

22 MS. HERRNSTEIN: Okay. Sorry. Just a  
23 second.

24 All right. I have nothing further.

25 ALJ ADDISON: Thank you very much.

1 Mr. Van Kley?

2 MR. VAN KLEY: Thank you, your Honor. I  
3 didn't expect to be back on yet today. Happy to  
4 finish up.

5 Your Honor, at this time I would like to  
6 mark as Ebenhack's Exhibit 14 a copy of the sign-in  
7 sheets for the public hearing held in this case.

8 ALJ ADDISON: They will be so marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 - - -

11 CROSS-EXAMINATION

12 By Mr. Van Kley:

13 Q. All right. Mr. Butler, I have handed you  
14 what's been marked as Ebenhack's Exhibit 14. Do you  
15 recognize this document as a copy of the sign-in  
16 sheets for the local public hearing in this case?

17 A. These are not the sign-in sheets. These  
18 are another opportunity for witnesses to -- or for  
19 attendees to state if they are in support or  
20 opposition to a project, so the sign-in sheet would  
21 be where witnesses sign in to testify that evening,  
22 so similar but different.

23 Q. Okay. So if I'm looking at the first  
24 page of this exhibit where it says in the top  
25 "Exhibit Sign-In Sheets for Hearing," that title

1 should really be changed then?

2 A. Yeah.

3 Q. Okay. So Exhibit 14 consists of the  
4 sheets indicating whether the attendees at the local  
5 public hearing opposed or supported the project?

6 A. Correct.

7 Q. Do you recall receiving any documents  
8 that purported to be letters of support for this  
9 project that turned out not to be authorized by the  
10 persons whose names were on those letters?

11 A. I know that has happened in cases before  
12 the Board. I just don't recall if this was an  
13 instance where that occurred. I just don't recall.

14 MR. VAN KLEY: Okay. All right. Nothing  
15 further, your Honor.

16 ALJ ADDISON: Thank you.

17 Mr. Chamberlain?

18 MR. CHAMBERLAIN: I don't have anything,  
19 your Honor. Thank you.

20 ALJ ADDISON: Ms. Curtis?

21 MS. CURTIS: No questions, your Honor.

22 ALJ ADDISON: Mr. Dove?

23 MR. DOVE: No questions, your Honor.

24 ALJ ADDISON: Any redirect, Mr. Eubanks?

25 MR. EUBANKS: Probably not but can I?

1           ALJ ADDISON: Absolutely. Let's go off  
2 the record.

3           (Discussion off the record.)

4           ALJ ADDISON: Let's go back on the  
5 record.

6           Mr. Eubanks, any redirect?

7           MR. EUBANKS: I have no redirect.

8           ALJ ADDISON: Thank you very much. I  
9 have no additional questions, Mr. Butler. You are  
10 excused.

11          THE WITNESS: Okay. Thank you.

12          MR. EUBANKS: I have a pending motion for  
13 the admission of Staff's Exhibit 2.

14          ALJ ADDISON: Thank you, Mr. Eubanks.

15          Any objection to the admission of Staff  
16 Exhibit 2 at this time?

17          MR. VAN KLEY: No.

18          MS. HERRNSTEIN: No, your Honor.

19          MR. CHAMBERLAIN: No.

20          ALJ ADDISON: It will be admitted.

21          (EXHIBIT ADMITTED INTO EVIDENCE.)

22          ALJ ADDISON: Mr. Van Kley?

23          MR. VAN KLEY: Yes, we would move into  
24 admission Ebenhack's Exhibit 14.

25          ALJ ADDISON: Any objection to the

1 admission of Ebenhack Exhibit 14?

2 MR. CHAMBERLAIN: No, your Honor.

3 MR. VAN KLEY: No.

4 ALJ ADDISON: Hearing none, it will be  
5 admitted.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 ALJ ADDISON: I will remind everyone we  
8 have a hard stop at 5:00; but, Mr. Eubanks, would you  
9 like to call your next witness and see how lucky we  
10 can be?

11 MR. EUBANKS: Sure. I will ask the  
12 parties between O'Dell, Bellamy, and DeLong, who do  
13 you think would be the shortest?

14 MS. HERRNSTEIN: We have no cross for any  
15 of them.

16 MR. EUBANKS: For any of them? Is that  
17 the same for all the parties?

18 MR. VAN KLEY: No.

19 ALJ ADDISON: Let's go off the record.

20 (Discussion off the record.)

21 ALJ ADDISON: All right. Let's go back  
22 on the record.

23 Mr. Eubanks, you may call your next  
24 witness.

25 MR. EUBANKS: Yes, your Honor. I would

1     like to call to the stand Allison DeLong.  Is she  
2     here?  Oh.

3                 ALJ ADDISON:  Guess again, Mr. Eubanks.  
4                 Let's go off the record again.

5                 (Discussion off the record.)

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

8                 Mr. Eubanks.

9                 MR. EUBANKS:  Yes, your Honor.  I would  
10    like to call to the stand Allison DeLong.

11                ALJ ADDISON:  Thank you.  Raise your  
12    right hand.

13                (Witness sworn.)

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

16                                 - - -

17                                 ALLISON DeLONG

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

20                                 DIRECT EXAMINATION

21    By Mr. Eubanks:

22                Q.    Would you please state and spell your  
23    name for the record.

24                A.    Allison DeLong, A-L-L-I-S-O-N D-e capital  
25    L-O-N-G.

1           Q.   And did you file prefiled testimony in  
2 this matter?

3           A.   I did.

4           Q.   Was it prepared by you or assisted in the  
5 preparation?

6           A.   Yes.

7           Q.   By you?

8           A.   Yes.

9           Q.   Okay. And if I was to show you the  
10 prefiled testimony, would you be able to identify it?

11          A.   Yes.

12               MR. EUBANKS: May I approach the witness?

13               ALJ ADDISON: You may.

14          Q.   (By Mr. Eubanks) Could you identify the  
15 document I've placed in front of you?

16          A.   It's my prefiled testimony.

17          Q.   Is it a true and accurate copy?

18          A.   Yes.

19          Q.   If I were to ask you the same questions  
20 that are found in your prefiled testimony today,  
21 would you provide the same answers?

22          A.   Yes.

23          Q.   Do you want to make any corrections to  
24 your testimony?

25          A.   No.

1 MR. EUBANKS: At this time I would like  
2 to move into admittance -- well, actually, first, I  
3 would like to mark as Staff's Exhibit 3 the prefiled  
4 testimony of Allison DeLong.

5 ALJ ADDISON: It will be so marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. EUBANKS: And I would like to move  
8 into admittance Staff Exhibit 3, subject to  
9 cross-examination, and I will offer the witness for  
10 cross.

11 ALJ ADDISON: Thank you very much,  
12 Mr. Eubanks.

13 Any cross on behalf of the Applicant?

14 MS. HERRNSTEIN: No cross from the  
15 Applicant.

16 ALJ ADDISON: Thank you.

17 Mr. Van Kley?

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

20 - - -

21 CROSS-EXAMINATION

22 By Mr. Van Kley:

23 Q. Good afternoon, Ms. DeLong. Did you have  
24 any involvement in the certification procedure for  
25 the Yellowbud -- the Yellowbud Solar project?

1 A. No. I don't believe so. I believe --

2 Q. I'm sorry. I didn't hear you.

3 A. No. I don't believe so.

4 Q. Okay.

5 A. I don't think I was on that case.

6 MR. VAN KLEY: Okay. I have nothing  
7 further.

8 ALJ ADDISON: Thank you.

9 Mr. Chamberlain?

10 MR. CHAMBERLAIN: I have nothing, your  
11 Honor.

12 ALJ ADDISON: Ms. Curtis?

13 MS. CURTIS: No questions, your Honor.

14 ALJ ADDISON: Mr. Dove?

15 MR. DOVE: No questions, your Honor.

16 ALJ ADDISON: Any redirect, Mr. Eubanks?

17 MR. EUBANKS: No, your Honor, I have no  
18 redirect.

19 ALJ ADDISON: Thank you. I have no  
20 additional questions, Ms. DeLong. You are excused.  
21 Thank you very much.

22 THE WITNESS: Thank you.

23 ALJ ADDISON: Mr. Eubanks previously  
24 moved for the admission of Staff Exhibit 3 into the  
25 record. Are there any objections at this time?

1 MR. CHAMBERLAIN: No objections.

2 ALJ ADDISON: Hearing none, it will be  
3 admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 ALJ ADDISON: Do we want to test our  
6 fate?

7 MR. EUBANKS: I can.

8 MR. VAN KLEY: Maybe we can jump out in  
9 the freeways about 15 minutes early and beat the  
10 crowd.

11 ALJ ADDISON: That sounds like a very  
12 good plan, Mr. Van Kley.

13 MR. VAN KLEY: All right.

14 ALJ ADDISON: We will stop the testimony  
15 for today, pick up tomorrow morning beginning at  
16 9:30 a.m. I will remind parties that we will be in  
17 11-A which is right down the hallway. Tomorrow if  
18 you come here, you won't be too far gone so, and I  
19 will try to put up a sign to remind everyone as well.

20 Just a quick reminder, please make sure  
21 that you are providing the court reporter labeled  
22 copies of your exhibits with the exhibit number on  
23 the top of them. It is on the parties to provide  
24 those to the court reporter.

25 And just another quick reminder, the

1 Arnold Classic starts tomorrow so please plan ahead  
2 for your commute tomorrow morning.

3 Thank you all. We are adjourned.

4 (Thereupon, at 4:46 p.m., the hearing was  
5 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Wednesday, March 1,  
2023, and carefully compared with my original  
stenographic notes.

---

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7421)

- - -

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Summary: Transcript of Scioto Farms Solar Project, LLC hearing held on 03/01/23 -  
Volume III - Public electronically filed by Mr. Ken Spencer on behalf of Armstrong &  
Okey, Inc. and Gibson, Karen Sue Mrs..