

BEFORE THE OHIO POWER SITING BOARD

- - -

In the Matter of the :
Application of Fountain :
Point Solar Energy LLC for:
a Certificate of :
Environmental :
Compatibility and Public : Case No. 21-1231-EL-BGN
Need to Construct a :
Solar-Powered Electric :
Generation Facility in :
Logan County, Ohio. :

- - -

PROCEEDINGS

before Ms. Greta See and Ms. Isabel Marcelletti,
Administrative Law Judges, at the Ohio Power Siting
Board, 180 East Broad Street, Room 11-A, Columbus,
Ohio, called at 10:04 a.m. on Tuesday, August 15,
2023.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481

- - -

APPEARANCES:

Dickinson Wright, PLLC
By Mr. Jonathan R. Secrest,
Ms. Christine M.T. Pirik,
Mr. David A. Lockshaw, Jr.,
and Mr. Matthew C. McDonnell
180 East Broad Street, Suite 3400
Columbus, Ohio 43215

On behalf of the Applicant.

Ohio Farm Bureau Federation
By Ms. Leah Curtis
and Ms. Leah Hetrick
280 North High Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Ohio Farm Bureau
Federation.

McMahon DeGulis LLP
By Mr. Lee A. Slone
1335 Dublin Road, Suite 216A
Columbus, Ohio 43215

On behalf of the Logan County Board of
County Commissioners.

Logan County Prosecutor's Office
By Ms. Breanne Parcels,
Assistant Prosecuting Attorney
117 East Columbus Avenue
Bellefontaine, Ohio 43311

On behalf of the Rushcreek Township
Trustees.

Plank Law Firm
By Mr. Kevin Dunn
411 East Town Street, Floor 2
Columbus, Ohio 43215

On behalf of the Citizens Against
Fountain Point LLC.

- - -

APPEARANCES: (Continued)

Dave Yost, Ohio Attorney General
By Mr. Robert Eubanks,
Ms. Janet Gregory,
and Ms. Amy Botschner O'Brien,
Assistant Attorneys General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

- - -

1	INDEX	
2	- - -	
3	WITNESS	PAGE
4	Charles Larry Mouser	
	Direct Examination by Mr. Secrest	13
5	Cross-Examination by Mr. Dunn	17
	Cross-Examination by Ms. Parcels	18
6		
	Daniel Vertucci	
7	Direct Examination by Mr. Lockshaw	23
	Cross-Examination by Mr. Dunn	29
8	Cross-Examination by Ms. Parcels	46
	Examination by ALJ See	50
9		
	Jaclyn Martin	
10	Direct Examination by Mr. Secrest	53
	Cross-Examination by Mr. Dunn	55
11	Cross-Examination by Ms. Parcels	58
	Redirect Examination by Mr. Secrest	63
12		
	JoAnne J. Blank	
13	Direct Examination by Mr. Lockshaw	66
	Examination by ALJ See	69
14		
	John T. Henning	
15	Direct Examination by Mr. Secrest	72
	Cross-Examination by Ms. Parcels	73
16	Cross-Examination by Mr. Eubanks	78
17	Geoffrey Patterson	
	Direct Examination by Mr. Secrest	84
18	Cross-Examination by Mr. Dunn	86
	Cross-Examination by Ms. Parcels	88
19	Examination by ALJ See	90
20	David G. Loomis, Ph.D.	
	Direct Examination by Mr. Secrest	93
21	Examination by ALJ See	95
22	Richard C. Kirkland, Jr., MAI	
	Direct Examination by Mr. Lockshaw	98
23		
	Andrew Conway	
24	Direct Examination by Ms. Gregory	112
	Cross-Examination by Ms. Parcels	114
25	Redirect Examination by Ms. Gregory	117

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX (Continued)

- - -

WITNESS

PAGE

Jess Stottsberry

Direct Examination by Mr. Eubanks 120

Cross-Examination by Ms. Parcels 121

Cross-Examination by Mr. Dunn 128

Cross-Examination by Mr. Slone 133

Examination by ALJ Marcelletti 137

- - -

APPLICANT EXHIBITS

IDENTIFIED ADMITTED

1 Application Filed on April 11, 2022 29 52

2 Supplement to the Application Filed on May 16, 2022 29 52

3 Second Supplement to the Application Filed on August 23, 2022 29 52

4 Response to First Data Request Filed on May 11, 2022 29 52

5 Response to Second Data Request filed on May 13, 2022 29 52

6 Response to Third Data Request Filed May 20, 2022 29 52

7 Response to Fourth Data Request filed on June 3, 2022 29 52

8 Response to Fifth Data Request Filed on July 8, 2022 29 52

9 Supplemental Response to Third Data Request filed on August 9, 2022 29 52

10 Response to Sixth Data Request Filed on October 20, 2022 29 52

- - -

INDEX (Continued)

- - -

APPLICANT EXHIBITS	IDENTIFIED	ADMITTED
--------------------	------------	----------

11	Response to Seventh Data Request Filed on November 14, 2022	29	52
12	Response to Eighth Data Request Filed on November 18, 2022	29	52
13	Response to Ninth Data Request Filed on November 22, 2022	29	52
14	Supplemental Response to Ninth Data Request Filed on November 28, 2022	29	52
15	Response to Tenth Data Request Filed on November 28, 2022	29	52
16	Certificate of Service of the January 12, 2022, Public Information Meeting, Notice on Property Owners and Entities Filed on December 28, 2021, in Accordance with Ohio Adm. Code 4906-3-03	29	52
17	Proof of Publication of the January 12, 2022, Public Information Meeting in the Bellefontaine Examiner Filed on January 10, 2022, in Accordance with Ohio Adm. Code 4906-3-03	29	52
18	Certificate of Service of the Accepted, Complete Application on Local Public Officials and Libraries Filed on August 25, 2022, in Accordance with Ohio Adm. Code 4906-3-07	29	52

- - -

INDEX (Continued)

- - -

APPLICANT EXHIBITS IDENTIFIED ADMITTED

19	Proof of Service and Proof of Publication in the Bellefontaine Examiner of the Procedural Schedule, in Accordance with the ALJ's September 15, 2022, Entry, Filed on October 24, 2022	29	52
20	Proof of Second Service and Proof of Second Publication in the Bellefontaine Examiner of the Procedural Schedule, in Accordance with the ALJ's September 15, 2022, Entry, Filed on December 12, 2022	29	52
21	Direct Testimony of Daniel Vertucci	25	52
22	Direct Testimony of Jaclyn Martin	54	64
23	Direct Testimony of Ryan J. Peterson	101	102
24	Direct Testimony of JoAnne J. Blank	67	71
25	Direct Testimony of John T. Henning	73	83
26	Direct Testimony of Geoffrey Patterson	84	92
27	Direct Testimony of Michael Hankard	101	102
28	Direct Testimony of David G. Loomis, Ph.D.	94	97
29	Direct Testimony of Richard C. Kirkland	99	101

- - -

1	INDEX (Continued)			
2	- - -			
3	APPLICANT EXHIBITS		IDENTIFIED ADMITTED	
4	30	Direct Testimony of Matthew LaCount	101	102
5	31	Letter from Trustee Larry Mouser to the OPSB	14	19
6				
7	- - -			
8	TOWNSHIP EXHIBITS		IDENTIFIED ADMITTED	
9	1	Direct Testimony of Doug Lyons	105	106
10	2	Direct Testimony of Chad Shafer	105	106
11	- - -			
12	CAFP EXHIBITS		IDENTIFIED ADMITTED	
13	1	Direct Testimony of Paul Schaller	107	111
14	2	Direct Testimony of Kara Slonecker	107	111
15	3	Direct Testimony of Cliff Cronkleton	107	111
16	4	Direct Testimony of Alyssa Rice	107	111
17				
18	- - -			
19				
20	STAFF EXHIBITS		IDENTIFIED ADMITTED	
21	1	Staff Report of Investigation	108	111
22	2	Prefiled Testimony of Mark Bellamy	109	111
23	3	Prefiled Testimony of Thomas J. Crawford, Ph.D., PE	109	111
24				
25	- - -			

INDEX (Continued)

- - -

STAFF EXHIBITS IDENTIFIED ADMITTED

4 Prefiled Testimony of Grant Zeto 109 111

5 Prefiled Testimony of Matthew Butler 109 111

6 Prefiled Testimony of Eric Morrison 109 111

7 Prefiled Testimony of Andrew Conway 113 119

8 Prefiled Testimony of Jess Stottsberry 120 138

- - -

JOINT EXHIBIT IDENTIFIED ADMITTED

1 The July 24, 2023, Stipulation Signed on Behalf of the Applicant and the OFBF 29 52

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tuesday Morning Session,
August 15, 2023.

- - -

ALJ MARCELLETTI: Good morning. The Ohio
Power Siting Board has scheduled for hearing at this
time and place Case No. 21-1231-EL-BGN which is
captioned in the Matter of the Application of
Fountain Point Solar Energy LLC for a Certificate of
Environmental Compatibility and Public Need to
Construct a Solar-Powered Electric Generation
Facility in Logan County, Ohio.

My name is Izzy Marcelletti and with me
is Greta See. Together we are the Board's
Administrative Law Judges assigned to hear this case.
At this time I would like to take appearances on
behalf of the parties. We'll start with the
Applicant, and we'll just work our way down.

MR. SECREST: Good morning, your Honors.
On behalf of the Applicant Fountain Point Solar
Energy LLC, Jonathan Secrest, with me David Lockshaw,
Christine Pirik, and Matthew McDonnell. We are all
with the law firm Dickinson Wright, 180 East Broad
Street, 34th Floor, Columbus, Ohio 43215.

ALJ MARCELLETTI: Thank you.
Staff.

1 MR. EUBANKS: Good morning, your Honor.
2 Robert Eubanks and Janet Gregory, the Attorney
3 General's Office, 30 East Broad Street, Columbus,
4 Ohio 43215, 26th Floor.

5 ALJ MARCELLETTI: Thank you.
6 Rushcreek.

7 MS. PARCELS: For Rushcreek Township,
8 Breanne Parcels, Assistant Logan County Prosecutor,
9 with the Logan County Prosecutor's Office, 117 East
10 Columbus Avenue, Bellefontaine, Ohio.

11 MR. DUNN: For the Citizens Against
12 Fountain Point LLC, Intervenor, Kevin Dunn, Plank
13 Law Firm, 411 East Town Street, Columbus, Ohio.

14 MR. SLONE: Good morning, your Honors.
15 Lee Slone with McMahon DeGulis on behalf of the Logan
16 County Board of Commissioners, address 1335 Dublin
17 Road, Suite 216A, Columbus, 43215.

18 MS. CURTIS: Good morning, your Honors.
19 Leah Curtis and Leah Hetrick on behalf of the Ohio
20 Farm Bureau Federation, 250 North High Street,
21 Columbus, Ohio 43215.

22 ALJ MARCELLETTI: I think we are going to
23 have you get a mic, Ms. Curtis. Thank you.

24 And that is everyone. I would also like
25 to note I note a few members of the public have

1 joined us today. Thank you for attending.

2 Are there any preliminary matters we need
3 to discuss on record?

4 Hearing none, we will let Applicant
5 begin.

6 MR. SECREST: Thank you, your Honor. May
7 the Applicant call Larry Mouser?

8 MR. MOUSE: Here.

9 ALJ SEE: Up here at the witness stand,
10 Mr. Mouser.

11 ALJ MARCELLETTI: You'll also want to
12 press that big button so we can hear you.

13 ALJ SEE: Before you get seated,
14 Mr. Mouser, please raise your right hand.

15 (Witness sworn.)

16 ALJ SEE: Thank you. Have a seat. Sir,
17 please cut your mic on. Thank you.

18 MR. SECREST: May I proceed, your Honor?

19 ALJ SEE: Yes, you may.

20 - - -

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHARLES LARRY MOUSER

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

DIRECT EXAMINATION

By Mr. Secrest:

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

A. Fine.

Q. My name is Jon Secrest. As you may have
just heard, I represent the Applicant in these
proceedings. Will you please state and spell your
full name for the record?

A. Charles Larry Mouser, that's M-O-U-S-E-R.

Q. Thank you very much. Do you hold any
elected positions?

A. Yes, I do. I'm the Township Trustee for
Bokescreek Township.

Q. How long have you been a Township
Trustee?

A. I'm going on I think my eighth year.

Q. Thank you. How long have you lived in
Bokescreek?

A. All my life except for five years which
would be about 68 years.

Q. Thank you. How many other Trustees are
there currently?

1 A. Two.

2 Q. Are any of the Trustees participants in
3 the project?

4 A. Yes, they are, both of them.

5 MR. SECREST: May I approach the witness,
6 your Honor?

7 ALJ SEE: Yes.

8 MR. SECREST: Thank you.

9 And, your Honor, may we move to have this
10 marked as Applicant Exhibit 31?

11 ALJ SEE: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. (By Mr. Secrest) Trustee Mouser, would
14 you please identify the exhibit you have in front of
15 you.

16 A. It's a letter to the Fountain Point Solar
17 project stating my feelings about the project.

18 Q. Is that a letter that you submitted to
19 the Ohio Power Siting Board?

20 A. Yes, it is.

21 Q. And what are your feelings on the
22 project?

23 A. My feelings is that this is not a project
24 that is going to replace any of our other energy that
25 we have in our country, but it's going to be part of

1 a big picture, and it's going to play a major role
2 because our country's wanting to go green with all
3 the electric cars that are soon to be produced.
4 We're going to have to have more energy, and I feel
5 that it is important in our community that we play a
6 big part in -- in that.

7 Q. And do you feel that's important
8 personally and professionally?

9 A. Yes, I do.

10 Q. And what I mean by that is you personally
11 believe it's going to be beneficial. Do you believe
12 that as a Trustee as well?

13 A. I think it will also, you know, help the
14 community in the fact that the revenue that will
15 bring into the School District, the County, and the
16 Township, I think it's estimated somewhere over
17 \$2 million a year. Whereas, by that happening, for
18 instance, schools -- I was on a School Board for 30
19 some years, and I know what it's like to balance
20 budgets. I know what it's like to go to the voters
21 to ask for more money. But I think -- I may be
22 wrong, a little bit off, but I think, for instance,
23 Ben Logan School would get about 1.2 million per year
24 and -- and it will help to educate our kids.

25 And it's not just the landowners that

1 have part of -- lease in this, but it's all the
2 people in the community.

3 Q. Thank you. And that letter you
4 submitted, that was November of 2022?

5 A. Yes.

6 Q. So I take it from your comments today, as
7 you sit here today, you still support --

8 A. Yes, I do.

9 Q. -- the Fountain Point project?

10 A. Yes, I fully support this. I don't have
11 any ground in this project, but the big thing I see
12 is -- is the people that do have it can't begin to
13 gross the amount of dollars that's involved in each
14 acre; and, therefore, we are all, you know, trying to
15 make a living, and I fully support those that have,
16 you know, leased the ground to Invenergy.

17 MR. SECREST: Thank you, Trustee Mouser.
18 I have no further questions. Some of the other
19 counsel may have questions for you.

20 ALJ SEE: Counsel for Ohio Farm Bureau,
21 any questions?

22 MS. CURTIS: No questions, your Honor.

23 ALJ SEE: Mr. Slone?

24 MR. SLONE: No, your Honor. Thank you.

25 ALJ SEE: Ms. Parcels? Oh, I'm sorry,

1 Mr. Dunn. Skipped right over you.

2 MR. DUNN: Yes, your Honor, I do have a
3 few questions.

4 ALJ SEE: Go ahead.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Dunn:

8 Q. Mr. Mouser, your letter states you are a
9 Township Trustee, correct?

10 A. Yes.

11 Q. But two of the three Trustees have been
12 conflicted out of the project; is that correct?

13 A. Correct.

14 Q. As participants in the project?

15 A. Yes.

16 Q. So your letter you're speaking as a
17 personal individual, just as a citizen; is that
18 correct?

19 A. Correct.

20 Q. Are you currently employed right now?

21 A. I -- I have my own businesses.

22 Q. What business is that?

23 A. I farm. I have a crane business. I have
24 an elevator, grain elevator, and we have another
25 business that we -- which is Mouser & Sons

1 Enterprises. We load chicken manure.

2 Q. Okay. What type of business is your
3 crane business?

4 A. Just setting mainly trusses for
5 buildings.

6 Q. Trusses for buildings?

7 A. Yeah.

8 Q. Do you have any interest in contracting
9 and finding employment contracts in the construction
10 of the project with your crane business?

11 A. No.

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

14 ALJ SEE: Ms. Parcels?

15 - - -

16 CROSS-EXAMINATION

17 By Ms. Parcels:

18 Q. Mr. Mouser, just to be clear, you are
19 speaking as an individual, and the other Trustees
20 never asked you or authorized you to speak on behalf
21 of Bokescreek Township; is that correct?

22 A. Correct.

23 MS. PARCELS: Nothing further, your
24 Honors.

25 ALJ SEE: On behalf of the Staff?

1 MR. EUBANKS: No questions, your Honor.

2 ALJ SEE: Any redirect, Mr. Lockshaw?

3 MR. SECREST: Secrest, your Honor.

4 That's okay.

5 ALJ SEE: Mr. Secrest.

6 MR. SECREST: No, thank you.

7 ALJ SEE: With that, thank you very much,
8 Mr. Mouser. And let me take a brief recess at this
9 moment, Mr. Mouser.

10 (Discussion off the record.)

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

12 Mr. Secrest, Applicant's next witness?

13 MR. SECREST: Previous to that, your
14 Honor, may we move for the admission of Applicant
15 Exhibit 31?

16 ALJ SEE: Are there any objections to the
17 admission of Applicant Exhibit 31?

18 Hearing none, Applicant Exhibit 31 is
19 admitted into the record, and you may call your next
20 witness.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 MR. SECREST: Thank you, your Honor.

23 MR. LOCKSHAW: Thank you, your Honor.

24 The Applicant would like to call Daniel Vertucci.

25 ALJ SEE: Mr. Vertucci, if you would

1 raise your right hand.

2 (Witness sworn.)

3 ALJ SEE: Thank you. Have a seat and you
4 will need to cut the microphone back on.

5 MR. LOCKSHAW: Your Honors, before we
6 proceed with this witness, if I may, there is a
7 motion to strike a portion of his written testimony
8 that was just filed three business days ago, so we
9 didn't get to file a written opposition. We're
10 prepared to orally argue that motion, if it pleases
11 the Court.

12 ALJ SEE: Yes. I am going to need you to
13 speak up a little. That motion was filed by
14 Mr. Slone. Is there anything that you wanted to add,
15 Mr. Slone, before the Company is permitted an
16 opportunity to respond?

17 MR. SLONE: Nothing to add, your Honor.

18 ALJ SEE: Okay. Go ahead, Mr. Lockshaw.

19 MR. LOCKSHAW: Lockshaw. Thank you, your
20 Honor. So the basis of the motion is portions of the
21 testimony are allegedly hearsay but that is not
22 correct. And the motion fails for at least five
23 reasons. First, the Commissioners are a party
24 opponent and the statements are admissions by a party
25 opponent and they are not hearsay pursuant to

1 Evidence Rule 801(d)(2). Therefore, the statements
2 are not prohibited by the rule against hearsay, and
3 they are admissible.

4 Even if the statements were hearsay,
5 which they are not, two exceptions apply. These
6 statements are of the declarant's then existing state
7 of mind such as their plan and mental feeling which
8 is not excluded by the rule against hearsay pursuant
9 to Evidence Rule 803 Subsection (3).

10 The statements are also -- they also set
11 forth the activities of a public office and are not
12 excluded by the rule against hearsay under Evidence
13 Rule 803 Subsection (8).

14 Beyond that the third basis for our
15 opposition is the Rules of Evidence do not strictly
16 apply to these proceedings. The Board can take these
17 statements under consideration and give them due
18 weight.

19 A fourth basis the Commissioners do not
20 claim any of the statements are untrue. They are all
21 based on Mr. Vertucci's personal knowledge, and he is
22 available to be cross-examined here today.

23 And, No. 5, there is hearsay in other
24 direct testimony filed in the record such as from the
25 Rushcreek Township Trustees, but the Commissioners

1 did not move to strike that; and -- and this type of
2 testimony, the type of testimony that's at issue
3 pursuant to the motion, has been allowed by the Board
4 in other proceedings such as the recent Oak Run Solar
5 case which is Case No. 22-549-EL-BGN.

6 So for all those reasons, especially
7 considering the information is not hearsay or
8 prohibited by the rule against hearsay, the motion
9 should be overruled, and the testimony should not be
10 stricken.

11 Thank you, your Honors.

12 ALJ SEE: Any reply, Mr. Slone?

13 MR. SLONE: No, your Honor.

14 ALJ SEE: Any other comments from
15 counsel?

16 Okay. The Bench will take a brief recess
17 to confer. Let's go off the record.

18 (Recess taken.)

19 ALJ SEE: Let's go back on the record.

20 As to the motions to strike portions of
21 Mr. Vertucci's testimony, exactly four portions of
22 the testimony on four pages, that motion to strike
23 will be denied, and the Board will give those
24 portions of Mr. Vertucci's testimony what it finds to
25 be the appropriate weight.

1 With that, go ahead with your
2 questioning, Mr. Lockshaw.

3 MR. LOCKSHAW: Thank you.

4 - - -

5 DANIEL VERTUCCI

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

8 DIRECT EXAMINATION

9 By Mr. Lockshaw:

10 Q. Mr. Vertucci, would you please state and
11 spell your full name for the record?

12 A. Daniel Vertucci, V as in Victor
13 E-R-T-U-C-C-I.

14 MR. LOCKSHAW: Thank you. Your Honors,
15 may I approach the witness?

16 ALJ SEE: Yes.

17 Q. (By Mr. Lockshaw) Mr. Vertucci, do you
18 have in front of you a true and accurate copy of your
19 direct written testimony that was filed in this case?

20 A. It appears to be, yes.

21 Q. Thank you. Do you have any changes,
22 revisions, or clarifications to make to your direct
23 testimony?

24 A. Yes, I do.

25 Q. Go ahead.

1 A. On page 2, line 17, "the proposed
2 Fountain Point facility" in the original application
3 included areas within Bokescreek, Perry, and
4 Rushcreek Townships. In a subsequent application --
5 or subsequent -- supplement to the application, we
6 removed Perry Township and portions of Bokescreek
7 Township.

8 Based on the full review of all the
9 information up to this point, we do not plan to
10 operate or construct any project facilities within
11 Rushcreek Township.

12 Q. Is that a commitment that you are making
13 today?

14 A. Yes, it is.

15 Q. Thank you. Do you have any other
16 revisions, changes, or clarifications?

17 A. I do.

18 ALJ SEE: So excuse me. So what exactly
19 is your revision to page 2, line 17?

20 THE WITNESS: Line 17 just states "to
21 develop the proposed...facility in Logan County,
22 Ohio."

23 ALJ SEE: And you are testifying exactly
24 what?

25 THE WITNESS: That is correct. Oh, I'm

1 specifying specifically the Townships within which
2 the project would be developed.

3 ALJ SEE: Okay. Thank you.

4 Go ahead, Mr. Lockshaw.

5 MR. LOCKSHAW: Thank you. I believe the
6 witness said he has one more revision to make.

7 A. On page 9, line 23, where it says "65
8 people offered sworn testimony at the local public
9 hearing," I believe that number should be "71."

10 Q. Thank you. Aside from that if the same
11 questions that appear in your direct written
12 testimony were asked of you today, would your answers
13 be the same?

14 A. Yes, they would.

15 MR. LOCKSHAW: Your Honor, may we mark
16 Mr. Vertucci's testimony as Applicant Exhibit 21?

17 ALJ SEE: The exhibit is so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 MR. LOCKSHAW: Thank you. We also have a
20 list of other exhibits that this witness is
21 sponsoring. Would this be a good time to go through
22 that list and have them marked?

23 ALJ SEE: Yes.

24 MR. LOCKSHAW: Thank you, your Honor.
25 Applicant Exhibit No. 1 is the application filed in

1 the docket on 4-11-22.

2 Exhibit No. 2 is the first supplement to
3 the application filed 5-16-22.

4 Exhibit 3 is the second supplement to the
5 application --

6 ALJ SEE: Just a moment, Mr. -- just a
7 moment.

8 MR. LOCKSHAW: Yes, your Honor.

9 ALJ SEE: Are you perhaps going through
10 the list of exhibits as they are set forth in the
11 Stipulation?

12 MR. LOCKSHAW: We have 20 to go through
13 and then there is also -- there has been three of our
14 direct written testimonies that have been stipulated
15 to and cross has been waived so that is what we
16 are -- and the Joint -- we have a Joint Exhibit which
17 is the Joint Stipulation and Recommendation. That's
18 what we were going to go through today.

19 ALJ SEE: Okay. Go ahead.

20 MR. LOCKSHAW: Thank you. Starting back
21 with Applicant Exhibit 3, it's the second supplement
22 to the application and that was filed 8-23-22.

23 Exhibit 4 is response to the first data
24 request filed 5-11-22.

25 Exhibit 5 is the response to the second

1 data request filed 5-13-22.

2 Exhibit 6, response to third data request
3 filed 5-20-22.

4 Exhibit 7 is the response to the fourth
5 data request filed 6-3-22.

6 Exhibit 8 is response to fifth data
7 request filed 7-8-22.

8 Exhibit 9, supplemental response to the
9 third data request filed 8-9-22.

10 Exhibit 10, response to the sixth data
11 request filed 10-20-22.

12 Exhibit 11, response to the seventh data
13 response filed November 14, 2022.

14 Exhibit 12, response to the eighth data
15 request filed 11-18-22.

16 Exhibit 13, response to the ninth data
17 request filed 11-22-22.

18 Exhibit 14, supplemental response to the
19 ninth data request filed 11-22 -- excuse me,
20 11-28-22.

21 Exhibit 15, response to the tenth data
22 request filed 11-28-22.

23 Exhibit 16, certificate of service of the
24 January 12, 2022, public information meeting that was
25 filed 12-28-21.

Exhibit 17, proof of publication of January 12, 2022, public information meeting in the Bellefontaine Examiner that was filed 1-10-22.

Exhibit 18 is the certificate of service of accepted complete application on local public officials and libraries filed 8-25-22.

Exhibit 19 is proof of service and proof of publication in the Bellefontaine Examiner of the procedural schedule in accordance with the ALJ's September 15, 2022, entry that was filed 10-24-22.

Exhibit 20 is proof of second service and proof of second publication in the Bellefontaine Examiner of the procedural schedule in accordance with the ALJ's September 15, 2022, entry that was filed 12-12-22.

Mr. Vertucci's direct testimony is Exhibit 21 that was filed 7-24-23.

Joint Exhibit 1 is the Joint Stipulation and Recommendation.

And then we do have those three direct testimonies, Ryan Peterson, Michael Hankard, and Matthew LaCount, that was stipulated -- the admission was stipulated and cross was waived, if this is a good time to mark those.

ALJ SEE: Let's take those up after

1 Mr. Vertucci's testimony.

2 MR. LOCKSHAW: Yes, your Honor. Thank
3 you. And with that Mr. Vertucci is available for
4 cross-examination.

5 ALJ SEE: Okay. Applicant's Exhibit 1
6 through 20, as identified in the Stipulation, are so
7 marked, and Joint Exhibit 1, the Stipulation filed
8 July 24, is so marked.

9 (EXHIBITS MARKED FOR IDENTIFICATION.)

10 ALJ SEE: Any cross-examination for this
11 witness, Ms. Curtis?

12 MS. CURTIS: No questions, your Honor.

13 ALJ SEE: Mr. Slone?

14 MR. SLONE: No cross, your Honor.

15 ALJ SEE: Mr. Dunn?

16 MR. DUNN: Yes, your Honor, a few
17 questions.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Dunn:

21 Q. Mr. Vertucci, how long have you been
22 employed with Invenergy?

23 A. I believe it's stated in my testimony, a
24 little over two years.

25 Q. When did you start your employment with

1 Invenergy? I believe you said two years ago. I am
2 just looking for a month and a year.

3 A. I don't remember the exact date.

4 Q. Okay. Your resume attached to your
5 direct testimony says you left your previous job with
6 ExxonMobil I believe in 2020. Do you know when in
7 2020 you left ExxonMobil?

8 A. I would have to guess.

9 Q. Okay. What's your best guess?

10 A. October.

11 Q. October of 2020? Was there a gap in
12 employment between ExxonMobil and Invenergy?

13 A. Yes.

14 Q. So was there a period of time you were
15 unemployed between the two, or did you work somewhere
16 else?

17 A. I was unemployed.

18 Q. Okay. How is Fountain Point Solar Energy
19 LLC affiliated with Invenergy LLC?

20 A. I guess I'm not incredibly versed in the
21 subsidiary structure, but my understanding is it is a
22 subsidiary.

23 Q. Is it a wholly-owned subsidiary?

24 A. I do not know the answer to that
25 correctly.

1 Q. Okay. To your knowledge is -- is
2 Fountain Point Solar Energy owned by anyone else
3 besides Invenergy LLC?

4 A. Not to my knowledge.

5 Q. In your time at ExxonMobil, had you ever
6 had any experience in designing, constructing, or
7 permitting solar facilities?

8 A. No.

9 Q. Okay. So you are relatively new to solar
10 when you -- proportionally compared to your work
11 experience?

12 A. That's a qualitative statement.

13 Q. Okay. So all of your experience, your
14 work experience, in solar has been just with
15 Invenergy, correct?

16 A. For solar specifically, yes.

17 Q. Okay. In your time with Invenergy, have
18 you had any direct experience in decommissioning
19 solar facilities?

20 A. In the like operational decommissioning?

21 Q. In actually closing down or
22 decommissioning at the end of the life of a solar
23 facility.

24 A. In a planning aspect.

25 Q. Okay. Planning aspect but not actually

1 in decommissioning the solar facility?

2 A. That's correct.

3 Q. Okay. In your time employed with
4 Invenergy, how many solar facilities has Invenergy
5 built?

6 A. I do not know that number off the top of
7 my head.

8 Q. You don't know. Okay. How many have you
9 personally been involved with?

10 A. I would need to review that. I don't
11 know off the top of my head.

12 Q. Okay. So you don't know how many solar
13 facilities you've personally been involved with in
14 planning or permitting?

15 A. I worked numerous projects since I have
16 been employed at Invenergy.

17 Q. Okay. And in all of those projects, you
18 performed the same tasks, the same position as
19 Manager as you did here for Fountain Point?

20 A. Essentially, yes.

21 Q. Essentially.

22 A. I mean, not every project I have worked
23 has been in the same stage of...

24 Q. Okay. But you've been a Manager handling
25 the --

1 A. Yes, yes.

2 Q. -- design? Okay. The glare hazard
3 analysis, that has not been completed yet, correct,
4 for Fountain Point?

5 A. There was a glare hazard analysis that
6 was included as an exhibit to the application.

7 Q. Okay. And is there going to be an
8 additional -- based on the Stipulations, will there
9 be additional glare analysis?

10 A. Based on the Stipulation, that is my
11 understanding.

12 Q. Now, there is portions where the solar
13 panels will be visible from the roadways and adjacent
14 property owners, correct? It's not 100 percent
15 screened.

16 A. That is correct.

17 Q. Okay. So the screening that -- the glare
18 analysis, the goal of the glare analysis is to
19 mitigate or minimize the glare, the impact, the
20 visual impact, correct?

21 A. There are multiple goals with the glare
22 analysis.

23 Q. If you turn to page 9 of your direct
24 testimony, looking at lines 16 to 19, and the
25 question reads "Did you attend the local public

1 hearing held on December 14, 2022, and, if so, please
 2 describe the hearing?" And the answer is "Yes. On
 3 December 14, 2022," and I believe you amended today
 4 and revised it to "71 people offered sworn testimony
 5 at the local public hearing at the Benjamin Logan
 6 High School near the Project Area. The testimony
 7 provided was generally in line with feedback and
 8 comments that have been received over the course of
 9 the entire Application process and Fountain Point's
 10 engagement efforts, and has been contemplated,
 11 considered, and addressed within the Project design
 12 proposed in the Application, as well as the
 13 conditions of the Stipulation." Did I read that
 14 correctly?

15 A. Those lines don't line up with the lines
 16 that I have, but I believe you read that paragraph
 17 correct.

18 Q. Oh, your lines? Okay. Your lines --

19 A. Yeah.

20 Q. I'll note that for the future, my lines
 21 will be off for the rest of the testimony.

22 So could you explain what you mean by the
 23 statement "generally in line with feedback and
 24 comments that have been received over the course of
 25 the entire Application"? What does that mean?

1 A. Can you be more specific what you're
2 asking?

3 Q. It's your testimony. I am asking what
4 you mean by those words.

5 A. Well, I mean, I guess I would use the
6 same words to answer that if I had to now.

7 Q. So if I am asking generally in line with
8 feedback and comments that have been received over
9 the course of the entire application process, what
10 are those feedback and comments? What is it
11 parallelling? What is it in agreement with? What
12 feedback and comments have you received? What are
13 you referencing?

14 A. Oh, so over the course of the project, we
15 had a public information meeting. We had multiple
16 meetings with various landowners, attended many
17 public hearings, Township meetings, County
18 Commissioner meetings. There were also numerous
19 submissions and public comments on the docket, among
20 others.

21 Q. Okay. So in your next question, question
22 17, you mention a mix of comments both in support and
23 opposition at the -- at the local public hearing.
24 Your answer to question 16 specifically identified 71
25 individuals that provided testimony but here you get

1 a little less specific and generalized -- generalized
2 the testimony as being a mix in favor and in
3 opposition. Do you have specific details as to how
4 many spoke in support and how many spoke in
5 opposition to the project?

6 A. Not in front of me right now.

7 Q. No? What's your recollection?

8 A. I would have to guess at the number.

9 Q. You would have to guess? Okay.

10 A. Yeah.

11 Q. I mean, I guess let me ask you this, were
12 there more participants giving testimony that spoke
13 in opposition than support?

14 A. Sorry. Can you say that one more time?

15 Q. More participants gave testimony that
16 spoke in opposition than in support, correct?

17 A. I believe that's correct, yeah.

18 Q. Okay. Where did you get your data from
19 on the 65 and then revised 71 people who gave sworn
20 testimony? Is that from a sign-in sheet or personal
21 notes or minutes?

22 A. Combination of personal notes and
23 transcripts.

24 Q. Okay. And how long did that December 14
25 public hearing last?

1 A. I do not know exactly.

2 Q. You don't know? You were there; you were
3 present?

4 A. I was there, yeah. It was long.

5 Q. Okay. It was long? If you had to
6 estimate?

7 A. A little over six hours.

8 Q. A little over six hours. Okay. Did you
9 take note that a number of people departed during and
10 after the break that was taken and announcement was
11 made the sign-in sheet could be used to voice
12 opposition or support in lieu of providing testimony?

13 A. I mean, I was there. And there were
14 people coming and leaving throughout.

15 Q. Coming and leaving throughout the
16 meeting? Okay. Do you think a resident's voice or
17 opinion on the project who lives in or close
18 proximity to the project area's footprint should have
19 an equal voice as an individual who lives further
20 away, say at the opposite end of the County?

21 A. Are you asking my personal opinion?

22 Q. Yes, I am asking.

23 A. I think it depends.

24 Q. It depends on what?

25 A. A variety of complex considerations

1 considered holistically.

2 Q. I guess what's the variety of -- if you
3 could explain further.

4 MR. LOCKSHAW: Your Honor, I am going to
5 object. I think the question is vague, and now it's
6 compound.

7 MR. DUNN: I'll rephrase.

8 ALJ SEE: Thank you.

9 Q. (By Mr. Dunn) Do you think that equal
10 weight should be given to a resident that lives near
11 or next to or adjacent to the project area as a
12 distant resident?

13 A. I think it would depend on what the
14 comment is pertaining.

15 Q. Okay. So it depends on what the
16 opposition or support is about.

17 A. It depends on the topic or the specific
18 comment in the context of the project and design and
19 various other things.

20 Q. Okay. Were you personally involved in
21 negotiating the leases and the purchases of
22 easements?

23 A. Not all of them.

24 Q. Okay. But you are generally familiar
25 with all of them that occurred and any negotiations

1 that happened?

2 A. Most of the land agreements were signed
3 before I began working on the project.

4 Q. Okay. If you could look at question
5 No. 18 and my lines will be different so I'll just
6 read. You state in your answer "A significant
7 reduction of the Project Area, from what was proposed
8 in the initial Application filed on April 11, 2022,"
9 I'll skip the parentheticals, "The reduction includes
10 the elimination of all land from the Project Area
11 south of State Route 47, including, but not limited
12 to, portions of Bokescreek Township and the entirety
13 of Perry Township. These changes were made to
14 address feedback received from the community." Did I
15 read that correctly?

16 A. I believe so, yes.

17 Q. Specifically what feedback from the
18 community did the Applicant take into account that
19 resulted in the elimination of that project area
20 that's south of State Route 47?

21 A. I believe that's addressed in both the
22 rest of my answer to this question and in the second
23 supplement to the application.

24 Q. If you could just explain it to me here
25 so I understand it.

1 A. Well, I mean, I don't have a copy of the
2 second supplement right now.

3 Q. Okay.

4 A. But the -- I mean, the remaining bullet
5 points explain.

6 Q. Uh-huh. So I understand Invenergy
7 attempted to purchase as easement from a farmer on
8 County Road 8 that was needed to utilize -- to build
9 upon the land south of State Route 47 of the project
10 that was ultimately unsuccessful; is that true?

11 A. I do not believe that's an accurate
12 characterization.

13 Q. That's not an accurate? Are you familiar
14 with the easement purchase I am referencing?

15 A. I mean, you haven't specified a specific
16 parcel or landowner.

17 Q. Yeah. I believe it was a farmer whose
18 name was Watkins.

19 A. There are potentially multiple parcels
20 that might be owned by somebody with that name.

21 Q. So there was some easements that you
22 weren't able to purchase; you did not successfully
23 negotiate a purchase.

24 MR. LOCKSHAW: Your Honor, I am going to
25 object. That's vague.

1 ALJ SEE: Try again, Mr. Dunn.

2 MR. DUNN: Sure.

3 Q. (By Mr. Dunn) Invenergy attempted to
4 negotiate easements south of State Route 47, correct?

5 A. Yes.

6 Q. And they were unsuccessful in some of
7 those attempts?

8 A. Not every landowner that we negotiated
9 with signed an agreement.

10 Q. So that's correct, you were unsuccessful
11 getting some easements that you were attempting to
12 get on the land south of State Route 47, right?

13 A. Yes.

14 Q. Now, did Invenergy's inability to obtain
15 certain easements factor into the decision to remove
16 the land south of State Route 47?

17 A. It was not a determining factor.

18 Q. It was not a determining factor, but it
19 was a factor is what you are telling me, right?

20 A. It was one of many. It was not a
21 determining factor.

22 Q. Okay. When was that decision made? I
23 understand that the -- when the supplement was filed,
24 but when was that decision made to abandon the land
25 south of State Route 47?

1 A. I don't know how to give you an exact
2 date of when that decision was made other than when
3 the application was filed.

4 Q. Okay. And what -- so what would be your
5 earliest estimated date then?

6 MR. LOCKSHAW: Your Honor, I am going to
7 object. It calls for speculation. Basically asking
8 the witness to guess.

9 MR. DUNN: I am asking for his opinion of
10 when he thinks the decision was made to abandon a
11 large portion of the project.

12 ALJ SEE: The objection is sustained.

13 Q. (By Mr. Dunn) When was the supplement
14 application filed then? When did it officially that
15 we can say they abandoned that land south of State
16 Route 47?

17 ALJ SEE: What was the last part?

18 MR. DUNN: When we can say officially
19 they decided to -- Invenergy decided to abandon the
20 land south of State Route 47.

21 A. I believe the date it was filed was
22 August 23, 2022.

23 Q. Okay. Thank you. Now, Invenergy has not
24 released the landowners from their leases from that
25 land; is that correct?

1 A. That is an ongoing negotiation, private
2 negotiation with the landowners.

3 Q. Right. But what I am asking you is have
4 any of the landowners that were previously in the
5 project area that had signed leases, none of them
6 have been released from the leases; is that correct?

7 A. Fully released, I do not believe so.

8 Q. And have you received -- has Invenergy
9 received requests to be released from the leases from
10 any of the landowners south of State Route 47?

11 A. I have had informal discussions with
12 landowners.

13 Q. Informal discussions, okay. Now, you
14 said in your revised testimony today that
15 construction would not occur in Rushcreek and that's
16 some of the areas that are south of State Route 47;
17 is that right?

18 A. I do not believe that's correct.

19 Q. Okay. Could you explain?

20 A. I believe the areas that have been
21 previously described in the project within Rushcreek
22 Township are all north.

23 Q. Okay. All north. So given that
24 Invenergy has not released speaking -- I'm sorry,
25 speaking -- let me go back. Speaking of just the

1 land south of State Route 47, given that Invenergy
2 has not released any of the landowners from their
3 leases, Invenergy could supplement and build upon
4 that land at a later amendment?

5 A. I don't believe those would are related.

6 Q. Those two are not related? Okay. Let me
7 ask you this, if Invenergy still holds the leases for
8 the land south of State Route 47 that it's now
9 excluded from the project area, it could later have a
10 Phase 2 amendment and build upon that land with the
11 leases it holds; is that correct?

12 A. Again, I don't see how those are related.

13 Q. I am asking you is it possible to -- what
14 is the purpose for not releasing the landowners from
15 their leases if you are not going to use the land
16 south of State Route 47?

17 A. There is still potential value to having
18 land rights beyond building or constructing at a
19 specific time frame --

20 Q. And what --

21 A. -- to both us and to the landowners.

22 Q. I'm sorry. I spoke over you. What is
23 that value?

24 A. I -- can you be more specific?

25 Q. What's the benefit that Invenergy

1 receives that you just spoke of, there is still value
2 beyond the construction on that?

3 A. Yeah. I mean, it affords us numerous
4 rights as detailed in that agreement with the
5 landowner.

6 Q. But that land has been specifically
7 excluded from the project area now, correct?

8 A. Correct.

9 Q. Okay. You have no official government
10 support from any local government in or around the
11 project area, correct?

12 A. I believe that depends on how you would
13 interpret that.

14 Q. How do you interpret it? Official
15 government action, no resolutions have been taken by
16 any local municipalities or governments that are in
17 support, correct?

18 A. I mean, I am not aware those are binding
19 or required.

20 Q. Oh, you are not aware they are binding or
21 required, okay. But you are aware of no -- no
22 resolutions or support for the project from any local
23 government in or around the project area?

24 A. Resolution, not that I am aware of.

25 MR. DUNN: Okay. Thank you. No further

1 questions, your Honor.

2 ALJ SEE: Ms. Parcels?

3 - - -

4 CROSS-EXAMINATION

5 By Ms. Parcels:

6 Q. Good morning, Mr. Vertucci. So your
7 testimony you amended today to say that the Applicant
8 intends to exclude the parcels -- portions in the
9 project in Rushcreek Township, correct?

10 A. Yes.

11 Q. Okay. How many parcels is that? Do you
12 know?

13 A. I do not know.

14 Q. How many acres is that? Do you know?

15 A. I do not know.

16 Q. Does the Applicant intend to file an
17 updated project area map reflecting that exclusion?

18 A. Not at this time.

19 Q. So carrying forward that is your
20 testimony but it is not being amended to reflect the
21 Applicant's intent?

22 A. I mean, the application currently does
23 not specifically prescribe the facilities area.

24 Q. Okay. Is it fair to say that that
25 portion of the project in Rushcreek Township is

1 bounded somewhat by County Road 12, County Road 26,
2 and the Township line between --

3 A. I would have to look at a map.

4 Q. Okay. Between Bokescreek and Rushcreek.
5 When was the decision made to eliminate Rushcreek
6 Township?

7 A. Late yesterday.

8 Q. And going to your testimony on, let's
9 see, I believe it's page -- page 12, down at line 21,
10 you had initially indicated that Mill Creek and West
11 Mansfield's public water system are no longer within
12 or directly adjacent to the project area. And this
13 was before the Rushcreek Township parcels were
14 removed, correct?

15 A. That would have been before that,
16 correct.

17 Q. Okay. Are you aware of the exact
18 location of the Mill Creek watershed?

19 A. I am aware of the maps and assessments
20 that were conducted as part of the studies included
21 in the application.

22 Q. Do you have a copy of the application
23 there, your Applicant Exhibit 1?

24 A. Not in front of me.

25 MS. PARCELS: Okay. Well, then I will

1 not ask you a question about it.

2 But I have no further questions for this
3 witness.

4 ALJ SEE: Mr. Eubanks, any questions?

5 MR. EUBANKS: No questions, your Honor.

6 ALJ SEE: Any redirect?

7 MR. LOCKSHAW: Your Honor, may we have a
8 brief recess?

9 ALJ SEE: Yes. Let's go off the record.

10 (Recess taken.)

11 ALJ SEE: Let's -- let's go back on the
12 record.

13 Go ahead.

14 MR. LOCKSHAW: Your Honor, the Applicant
15 has no redirect. Thank you.

16 ALJ SEE: Okay. Let's go off the record
17 for a second.

18 (Discussion off the record.)

19 ALJ SEE: Let's go back on the record.

20 Mr. Lockshaw.

21 MR. LOCKSHAW: Your Honor, we would like
22 to move some of our exhibits into admission, please.

23 ALJ SEE: I am not sure the portion
24 regarding any redirect was in the record because at
25 that point we were having trouble with the

1 microphones so --

2 MR. LOCKSHAW: Okay.

3 ALJ SEE: -- if you could start there.

4 MR. LOCKSHAW: The Applicant has no
5 redirect for this witness.

6 ALJ SEE: Okay.

7 MR. LOCKSHAW: And with that, I would
8 like to move for admission into the record
9 Applicant's Exhibits 1 through 20 and Mr. Vertucci's
10 direct testimony which is 21 and Joint Exhibit 1
11 which is the Stipulation.

12 ALJ SEE: Those -- no. Are -- are there
13 any objections to the admission of Applicant's
14 Exhibits 1 through 21 and Joint Exhibit 1?

15 I need -- I need an answer from each of
16 the counsel for each of the parties.

17 MS. CURTIS: No objections, your Honor.

18 ALJ SEE: OFB?

19 MR. SLONE: No objections, your Honor.

20 MR. DUNN: No objections, your Honor.

21 MS. PARCELS: No objections, your Honor.
22 No objections, your Honor.

23 MR. EUBANKS: No objection, your Honor.

24 ALJ SEE: Okay. Thank you. Just a
25 moment though.

EXAMINATION

By ALJ See:

Q. Mr. Vertucci, I have a question for you. Did I hear you correctly to say that all of Rushcreek --

A. My mic is not turning on now.

Q. Okay. While we are working on that, I am going to ask you to stand up or project or use another mic. Mr. Vertucci, clarify for me which Township is no longer part of the Fountain Point project?

A. So we no longer will construct or operate any facilities within Rushcreek Township.

Q. Okay. And you said that decision was made when?

A. Late yesterday.

Q. Okay. And that will be reflected in the final design drawings submitted on the docket?

A. Yes. Our intent would be to work with staff to make sure that our final engineering package fully contemplates this commitment.

Q. Okay. Are you familiar with Stipulation Condition 15 and 16 of the Joint Exhibit 1 Stipulation?

A. I don't have the full Stipulation setting

1 in front of me right now but.

2 MR. LOCKSHAW: Your Honor, we can provide
3 that to the witness if it would be helpful.

4 ALJ SEE: Please do.

5 A. You said 15 and 16?

6 Q. Yes. I just want you to clarify your
7 earlier testimony for the Bench regarding the road
8 glare analysis as it impacts roads. Do you recall
9 that portion of your testimony or questioning
10 earlier?

11 A. I don't recall if I specifically
12 commented on its impact on roads. I believe I
13 commented on the fact that the glare analysis has
14 been completed and that there were multiple goals of
15 that analysis.

16 Q. And would one of those impacts be roads,
17 and will the subsequent study to be submitted to the
18 Board include any impact that the facility would have
19 on nearby roads?

20 A. That is my understanding, yes.

21 Q. Okay.

22 MR. LOCKSHAW: And, your Honor, if I may,
23 we do have a witness to testify about the glare
24 studies that will be later in the proceedings.

25 ALJ SEE: And who would that witness be?

1 MR. LOCKSHAW: JoAnne Blank.

2 ALJ SEE: That question will also be
3 posed to Ms. Blank.

4 With that, thank you very much,
5 Mr. Vertucci.

6 And given that there were no objections
7 to the admission of Applicant's Exhibits 1 through 21
8 and Joint Exhibit 1, those documents are admitted
9 into the record.

10 (EXHIBITS ADMITTED INTO EVIDENCE.)

11 MR. LOCKSHAW: Thank you, you Honor. I
12 will just mention again we do have those three direct
13 testimonies that the admission is stipulated to and
14 cross-examination is waived, if your Honors would
15 like us to mark those and move for the admission now,
16 and/or we can do it later, whatever the Bench
17 prefers.

18 ALJ MARCELLETTI: Mr. Lockshaw, let's
19 take those up at the end.

20 MR. LOCKSHAW: Thank you, your Honor.

21 ALJ MARCELLETTI: And with that, thank
22 you, Mr. Vertucci. You may step down.

23 THE WITNESS: Thank you, your Honors.

24 ALJ MARCELLETTI: And, Applicant, you may
25 call your next witness.

1 MR. SECREST: Thank you, your Honors.

2 May the Applicant call Ms. Jaclyn Martin?

3 ALJ MARCELLETTI: Good morning,
4 Ms. Martin. If you would raise your right hand.
5 (Witness sworn.)

6 ALJ MARCELLETTI: Perfect. Thank you.
7 You can be seated.

8 MR. SECREST: And may I approach the
9 witness, your Honor?

10 ALJ MARCELLETTI: You may.

11 MR. SECREST: Thank you.

12 And may I proceed, your Honor?

13 ATTORNEY EXAMINER: You may. Thank you.

14 - - -

15 JACLYN MARTIN

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

18 DIRECT EXAMINATION

19 By Mr. Secrest:

20 Q. Ms. Martin, would you please state and
21 spell your full name for the record?

22 A. Yes. My name is Jaclyn Martin, last name
23 M-A-R-T-I-N.

24 Q. Thank you. By whom are you employed?

25 A. I'm employed by the Stantec Consulting

1 Services.

2 Q. And do you have a copy of your direct
3 prefiled testimony in front of you?

4 A. I do.

5 Q. And is that a true and accurate copy of
6 the direct prefiled testimony?

7 A. Yes.

8 MR. SECREST: Your Honor, may we move to
9 have Ms. Martin's testimony marked as Applicant
10 Exhibit 22?

11 ALJ MARCELLETTI: It will be so marked
12 22. Thank you.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. SECREST: Thank you.

15 Q. (By Mr. Secrest) Ms. Martin, do you have
16 any changes or corrections to the prefiled testimony?

17 A. I do not.

18 Q. If the same questions that were posed to
19 you in the direct testimony were posed to you today,
20 would your responses be the same?

21 A. Yes.

22 MR. SECREST: Thank you.

23 We tender Ms. Martin for
24 cross-examination, your Honor.

25 ALJ MARCELLETTI: Thank you, Applicant.

1 Starting with Farm Bureau, do you have any
2 cross-examination?

3 MS. CURTIS: No questions, your Honor.

4 ALJ MARCELLETTI: Thank you.

5 The County, Mr. Slone?

6 MR. SLONE: Thank you. No cross.

7 ALJ MARCELLETTI: Citizens, Mr. Dunn?

8 MR. DUNN: Yes, your Honor, just very
9 briefly.

10 ALJ MARCELLETTI: Sure.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Dunn:

14 Q. Ms. Martin, you referenced the --

15 ALJ MARCELLETTI: Pardon me, Mr. Dunn.

16 Would you? Thank you.

17 Q. (By Mr. Dunn) Ms. Martin, you referenced
18 the farmland, the agricultural land, in your answer
19 to No. 8, and you speak to the soils and the use of
20 the land there. Is that -- can you tell me, do you
21 know how much of that is prime farmland in the
22 project area?

23 A. I do not know at this point.

24 Q. Are you familiar with the designation of
25 prime farmland?

1 A. I am.

2 Q. Are you -- are you an agronomist or soils
3 expert?

4 A. I am not a soils expert. I am a Natural
5 Resources Biologist.

6 Q. Okay. In assessing the visual impacts
7 that are associated with the project, the measures
8 taken are to minimize or mitigate the visual impacts,
9 right?

10 A. That is correct.

11 Q. Okay. And you state in your direct
12 testimony in question No. 22 that "The conceptual
13 plan developed for this Project is based on the
14 assumption that 100 percent screening is not
15 necessary"; is that correct?

16 A. That is correct.

17 Q. And who base -- who makes that
18 assumption? Is that --

19 A. With our visual impact assessments, those
20 are done by our subject matter experts and based on
21 industry standards.

22 Q. Okay. Understood. So 100 percent
23 screening is not available for the project, so some
24 adjacent property owners and vision from the roadways
25 will be -- will be impacted.

1 MR. SECREST: Objection, misstates
2 testimony. I think the difference being the
3 assumption screen is not necessary versus available.

4 ALJ SEE: I am going to need you to speak
5 into the mic a little better.

6 MR. SECREST: Objection to the extent it
7 misstates testimony. Mr. Dunn rephrased it as
8 100 percent screening is not available versus
9 testimony that says 100 percent screening is not
10 necessary.

11 MR. DUNN: I'll rephrase.

12 ALJ MARCELLETTI: Thank you.

13 Q. (By Mr. Dunn) Based on the conceptual
14 plan, some adjacent property owners will be visually
15 impacted, correct?

16 A. That is correct.

17 Q. And based on the conceptual plan, road --
18 the roadways will be visually impacted, correct?

19 A. They -- they will be but not all.

20 MR. DUNN: Okay. I understand. Thank
21 you.

22 No further questions, your Honors.

23 ALJ MARCELLETTI: Thank you.

24 Rushcreek Township?

25 MS. PARCELS: Yes.

CROSS-EXAMINATION

By Ms. Parcels:

Q. Ms. Martin, you indicated that you are a Natural Resource Biologist and that you are sponsoring the drain tile mitigation portion. Did you or someone from Stantec actually conduct that mitigation plan study?

MR. SECREST: Your Honor, may I note an objection? With no construction being undertaken in Rushcreek Town -- Rushcreek Township any more, I don't believe the questions from counsel are relevant --

MS. PARCELS: Your Honor --

MR. SECREST: -- nor frankly --

MS. PARCELS: -- I'm preparing to lay a foundation in my questioning.

ALJ MARCELLETTI: I will let you continue for right now, Ms. Parcels.

A. Could you repeat the question one more time?

Q. (By Ms. Parcels) The drain tile mitigation plan, the Exhibit Q that you reference in your testimony that you are sponsoring, did you have any participation in that when it's labeled as conducted by Cardno rather than Stantec?

1 A. Yes, I did.

2 Q. Okay. What portions did you
3 participate -- participate in personally?

4 A. I was the Senior Project Manager that
5 helped review the quality assurance and quality
6 control of the document.

7 Q. From a drain tile perspective, is it fair
8 to say that issues with water drainage upstream
9 affect downstream areas of the project as well?

10 MR. SECREST: I am going to object again.
11 I don't believe -- I will a note an objection again.
12 I don't believe this is relevant given the testimony
13 from Mr. Vertucci regarding lack of any construction
14 activities in Rushcreek Township.

15 MS. PARCELS: I will note that
16 Rushcreek's issues remain the same, and although
17 Mr. Vertucci's testified that the portions will be
18 removed, he has not indicated with an updated map or
19 anything else on the record other than his say so
20 that Rushcreek would be removed.

21 MR. SECREST: Well, your Honor, his say
22 so is a commitment from the Applicant under oath
23 today nor is an updated map required at this time.
24 Rushcreek Township frankly lacks standing any more,
25 your Honors.

1 ALJ MARCELLETTI: I will let Ms. Parcels
2 keep with her questions.

3 MR. SECREST: Thank you, your Honor.

4 A. Could you repeat that one more time,
5 please?

6 Q. (By Ms. Parcels) Yes, Ms. Martin. Which
7 portions of the drainage tile mitigation plan did you
8 participate in?

9 A. Like I mentioned before, I was the Senior
10 Project Manager to review the quality assurance and
11 quality control of the document.

12 Q. And regarding that document, it does
13 indicate that there is a split in the watersheds in
14 the project area between Bokescreek and Mill Creek,
15 correct?

16 A. Yes.

17 Q. And are -- let me back up. Did you go
18 out and participate -- personally do or participate
19 in a site visit?

20 A. I personally did not do a site visit.
21 However, the information was gathered from drone
22 survey and publicly available data which is also the
23 industry standard.

24 Q. Okay. And based on your evaluation from
25 drone imaging and the industry standards, did you

1 also consider any floodplain maps in your drain tile
2 mitigation plan review?

3 A. We do look at FEMA floodplain maps, yes.

4 Q. And do you recall how old those FEMA
5 floodplain maps are that you reviewed?

6 A. I don't recall the age. However, those
7 are the publicly available data that's used.

8 Q. Did you look at any pending FEMA
9 floodplain maps in your drainage tile mitigation plan
10 study?

11 A. We did not.

12 Q. Are you aware that there are pending FEMA
13 floodplain maps for Logan County?

14 A. I am not.

15 Q. Okay. Do you know personally the limits
16 of the Mill Creek floodplain that were studied as
17 part of your drainage tile mitigation plan?

18 A. Can you clarify what you mean by limits?

19 Q. How close is Mill Creek to the project
20 area from your recollection?

21 A. The unnamed tributaries do connect to it.

22 Q. Okay. And how many different -- when we
23 are talking about unnamed tributaries, how many
24 different stream segments are we talking about in the
25 project area?

1 A. I'm not quite sure at the moment, but I
2 can review my wetland delineation report again.

3 Q. Would that indicate how many stream
4 segments there are?

5 A. Yes.

6 Q. In the wetland plan, not the drain tile
7 mitigation plan?

8 A. That is correct.

9 Q. Is it fair to say from the drain tile
10 mitigation standpoint that drain tiles drain into
11 wetlands and creeks?

12 A. Yes. However, they are used for
13 agricultural purposes.

14 Q. Okay. Backing up from the drain tile
15 mitigation plan, did you also con -- conduct a
16 vegetation study as part of your duties with respect
17 to this project?

18 A. Yes.

19 Q. And with respect to the vegetation, you
20 already testified with respect to the agricultural
21 characteristics of the project area, what percentage
22 of the area is currently we'll say natural
23 vegetation, not farmed?

24 A. As I recall from my testimony, I think it
25 was about 5 percent. The land is primarily

1 agricultural so.

2 MS. PARCELS: I have nothing further for
3 this witness.

4 ALJ MARCELLETTI: Thank you, Rushcreek.
5 Staff?

6 MR. EUBANKS: No questions, your Honor.

7 ALJ MARCELLETTI: Any redirect from the
8 Applicant?

9 MR. SECREST: One question, your Honor.

10 ALJ MARCELLETTI: Sure.

11 - - -

12 REDIRECT EXAMINATION

13 By Mr. Secrest:

14 Q. Ms. Martin, would you please explain the
15 relationship between Stantec and Cardno?

16 A. Yes. Cardno was acquired by Stantec last
17 year and that has now been dissolved as a company,
18 and we are now all one company as Stantec.

19 MR. SECREST: Thank you, Ms. Martin.

20 No further questions, your Honor.

21 ALJ MARCELLETTI: Any questions? No
22 questions from the Bench. Thank you, Ms. Martin.

23 MR. SECREST: Your Honor, may the
24 Applicant move for the admission of Applicant Exhibit
25 22?

1 ALJ MARCELLETTI: Are there any
2 objections to the admission of Ms. Martin's testimony
3 marked 22?

4 MS. CURTIS: No objection, your Honor.

5 ALJ MARCELLETTI: County?

6 MR. SLONE: No objection, your Honor.

7 ALJ MARCELLETTI: Mr. Dunn?

8 MR. DUNN: No objection.

9 ALJ MARCELLETTI: Ms. Parcels?

10 MS. PARCELS: No objections, your Honor.

11 ALJ MARCELLETTI: Staff?

12 MR. EUBANKS: No objection, your Honor.

13 ALJ MARCELLETTI: Exhibit 22 is so
14 admitted.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 MR. SECREST: Thank you, your Honor.

17 ALJ MARCELLETTI: Thank you. You may
18 proceed.

19 MR. LOCKSHAW: Your Honor, the Applicant
20 calls JoAnne Blank to the stand.

21 MS. PARCELS: Your Honor, before
22 Ms. Blank is sworn, Applicant has raised the issue of
23 Rushcreek's standing. Would you like to address
24 that?

25 ALJ MARCELLETTI: Since I have Ms. Blank

1 standing here, I am going to swear her in, and then
2 we can take up any.

3 Good morning, Ms. Blank. Would you raise
4 your right hand.

5 (Witness sworn.)

6 ALJ MARCELLETTI: Thank you. You may be
7 seated.

8 Ms. Parcels?

9 MS. PARCELS: Rushcreek would
10 respectfully request that we continue as an
11 Intervenor. Although the panels would not
12 necessarily be constructed in the project area, the
13 issues of drainage and public safety remain,
14 particularly there is Rushcreek responds to mutual
15 aid runs in Bokescreek Township and the project area
16 and particularly as drainage as an issue does not
17 respect Township boundaries.

18 ALJ MARCELLETTI: Is there any response
19 from the Applicant?

20 MR. SECREST: Sure, just briefly, your
21 Honor. Thank you. In terms of the standing, it was
22 a specific to the issue, not a general standing
23 issue. We recognize it is still a portion of the
24 project area. However, with some of the specific
25 issues and we think drain tile mitigation,

1 particularly potential damage to drain tiles during
2 construction, is not an issue for which the Township
3 has standing. Obviously we are now past that issue,
4 so to the extent that we have any objections, we'll
5 note them in the future.

6 Thank you, your Honor.

7 ALJ MARCELLETTI: Thank you. Then we
8 will proceed, Ms. Parcels, and we will address any
9 issues as they are brought to the Bench for this.

10 MS. PARCELS: Thank you.

11 ALJ MARCELLETTI: Thank you.

12 Mr. Lockshaw.

13 MR. LOCKSHAW: Thank you, your Honor.

14 - - -

15 JoANNE J. BLANK

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

18 DIRECT EXAMINATION

19 By Mr. Lockshaw:

20 Q. Ms. Blank, would you please state your
21 name and spell it for the record.

22 A. My name is -- am I on? No.

23 ALJ MARCELLETTI: You are going to
24 press -- there we go.

25 A. Thank you. My name is JoAnne Blank, last

1 name spelled B-L-A-N-K.

2 Q. Thank you.

3 MR. LOCKSHAW: Your Honors, may I
4 approach the witness, please?

5 ALJ MARCELLETTI: You may.

6 Q. (By Mr. Lockshaw) Ms. Blank, have I just
7 handed you what is a true and accurate copy of your
8 direct written testimony that was filed in this case?

9 A. Yes.

10 MR. LOCKSHAW: Your Honors, may we please
11 have that marked as Applicant Exhibit 24?

12 ALJ MARCELLETTI: It will be so marked.
13 Thank you.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MR. LOCKSHAW: Thank you.

16 Q. (By Mr. Lockshaw) Ms. Blank, do you have
17 any revisions to make to your direct testimony today?

18 A. Not at this time.

19 Q. If the same questions that appear in your
20 direct testimony were asked of you today, would your
21 answers be the same?

22 A. They would.

23 MR. LOCKSHAW: Thank you. Your Honors,
24 with that, Ms. Blank is available for
25 cross-examination.

1 ALJ MARCELLETTI: Thank you.

2 Any questions from the Farm Bureau?

3 MS. CURTIS: No questions, your Honor.

4 ALJ MARCELLETTI: Any questions from the
5 County, Mr. Slone?

6 MR. SLONE: No questions, your Honor.

7 ALJ MARCELLETTI: Any questions from the
8 residents, Mr. Dunn?

9 MR. DUNN: No questions, your Honor.

10 ALJ MARCELLETTI: Any questions from
11 Rushcreek Township?

12 MS. PARCELS: No questions, your Honor.

13 ALJ MARCELLETTI: Thank you.

14 Any questions from Staff?

15 MR. EUBANKS: No questions, your Honor.

16 ALJ MARCELLETTI: No questions from us.

17 Oh.

18 ALJ SEE: I take it there is no redirect
19 from the Applicant either?

20 MR. LOCKSHAW: No, your Honor. Thank
21 you.

22 ALJ MARCELLETTI: I assumed as much.

23 Thank you.

24 ALJ SEE: There is one question from the
25 Bench.

EXAMINATION

By ALJ See:

Q. Ms. Blank, are you familiar with Conditions 15 and 16 in the Joint Stipulation and Recommendation?

A. Yes, I am.

Q. I note that --

UNIDENTIFIED SPEAKER: Can't hear.

A. Yes, I am.

UNIDENTIFIED SPEAKER: There you go.

Q. (By ALJ See) The Bench notes that there is a revision to 15, Condition 15, which eliminates the word road from the condition heading as it is presented -- presented in the Staff Report, and it adds some other requirements. Could you explain why that amendment is made to Condition 15?

A. I would need a copy of that Stipulation in front of me in order to answer that.

MR. LOCKSHAW: Your Honor, may I approach the witness with the Stipulation?

ALJ SEE: Yes.

MR. LOCKSHAW: Thank you.

A. Thank you. And if you could point out again where that change has been made?

Q. If you look at Condition 15 in the Staff

Report at 15(a), "accounts for glare along roads and nearby residences in the project area." And in 15 -- Condition 15 of the Stipulation parenthetical (a) roads is not included.

A. The roads were considered in the glare analysis. I don't know why the word road -- I did not write the Stipulation, so I'm not sure why the word roads would have been removed. That should say "accounts for glare along roads and nearby residences" would be the correct statement. The glare is assessed on both roads and residences.

Q. So if that provision of the Stipulation were amended, that would be the intent intended by the Applicant and Farm Bureau as signatories to the Stipulation?

A. Yes, that roads would be included.

ALJ SEE: Okay. All right. That's all the Bench has. Thank you very much.

THE WITNESS: Thank you.

ALJ SEE: Mr. Se -- Mr. Secrest.

MR. LOCKSHAW: Mr. Lockshaw, but that's okay.

MR. SECREST: We like to keep you guessing, your Honor.

ALJ SEE: So long as the right counsel

1 answers. Is that Applicant's -- can Applicant agree
2 to that amendment of Condition 15 in the Stipulation?

3 MR. LOCKSHAW: Yes.

4 ALJ SEE: Thank you. Thank you. And
5 Ms. Blank has already stepped down. We can proceed
6 to the next witness.

7 MR. LOCKSHAW: Your Honor, can I please
8 move for admission of Ms. Blank's direct written
9 testimony that was Applicant's Exhibit 24?

10 ALJ SEE: Okay. Any objections to the
11 admission of Applicant Exhibit 24? Ohio Farm Bureau?

12 MS. CURTIS: No objections, your Honor.

13 ALJ SEE: County?

14 MR. SLONE: No objection.

15 EXAMINER SEE: Citizens against --
16 Citizens -- go ahead.

17 MR. DUNN: No objections, your Honor.

18 ALJ SEE: Ms. Parcels?

19 MS. PARCELS: No objections, your Honor.
20 Thank you.

21 ALJ SEE: Mr. Eubanks?

22 MR. EUBANKS: No objections, your Honor.

23 ALJ SEE: Applicant Exhibit 24 is
24 admitted into the record. Thank you.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

1 MR. LOCKSHAW: Thank you.

2 ALJ SEE: Next witness.

3 MR. SECREST: May the Applicant call
4 Mr. John Henning?

5 ALJ SEE: Mr. Henning, could you raise
6 your right hand.

7 (Witness sworn.)

8 ALJ SEE: Thank you. Have a seat.

9 MR. SECREST: May I approach the witness,
10 your Honor?

11 ALJ SEE: Yes.

12 MR. SECREST: Thank you.

13 And may I proceed?

14 ALJ SEE: Yes, you may.

15 MR. SECREST: Thank you.

16 - - -

17 JOHN T. HENNING

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

20 DIRECT EXAMINATION

21 By Mr. Secrest:

22 Q. Mr. Henning, would you please state and
23 spell your full name?

24 A. John Henning, H-E-N-N-I-N-G.

25 Q. Thank you. By whom are you employed?

1 A. Olsson.

2 Q. Do you have a copy of your direct
3 testimony in front of you?

4 A. I do.

5 Q. Is that a true and accurate copy of your
6 direct testimony that was prefiled in these
7 proceedings?

8 A. It appears to be.

9 Q. Thank you.

10 MR. SECREST: Your Honor, may we have
11 Mr. Henning's direct testimony marked as Applicant
12 Exhibit 25?

13 ALJ SEE: The exhibit is so marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MR. SECREST: Thank you.

16 Q. (By Mr. Secrest) Mr. Henning, do you have
17 any revisions or clarifications to your testimony?

18 A. I do.

19 Q. If I asked you the same questions that
20 are contained within that direct testimony today,
21 would your responses be the same?

22 A. Yes, they would.

23 MR. SECREST: Thank you.

24 Mr. Henning is available for
25 cross-examination, your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ALJ SEE: Farm Bureau?
MS. CURTIS: No questions, your Honor.
ALJ SEE: Logan County?
MR. SLONE: No questions, your Honor.
ALJ SEE: Residents and Citizens?
MR. DUNN: No questions, your Honor.
ALJ SEE: Ms. Parcels?
MS. PARCELS: Yes, just briefly.

- - -

CROSS-EXAMINATION

By Ms. Parcels:

Q. Mr. Henning, I am going -- do you have a copy of your testimony with you?

A. I do, yes.

Q. Okay. I am going to direct you to page 4, question 9. You indicated that you had re -- reviewed a desktop study, field investigation, laboratory analysis related to identifying karst, bedrock, and mine subsidence as potential geohazards for the area. As an Engineer and Soil Scientist, are karst areas subject to sinkholes?

A. Karst areas are subject to sinkholes, yes.

Q. Okay. And you indicated that the potential geohazards were determined to have low

1 probability, correct?

2 A. For this project, yes. Due to the
3 proximity to features, this would have low -- low
4 probability.

5 Q. Okay. And you indicated you did also in
6 response to question 9 soil sampling of the site,
7 correct?

8 A. That is correct.

9 Q. Okay. And that was to a depth of 10 feet
10 which you said anticipates how deep the piles would
11 be driven for these panels; is that correct?

12 A. Approximately, yes.

13 Q. Okay. At a depth of 10 feet, when you
14 did these test borings, based on the location of your
15 soil sampling and the project area, how many piles
16 would be in contact with groundwater based on the
17 results of your borings?

18 A. I don't know that exact amount about how
19 many piles would hit groundwater. I am unable to
20 estimate that.

21 Q. Okay. Based on the soil sampling, do you
22 know if any of the soils were of a chemical
23 composition that would be corrosive to steel pilings?

24 A. I believe the report indicated that there
25 were some corrosive components. However, there are

1 designed mitigations that are possible for that.

2 Q. Okay. And is this your first time
3 testifying with respect to a solar project?

4 A. It is, yes.

5 Q. Okay. Based on your education and
6 experience as a Soil Scientist with drain tile
7 locations and soil borings, did you have any
8 opportunity to observe drain tiles while you were out
9 doing soil borings?

10 A. I did not observe drain tiles.

11 Q. Okay. In your experience as a Soil
12 Scientist, presuming the purpose of drain tiles is to
13 remove excess surface water from soil, can you tell
14 me what your understanding is if a drain tile is
15 blocked or broken on the soil?

16 MR. SECREST: Objection. That's outside
17 the scope of this witness's testimony, your Honor.
18 We already had a witness testify as to the drain tile
19 mitigation plan.

20 MS. PARCELS: I am asking about the
21 impact on the soil from his understanding.

22 ALJ SEE: Only as to that question, go
23 ahead and answer.

24 A. I'm sorry. Could you repeat that
25 question?

1 ALJ SEE: We can have it read back.

2 (Record read.)

3 MR. SECREST: I'm sorry. May I add an
4 additional objection?

5 ALJ SEE: Okay.

6 MR. SECREST: I think that question needs
7 clarification whether we are talking about a lateral
8 or a main.

9 MS. PARCELS: I'm simply asking about
10 drain tile and his experience as a Soil Scientist
11 what happens if it's blocked or broken.

12 ALJ SEE: You can answer the question as
13 best you can, Mr. Henning.

14 A. Yeah. I'm certainly no expert in drain
15 tile, but my -- my understanding would be if it was
16 blocked or drained [SIC], it would not be able to
17 drain water as well.

18 Q. Okay. In your experience as a Soils
19 Scientist, can waterlogged soil also cause sinkholes?

20 A. In my experience as a Soils Scientist, as
21 a karst expert and subject matter expert within
22 karst, standing water over time can cause issues in
23 karst.

24 MS. PARCELS: I have nothing further.
25 Thank you.

1 ALJ SEE: Mr. Eubanks?

2 MR. EUBANKS: I do have a few quick
3 questions.

4 - - -

5 CROSS-EXAMINATION

6 By Mr. Eubanks:

7 Q. If I am reading your testimony correctly,
8 you are responsible for Conditions 35, 36, and 37.

9 A. Could you please point me to that on the
10 pages so I can read it?

11 Q. Look at question and answer 10, 11, and
12 12.

13 A. Yes, 35, 36, and 37, yes, sir.

14 Q. Those conditions, were they taken from
15 the Staff Report and put into the Stipulation?

16 A. I believe they were.

17 Q. To the extent that there is any
18 discrepancy between the language used in the
19 Stipulation and the language used in the Staff
20 Report, would you agree that the language used in the
21 Staff Report is the correct language?

22 MR. SECREST: Objection, your Honor. I'm
23 not sure Mr. Henning is the proper party to answer
24 that question. However, if so, I do think he should
25 see a copy of the Staff Report.

1 ALJ SEE: Can you provide -- can someone
2 provide --

3 MR. EUBANKS: I can.

4 ALJ SEE: -- the witness a copy of the
5 Staff Report?

6 MR. SECREST: Sure.

7 ALJ SEE: And if you need some time to
8 look at it, Mr. Henning.

9 A. Could you please repeat the question?

10 Q. (By Mr. Eubanks) Yeah. And just so you
11 can understand where I am coming from, we just had a
12 witness on the stand that there was a discrepancy
13 between the language in the Staff Report and -- and
14 what was in the Stipulation for a condition. Just
15 making sure that --

16 A. Yeah. I mean, I am not aware of what is
17 binding, whether it would be the Staff Report or the
18 Stipulation. That's not my expertise.

19 Q. No. I am not asking you that. My
20 question is -- is simply the intent was to take
21 Staff's Condition 35, 36, and 37 and make that a part
22 of the Stipulation, correct?

23 A. I believe so, yes.

24 Q. Okay. You didn't mean to change anything
25 in Staff's Condition 35, 36, or 37.

1 MR. SECREST: Your Honor, I object. I
2 think this calls for a legal conclusion to the extent
3 we were talking Stipulation language versus the Staff
4 Report as well as any negotiations that ultimately
5 resulted in the signing of the Stipulation. Your
6 Honor, and with that maybe I can clarify so we get
7 Mr. Henning off the stand. We'll stipulate that the
8 intent was to mirror the Staff Report.

9 ALJ SEE: Mr. Eubanks.

10 MR. EUBANKS: I have one follow-up
11 question to that then which would be in line with the
12 question you have already asked with regard to --

13 ALJ SEE: Just a moment. Okay. With --
14 with that acknowledgment, the objection is sustained.
15 Go ahead. Next question.

16 MR. EUBANKS: I'm sorry, your Honor. I
17 am not sure what objection was sustained. I am
18 forgetting.

19 MR. SECREST: Well, so I think the
20 question to Mr. Henning was essentially that -- that
21 I just addressed was your intent to mirror the Staff
22 Report, and it was, so to the extent there is a
23 discrepancy, we'll stipulate that the intention was
24 to mirror the Staff Report conditions in the
25 Stipulation. The objection was, I think, that's a

1 legal conclusion and not really appropriate for
2 Mr. Henning to address.

3 MR. EUBANKS: Okay. Okay. Can we go off
4 the record for one second, your Honor? Because I may
5 be --

6 ALJ SEE: Yes; yes, we can. Let's go off
7 the record.

8 (Discussion off the record.)

9 ALJ SEE: Let's go back on the record.

10 While we were off the record, there was
11 some discussion had between counsel for the parties,
12 specifically Staff and the counsel for the Applicant,
13 and the Applicant has agreed to include in the record
14 which conditions included in the Stipulation do not
15 exactly mirror those conditions in the Staff Report;
16 is that correct, Ms. Pirik?

17 MS. PIRIK: Yes, your Honor.

18 ALJ SEE: And you will provide that after
19 lunch or before the end of the hearing today?

20 MS. PIRIK: Yes, we will.

21 ALJ SEE: Now, with that, Mr. Eubanks,
22 does that satisfy your request?

23 MR. EUBANKS: Yes, your Honor.

24 ALJ SEE: Do you have your next question
25 for Mr. Henning?

1 MR. EUBANKS: I have no further questions
2 for this witness, your Honor.

3 ALJ SEE: Any redirect?

4 MR. SECREST: No redirect, your Honor.
5 Thank you.

6 ALJ SEE: Just a moment. Just a moment,
7 Mr. Henning. Let the Bench verify we don't have any
8 questions either.

9 THE WITNESS: Yes, your Honor.

10 ALJ SEE: The Bench doesn't have any
11 questions for you. Thank you very much.

12 THE WITNESS: Thank you.

13 MR. SECREST: Your Honor, may we move for
14 the admission of Applicant Exhibit 25?

15 ALJ SEE: Are there any objections to the
16 admission of Applicant Exhibit 25?

17 MS. CURTIS: No objections, your Honor.

18 ALJ SEE: Mr. Slone?

19 MR. SLONE: No objections, your Honor.

20 ALJ SEE: Mr. Dunn?

21 MR. DUNN: No objection, your Honor.

22 ALJ SEE: Ms. Parcels?

23 MS. PARCELS: No objections, your Honor.

24 ALJ SEE: Mr. Eubanks?

25 MR. EUBANKS: No objection, your Honor.

1 ALJ SEE: Applicant Exhibit 25 is
2 admitted into the record.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 MR. SECREST: Thank you, your Honor.

5 ALJ MARCELLETTI: Applicant, if you want
6 to call your next witness, please.

7 MR. SECREST: Sure. May the Applicant
8 call Mr. Geoffrey Patterson?

9 ALJ MARCELLETTI: Good afternoon,
10 Mr. Patterson. Would you raise your right hand.

11 (Witness sworn.)

12 ALJ MARCELLETTI: Thank you. You may be
13 seated. If you could just switch on your microphone
14 there.

15 MR. SECREST: And may I approach the
16 witness, your Honor?

17 ALJ MARCELLETTI: You may.

18 MR. SECREST: Thank you.

19 And may I proceed, your Honor?

20 ALJ MARCELLETTI: Yes, you may.

21 MR. SECREST: Thank you.

22 - - -

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GEOFFREY PATTERSON

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

DIRECT EXAMINATION

By Mr. Secrest:

Q. Mr. Patterson, would you please state and
spell your full name for the record?

A. Geoffrey Patterson, P-A-T-T-E-R-S-O-N.

Q. Who is your employer, Mr. Patterson?

A. Calvert Street Group.

Q. Thank you. Is the document in front of
you a copy of your direct prefiled testimony?

A. Yes, it is.

Q. And is it a true and accurate copy of
your direct and prefiled testimony?

A. Yes.

MR. SECREST: Your Honor, may we move to
have marked as Applicant Exhibit 26 Mr. Patterson's
direct testimony?

ALJ MARCELLETTI: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. And, Mr. Patterson, do you have a
revision on page 4, line 21, of your testimony?

A. Yes, I do. There should be another
semicolon separating the words "supporters" and

1 "discuss" there on line 21.

2 Q. Thank you. We will just make sure
3 everybody is there.

4 MR. SECREST: Your Honors?

5 ALJ SEE: Let's hear it one more time.

6 MR. SECREST: The revision is on page 4,
7 line 21, after the word "supporters" and before the
8 word "discuss," there should be a semicolon.

9 ALJ SEE: Thank you.

10 MR. SECREST: Thank you.

11 Q. (By Mr. Secrest) And, Mr. Patterson, do
12 you also have a revision to your response to question
13 8 which appears on page 5?

14 A. Yes, that's correct. At least my
15 document shows page 5, line 12, where it says "65
16 people offered testimony," I would like to revise
17 that to say "71."

18 Q. Thank you, Mr. Patterson. With those
19 revisions to your testimony, if the questions that
20 are contained in your testimony were posed to you
21 today, would your responses be the same as what
22 appears in your direct prefled testimony?

23 A. Yes.

24 MR. SECREST: Thank you.

25 We tender Mr. Patterson for

1 cross-examination, your Honor.

2 ALJ MARCELLETTI: Thank you.

3 Starting with Farm Bureau, Ms. Curtis?

4 MS. CURTIS: No questions, your Honor.

5 ALJ MARCELLETTI: The County, Mr. Slone?

6 MR. SLONE: No cross, thank you.

7 ALJ MARCELLETTI: Citizens, Mr. Dunn?

8 MR. DUNN: Yes, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Dunn:

12 Q. Mr. Patterson, I notice in your direct
13 testimony efforts were made to go door to door within
14 a 2-mile radius and mailers were sent to 150
15 residents closest to the project; is that right?

16 A. That's correct.

17 Q. So efforts were made to ascertain the
18 opinion of those living adjacent to or close to the
19 project area; is that right?

20 A. That would be one thing that we would
21 talk to people about.

22 Q. Okay. What would be the other thing?

23 A. As well as directing people generally to
24 the application, so along with soliciting opinions,
25 we would also provide information related to the

1 docket.

2 Q. Okay. And it looks like in answer No. 9
3 you reviewed public comment that was on the Ohio
4 Power Siting Board's website as well; is that
5 correct?

6 A. Yes, that's correct.

7 Q. Did you identify the geographic location
8 of the residents that submitted comments relative to
9 the project area?

10 A. I don't recall doing that as part of a
11 formal process or informal process.

12 Q. Okay. So you can't say where those
13 individuals live or own property relative to the
14 support or the opposition comments?

15 ALJ SEE: I'm sorry. I need you to speak
16 into the mic. That last part trailed off.

17 Q. Yeah. So you can't say the geographic
18 location of the owners or the people who live there
19 whether or not they were in support or opposition?
20 You don't know where they are located?

21 A. Only to the extent that it was mentioned
22 in their testimony at the hearing.

23 Q. Okay. In question 8 you revised your
24 number from 65 people that offered testimony to 71;
25 is that correct?

1 A. Yes, that's correct.

2 Q. Were you present at that December 4,
3 2022, hearing?

4 A. I was not.

5 Q. You were not. So your testimony is based
6 strictly on review of the written testimony.

7 A. As well as notes.

8 Q. As well as notes. Notes that you took in
9 reviewing the testimony?

10 A. Notes from staff members who had also
11 attended the public hearing.

12 Q. Okay. Staff members from the Applicant?

13 A. From Calvert Street.

14 MR. DUNN: From Calvert Street. Okay.

15 No further questions, your Honor.

16 ALJ MARCELLETTI: Thank you.

17 Questions from Rushcreek Township?

18 MS. PARCELS: Yes, thank you, your Honor.

19 - - -

20 CROSS-EXAMINATION

21 By Ms. Parcels:

22 Q. Mr. Patterson, do you have a copy of your
23 testimony there?

24 A. Yes, I do.

25 Q. Okay. On page 4, line 27, you indicated

1 that in May. May of which year did Fountain Point
2 tell Calvert Street about the change to the site
3 layout?

4 A. I believe that was May of 2022.

5 Q. Okay. Prior to today did you have any
6 conversation with the Applicant about removing
7 Rushcreek from the project area?

8 A. I do not believe I did directly, no.

9 Q. Based on your experience working with the
10 Applicant, do you believe that the removal of the
11 portion of Bokescreek and Perry Township from the
12 area was in part based on feedback you had collected?

13 MR. SECREST: Objection, speculation.

14 MS. PARCELS: I am asking as to whether
15 he knows.

16 ALJ MARCELLETTI: I will allow him to
17 answer it.

18 A. I don't know all the factors that go into
19 that decision.

20 Q. Okay. Also page 4 of your testimony, you
21 indicated that 219 residents signed and submitted a
22 petition in support of the project. Was that a
23 door-to-door petition, or was it online?

24 A. I believe that was door to door based on
25 what was submitted on the docket, but we were not

1 leading that effort.

2 Q. Okay. And did that petition specifically
3 indicate which Township those residents resided in?

4 A. I don't recall at this time.

5 MS. PARCELS: I have no further questions
6 for this witness. Thank you, your Honors.

7 ALJ MARCELLETTI: Thank you.

8 Any questions from Staff?

9 MR. EUBANKS: No questions, your Honor.

10 ALJ MARCELLETTI: Any redirect from
11 Applicant?

12 MR. SECREST: No redirect, your Honor.
13 Thank you.

14 ALJ MARCELLETTI: And the Bench does not
15 have any questions for you. Thank you.

16 THE WITNESS: Thank you.

17 ALJ SEE: I'm sorry. Hold on just a
18 minute.

19 - - -

20 EXAMINATION

21 By ALJ See:

22 Q. For your team on Calvert Street, that
23 is -- approximately how many persons are on that
24 team?

25 A. At the entire firm or that --

1 Q. On the team that traveled to Logan County
2 in June of 2021 as referred to in your testimony page
3 3.

4 A. Sorry. The number of people from the
5 team that were in Logan County in June?

6 Q. Uh-huh.

7 A. I'm not sure of the exact number.

8 Q. Can you give me a range?

9 A. At most it would be five people.

10 Q. Okay. And is that pretty consistent of
11 the number of people you had in the County working at
12 any one time on this project?

13 A. It would -- it would depend on what the
14 efforts were at the time but that's a pretty typical
15 number.

16 Q. Okay. And are the information packets --
17 I'm sorry. Further down in question 7 on page 3 of
18 your testimony, you allude to information packets
19 provided to members in the community. Are those
20 information packets included in the application or
21 any of its supplements?

22 A. I believe that that information was
23 included in Exhibit G.

24 ALJ SEE: Okay. Thank you. The Bench
25 has no -- well, before I say that... The Bench

1 doesn't have any further questions. Thank you.

2 THE WITNESS: Thank you.

3 MR. SECREST: May I move for the
4 admission of Applicant Exhibit 26?

5 ALJ MARCELLETTI: Are there any
6 objections to the admission of Exhibit 26?

7 MS. CURTIS: No objections, your Honor.

8 ALJ MARCELLETTI: From the County?

9 MR. SLONE: No objections.

10 ALJ MARCELLETTI: Mr. Dunn?

11 MR. DUNN: No objections, your Honor.

12 ALJ MARCELLETTI: Ms. Parcels?

13 MS. PARCELS: No objection, your Honor.

14 ALJ MARCELLETTI: Staff?

15 MR. EUBANKS: No objections, your Honor.

16 ALJ MARCELLETTI: Exhibit 26 will be
17 admitted.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 MR. SECREST: Thank you, your Honor.

20 ALJ MARCELLETTI: Thank you.

21 ALJ SEE: Let's take a brief recess. 10
22 minutes. We'll go back on the record by about 12:25
23 by my watch.

24 (Recess taken.)

25 ALJ SEE: Let's go back on the record.

1 If Applicant would like to call its next
2 witness.

3 MR. SECREST: Yes, your Honor. May the
4 Applicant call Dr. David Loomis?

5 ALJ SEE: Mr. Loomis, if you would raise
6 your right hand.

7 (Witness sworn.)

8 ALJ SEE: Thank you. Have a seat.

9 MR. SECREST: And may I approach the
10 witness, your Honor?

11 ALJ SEE: Yes.

12 MR. SECREST: Thank you.

13 And may I proceed, your Honor?

14 ALJ SEE: Yes, you may.

15 MR. SECREST: Thank you.

16 - - -

17 DAVID G. LOOMIS, Ph.D.

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

20 DIRECT EXAMINATION

21 By Mr. Secrest:

22 Q. Dr. Loomis, would you please state and
23 spell your full name for the record?

24 A. My name is -- my name is David Loomis,
25 L-O-O-M-I-S.

1 Q. And by whom are you employed, Dr. Loomis?

2 A. I am President of Strategic Economic
3 Research, LLC.

4 Q. Thank you. The document in front of you,
5 is that a true and accurate copy of your direct
6 prefiled testimony?

7 A. Yes, it is.

8 Q. Thank you.

9 MR. SECREST: And, your Honor, may we
10 have Dr. Loomis's testimony marked as Applicant
11 Exhibit 28?

12 ALJ SEE: The exhibit is so marked.

13 (EXHIBIT MARKED FOR IDENTIFICATION.)

14 MR. SECREST: Thank you.

15 Q. (By Mr. Secrest) Dr. Loomis, do you have
16 any changes or corrections to your testimony?

17 A. No, I do not.

18 Q. If I asked you the same questions that
19 are contained within that direct prefiled testimony
20 today, would your responses be the same?

21 A. Yes.

22 MR. SECREST: Thank you.

23 Dr. Loomis is available for cross, your
24 Honor.

25 ALJ SEE: Any cross for this witness on

1 behalf of the Farm Bureau?

2 MS. CURTIS: No questions, your Honor.

3 ALJ SEE: On behalf of the County?

4 MR. SLONE: No questions.

5 ALJ SEE: On behalf of the Citizens of --
6 Against Fountain Point?

7 MR. DUNN: No questions.

8 ALJ SEE: Ms. Parcels?

9 MS. PARCELS: No questions, your Honor.

10 ALJ SEE: Staff?

11 MR. EUBANKS: No questions, your Honor.

12 ALJ SEE: Am I correct that there is no
13 redirect for this witness?

14 MR. SECREST: You are correct, your
15 Honor. Thank you.

16 - - -

17 EXAMINATION

18 By ALJ See:

19 Q. Mr. Loomis, for this case when was your
20 analysis conducted? Approximately.

21 A. I was first contacted in November of
22 2021, and I don't have the exact date that -- when I
23 did the actual analysis, but it would have been
24 probably within three, four months after that.

25 Q. Okay. And in preparation -- preparation

1 for your testimony today, have you done any analysis
2 to update your report?

3 A. I reviewed the situation for Fountain
4 Point in the local area, but I haven't run -- re-run
5 any analysis.

6 Q. Okay. And does your economic analysis
7 consider any potential negative economic impacts to
8 the County or State in association with the Fountain
9 Point project?

10 A. Could you clarify what you mean by the
11 negative impacts?

12 Q. Are you looking at both sides of the
13 economic equation in association with the project?
14 The land -- the land, for example, the land that
15 would be used for the project and the economic impact
16 to the Community in association with that land no
17 longer being used for -- to raise -- to raise crops
18 or to be farmed?

19 A. Yes. So I looked at that in -- in two
20 ways. One was a land use analysis to say what would
21 be the -- from an economic perspective what would be
22 the best use of this land and concluded from that
23 analysis that solar would be a better use of the land
24 than agriculture.

25 And then, you know, in terms of the

1 economic impacts, the jobs created, and tax revenue,
2 the -- the economic impact, I did not think that
3 there would be a significant impact to agriculture,
4 negative consequence as a result of this amount of
5 acreage being taken out of production.

6 ALJ SEE: Okay. Thank you. That's all I
7 have. You may step down.

8 MR. SECREST: Your Honor, may we move for
9 the admission of Applicant Exhibit 28?

10 ALJ SEE: Are there any objections to the
11 admission of Applicant Exhibit 28?

12 MS. CURTIS: No, no objection, your
13 Honor.

14 ALJ SEE: Mr. Slone?

15 MR. SLONE: None, your Honor.

16 ALJ SEE: Mr. Dunn?

17 MR. DUNN: No, your Honor.

18 ALJ SEE: Ms. Parcels?

19 MS. PARCELS: No, your Honor.

20 ALJ SEE: Mr. Eubanks?

21 MR. EUBANKS: No objection, your Honor.

22 ALJ SEE: Applicant Exhibit 28 is
23 admitted into the record.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 MR. SECREST: Thank you, your Honor.

1 ALJ MARCELLETTI: You may call your next
2 witness.

3 MR. LOCKSHAW: Thank you, your Honor.
4 The Applicant calls Richard Kirkland to the stand.

5 ALJ MARCELLETTI: Good afternoon.

6 MR. KIRKLAND: Good afternoon.

7 ALJ MARCELLETTI: Raise your right hand.

8 (Witness sworn.)

9 ALJ MARCELLETTI: Thank you. You may
10 take a seat.

11 - - -

12 RICHARD C. KIRKLAND, JR., MAI
13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Lockshaw:

17 Q. Mr. Kirkland, can you please state your
18 full name and spell it for the record?

19 A. Richard Kirkland, K-I-R-K-L-A-N-D.

20 Q. Thank you.

21 MR. LOCKSHAW: Your Honor, may I approach
22 the witness, please?

23 ALJ MARCELLETTI: You may.

24 Q. (By Mr. Lockshaw) Mr. Kirkland, is what I
25 just handed you a true and accurate copy of the

1 direct testimony that was filed in this case?

2 A. It is.

3 MR. LOCKSHAW: Your Honors, may we
4 premark Applicant Exhibit 29?

5 ALJ MARCELLETTI: It will be so marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Mr. Kirkland, do you have any revisions
8 to make to your direct testimony?

9 A. I do not.

10 Q. If the same questions that appear in your
11 direct testimony were asked of you today, would your
12 answers be the same?

13 A. They would.

14 MR. LOCKSHAW: Thank you. Your Honors,
15 he is now available for cross-examination.

16 ALJ MARCELLETTI: Thank you.

17 Any cross from Farm Bureau?

18 MS. CURTIS: No questions, your Honor.

19 ALJ MARCELLETTI: Any cross from the
20 County, Mr. Slone?

21 MR. SLONE: No cross, your Honor.

22 ALJ MARCELLETTI: Thank you.

23 On behalf of Citizens, Mr. Dunn?

24 MR. DUNN: No questions, your Honor.

25 ALJ MARCELLETTI: And any cross from the

1 Township?

2 MS. PARCELS: No, your Honor. Thank you.

3 ALJ MARCELLETTI: Thank you.

4 Any questions from Staff?

5 MR. EUBANKS: No questions, your Honor.

6 ALJ MARCELLETTI: I'm assuming, any
7 redirect?

8 MR. LOCKSHAW: No, thank you, your Honor.

9 ALJ MARCELLETTI: Thank you. And the
10 Bench doesn't have any questions for you,
11 Mr. Kirkland.

12 THE WITNESS: Thank you.

13 ALJ MARCELLETTI: Thank you.

14 MR. LOCKSHAW: Thank you, your Honors.

15 With that we'll move Applicant Exhibit 29 into
16 evidence, please.

17 ALJ MARCELLETTI: Any objection from Farm
18 Bureau?

19 MS. CURTIS: No objection, your Honor.

20 ALJ MARCELLETTI: County?

21 MR. SLONE: No objection.

22 ALJ MARCELLETTI: Citizens?

23 MR. DUNN: No, your Honor.

24 ALJ MARCELLETTI: Township?

25 MS. PARCELS: No, your Honor.

1 ALJ MARCELLETTI: Staff?

2 MR. EUBANKS: No objection.

3 ALJ MARCELLETTI: Exhibit 29 will be so
4 admitted.

5 (EXHIBIT ADMITTED INTO EVIDENCE.)

6 MR. LOCKSHAW: Thank you.

7 ALJ MARCELLETTI: And I believe you have
8 three testimonies that were stipulated to; is that
9 correct?

10 MR. LOCKSHAW: Yes, your Honor, thank
11 you. That is Ryan Peterson, that is Applicant
12 Exhibit 23; Michael Hankard, Applicant Exhibit 27,
13 and Matthew LaCount, Applicant Exhibit 30. May we
14 have those so marked?

15 ALJ MARCELLETTI: They are so marked.

16 (EXHIBITS MARKED FOR IDENTIFICATION.)

17 MR. LOCKSHAW: Thank you. We would like
18 to move those into admission into evidence.

19 ALJ MARCELLETTI: And so we can get on
20 the record, can I have confirmation from Farm Bureau
21 that these were stipulated to, all three?

22 MS. CURTIS: Yes, your Honor, we
23 stipulated to all three.

24 ALJ MARCELLETTI: County?

25 MR. SLONE: Yes, the County stipulated as

1 well. Would you please go over the exhibit numbers,
2 please?

3 ALJ MARCELLETTI: Sure. So what I have
4 is Applicant Exhibit 23 for Peterson; Applicant
5 Exhibit No. 27, Hankard; Applicant 30 -- excuse me,
6 Applicant 30, LaCount.

7 MR. SLONE: Thank you.

8 ALJ MARCELLETTI: Mr. Dunn?

9 MR. DUNN: Yes, Citizens stipulate.

10 ALJ MARCELLETTI: Thank you.

11 Ms. Parcels?

12 MS. PARCELS: Yes, Rushcreek Township
13 stipulated.

14 ALJ MARCELLETTI: Thank you.

15 And Staff?

16 MR. EUBANKS: Staff stipulated as well,
17 your Honor.

18 ALJ MARCELLETTI: Hearing that all
19 parties stipulated to these three prefiled
20 testimonies, they will be admitted into the record.
21 Thank you.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 MR. LOCKSHAW: Thank you.

24 ALJ SEE: Go ahead.

25 MR. LOCKSHAW: With that, we have no

1 further witnesses. Thank you.

2 ALJ SEE: And that concludes the
3 presentation of your case in chief?

4 MR. LOCKSHAW: Yes, your Honor. Thank
5 you.

6 ALJ SEE: All right. With that, let's
7 take a lunch recess.

8 ALJ MARCELLETTI: We will resume from our
9 lunch recess at 1:45.

10 MS. PARCELS: Your Honor, can we ask
11 about schedule?

12 ALJ SEE: Let's go off the record.

13 (Discussion off the record.)

14 ALJ SEE: Let's go back on the record.

15 MS. PARCELS: Thank you, your Honor. We
16 have Mr. Lyons here. Do we need to hold him over
17 after the lunch break?

18 ALJ SEE: Yes, you would need to, but can
19 you also address -- and then you can address
20 Mr. Shafer?

21 MS. PARCELS: Mr. Shafer is not present,
22 but we have had some discussion, and it appears that
23 everyone would stipulate to his testimony so he would
24 not need to appear.

25 ALJ SEE: I would still need to have

1 Mr. Shafer's testimony marked as an exhibit by the
2 Township, and we can take that up after Mr. Lyons.

3 MS. PARCELS: Thank you, your Honors.

4 ALJ SEE: Okay. And after our lunch
5 break.

6 Let's go off the record again.

7 (Discussion off the record.)

8 ALJ SEE: Let's go back on the record.

9 In light of discussions had off the
10 record, we will reconvene at 2 o'clock. Thank you.

11 (Thereupon, at 12:50 p.m., a lunch recess
12 was taken.)

13 - - -

1 Tuesday Afternoon Session,
2 June 27, 2023.

3 - - -

4 ALJ SEE: Let's go back on the record.
5 Ms. Parcels.

6 MS. PARCELS: Your Honor, I would move
7 for admission of the Township's witness testimony
8 pursuant to the Stipulation as agreed to by the
9 parties for Trustee Doug Lyons and Trustee Chad
10 Shafer, and I would give those to the court reporter
11 marked Township 1 for Mr. Lyons and Township 2 for
12 Mr. Shafer.

13 ALJ SEE: Township -- Township -- I'm
14 sorry, Township 2 is Shafer?

15 MS. PARCELS: That's correct.

16 ALJ SEE: Township 1 is Lyons?

17 MS. PARCELS: That's correct.

18 ALJ SEE: The exhibits are so marked.

19 (EXHIBITS MARKED FOR IDENTIFICATION.)

20 ALJ SEE: And I -- I would like to hear
21 from the parties they are willing to waive
22 cross-examination and stip the Exhibits 1 and 2.
23 Starting with Mr. Slone.

24 MR. SLONE: We waive cross and stipulate
25 to the admission of Mr. Lyons and Mr. Shafer.

1 ALJ SEE: Mr. Dunn?

2 MR. DUNN: We waive cross, stipulate to
3 the admission to all witnesses' testimony.

4 ALJ SEE: Ms. Curtis?

5 MS. CURTIS: We waive cross and stipulate
6 to the admission of the testimony.

7 ALJ SEE: Mr. Eubanks?

8 MR. EUBANKS: Staff waives cross and
9 stipulates to the admission of Township Exhibit 1 and
10 2.

11 ALJ SEE: Counsel for the Applicant?

12 MR. SECREST: Likewise, Applicant waives
13 cross and stipulates to the admission of the
14 exhibits.

15 ALJ SEE: Okay. With that, Township 1
16 and 2 are admitted into the record.

17 (EXHIBITS ADMITTED INTO EVIDENCE.)

18 ALJ SEE: Just a moment.

19 Mr. Dunn.

20 MR. DUNN: Yeah. Citizens would move to
21 mark CAFPP Exhibit 1, the direct testimony of Paul
22 Schaller; CAFPP Exhibit 2 as the direct testimony of
23 Kara Slonecker; CAFPP Exhibit 3 as direct testimony of
24 Cliff Cronkleton; and CAFPP Exhibit 4, direct
25 testimony of Alyssa Rice. And we would move for

1 admission into evidence -- we would move for
2 admission into evidence if all parties waive cross
3 and stipulate to the admission.

4 (EXHIBITS MARKED FOR IDENTIFICATION.)

5 ALJ SEE: Okay. Mr. Slone?

6 MR. SLONE: Yes, your Honors. County
7 waives cross and will stipulate to the admission of
8 the testimony of those four CAFP witnesses.

9 ALJ SEE: Ms. Parcels?

10 MS. PARCELS: Township would waive cross
11 and stipulate to the testimony of those four
12 witnesses for CAFP.

13 ALJ SEE: Ms. Curtis?

14 MS. CURTIS: Ohio Farm Bureau waives
15 cross, and we will stipulate to the admission of the
16 four witnesses.

17 ALJ SEE: Mr. Eubanks?

18 MR. EUBANKS: Staff will waive cross and
19 agree to the admission of CAFP Exhibits 1, 2, 3, and
20 4.

21 ALJ SEE: Counsel for the Applicant?

22 MR. SECREST: Applicant will waive cross.
23 No objection to the admission of Citizens 1, 2, 3,
24 and 4.

25 ALJ SEE: And, Ms. Parcels, with the

1 admission of Township Exhibits 1 and 2, does that
2 conclude your presentation in this case?

3 MS. PARCELS: It does, your Honor, and my
4 microphone appears to be inoperable.

5 ALJ SEE: We will take care of that in a
6 moment.

7 Mr. Dunn?

8 MR. DUNN: Yes, that concludes Citizens
9 case in chief.

10 ALJ SEE: Thank you.

11 With that, next witness will be Staff's.
12 Mr. Eubanks.

13 MR. EUBANKS: Thank you, your Honor. In
14 accordance with an agreement between the parties, I
15 would like to have Staff's Exhibit 1 marked for -- as
16 the Staff Report and admitted according to
17 Stipulation of the parties.

18 ALJ SEE: Okay. Staff Report is marked
19 as Staff Exhibit 1.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 MR. EUBANKS: Yes, your Honor. The
22 prefiled testimony of Mark Bellamy marked as Staff's
23 Exhibit 2; the prefiled testimony of Thomas J.
24 Crawford marked as Staff's Exhibit 3; the prefiled --

25 ALJ SEE: Hold on.

1 MR. EUBANKS: Oh, I'm sorry.

2 ALJ SEE: Crawford is 3?

3 MR. EUBANKS: Yes, your Honor.

4 ALJ SEE: Okay.

5 MR. EUBANKS: I would like to have marked
6 as Staff's Exhibit 4, the prefiled testimony of Grant
7 Zeto; and to have marked as Staff's Exhibit 5, the
8 prefiled testimony of Matthew Butler; and to have
9 marked as Staff's Exhibit 6, the prefiled testimony
10 of Eric Morrison.

11 Staff's Exhibits 1 through 6 have been
12 stipulated for admission by the parties, and
13 cross-examination has been waived for the witnesses.

14 (EXHIBITS MARKED FOR IDENTIFICATION.)

15 ALJ SEE: Okay. Give the Bench a second.

16 Staff has represented -- Staff has
17 represented that the parties have agreed to the
18 admission of Staff Exhibits 2, 3, 4, 5, and 6 without
19 cross. Is that your understanding of the agreement,
20 Ms. Curtis?

21 MS. CURTIS: Yes. We waive cross and
22 stipulate the admission of the testimony.

23 ALJ SEE: Mr. Slone?

24 MR. SLONE: Yes. Waive cross and
25 stipulate to the admission of Staff's direct

1 testimony 1 through 6.

2 ALJ SEE: Just for clarity, 2 through 6.

3 MR. SLONE: Yes, 2 through 6. Thank you.

4 ALJ SEE: Mr. Dunn?

5 MR. DUNN: Yes. We'll waive cross,
6 stipulate the admission of the direct testimony.

7 ALJ SEE: Ms. Parcels?

8 MS. PARCELS: Township would waive cross
9 and stipulate to the admission of that direct
10 testimony, yes.

11 ALJ SEE: Counsel for the Applicant?

12 MR. SECREST: The Bench's recounting of
13 our agreement was accurate.

14 ALJ SEE: Okay. And you are waiving
15 cross of those witnesses as well.

16 MR. SECREST: That is correct, your
17 Honor.

18 ALJ SEE: Thank you.

19 Okay. Next, you can call your next
20 witness, Mr. Eubanks.

21 MR. EUBANKS: Yes, your Honor. May I
22 have a couple minutes to confer with counsel? I just
23 want to bring him up to date on the testimony.

24 ALJ SEE: Okay. Let's go off the record.

25 (Discussion off the record.)

1 ALJ SEE: Let's go back on record.

2 Before I proceed I want to make sure that
3 I admitted the testimony of Township's two witnesses,
4 Township Exhibits 1 and 2; and CAFP Exhibits 1
5 through 4. Those exhibits are admitted into the
6 record.

7 (EXHIBITS ADMITTED INTO EVIDENCE.)

8 ALJ SEE: Let me also clarify,
9 Mr. Eubanks, did you intend to admit and include
10 Staff Exhibit 1, the Staff Report, in the stipulated
11 exhibits?

12 MR. EUBANKS: Yes, your Honor.

13 ALJ SEE: Was that the -- was that other
14 counsel's understanding?

15 MS. CURTIS: Yes, your Honor.

16 MR. SLONE: Yes, your Honor.

17 MR. DUNN: Yes, your Honor.

18 MS. PARCELS: Yes, your Honor.

19 MR. SECREST: Yes, your Honor.

20 ALJ SEE: Okay. Then I also need to
21 include Staff Exhibit 1 in the Staff exhibits
22 admitted into the record.

23 (EXHIBITS ADMITTED INTO EVIDENCE.)

24 ALJ SEE: Okay. Mr. Eubanks.

25 MS. GREGORY: Your Honor, the Staff calls

1 to the stand Witness Andrew Conway.

2 ALJ SEE: Okay. Thank you, Ms. Gregory.

3 ALJ MARCELLETTI: Good afternoon,
4 Mr. Conway. If you would raise your right hand.
5 (Witness sworn.)

6 ALJ MARCELLETTI: Thank you. Please have
7 a seat.

8 You may proceed, counsel.

9 - - -

10 ANDREW CONWAY

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

13 DIRECT EXAMINATION

14 By Ms. Gregory:

15 Q. Mr. Conway, please state and spell your
16 name for the record.

17 ALJ SEE: Please slide the microphone a
18 little bit closer. Thank you.

19 A. Andrew Conway, C-O-N-W-A-Y.

20 Q. And where are you employed?

21 A. With the Public Utilities Commission of
22 Ohio.

23 Q. And did you file prefiled testimony?

24 A. Yes.

25 MS. GREGORY: Your Honor, may we approach

1 the witness?

2 ALJ MARCELLETTI: You may.

3 MS. GREGORY: Your Honor, I would like to
4 have Mr. Conway's prefiled testimony marked as Staff
5 Exhibit 7.

6 ALJ MARCELLETTI: It will be so marked as
7 Staff Exhibit 7.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 ALJ MARCELLETTI: And, Ms. Gregory, would
10 you mind just projecting just a little bit more?

11 MS. GREGORY: Sorry, yes.

12 ALJ MARCELLETTI: Thank you.

13 Q. (By Ms. Gregory) Mr. Conway, could you
14 please identify the document?

15 A. This is my prefiled written testimony.

16 Q. And is this a true and accurate copy of
17 your prefiled testimony?

18 A. Yes, it is.

19 Q. Are there any corrections to the prefiled
20 testimony?

21 A. Yes. In question and answer 9 -- I'm
22 sorry, I mean question and answer 10, question and
23 answer 10 -- I'm sorry. In question and answer
24 No. 9, I indicate that the Conditions 15 and 16 of
25 the Stipulation are acceptable. I understand that

1 it's been modified and the word roads has been
2 inserted into that condition, so with that addition
3 of that roads in that condition, it's -- it would be
4 acceptable.

5 Q. With the corrections, if you were asked
6 the questions reflected in Staff Exhibit 7 today,
7 would your answers be the same?

8 A. Yes, they would.

9 MS. GREGORY: Your Honor, the witness is
10 available for cross-examination.

11 ALJ MARCELLETTI: Before I start with
12 cross-examination, I want to make sure I understand,
13 Mr. Conway. So are you just modifying your answer
14 for question 9 to include the addition of the word
15 "road" for that glare analysis?

16 THE WITNESS: Correct.

17 ALJ MARCELLETTI: All right. Thank you.

18 And with that, we can start with
19 Rushcreek Township. Do you have cross-examination
20 for the witness?

21 MS. PARCELS: Yes.

22 - - -

23 CROSS-EXAMINATION

24 By Ms. Parcels:

25 Q. Good afternoon, Mr. Conway. You

1 indicated in your prefiled testimony that you have
2 been previously employed by the Ohio Environmental
3 Protection Agency and have been employed in your
4 present position since 2009, correct?

5 A. That is correct.

6 Q. Okay. So you have testified in these
7 sorts of proceedings before.

8 A. Yes.

9 Q. Okay. And you specifically noted that
10 you were sponsoring portions of the Staff Report
11 related to the geotechnical exploration and safety,
12 correct?

13 A. Not the geotechnical exploration.

14 Q. Okay. Sorry. My mistake. Safety.

15 A. Safety, yes.

16 Q. In reviewing the Staff Report, which
17 specific section addresses the safety concerns?

18 Let me rephrase. In the table of
19 contents for the Staff Report, is there a specific
20 section dedicated to safety?

21 A. Yes. It would be under the public
22 interest, convenience, and necessity.

23 Q. You reference Conditions 12, 13, and 14
24 with respect to an emergency response plan. Is that
25 one of the aspects that you reviewed with respect to

1 safety?

2 A. Yes. After reviewing the application,
3 data request responses after our investigation, we
4 recommend Conditions 12 and 13 related to safety.

5 Q. Did you personally do a site visit for
6 the project area?

7 A. No, I did not.

8 Q. Okay. When evaluating safety with
9 respect to your inclusion in the Staff Report, did
10 you solicit any input from your local first
11 responders in the project area?

12 A. That is a requirement of the condition
13 that the -- the emergency response plan be developed
14 in conjunction with the local fire and emergency
15 response folks.

16 Q. Given your familiarity with these
17 projects, has a local emergency responder ever
18 refused to agree to an emergency response plan with a
19 solar applicant?

20 A. I am not aware of -- I am not aware of
21 any.

22 MS. PARCELS: Okay. I have no further
23 questions, your Honor. Thank you.

24 ALJ MARCELLETTI: Thank you.

25 Mr. Dunn, do you have any

1 cross-examination?

2 MR. DUNN: No cross for this witness,
3 your Honor.

4 ALJ MARCELLETTI: Thank you. The County,
5 Mr. Slone?

6 MR. SLONE: Thank you, no cross.

7 ALJ MARCELLETTI: Ohio Farm Bureau,
8 Ms. Curtis?

9 MS. CURTIS: No questions, your Honor.

10 ALJ MARCELLETTI: Thank you.

11 Applicant?

12 MR. LOCKSHAW: No, thank you, your Honor.

13 ALJ MARCELLETTI: Any redirect from
14 Staff?

15 MS. GREGORY: Can we take a brief moment,
16 your Honor, to confer?

17 ALJ MARCELLETTI: Of course.

18 Karen, we can go off the record. Thanks.

19 (Discussion off the record.)

20 ALJ MARCELLETTI: Karen, we can go back
21 on the record. Thank you.

22 - - -

23 REDIRECT EXAMINATION

24 By Ms. Gregory:

25 Q. Mr. Conway, what would happen if there is

1 a disagreement between the Applicant and the
2 locals -- and the local emergency response team?

3 A. Well, the agreement with them being
4 submit it to Staff for our review. I have reviewed
5 many of these emergency response plans. We would
6 solicit local concerns and then see if the emergency
7 response plan is sufficient, the current draft, and
8 eventually the Board would recommend approval based
9 on whatever the current -- the latest example of is
10 sufficient to us.

11 MS. GREGORY: We have no more questions,
12 your Honor.

13 ALJ MARCELLETTI: Thank you.

14 Any questions from the Bench?

15 And the Bench has no further questions
16 for you, Mr. Conway.

17 MS. GREGORY: Your Honor, we move for the
18 admission of Staff Exhibit 7 into the record.

19 ALJ MARCELLETTI: Any objections from
20 Rushcreek Township?

21 MS. PARCELS: No, thank you, your Honor.

22 ALJ MARCELLETTI: Any objections from the
23 Citizens group, Mr. Dunn?

24 MR. DUNN: No, your Honor.

25 ALJ MARCELLETTI: Any objections from the

County?

MR. SLONE: No objection, your Honor.

ALJ MARCELLETTI: Ohio Farm Bureau?

MS. CURTIS: No objection, your Honor.

ALJ MARCELLETTI: Applicant?

MR. LOCKSHAW: None.

ALJ MARCELLETTI: Exhibit -- Staff
Exhibit 7, Mr. Conway's testimony, will be admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ MARCELLETTI: You may step down,
Mr. Conway. Thank you.

Staff, if you would like to call your
next witness.

MR. EUBANKS: Yes, your Honor. I would
like to call to the stand Jess Stottsberry.

ALJ MARCELLETTI: Good afternoon.

(Witness sworn.)

ALJ MARCELLETTI: You may be seated.
Thank you.

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JESS STOTTSBERRY

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

DIRECT EXAMINATION

By Mr. Eubanks:

Q. Hello. Please state and spell your name
for the record.

A. Jess Stottsberry, S-T-O-T-T-S-B-E-R-R-Y.

Q. With whom are you employed?

A. The Public Utilities Commission of Ohio.

Q. Did you file prefiled testimony in this
matter?

A. Yes, I did.

MR. EUBANKS: May I approach the witness?

ALJ MARCELLETTI: You may.

Q. (By Mr. Eubanks) Could you please
identify the document that's in front of you?

A. This appears to be my prefiled testimony.

MR. EUBANKS: Your Honor, I would like to
have marked as Staff's Exhibit 8, the prefiled
testimony of Jess Stottsberry.

ALJ MARCELLETTI: It is so marked. Thank
you.

(EXHIBIT MARKED FOR IDENTIFICATION.)

Q. (By Mr. Eubanks) Is this a true and

1 accurate copy of your testimony?

2 A. Yes, it is.

3 Q. And it was prepared by you or with your
4 assistance?

5 A. Correct.

6 Q. Are there any corrections you would like
7 to make to your testimony?

8 A. No.

9 Q. If I were to ask you the same questions
10 in your testimony today, would you provide the same
11 answers?

12 A. Yes.

13 MR. EUBANKS: With that, I offer the
14 witness for cross-examination.

15 ALJ MARCELLETTI: Thank you. I'll start
16 with Rushcreek Township. Any cross?

17 MS. PARCELS: Yes, briefly.

18 - - -

19 CROSS-EXAMINATION

20 By Ms. Parcels:

21 Q. Good afternoon, Mr. Stottsberry.

22 A. Hello.

23 Q. Do you have your testimony in front of
24 you?

25 A. I do.

1 Q. Okay. On page 2 you noted that you're
2 sponsoring portions of the Staff Report regarding
3 land use, regional planning, recreation, aesthetics,
4 economic impact, geology, public and private water
5 supplies, minimum adverse environmental impact
6 summary, public interest, convenience, and necessity
7 summary, air, water, and solid waste permitting.
8 That's a lot. Specifically asking about the land use
9 portion, did you personally visit the project area?

10 A. Yes.

11 Q. Okay. You observed that the area is
12 predominantly agricultural use currently?

13 A. Yes.

14 Q. Okay. Did you have any communication
15 with the Township zoning officials in any of the
16 three Townships as the project was initially
17 proposed?

18 A. No, I did not.

19 Q. Did you have any communication with the
20 Logan-Union-Champagne Regional Planning Commission
21 about the land use in the project area?

22 A. No.

23 Q. With respect to recreation, did you
24 evaluate any portion of the Mill Creek -- Mill Creek
25 for recreational uses as it currently exists?

1 A. I do not see any specific reference to
2 Mill Creek in the recreation section of the Staff
3 Report. I don't have any specific recollection of
4 that being considered outside the Staff Report,
5 recreation section.

6 Q. So you have no knowledge as far as
7 whether Mill Creek might be used for recreational use
8 such as fishing or canoeing?

9 A. Not specifically, no.

10 Q. As far as economic impact with the Staff
11 Report, we've already had testimony from the
12 Applicant's witness with respect to the potential
13 economic impact, does the Staff do an independent
14 analysis as to economic impact?

15 A. We do not.

16 Q. Okay. With respect to the geology of the
17 area and the resources that Staff evaluated, did the
18 Staff have any contact with the Logan County Soil and
19 Water Conservation District?

20 A. Not to my knowledge, no.

21 Q. With respect to public and private water
22 supplies, did Staff have any contact with the Village
23 of West Mansfield with respect to Mill Creek being
24 their water supply?

25 A. No.

1 Q. Did the Staff have any contact with the
2 City of Marysville with respect to Mill Creek being
3 its water supply?

4 A. No.

5 Q. With respect to air, water, and solid
6 waste permitting, did the Staff have any contact with
7 the Logan County Solid Waste District?

8 A. No.

9 Q. Moving on to your testimony in question
10 7, you said with specific conditions intended to
11 address water supplies and subsurface conditions, you
12 spent more than 20 years as a Geologist; is that
13 correct?

14 A. Yes.

15 Q. Okay. And are you familiar with the soil
16 sampling as a result of your work as a Geologist?

17 A. Yeah. I am somewhat familiar with that.

18 Q. Okay.

19 ALJ SEE: I need the witness to speak up.

20 THE WITNESS: I'm sorry.

21 Q. So you indicated you are somewhat
22 familiar with soil samplings due to your work as a
23 Geologist?

24 A. Yes. A lot of permit applications we see
25 do include soil samples and analysis.

1 Q. And based on the soil samples and
2 analysis that were provided to Staff by the Applicant
3 for this project, did Staff indicate any concerns
4 with the soil sampling?

5 A. I thumbed through the section. Could you
6 please repeat your question, make sure I capture
7 everything?

8 Q. Based on the soil sample information
9 provided by the Applicant to Staff, did Staff have
10 any concerns about the soil samples with this project
11 or the methodology used by the Applicant?

12 A. No.

13 Q. Shifting back into water, geology would
14 include certain surface water drainage issues; is
15 that a fair statement?

16 A. No. We have a specific surface water
17 section reviewed by another member, Staff member.

18 Q. Okay. So who would that Staff member
19 have been?

20 A. For this case it is Grant Zeto.

21 Q. Okay. So you did not review anything
22 with respect to drainage?

23 A. No.

24 Q. Or surface water?

25 A. No.

1 Q. Okay. But you did indicate in your
2 testimony public and private water supplies were part
3 of your review.

4 A. Right. Looking at private wells and
5 looking at source water protection areas which are
6 both groundwater sources as opposed to a surface
7 water sources.

8 Q. Okay. Thank you for clarifying that. Is
9 it fair to say you have been a State of Ohio employee
10 for more than 20 years?

11 A. Yes.

12 Q. And as a public employee, have you ever
13 taken advantage of training offered on the Ohio
14 ethics law?

15 A. Yes.

16 Q. How recently?

17 A. I believe within the last year for sure.

18 Q. Okay. I'm calling your attention to page
19 4 of your testimony, specifically lines 4 through 9.
20 You opined that "Bokescreek Township, which contains
21 approximately 90 percent of the project area, appear
22 to be supportive of the project." On what basis did
23 you make that statement?

24 A. Generally for -- for our, you know,
25 similar comparable cases, if local government opposes

1 a project like this, we will certainly hear their
2 position. You know, as we mention here, you know, we
3 did hear from one of the Township Trustees today, you
4 know, understanding the issue at hand that there are
5 two other Township Trustees within that Township that
6 have a, you know, vested interest in the project as
7 far as being active project participants, but
8 ultimately, you know, we did not hear any objections
9 or any opposition from Bokescreek Township.

10 Q. Is your understanding of Ohio ethics Law
11 that it applies to public employees such as yourself
12 and public officials?

13 MR. EUBANKS: Objection, irrelevant.
14 Objection. He is not an attorney.

15 MS. PARCELS: I'm asking for his lay
16 person's understanding as a public employee who has
17 had training on that law.

18 MR. EUBANKS: Objection. His lay
19 person's opinion of what the law is is irrelevant.

20 MR. SECREST: Join in the objection. It
21 is still a legal conclusion.

22 ALJ MARCELLETTI: Move on, Ms. Parcels.

23 Q. (By Ms. Parcels) Mr. Stottsberry, your
24 direct testimony is that "Comments seem to reflect
25 that two of the Bokescreek Township Trustees are

landowners who are foregoing votes that would presumably be in support of the project." On what basis do you make that statement when Bokescreek Township has not formally acted to support the project?

A. My understanding would be of these two Trustee members are -- are active participants in the project, they would support the project. Otherwise, they would not be active participants.

MS. PARCELS: I have no further questions for this witness.

ALJ MARCELLETTI: Thank you.

Questions from Citizens group?

MR. DUNN: Yes, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Dunn:

Q. Mr. Stottsberry, I will try not to repeat the same questions to you, but I do have some questions along a similar line. You did sponsor the portion of the Staff Report for public interest, convenience, and necessity?

A. I sponsored that section's conclusion. There are multiple subsections. Safety, Mr. Conway did. Discussion about public interaction and

1 participation, Staff member Butler did. He also
2 summarized public comments, Mr. Butler did, as well
3 as the section on Senate Bill 52. But I sponsored
4 specifically the recommended findings.

5 Q. Okay. But you are aware that the
6 Bokescreek Township Trustees, they take official
7 action and speak through their resolution, by voting
8 and adopting their resolution, right?

9 A. Please rephrase that.

10 Q. The Township Trustees speak through the
11 resolution, correct?

12 MR. EUBANKS: Objection, calls for a
13 legal conclusion.

14 ALJ MARCELLETTI: Can you rephrase,
15 Mr. Dunn?

16 Q. (By Mr. Dunn) To your knowledge,
17 Mr. Stottsberry, was there a vote by the Bokescreek
18 Township Trustees regarding the project?

19 A. Not to my knowledge, no.

20 Q. Did you or any member of your Staff to
21 your knowledge have direct contact with any of the
22 Bokescreek Township Trustees about support for the
23 project outside of an open meeting?

24 A. Not to my knowledge, no.

25 Q. So just to clarify, when you say in your

1 direct testimony that some local government
2 opposition exists, there has been no local government
3 support of the project, correct?

4 A. I do not believe there has been an
5 official position taken. There's three local
6 government bodies involved, being the two Townships
7 in this case and the County Commissioners, and we
8 specifically heard the opposition of the County
9 Commissioners and recently the opposition of two of
10 the Township Trustees from Rushcreek.

11 Q. Okay. And you are aware that the two of
12 the Bokescreek Township Trustees are conflicted out
13 because they are paid leaseholders in the project,
14 correct?

15 A. That is the understanding I have.

16 Q. So on page 4, line 9 of your direct
17 testimony, you conclude "Therefore, Staff continues
18 to recommend the Board approve the project subject to
19 the conditions recommended in the Staff Report." So
20 you come to that conclusion based on the presumed
21 support for the Bokescreek Township Trustees; am I
22 reading that correctly?

23 A. No. In recent cases as -- they relate to
24 determinations of (A)(6), it is my recollection that
25 any cases where Staff has recommended denial to the

1 Board on behalf of -- or not meeting the (A) (6)
2 requirement, the commonality in all those cases
3 there's unanimous local government opposition, and we
4 did not feel that that occurred in this particular
5 case.

6 Q. So by virtue of being conflicted and
7 being unable to vote, you counted that as a lack of
8 universal unanimous opposition, correct?

9 MR. EUBANKS: Objection, mischaracterizes
10 his testimony.

11 MR. DUNN: Well, you just -- your Honor,
12 he just said they required -- they would recommend a
13 denial if there was unanimous local government
14 opposition. I think the question is exactly
15 characterizing what he testified to.

16 ALJ MARCELLETTI: I will let
17 Mr. Stottsberry clarify as he needs with that answer.

18 A. Could you please repeat so I am clear on
19 things?

20 Q. (By Mr. Dunn) Staff's position was due to
21 the conflict of interest of the two Bokescreek
22 Township Trustees being unable to vote and pass a
23 resolution, you equate that to a lack of unanimous
24 opposition from local governments; is that correct?

25 A. Again, there's three government entities,

1 government bodies, and we did not hear opposition
2 from all three of those bodies.

3 Q. By virtue of conflict of interest, they
4 were unable to --

5 MR. SECREST: Objection.

6 MR. EUBANKS: Objection, calls for
7 speculation. I mean, he -- he is assuming that if
8 the vote occurred, they would be in opposition. They
9 could have been for it.

10 MR. SECREST: I would agree. Misstates
11 testimony. Mr. Stottsberry testified that two
12 Trustees participating in the project assumes support
13 for the project, not opposition.

14 ALJ MARCELLETTI: Move on from your
15 questioning. Thank you.

16 Q. (By Mr. Dunn) Mr. Stottsberry, under the
17 recommended findings in the Staff Report, it states
18 "Various Logan County Commissioners originally
19 supported the project, some of whom later amended the
20 supporting position, evidencing the robust debate and
21 consideration of the project rather than its outright
22 rejection by the community." Is that an accurate
23 representation?

24 A. Yes.

25 Q. Has Staff considered that the change in

1 position of the elected County Commissioners is
2 precisely because the public opposition was
3 prominent, one-sided, and compelling?

4 A. Yes. I believe when the County
5 Commissioners changed their position, that was in
6 their statement that listening to their constituents
7 was what ultimately was one of the major factors as
8 to why they changed their position from pro to
9 opposed.

10 Q. So you recognize there is widespread
11 public opposition to the project --

12 A. Yes.

13 Q. -- correct? That was yes?

14 A. Yes.

15 MR. DUNN: No further questions, your
16 Honor.

17 ALJ MARCELLETTI: Thank you.

18 Any cross from Mr. Slone on behalf of the
19 County?

20 MR. SLONE: Yeah, just a couple of
21 questions, please.

22 - - -

23 CROSS-EXAMINATION

24 By Mr. Slone:

25 Q. First time I have asked any questions

1 today and the last witness, I think. I want to
2 clarify, if I can, please, the statements about the
3 County changing positions. County Commissioners
4 filed -- filing a letter of support, it was
5 Commissioner Benedetti and Commissioner Antram; is
6 that correct?

7 A. Those names sound familiar, but I
8 honestly can't remember between changes of
9 administration and who was in the initial letter of
10 support versus the letter of opposition.

11 Q. Fair enough. The record -- the public
12 comments will bear that out. Suffice it to say it
13 was Commissioners Benedetti and Antram, and they
14 filed their support on January 3, 2022, correct?

15 A. Yeah. I don't have that information
16 available.

17 Q. Okay. There was a public information
18 meeting in this case on January 12, 2022, yes or no?

19 A. I have to look through the Staff Report
20 here. Yes.

21 Q. And then Commissioners Benedetti and
22 Antram rescinded their support on January 25, 2022,
23 after the public information meeting?

24 A. I don't have the exact date here with the
25 Staff Report I don't think.

1 Q. I'm sorry. Was that an answer?

2 A. Yeah. I don't have that exact date. I
3 do have the January 12 date that there was a public
4 information meeting.

5 Q. So it's possible, is it not, that
6 Commissioners Benedetti and Antram filed a letter of
7 support before they actually got to hear fully about
8 the project, or at least hear the presentation from
9 the Applicant --

10 MR. EUBANKS: Objection, calls for
11 speculation. Sorry. I thought he was done with his
12 question.

13 MR. SLONE: So I am not done with my
14 question.

15 MR. EUBANKS: Okay.

16 MR. SLONE: Okay. You withdraw your
17 objection?

18 MR. EUBANKS: Yeah, I'll withdraw.

19 ALJ MARCELLETTI: Thank you. Yeah.

20 Q. (By Mr. Slone) So we have got -- I just
21 want to make sure. We have a sequence of events. We
22 have the letters of support January 3, 2022, and we
23 have a public information meeting January 12, and
24 then Commissioners rescind their support on
25 January 25, correct?

1 A. I do not have everything that's been
2 filed on the public docket in front of me. I just
3 have the Staff Report and my prefiled testimony.

4 Q. Did you review the dates of the public
5 information meeting and the letters of support and
6 then rescinding of support of Commissioners Benedetti
7 and Antram before you prepared your direct testimony
8 where you -- let me start with that. Finish that
9 question.

10 A. Yeah. If it was filed on the docket, it
11 was considered before filing my testimony.

12 Q. And in light of those -- those dates that
13 you reviewed, you still recommend the Board approve
14 the project based on nonunanimous government
15 opposition?

16 A. Yes.

17 MR. SLONE: No further questions. Thank
18 you.

19 ALJ MARCELLETTI: Thank you.

20 Moving on to the Farm Bureau.

21 MS. CURTIS: No questions, your Honor.

22 ALJ MARCELLETTI: Thank you.

23 Any questions from the Applicant?

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

25 ALJ MARCELLETTI: Redirect from staff?

1 MR. EUBANKS: No redirect, your Honor.

2 ALJ MARCELLETTI: Questions from the
3 Bench?

4 - - -

5 EXAMINATION

6 By ALJ Marcelletti:

7 Q. I have one clarifying question for you,
8 Mr. Stottsberry, just so I can understand. During
9 your testimony today, you indicated when you were
10 working on your prefiled testimony, the fact that you
11 had two Bokescreek Township Trustees as two
12 landowners involved with the project, you used that
13 to base your conclusion on page 4 where you found
14 that they were positive for the project.

15 A. I'm sorry, but could you please restate
16 that?

17 Q. Yes. Sorry. That was a bit wordy. The
18 fact that two of the Bokescreek Township Trustees are
19 two landowners in lease with the Applicant, you used
20 that information to -- to inform your opinion that
21 that Township was in favor of the project?

22 A. Not necessarily, no. I think for quite a
23 while we've -- we've known or suspected that two of
24 the Township Trustees of Bokescreek were
25 participating landowners so that's been under

1 consideration for quite a while including, you know,
2 when we developed the Staff Report.

3 ALJ MARCELLETTI: Okay. No further
4 questions from the Bench. Thank you.

5 THE WITNESS: Thank you.

6 MR. EUBANKS: With that I would like to
7 have Staff's Exhibit 8 moved into evidence.

8 ALJ MARCELLETTI: Any objection from the
9 Township?

10 MS. PARCELS: No, thank you, your Honor.

11 ALJ MARCELLETTI: Mr. Dunn?

12 MR. DUNN: No objection.

13 ALJ MARCELLETTI: County, Mr. Slone?

14 MR. SLONE: No objection. Thank you.

15 ALJ MARCELLETTI: Ohio Farm Bureau,
16 Ms. Curtis?

17 MS. CURTIS: No objection.

18 ALJ MARCELLETTI: Applicant?

19 MR. SECREST: No objection. Thank you,
20 your Honor.

21 ALJ MARCELLETTI: And with that,
22 Mr. Stottsberry's testimony will be admitted as
23 Exhibit 8.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 ALJ SEE: Mr. Eubanks, there was the

1 issue raised before we went to lunch regarding the
2 difference between the Staff -- the conditions in the
3 Staff Report in comparison to the Stipulation -- the
4 conditions in the Stipulation.

5 MR. EUBANKS: Yes, your Honor. Staff in
6 off time conferred with the Applicant. After going
7 through the Stipulation, Staff is suffice that the
8 Stipulation Condition 1 combined with the testimony
9 of Mike --

10 MS. PIRIK: Daniel Vertucci.

11 MR. EUBANKS: Daniel Vertucci -- I can't
12 say that -- which lays out the modifications to the
13 Stipulation is enough for Staff.

14 ALJ SEE: Okay. Let's go off the record.
15 (Discussion off the record.)

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

17 The parties have agreed to a briefing
18 schedule with initial briefs due September 18, 2023,
19 and reply briefs due October 16, 2023. Remind you
20 those are double spaced. Remind you that those are
21 double spaced.

22 Thank you. Remind you that those are
23 double spaced. Oh, just file them -- they need to be
24 in the docket no later than 5:00 p.m., I believe
25 Docketing closes. You might want to look into

electronically filing your testimony [SIC] with a
courtesy copy sent to the assigned ALJs,
Administrative Law Judges.

Is there anything else before we conclude
the hearing today?

Hearing none, we are adjourned. Thank
you all.

(Thereupon, at 3:02 p.m., the hearing was
adjourned.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, August 15,
2023, and carefully compared with my original
stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7505)

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

8/29/2023 11:53:15 AM

in

Case No(s). 21-1231-EL-BGN

Summary: Transcript August 15th 2023 In the Matter of the Application of Fountain Point Solar Energy LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility in Logan County, Ohio. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..