

BEFORE THE OHIO POWER SITING BOARD

- - -

In the Matter of the :  
 Application of Frasier :  
 Solar, LLC, for a :  
 Certificate of :  
 Environmental : Case No. 23-796-EL-BGN  
 Compatibility and Public :  
 Need to Construct a :  
 Solar-Powered Electric :  
 Generation Facility. :

- - -

PROCEEDINGS

before Mr. David Hicks and Ms. Manette Asta,  
 Administrative Law Judges, at the Ohio Power Siting  
 Board, 180 East Broad Street, Room 11-A, Columbus,  
 Ohio, called at 10:00 a.m. on Monday, August 19,  
 2024.

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VOLUME I

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22 On behalf of Ohio Environmental  
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On behalf of IBEW Local Unions 688 and  
1105.

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On behalf of the Preserve Knox County and  
Members.

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On behalf of the Staff of the OPSB.

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Monday Morning Session,  
August 19, 2024.

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ALJ HICKS: We will go ahead and go on  
the record.

The Ohio Power Siting Board has called  
for hearing at this time and place Case No.  
23-796-EL-BGN, In The Matter of the Application of  
Fraisier Solar, LLC, for a Certificate of  
Environmental Compatibility and Public Need.

My name is David Hicks, and with me  
Manette Asta, and we are Administrative Law Judges  
assigned by the Board to hear this case.

We should hopefully have our colleague,  
Matt Sandor, joining us later this week and we will  
be overseeing the proceedings as we go.

We will go ahead and just kick things off  
taking appearance of counsel. We can start with the  
Applicant, and then we will just go down the row.

MR. SETTINERI: Yeah. Good morning, your  
Honors. On behalf of Fraiser Solar, LLC, Michael  
Settineri, Anna Sanyal, and Joshua Eckert, Vorys,  
Sater, Seymour and Pease, 52 East Gay Street,  
Columbus, Ohio 43215.

MR. TAVENOR: Good morning, your Honors,

1 Chris Tavenor and Karin Nordstrom, she will be here  
2 later this week, for the Ohio Environmental Council,  
3 1145 Chesapeake Avenue, Suite I, Columbus, Ohio  
4 43212.

5 MS. BOTSCHNER O'BRIEN: Good morning,  
6 your Honors. On behalf of the Staff of the Public  
7 Utilities Commission of Ohio Public Power Siting  
8 Department, Amy Botschner O'Brien and Janet Gregory,  
9 Assistant Attorneys General, Dave Yost, Attorney  
10 General, John Jones, Section Chief, 30 East Broad  
11 Street, 26th Floor, Columbus, Ohio 4215.

12 MR. VAN KLEY: Good morning, your Honors.  
13 My name is Jack Van Kley. I represent Preserve Knox  
14 County Ohio and its members. I am with Van Kley Law,  
15 address 132 Northwoods Boulevard, Suite C-1,  
16 Columbus, Ohio.

17 MR. HOLTHUS: Good morning. Doug Holthus  
18 with Zach Weigel on behalf of Jared Yost and Knox  
19 Smart Development. We are with the law firm of  
20 Freeman, Mathis & Gary, 65 East State Street,  
21 Columbus, Ohio.

22 MR. DOUGHERTY: Good morning, your  
23 Honors. On behalf of Mr. Robertson, Trent Dougherty  
24 of the law firm Hubay Dougherty, Grandview Heights,  
25 Ohio 43212.



1 I am also entering an appearance for  
2 Jacob Elkin and Matthew Eisenson of Sabin Center for  
3 Climate Change Law, 435 West 116th Street, New York,  
4 New York 112717.

5 MR. DOVE: Good morning, your Honors. On  
6 behalf of the International Brotherhood of Electrical  
7 Workers Local Unions 105 and 688, the law firm of  
8 Kegler, Brown, Hill & Ritter, my name is Robert Dove,  
9 65 East State Street, Suite 1800, Columbus, Ohio  
10 43215.

11 MS. CURTIS: Good morning, your Honors.  
12 Leah Curtis and Leah Hetrick for the Ohio Farm Bureau  
13 Federation, 280 North High Street, Columbus, Ohio  
14 43125.

15 ALJ HICKS: Thank you all.

16 I assume no one from the Chamber is here,  
17 but just making sure. We'll note they're an  
18 Intervenor but not here this morning for the  
19 proceedings.

20 Before we get started, we had some  
21 discussions -- get started with witnesses taking the  
22 stand, we had some discussions this morning about a  
23 witness that we may be able to stipulate the  
24 testimony of. I will hand it over to Mr. Van Kley to  
25 explain, and we can maybe go ahead and take care of

1 that now.

2 MR. VAN KLEY: Thank you, your Honor.  
3 Appreciate your taking this witness out of time. My  
4 understanding is that no counsel, nor the Bench, have  
5 any questions for Charles A. Rowley and that  
6 everybody is willing to stipulate the admission of  
7 his testimony. And if that's the case, your Honor, I  
8 would like to mark his testimony as -- as PKCO  
9 Exhibit 7.

10 ALJ HICKS: It will be so marked.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. VAN KLEY: And, your Honor, I would  
13 like to tender this witness -- or tender -- tender  
14 the testimony, Exhibit 7, to be introduced.

15 ALJ HICKS: Okay. And it's my  
16 understanding that counsel has no issues with  
17 stipulating to this, but I will just throw it out now  
18 on the record. Take silence as no objection. And  
19 with that we will admit Mr. Rowley's testimony as  
20 PKCO Exhibit 7.

21 (EXHIBIT ADMITTED INTO EVIDENCE.)

22 ALJ HICKS: With that, we can start. I  
23 know there was a document sent around. A little bit  
24 of an abnormal order to try to accommodate all the  
25 witnesses, so unless there have been changes to what

1 was sent over the weekend, and please holler if we  
2 get out of order, we are just going to go down in the  
3 order that was circulated to everyone over the  
4 weekend with Mr. Yost being today's first witness.

5 Before that I think Mr. Settineri just  
6 wanted to do some procedural cleanup on the record.

7 MR. SETTINERI: That's right, your Honor.  
8 Normally we would present our case in chief followed  
9 by other party's cases.

10 As you saw from the order today, we are  
11 kind of doing a hodgepodge where due to witness  
12 availability, we are working witnesses in throughout  
13 the week.

14 Because Mr. Yost is appearing today to  
15 testify, we would be withdrawing our subpoenas for  
16 KSD and Mr. Yost to appear here today.

17 ALJ HICKS: Okay. Thank you very much.

18 And if nothing else there, I can hand it  
19 off to Mr. Yost's counsel to call their witness.

20 MR. HOLTHUS: Yes. We would call Jared  
21 Yost to the stand.

22 ALJ HICKS: Okay. Mr. Yost, if you want  
23 to come up here. If you could just please raise your  
24 right hand.

25 (Witness sworn.)

1 ALJ HICKS: I will hand it over to your  
2 counsel to begin.

3 MR. HOLTHUS: Thank you, your Honor.

4 - - -

5 JARED YOST

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

8 DIRECT EXAMINATION

9 By Mr. Holthus:

10 Q. Could you state and spell your name,  
11 please?

12 A. Jared Yost, J-a --

13 Q. I am sorry.

14 A. J-A-R-E-D, Y-O-S-T, middle name Nelson,  
15 N-E-L-S-O-N.

16 Q. Jared, your residence address?

17 A. 14701 Sycamore Road, Mount Vernon, Ohio  
18 43050.

19 Q. And do you own other property in the  
20 project area?

21 A. I do.

22 Q. That address?

23 A. 15301 Sycamore Road, Mount Vernon, Ohio  
24 43050.

25 Q. Do you -- in anticipation of your

1 testimony today you provided written testimony  
2 previously, correct?

3 A. Correct.

4 Q. And that has been submitted to the  
5 Commission for its consideration, correct?

6 A. Correct.

7 MR. HOLTHUS: All right. I don't know,  
8 your Honor, if his testimony has been premarked as an  
9 exhibit. If I may approach then?

10 ALJ HICKS: Yes.

11 MR. HOLTHUS: And before I do, how would  
12 you prefer this be marked? Just Yost 1?

13 ALJ HICKS: That's fine.

14 Q. (By Mr. Holthus) Jared, this will be  
15 marked as Yost 1. If you could take a look at it and  
16 identify it and let us know if that's your prefiled  
17 testimony.

18 A. It is.

19 Q. Thank you. And that is a true and  
20 accurate copy

21 A. Yes, sir.

22 Q. And did you prepare that testimony?

23 A. I did.

24 Q. Do you have any corrections to that  
25 testimony which you would choose or like to make

1 today?

2 A. I do not.

3 Q. If I were to ask you under oath the very  
4 same questions that were presented in that written  
5 testimony, would your answers today be the same as  
6 they appear within that document Yost Exhibit 1?

7 A. Yes.

8 Q. All right.

9 MR. HOLTHUS: I will now indicate that  
10 Mr. Yost is prepared for his cross-examination.

11 ALJ HICKS: Okay. Thank you. And for  
12 the record we will just state that it has been marked  
13 as Yost Exhibit 1.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 ALJ HICKS: As I had indicated off the  
16 record, we got a weird dynamic here with parties  
17 doing cross-examination. So I am going to try to  
18 follow essentially what we will call favorable  
19 parties first if they have any clarifying questions,  
20 with the proviso, I guess Mr. Van Kley and  
21 Mr. Settineri know what I am going to say, we're not  
22 interested in friendly cross-examination.

23 If you have some valid questions for  
24 clarification or anything, I will offer that to you  
25 now. Mr. Van Kley.

1 MR. VAN KLEY: None from me, your Honor.

2 ALJ HICKS: Okay. So with that we will  
3 go to other parties and start with the Applicant.

4 MR. SETTINERI: Thank you, your Honor.

5 - - -

6 CROSS-EXAMINATION

7 By Mr. Settineri:

8 Q. Good morning, Mr. Yost. It's good to see  
9 you again.

10 A. Good morning, Mr. Settineri.

11 Q. Hope you had a good weekend.

12 A. Thank you. You too.

13 Q. You mentioned the two properties and you  
14 gave two addresses in your testimony here today,  
15 correct?

16 A. Correct.

17 Q. Okay. You don't own any other properties  
18 in Knox County, correct?

19 A. Correct.

20 Q. Okay. Now, you work for Cannon Medical  
21 Systems USA, correct?

22 A. Yes.

23 Q. And you have worked for Cannon Medical  
24 Systems for about 20 years, correct?

25 A. Yes.

1 Q. And you work from home, correct?

2 A. Correct.

3 Q. And Cannon Medical Systems is a medical  
4 imagining company?

5 A. Yes.

6 Q. And your responsibilities include  
7 repairing machines, trying to make the processes  
8 related to the service of the machine more efficient,  
9 correct?

10 A. Yes.

11 Q. And post high school, your primary  
12 employers have been the Ariel Corporation and Cannon  
13 Medical Systems, correct?

14 A. Correct.

15 Q. Okay. And you worked at Ariel  
16 Corporation approximately 10 years?

17 A. Approximately, yes.

18 Q. And at Aerial you started out as a  
19 maintenance tech and concluded your career in IT,  
20 correct.

21 A. Yes, in IT, yes.

22 Q. And you have never worked in the solar  
23 industry, correct?

24 A. Correct.

25 Q. And you are not a pilot, correct?



1 A. Correct.

2 Q. And you've never had any training to be a  
3 pilot, correct?

4 A. Correct.

5 Q. Now, you are the point person for Knox  
6 Smart Development, correct?

7 A. Yes, sir.

8 Q. Now, your position is that utility-scale  
9 solar does not have a home in Knox County, correct?

10 A. That is my belief, yes.

11 Q. And you have read the Stipulation that  
12 was filed in this proceeding?

13 A. Yes, sir.

14 Q. Okay. And you reviewed the conditions in  
15 the Stipulation?

16 A. I did.

17 Q. Okay. And fair to say that regardless of  
18 any conditions that the Board imposes, your position  
19 is that this project should not be built, correct?

20 A. Correct.

21 Q. Okay. If you could turn to your  
22 testimony which has been marked as Yost Exhibit 1,  
23 and look at page 2 ,line 2.

24 The questions says, and I will stop -- I  
25 won't read the whole question, it goes, "Do you or

1 any members of your immediate family own property  
2 adjacent to the Project area?"

3 Now, you have no immediate family members  
4 that own property adjacent to the project area with  
5 the exception that you and your wife are on the deeds  
6 for the two properties that you own, correct?

7 A. Correct.

8 Q. And at page 4 of your testimony, in your  
9 answer to the question 19, you reference a tornado.  
10 Do you see that?

11 A. Yes, sir.

12 Q. All right. You don't know the rating of  
13 the strength for that tornado, correct?

14 A. I do not.

15 Q. Okay. Now if you could turn to page 5 of  
16 your testimony in lines 8 to 10, there's a sentence  
17 there that states, "Additionally, it is my  
18 understanding that the Knox County Regional Airport  
19 is frequently used by student pilots and is  
20 considered a 'training airport'." Do you see that?

21 A. Yes, sir.

22 Q. And the basis for that understanding is  
23 that that's a statement to you from someone that's on  
24 the Knox County Airport Board, correct?

25 A. Correct.

1 Q. Okay. And if you look at line 6 on that  
2 same page, you say, "The Knox County Regional Airport  
3 is small and does not have the same level of  
4 complexity as a larger airport."

5 When you say "the same level of  
6 complexity as a larger airport," what you mean there  
7 is that the Knox County Regional Airport does not  
8 have an air traffic control tower, correct?

9 A. That's correct.

10 Q. And that's the only basis for that?

11 A. Correct.

12 Q. Now, you are not aware of any residential  
13 development projects proposed in or near the project  
14 area, correct?

15 A. I am not.

16 Q. And you are also not aware any of  
17 commercial projects other than Fraiser Solar project  
18 that are proposed near or in the project area,  
19 correct?

20 A. Correct.

21 Q. Now let's go to page 6 of your testimony,  
22 line 13. There you mention a most -- there is a  
23 phrase you use, "mostly volunteer fire department."  
24 Do you see that? Line 13?

25 A. Yes, sir.

1 Q. Okay. And the reason you say "mostly  
2 volunteer fire department" -- let me back up.

3 The volunteer fire department you are  
4 referencing, that's the Village of Homer's fire  
5 department, correct?

6 A. Yes, sir.

7 Q. And reason you say it's mostly volunteers  
8 is because it has one paid employee?

9 A. Correct.

10 Q. Okay. And that -- the Village of Homer,  
11 that fire department does have a fire station, right?

12 A. Yes.

13 Q. Now, do you agree that Clinton Township  
14 is served by the city of Mount Vernon Fire  
15 Department?

16 A. I do not know about Clinton Township.

17 Q. And do you know if Miller Township is  
18 served by the Mount Vernon Fire Department?

19 A. As a backup to Homer, or if Homer cannot  
20 respond within a certain amount of time.

21 Q. Okay. And any -- and you agree there's  
22 one parcel -- there's one set of arrays in the  
23 project that are on one parcel that is within -- that  
24 is within the city of Mount Vernon boundaries, right?

25 A. Correct.

1 Q. And that would be served by the city of  
2 Mount Vernon Fire Department?

3 A. I would believe so, yes.

4 Q. Now, you've attended many township  
5 meetings both for Miller Township and Clinton  
6 Township, right?

7 A. Yes, sir.

8 Q. Are you aware that Clinton Township  
9 passed two resolutions on the Fraiser Solar project?

10 A. I am not aware of two, no.

11 Q. Have you seen any resolutions on solar  
12 from Clinton Township?

13 A. No. I was not there when they passed it.

14 Q. Have you seen any -- are you aware --  
15 have you seen any resolutions?

16 A. I was verbally told they passed one, but  
17 I have not seen it.

18 Q. Okay. And are you aware that the Clinton  
19 Township passed a resolution stating position of  
20 neutrality on the Fraiser Solar project?

21 A. No, sir.

22 Q. You are not. Okay. Let's go to your  
23 testimony at page 3, lines 19 to 20. And you are  
24 welcome to read the whole question and answer if that  
25 helps you prior to answering my questions, but I am

1 going -- going to direct your attention to line 19,  
2 line 20 of page 3, there is a sentence that says  
3 "This effectively creates a barrier to all wildlife."  
4 Do you see that? Again, take your time if you would  
5 like to read the whole Q and A.

6 A. Yes, sir, I am ready and I see that.

7 Q. Okay. Now, you would agree with me that  
8 the Frasier Solar project is not one large contiguous  
9 group of panels, right?

10 A. Correct.

11 Q. It's broken up among various panel  
12 arrays?

13 A. Yes.

14 Q. And different geographic areas, correct?

15 A. Correct.

16 Q. You would -- you hunt deer?

17 A. I do.

18 Q. And deer like cover especially during the  
19 day, right?

20 A. Yes.

21 Q. And in terms of traveling, would you  
22 agree that deer generally follow paths through wooded  
23 areas?

24 A. Yes.

25 Q. And would you agree with me there are

1 sufficient wooded areas near your property, south of  
2 your property, north of your property and west of  
3 your property, that could provide sufficient cover  
4 for deer to travel even if this project is built?

5 A. I do not know how deer would move  
6 differently based upon the project. My statement was  
7 related to the way I normally see the deer move,  
8 which is from the east coming through that field and  
9 then into my woods.

10 Q. Coming from the east into your woods.

11 A. Correct.

12 Q. Okay. So your testimony is limited to  
13 really how they travel across that field.

14 A. Correct.

15 Q. Okay.

16 MR. SETTINERI: Your Honor, at this time  
17 we are just going to go ahead and mark an exhibit  
18 Company Exhibit 7 which are two maps.

19 ALJ HICKS: Okay. Two maps of what, just  
20 for the description?

21 MR. SETTINERI: Of Mr. Yost's properties.

22 ALJ HICKS: Okay. So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. SETTINERI: We're getting there, your  
25 Honor.

1           So, your Honor, at this time we will mark  
2 as Company Exhibit 7 two maps, one has the label  
3 "Property owner Jared Yost 14071 Sycamore Road," and  
4 the other is "Property Owner Jared Yost, Additional  
5 Property 42701 Sycamore Road."

6           ALJ HICKS: So marked.

7           MR. SETTINERI: Thank you.

8           Q. (By Mr. Settineri) Mr. Yost, you have  
9 looked at the Company's Application, correct?

10          A. Yes, sir.

11          Q. And you are aware of the proximity of  
12 panels to your properties?

13          A. Yes.

14          Q. If you could look at what's been marked  
15 as Company Exhibit 7, on the first page that says  
16 Property Owner Jared Yost, 14701 Sycamore Road, is  
17 that yellow star the location of your residence?

18          A. Yes, sir.

19          Q. Okay. And would you agree with me that  
20 the nearest panel array to your house would be to the  
21 southeast? Well, make it to the northwest.

22          A. To the northwest, that's what it says.

23          Q. There is panels to the southeast as well?

24          A. Correct.

25          Q. All right. Is that -- is that -- are



1 those -- are you -- would you agree those are  
2 locations for proposed panels near your house?

3 A. Sorry. I wouldn't know without looking  
4 at the Application again.

5 Q. That's fair. Have you reviewed the  
6 Company's Notice of Footprint Modification?

7 A. Yes.

8 MR. SETTINERI: We'll go ahead, your  
9 Honor, and mark as Company Exhibit 8 --

10 Q. (By Mr. Settineri) And while we are doing  
11 that, Mr. Yost, if you could look at the second page  
12 of Company Exhibit 7. The star that's indicated  
13 there, is that the general -- is that where your  
14 wooded property is?

15 A. Yes, sir.

16 Q. I don't know if I asked you this. Have  
17 you reviewed the Company's notice -- have you  
18 reviewed Mr. Adair's testimony in this proceeding?

19 A. Most of it.

20 Q. Have you looked at the preliminary site  
21 layout that was attached to his testimony?

22 A. I have not.

23 Q. Okay. Reviewed -- have you reviewed any  
24 of the preliminary site layouts that were either in  
25 the Application Notice of Footprint Reduction?

1           A.    I did not compare to the notice where the  
2 reductions were placed.

3           MR. SETTINERI:  So, again, your Honor, we  
4 will mark as Company Exhibit 8 -- I will represent  
5 this is a copy of the preliminary -- part of the  
6 preliminary site plan for Mr. Adair's testimony that  
7 he filed.

8           ALJ HICKS:  When you get back,  
9 Mr. Settineri, just describe it again on the mic so  
10 Karen can get it.

11           MR. SETTINERI:  Sure, your Honor.  We  
12 would like to mark at this time Company Exhibit 8  
13 which I will represent is preliminary site plan that  
14 was attached to Mr. Adair's prefiled testimony.  The  
15 date is July 31, 2024.

16           ALJ HICKS:  Okay.  It shall be marked as  
17 Company Exhibit 8.

18                           (EXHIBIT MARKED FOR IDENTIFICATION.)

19           Q.    (By Mr. Settineri) Mr. Yost, you have  
20 looked at at least one preliminary site plan for this  
21 project, right?

22           A.    Yes.

23           Q.    And you have seen maps that look like  
24 this, correct?

25           A.    Yes, sir.

1 Q. Okay. And do you have a pen up there  
2 with you by chance?

3 A. I do.

4 Q. Could you draw the boundaries, or at  
5 least for your house, circle your house residence and  
6 then also your wooded property which are -- I know  
7 are on Sycamore Road which would be the lower portion  
8 of that drawing? And so am I correct that if I go to  
9 the word "Sycamore Road" on the drawings -- do you  
10 see that?

11 A. Yes, sir.

12 Q. And I go east, I go, I will call it up  
13 and down and I finally come to some panel arrays  
14 near -- by Sycamore Road, right? Do you see that?

15 A. Following Sycamore to the east.

16 Q. Yep.

17 A. Yes. And then you hit the panels over  
18 near my woods.

19 Q. And those are the panels that you  
20 reference that run I think north and south in your  
21 testimony; is that right?

22 A. Correct.

23 Q. Okay. And you believe that creates a  
24 barrier for wildlife; is that right?

25 A. I do.

1           Q.    Okay.  And your wooded property would be,  
2   if I go right from the west side of those panels,  
3   follow the red line up to the top array, there is a  
4   little box right there, a wooded box.  Do you see  
5   that?  Kind of a rec -- it's a rectangle more than  
6   anything.

7           A.    Okay.  Can you please describe that  
8   again?

9           Q.    Yeah.  Your wooded property, if I go --  
10  follow Sycamore Road to the two panel arrays, the  
11  panel array that's in the north of Sycamore Road, if  
12  I follow that panel array north just to the west  
13  there is a -- you see a box that's outlined in black.  
14  That's your wooded property, correct?

15          A.    Yes, sir.

16          Q.    Okay.  And you are saying that deer  
17  travel east -- from the east across the fields into  
18  your woods, right?

19          A.    Correct.

20          Q.    They could also travel east to the north  
21  of those panels in your woods just as easily,  
22  correct?

23          A.    Yes, they could in the corner, yes.

24          Q.    You see there's a gap between the panels,  
25  those two panel arrays, along the road, Sycamore

1 Road?

2 A. Yes.

3 Q. Okay. And there is also a gap to the  
4 north -- to the south. If you follow LaFayette Road  
5 you will see a pretty large gap there too, right?

6 A. Yes.

7 Q. Okay.

8 MR. SETTINERI: Your Honor, we are going  
9 to mark a number of documents here.

10 ALJ HICKS: Okay.

11 Q. (By Mr. Settineri) Mr. Yost, before I  
12 proceed with exhibits, Knox Smart Development placed  
13 a number of advertisements in the Knox Beacon News  
14 over the last year, right?

15 A. Correct.

16 Q. And you were responsible -- you reviewed  
17 and approved all those publications, right?

18 A. I believe I reviewed them all, yes.

19 Q. And you approved those as well, correct?

20 A. Correct.

21 MR. SETTINERI: Your Honor, let's start  
22 with Company Exhibit 9. I will mark a copy of a page  
23 from the March 30, 2024, Knox Weekly News.

24 ALJ HICKS: So marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. (By Mr. Settineri) And, Mr. Yost, this  
2 would be the advertisement that Knox Smart  
3 Development placed in the Knox Weekly News, correct?

4 A. Yes.

5 Q. And you reviewed and approved the content  
6 of this document, right?

7 A. Yes.

8 MR. SETTINERI: All right. Your Honor,  
9 if I may approach, I have what I have marked as  
10 Company Exhibit 10. This is also an advertisement  
11 from the Knox Weekly News. For the record the date  
12 is cut off, so we can't hand that out for now. See  
13 if I can get a better copy.

14 ALJ HICKS: Do you know the date?

15 MR. SETTINERI: I do. I'll represent to  
16 the Bench that it's March 23, 2024. And for the  
17 record, if I may approach, I can show the witness the  
18 actual copy so he can confirm as well.

19 ALJ HICKS: You don't need to see it?

20 THE WITNESS: Not necessary.

21 ALJ HICKS: I think he is okay assuming  
22 counsel is okay with that. If we could maybe get a  
23 copy for Karen that has a date on it.

24 MR. SETTINERI: We will make a new copy.  
25 Is that okay, Mr. Holthus.

1 MR. HOLTHUS: Yes, sir. That's fine.

2 Q. (By Mr. Settineri) All right. So this --  
3 also what I handed you as Company Exhibit 10 is  
4 another example of a Knox Smart Development  
5 advertisement, correct?

6 A. Correct.

7 Q. All right. And this was published just  
8 before the public hearing in this case, correct?

9 A. Correct.

10 Q. And you reviewed and approved the content  
11 in this advertisement, correct?

12 A. Yes.

13 Q. Okay.

14 MR. SETTINERI: A couple more.

15 ALJ HICKS: If I didn't say it, that one  
16 is marked as Exhibit 10.

17 (EXHIBIT MARKED FOR IDENTIFICATION.)

18 MR. SETTINERI: Thank you. If I may  
19 approach, we would also like to mark Company  
20 Exhibit 11, another copy of a page from the Knox  
21 Weekly News February 17, 2024.

22 ALJ HICKS: It will be marked as Company  
23 Exhibit 11.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MR. SETTINERI: Is that marked, your

1 Honor?

2 ALJ HICKS: It is marked.

3 MR. SETTINERI: Thank you, your Honor.

4 Q. (By Mr. Settineri) Mr. Yost, is this  
5 another example of an advertisement by Knox Smart  
6 Development?

7 A. Yes, sir.

8 Q. And this was another one that you  
9 reviewed and approved, correct?

10 A. Correct.

11 Q. Okay.

12 MR. SETTINERI: Your Honor, if I may  
13 approach, one more.

14 ALJ HICKS: Sure.

15 MR. SETTINERI: Mark as Company  
16 Exhibit 12, a copy of a page from the Knox Weekly  
17 News, February 24, 2024.

18 ALJ HICKS: So marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. (By Mr. Settineri) And you would agree,  
21 Mr. Yost, that what I have handed you as Company  
22 Exhibit 12 also contains an advertisement from Knox  
23 Smart Development?

24 A. Correct.

25 Q. And you reviewed and approved that one,



1 correct?

2 A. Yes.

3 Q. Okay. Now, if you could go back to  
4 Company Exhibit 10, please.

5 A. Yes, sir.

6 Q. Let me know when you have it.

7 A. I'm ready.

8 Q. Now, there are four pictures in that  
9 advertisement, correct?

10 A. Yes.

11 Q. And the middle picture, are you aware  
12 that's a picture of panels damaged in the hurricane  
13 in St. Croix?

14 A. No, I am not aware where that picture  
15 came from.

16 Q. Okay. And the same with the top picture,  
17 you don't know where that picture came from as well?

18 A. Correct.

19 Q. And you don't know if the two pictures  
20 below -- where they came from as well, correct?

21 A. Correct.

22 Q. And you don't know whether those  
23 pictures -- the pictures with the water flooding are  
24 pictures from projects in construction, correct?

25 A. Correct, I do not.

1 Q. And either could be in construction or  
2 not construction, you just don't know.

3 A. Correct.

4 Q. Now, to the right of those pictures there  
5 is a phrase, "Can you imagine after last weekend's  
6 storms 40 years of this?" Do you see that?

7 A. Yes, sir.

8 Q. All right. What was -- what were you  
9 trying to communicate through that sentence with  
10 those pictures?

11 A. We have storms that could create that  
12 same type of damage I believe.

13 Q. Okay. And obviously this was intended to  
14 influence the public's opinion, correct?

15 A. This was intended to show what I believe  
16 could happen.

17 Q. Okay. And that certainly could influence  
18 someone's opinion who is reading the Knox Weekly  
19 News, right?

20 A. I cannot comment whether somebody would  
21 be influenced by something they read or not.

22 Q. Okay. Now at the very bottom, you see on  
23 the left-hand side there is an asterisk. It said,  
24 "Recent Knox County Poll at 72 percent Against  
25 Farmland Solar." Do you see that?

1 A. Yes.

2 Q. Now, Knox -- Knox -- you did not do a  
3 poll on the Fraiser Solar project, correct?

4 A. I did not.

5 Q. Knox Smart Development did not do a poll  
6 either, did they?

7 A. Correct.

8 Q. The reference there to poll is really to  
9 the number of votes for the Republican County  
10 Commissioner positions that were made in the  
11 Republican primary earlier this year, correct?

12 A. I believe Mount Vernon News posted a  
13 poll.

14 Q. On what?

15 A. That was taken with people individually,  
16 not related to the votes.

17 Q. And what do you base that belief on?

18 A. That that's where that statement came  
19 from. Per my developers.

20 Q. Who are your developers?

21 A. The people who created the ads, the  
22 website creator and the Facebook creator.

23 Q. And again, sitting here today you don't  
24 know for certain that was --

25 A. I do not.

1 Q. Okay. Now, are you familiar with the  
2 Ohio Energy Reporter?

3 A. To the extent that I was asked to provide  
4 a statement to them.

5 Q. And who asked you to provide a statement?

6 A. I do not remember the gentleman's name.

7 Q. That was a reporter from Texas though,  
8 right?

9 A. That is correct.

10 Q. And are you aware that the Ohio Energy  
11 Reporter sent a publication to local residents in  
12 Knox County?

13 A. I am.

14 Q. And that was sent just before the  
15 Republican primaries, correct?

16 A. I have no idea when that was sent.

17 Q. Okay. You did not receive a copy?

18 A. I do not remember receiving a copy.

19 Q. Okay. Now, what statement did you give  
20 to the Ohio Energy Reporter?

21 A. He was asking me about the number of  
22 people that had attended the public hearing and how I  
23 felt it was going. I don't remember the exact  
24 statement that I told him, but those were the basis  
25 of his questions.

1 Q. And you were at all three public  
2 hearings, correct?

3 A. Yes, sir.

4 Q. And you had close to a front row seat,  
5 correct?

6 A. Yes, sir.

7 Q. So today per your testimony you are here  
8 on behalf of Knox Smart Development, correct?

9 A. Yes, sir.

10 Q. And you are the sole member of KSD per  
11 your testimony, correct?

12 A. Correct.

13 Q. All right. And at page 7 of 8 there is a  
14 question 26, answer 26, the question is, "Is Knox  
15 Smart Development, LLC funded by any individuals or  
16 entities having any interest or providing any goods  
17 or services to the fossil fuel industry," correct?  
18 That's the question, right? Let me know when you are  
19 there.

20 A. Correct.

21 Q. Okay. And your answer was, "No, not  
22 directly to the best of my knowledge," right?

23 A. Correct.

24 Q. Okay. Now, you know Tom Rastin, correct?

25 A. I do.

1 Q. And who is Tom Rastin?

2 A. A resident of Mount Vernon.

3 Q. Okay. And Tom worked for Aerial  
4 Corporation for a number of years, correct?

5 A. Correct.

6 Q. And you worked together?

7 A. We did.

8 Q. You were an IT specialist; you supported  
9 his department, right?

10 A. Correct.

11 Q. Well, let me ask you this: you would  
12 agree that Tom Rastin has been involved in the  
13 Empowerment Alliance, correct?

14 A. I do not know.

15 Q. Do you know what the Empowerment Alliance  
16 is?

17 A. Only to the extent of my communication  
18 with him.

19 Q. With who?

20 A. With the Empowerment Alliance, yes.

21 Q. And who did you communicate with at the  
22 Empowerment Alliance?

23 A. Mitch Givens.

24 Q. And Mitch Givens is a lobbyist, correct?

25 A. I do not know what his --

1           Q.    But he is with the Empowerment Alliance,  
2 correct?

3           A.    From my understanding, yes.

4           Q.    And you also communicated with Lanny  
5 Spaulding who is also associated with the Empowerment  
6 Alliance, correct?

7           A.    I don't know what Lanny does, but yes, I  
8 have communicated with Lanny.

9           Q.    Okay. And you were able to obtain some  
10 resources not -- I should say not financial  
11 resources, but resources through the Empowerment  
12 Alliance, correct?

13          A.    Correct.

14          Q.    And those resources included information?

15          A.    Yes.

16          Q.    And you would agree that the Empowerment  
17 Alliance is an entity that promotes natural gas, use  
18 of natural gas?

19          A.    I know the Empowerment Alliance is  
20 somebody who has information on energy. I don't know  
21 what they promote or do not.

22          Q.    Okay. Now, Mr. Rastin is one of the  
23 largest donors to Knox Smart Development, correct?

24          A.    That's correct.

25          Q.    And did you -- I mean, do you know

1 whether Mr. Rastin has ever been involved with the  
2 Empowerment Alliance?

3 A. I don't know.

4 Q. You have gotten e-mails from Mr. Rastin,  
5 correct?

6 A. I have.

7 Q. Do you know if Mr. Rastin references the  
8 Empowerment Alliance in his e-mail signature line?

9 A. I do not.

10 MR. SETTINERI: Your Honor, at this time  
11 if I may approach, I would like to refresh --  
12 actually mark an exhibit and then use it to refresh  
13 the witnesses' recollection.

14 ALJ HICKS: Okay.

15 MR. SETTINERI: Your Honor, if I may  
16 approach?

17 ALJ HICKS: Yes.

18 MR. SETTINERI: Mark as Company  
19 Exhibit 14 and identify for the record, it's an  
20 e-mail from Amber Keener.

21 ALJ HICKS: Keener?

22 MR. SETTINERI: K-E-E-N-E-R.

23 ALJ HICKS: It will be marked as Company  
24 Exhibit 14.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)



1 Q. (By Mr. Settineri) Mr. Yost, if you could  
2 look at the bottom of what has been marked as Company  
3 Exhibit 14. Let me ask you this, have you seen this  
4 e-mail before today?

5 A. I have not seen this e-mail.

6 Q. What I want to have you look at is the  
7 bottom of the page, it looks like an e-mail from Tom  
8 Rastin. Do you see at the bottom of the page where  
9 it says "TomRastin@Hotmail.com Join the Empowerment  
10 Alliance [www.empoweringamerica.org](http://www.empoweringamerica.org)"? Do you see  
11 that?

12 A. Yes, sir.

13 Q. Have you seen that signature line from  
14 Mr. Rastin before in e-mails you received?

15 A. Sir, I have not paid attention. I have  
16 received many e-mails from my attorneys and I  
17 couldn't tell you what their signature line says  
18 either.

19 Q. You received many e-mails from  
20 Mr. Rastin?

21 A. No, I have seen many emails from my  
22 counsel and I do not know what's in their signature  
23 line either.

24 Q. That's fine. You can set that aside.

25 Now, you mentioned that you had

1       communicated with Mr. Givens of the Empowerment  
2       Alliance, right?

3             A.     Yes, sir.

4             Q.     And also you communicated with Lanny  
5       Spaulding.

6             A.     Correct.

7             Q.     Now, just to kind of set the stage here,  
8       you met Mr. Spaulding at a dinner; is that right?

9             A.     That is correct.

10            Q.     Right.  And you met Mr. Spaulding and  
11       others over dinner at the Mount Vernon restaurant in  
12       the summer of 2023 to discuss concerns about the  
13       project, correct?

14            A.     Correct.

15            Q.     All right.  And some of those attending,  
16       including Mr. Tom Rastin, Mr. Tom Whatman, Lanny  
17       Spaulding, and Trina Trainor, correct?

18            A.     Correct.

19            Q.     And you were there obviously.

20            A.     Yes, sir.

21            Q.     Now -- hold that.  And the purpose of  
22       that meeting was to discuss concerns about the  
23       solar -- Fraiser Solar project?

24            A.     Correct.

25            Q.     Now, Knox Smart Development was formed a

1 few months after that dinner, right?

2 A. That's correct.

3 Q. All right. And -- and going back to Tom  
4 Whatman, who is Tom Whatman?

5 A. Tom Whatman is somebody who resides I  
6 believe in Richland County. He is, as far as I know,  
7 an auctioneer. I believe he is with Majority  
8 Strategies, and a farmer.

9 Q. Okay. And do you know what Majority  
10 Strategies does?

11 A. I know that they, per their website, are  
12 an entity that consults and helps with branding and  
13 political campaigns.

14 Q. And Knox Smart Development conducted two  
15 town hall meetings, one on November 3, 2023, and one  
16 on February 24, 2024, correct?

17 A. Correct.

18 Q. And Mr. Whatman was the emcee for the  
19 first town hall meeting, right?

20 A. Yes, sir.

21 Q. And to your knowledge, was he compensated  
22 in any way for that -- for working at that -- for  
23 emceeing the meeting?

24 A. He was not.

25 Q. To your knowledge, was Majority

1 Strategies compensated for that meeting?

2 A. They were not.

3 Q. And has Knox Smart Development paid  
4 Majority Strategies for any work? Since it was  
5 formed?

6 A. That I am not aware.

7 Q. Would you be the only one that would be  
8 aware if payments were made?

9 A. No.

10 Q. Okay. Now, Knox Smart Development has a  
11 website.

12 A. Yes.

13 Q. And you monitor that occasionally?

14 A. Occasionally.

15 Q. And you made corrections to it.

16 A. Yes, sir.

17 Q. Right? And at one point the Knox Smart  
18 Development website included a link to the  
19 Empowerment Alliance website, correct?

20 A. Yes.

21 Q. And you believe that was directing  
22 traffic to a renewable energy page, correct?

23 A. Correct.

24 Q. And that link was initially put on the  
25 website because it shared concerns and stats with

1 renewable energy, correct?

2 A. Yes.

3 Q. And you removed that link sometime ago.

4 A. That's correct.

5 Q. And you removed it because people were  
6 trying to imply a link between Knox Smart Development  
7 and the Empowerment Alliance, correct?

8 A. Correct.

9 Q. All right. Now, sitting here today you  
10 don't dispute that you used resources of the  
11 Empowerment Alliance to assist you in opposing the  
12 Frasier Solar project?

13 A. Nonfinancial, correct.

14 Q. Okay.

15 MR. SETTINERI: One moment, your Honors.  
16 Your Honor, I want to go back to the Ohio Energy  
17 Reporter, if I may, Mr. Yost, and I would like to  
18 mark as Company Exhibit 13 a copy of the Saturday  
19 edition, March 16, 2024, of the Ohio Energy Reporter.

20 ALJ HICKS: So marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 Q. (By Mr. Settineri) Going back to the Ohio  
23 Energy Reporter, Mr. Yost, you are aware that the  
24 Ohio Energy Reporter mailed a publication to  
25 residents near the project area.

1 A. Yes.

2 Q. Okay. And you were at the public  
3 hearing -- all the public hearings?

4 A. Yes.

5 Q. And do you recall one individual  
6 testifying about the Ohio Energy Reporter and  
7 providing the Board with a copy?

8 A. I don't.

9 Q. Okay. And have you seen this -- have you  
10 seen a copy of the Ohio Energy Reporter before?

11 A. Yes, during the deposition Friday.

12 Q. Okay. Let me ask you a question. If you  
13 turn to page 4 of this document do you see at the  
14 bottom of the statement, "If the inverters are  
15 located on that 100 acres, they sound like locusts  
16 and the noise can be heard in a 1-mile radius." Do  
17 you see that?

18 A. Yes.

19 Q. All right. Do you agree with that  
20 statement?

21 A. I have no opinion on that statement.

22 Q. Last question for now. The -- have you  
23 ever been on the Mount Vernon Fire Department's  
24 website?

25 A. I do not believe so.

1 MR. SETTINERI: Okay. We have no further  
2 questions for Mr. Yost. Thank you, Mr. Yost.

3 ALJ HICKS: Thank you, Mr. Settineri.

4 Okay. Up next, if there is any cross --  
5 I am just going to go through the order I have here.  
6 So next on my list --

7 MR. DOVE: Do you want to go down the  
8 row?

9 ALJ HICKS: We can. OEC.

10 MR. TAVENOR: Yes, I have a few questions  
11 for you, just a few.

12 - - -

13 CROSS-EXAMINATION

14 By Mr. Tavenor:

15 Q. So thank you for your time today. So on  
16 pages 5 and 6 of your testimony, lines 18 of page 5  
17 onward, you discuss the public interest of the  
18 project, and the expansion of Mount Vernon southward,  
19 correct?

20 A. Correct.

21 Q. Okay. So you say that, "Mount Vernon has  
22 already planned on using some of the proposed project  
23 area to expand south," correct?

24 A. Correct.

25 Q. Do you know if Mount Vernon expanded

1 south and created an industrial district in planning  
2 residential development if it would use farmland?

3 A. It would.

4 Q. And so would that farmland ever be  
5 recoverable if used for a resident or industrial  
6 purposes?

7 A. Most likely not.

8 Q. Would you want the land directly adjacent  
9 to your property developed for residential or  
10 industrial purposes?

11 A. The land next to my property would be  
12 zoned via our township. So when I bought that  
13 property I would know exactly what type of stuff  
14 could be built near me, which would not include  
15 anything industrial.

16 Q. But if Mount Vernon expanded southward  
17 and annexed township land, it could be used as  
18 industrial/residential potentially, correct?

19 A. Absolutely.

20 Q. And so if that happened, would you want  
21 it to be developed for residential or industrial?

22 A. I don't know. I have no problem with  
23 residential. Industrial, I honestly don't know.

24 Q. Thank you. And then on page 7, lines 3  
25 through 5, when we were just looking at that with Mr.



1 Settineri just a second ago, you used the word fossil  
2 fuel industry. What do you define as fossil fuel  
3 industry?

4 A. I utilize that term because that is a  
5 term that most people utilize. I would call it the  
6 oil and gas industry.

7 Q. Okay. So would you include organizations  
8 whose mission is to expand fossil fuel development in  
9 Ohio and the United States even if they don't  
10 directly price or use oil, gas or coal?

11 A. Yes.

12 Q. So you are familiar with the Empowerment  
13 Alliance, correct?

14 A. Yes.

15 Q. And you and Knox Smart Development have  
16 collaborated with the Empowerment Alliance over the  
17 past year or so, would that roughly describe the  
18 relationship?

19 A. I have asked them questions.

20 Q. Okay. And you have conversations with  
21 people affiliated with the Empowerment Alliance who  
22 provided you information about solar facilities,  
23 correct?

24 A. Solar and other energy facilities,  
25 correct.

1 Q. What other energy facilities?

2 A. Such as different coal, nuclear, and  
3 natural gas generation facilities.

4 Q. Okay. And so did you use information  
5 provided by the fossil fuel industry and its  
6 affiliates when developing the content of Knox Smart  
7 Development website and its presentations to the  
8 people of Knox County?

9 A. I -- I would say yes.

10 Q. So would it be correct to say that you  
11 and Knox Smart Development have collaborated with the  
12 fossil fuel industry?

13 A. Not collaborated. I do not take any  
14 input from them at all. I use whatever resources are  
15 available to me to help me in my endeavor and that  
16 included reaching out to them with questions.

17 Q. Okay. A few more questions. Would you  
18 want to see fossil fuel companies expanded in Knox  
19 County such as through oil and gas wells or natural  
20 gas plant or coal plant?

21 A. I honestly don't have an opinion on that.

22 MR. TAVENOR: Okay. No further  
23 questions.

24 ALJ HICKS: Mr. Robertson's counsel.

25 MR. DOUGHERTY: Yes, thank you.

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CROSS-EXAMINATION

By Mr. Dougherty:

Q. Just three kind of brief areas here. One for just clarity, you've testified that you own property adjacent to the project site, correct?

A. Yes, sir.

Q. And is that your residence?

A. It is not.

Q. It's not, okay. On page 3, I believe in your testimony, Q and A 15, you testify in that answer, I believe, stay about page -- sorry, line 9 on page 3, you testified that you're concerned about damage to drain tile causing an increase in water runoff?

A. Correct.

Q. That's correct? And your answer in the Q and A with Mr. Settineri, you said that you had read that Joint Stipulation and the conditions; is that correct?

A. Yes.

Q. And do you remember from that Joint Stipulation Condition 22 which provides that the Applicant shall avoid, where possible, or minimize to the extent practical, those impacts to drain tiles?

A. Yes.

1 Q. And do you remember on that same  
2 condition that further provides that 30 days prior to  
3 the pre-construction conference the Applicant shall  
4 docket a field tile avoidance and repair plan?

5 A. Yes.

6 Q. And do you remember that same condition  
7 that the Applicant's required to document benchmark  
8 conditions and drainage systems and consult county  
9 records and local Soil and Water Conservation  
10 District records about drain tiles?

11 A. Yes.

12 Q. And do you remember reading that damaged  
13 field tiles systems shall be promptly repaired or  
14 rerouted to at least original conditions or modern  
15 equivalent at the Applicant's expense to ensure  
16 proper drainage?

17 A. Yes. If they know they hit them, yes.

18 Q. Yes. And you do mention that in that  
19 answer 15, your concern field tiles is -- a lot of  
20 the concern is because many folks don't notice until  
21 there is a catastrophic event that there is damage to  
22 the field tiles.

23 A. That's correct. It could take up to a  
24 couple, three years before you actually notice any  
25 damage from a plugged field tile.

1 Q. And by you, you mean any owner of land  
2 that owns the tile?

3 A. That is correct.

4 Q. That could be a farmer or a residential  
5 landowner or -- or whatever -- whatever use.

6 A. Absolutely.

7 Q. And do you know of any of your neighbors  
8 or any other users of property near you with drain  
9 tiles that have a plan such as that that's referenced  
10 in the Joint Stipulation and recommendations that I  
11 laid out and you said you read?

12 A. I do not.

13 Q. One more set of questions here. If you  
14 go to Q and A, I believe it's 25. Find where that  
15 page is. Yes, page 6, question is on 18 and -- line  
16 18 and the answer starts on line 20. In that answer,  
17 you state some concerns about copper and copper  
18 wiring?

19 A. Yes.

20 Q. Is that correct? Do you recall -- sorry.  
21 Let me -- so your concern is while the wires are  
22 sealed and should not cause any harm during  
23 electrical production, when they are torn during  
24 decommissioning the copper will be exposed and  
25 subject to leeching.

1           A.    Correct.

2           Q.    Correct.  And you state that copper is  
3 known to kill most plants and trees, even mature  
4 trees.

5           A.    Correct.

6           Q.    And do you -- you didn't commission any  
7 expert analysis on copper wiring or leeching of  
8 copper for this testimony?

9           A.    I did not.

10          Q.    And you have -- you are not submitting  
11 any studies to suggest this concern.

12          A.    Correct.

13          Q.    And have you seen or can you point to  
14 an -- in the Staff Report anything about wires torn  
15 during decommissioning?

16          A.    When a -- when decommissioned, things  
17 below 3-foot can be left behind, and unless somebody  
18 is going 3 feet down and cutting them manually it  
19 would be torn when pulled out.  I could utilize a  
20 different term but, you know.

21          Q.    No.  I am going -- I'm going to move to  
22 strike everything there.  I asked the question that  
23 was essentially a yes or no, do you recall seeing  
24 anything in the Staff Report about wires?  The rest  
25 is fine but could be asked on redirect.

1 ALJ HICKS: Can you reread the question  
2 and answer, Karen?

3 (Record read.)

4 ALJ HICKS: I will a grant the motion.  
5 Go ahead and reask the question. It can certainly be  
6 brought up on redirect.

7 Q. (By Mr. Dougherty) Do you recall seeing  
8 anything in the Staff Report about wires being torn  
9 during decommissioning?

10 A. No, sir.

11 MR. DOUGHERTY: Thank you. No more  
12 questions.

13 ALJ HICKS: Go to the IBEW.

14 MR. DOVE: Thank you, your Honor.

15 - - -

16 CROSS-EXAMINATION

17 By Mr. Dove:

18 Q. Just briefly, could you turn to page 3,  
19 lines 4 and 5 of your testimony? You'll see a  
20 sentence there, it's kind of towards the end of line  
21 4, "Beyond the possible devaluation I am concerned  
22 that the increase in permanent water may cause the  
23 land to revert to wetland." Do you see that?

24 A. Yes.

25 Q. Was your land previously wetland?

1           A.    It has water on it at some points, but it  
2 is not considered a wetland.

3           Q.    Okay.  So it wasn't when you purchased it  
4 and it is not today wetland?

5           A.    Correct.

6           MR. DOVE:  Okay.  Thank you.  That's all  
7 I have, your Honor.

8           ALJ HICKS:  Thank you.  I believe nothing  
9 for the Farm Bureau, but I will just confirm that  
10 now.

11          MS. CURTIS:  No questions, your Honor.

12          ALJ HICKS:  Okay.  Do you all need a  
13 minute to discuss on redirect, or if you have  
14 redirect?

15          MR. HOLTHUS:  If we might, your Honor,  
16 that would be appreciated.

17          ALJ HICKS:  I was going to take a break  
18 after this witness.  Do you want to just take a break  
19 now, or did you need a few minutes?  Let's take 10  
20 minutes, come back at 11:20.

21                 We will go off the record.

22                 (Recess taken.)

23          ALJ HICKS:  We can go ahead and go back  
24 on the record.

25                 Before I hand it to you I realized I had



1 inadvertently jumped over Staff, which I think was  
2 marked no cross, but we will just verify that on the  
3 record.

4 MS. BOTSCHNER O'BRIEN: No questions from  
5 Staff. Thank you.

6 ALJ HICKS: Sorry about that.

7 Any redirect?

8 MR. HOLTHUS: No redirect, your Honor.  
9 Thank you very much.

10 ALJ HICKS: Thank you very much.

11 With that, Mr. Yost, we appreciate your  
12 time.

13 THE WITNESS: Thank you, sir.

14 ALJ HICKS: We can go ahead and take up  
15 exhibits. For KSD I don't know if you have moved  
16 already for the admission of his testimony.

17 MR. HOLTHUS: Excuse me. We would indeed  
18 move for the admission of Mr. Yost's testimony on  
19 behalf of in his capacity as a member of Knox Smart  
20 Development and also in his individual capacity.

21 ALJ HICKS: Okay. Any objection to what  
22 has been marked Yost Exhibit 1?

23 Hearing none, it is admitted.

24 (EXHIBIT ADMITTED IN EVIDENCE.)

25 ALJ HICKS: And would the Company like to

1 take up any of its exhibits right now?

2 MR. SETTINERI: Yes, your Honor. What we  
3 would do is we would move for admission of Exhibit  
4 Company 8 which is the preliminary maximum site plan.  
5 I would ask though that the one Mr. Yost --  
6 Mr. Yost's one that he marked on the stand be  
7 admitted to the court reporter for the record because  
8 if you recall he circled his house and location. So  
9 I think he may have taken that when he left the  
10 stand, but if he has it, that's one I would like to  
11 admit.

12 ALJ HICKS: Is there an objection to that  
13 one?

14 MR. HOLTHUS: No, sir.

15 ALJ HICKS: Any other parties?

16 Okay. Then Company Exhibit 8 and  
17 let's -- yeah let's make sure that ends up with the  
18 court reporter. It will be admitted.

19 (EXHIBIT ADMITTED INTO EVIDENCE.)

20 MR. SETTINERI: For the court reporter to  
21 mark because they are kind of hard to see, but they  
22 are there.

23 Then, your Honor, we will also move for  
24 the admission of Company Exhibit 9, 10, 11, 12.  
25 These are the copies of the pages from the Knox

1 Weekly News.

2 ALJ HICKS: Any objection to the  
3 admissions of Exhibits 9, 10, 11, 12?

4 MR. HOLTHUS: No objections.

5 MR. SETTINERI: And for the Bench, we  
6 would submit -- we would be glad to send an updated  
7 copy to counsel and to the court reporter because the  
8 Company Exhibit 10, the date was cut off of that  
9 copy.

10 ALJ HICKS: Okay. With that proviso  
11 Company Exhibits 9, 10, 11, 12 will be admitted.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 MR. SETTINERI: And that's it, your  
14 Honor.

15 ALJ HICKS: Okay.

16 MR. VAN KLEY: Your Honor.

17 ALJ HICKS: Yes.

18 MR. VAN KLEY: We would move into  
19 admission Exhibit 13.

20 ALJ HICKS: Company Exhibit 13? Is there  
21 an objection to admitting Company Exhibit 13?

22 MR. SETTINERI: No objection.

23 MR. HOLTHUS: No, your Honor.

24 ALJ HICKS: Okay. Then it will be  
25 admitted.

1 (EXHIBIT ADMITTED INTO EVIDENCE.)

2 ALJ HICKS: Okay. I think with that the  
3 next on our list, I believe, is Mr. Keesee, if I am  
4 saying the name correctly. So we will hand it over  
5 to Mr. Van Kley.

6 MR. VAN KLEY: Thank you, your Honor. We  
7 will call to the stand Gary Keesee, Your Honors. I  
8 gave you a copy of his testimony on the Bench there.

9 ALJ HICKS: Okay.

10 ALJ ASTA: And I will note for the record  
11 this is PKCO Exhibit 4.

12 MR. VAN KLEY: That's correct, your  
13 Honor. We would like to mark his testimony, his  
14 direct testimony, as PKCO Exhibit 4.

15 ALJ ASTA: It's so marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 ALJ ASTA: Please raise your right hand.

18 (Witness sworn.)

19 ALJ ASTA: You may proceed, Mr. Van Kley,  
20 whenever you are ready.

21 MR. VAN KLEY: All right. Thank you,  
22 your Honor.

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GARY KEESEE

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

DIRECT EXAMINATION

By Mr. Van Kley:

Q. Would you state your name, please, and spell your last name?

A. Gary Keesee, K-E-E-S-E-E.

Q. Mr. Keesee, do you have in front of you a true and accurate copy of your written direct testimony?

A. Yes.

Q. Did you or someone under your supervision prepare this testimony?

A. No. Someone helped me -- I wrote it.

Q. Okay.

A. Yeah.

Q. Did -- do you have any corrections to make to your testimony?

A. Not at this time.

Q. If I asked you the questions in your testimony today would your answers be the same as written in your testimony?

A. Yes.

MR. VAN KLEY: At this time, your Honor,

1 the witness is ready for cross-examination.

2 ALJ ASTA: Thank you.

3 For Knox Smart, do you have any  
4 clarifying questions you wish to ask?

5 MR. HOLTHUS: We do not. Thank you.

6 ALJ ASTA: Thank you.

7 Frasier cross-examination?

8 MR. SETTINERI: Thank you, your Honor.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Settineri:

12 Q. Good morning, Mr. Keesee. I am Mike  
13 Settineri on behalf of Frasier Solar. It's nice to  
14 meet you.

15 MR. SETTINERI: Your Honor, at this time  
16 if I may approach, we want to mark a document as  
17 Company Exhibit 15.

18 ALJ ASTA: You may.

19 MR. SETTINERI: And for the record, your  
20 Honor, I will note this is a printout from the Knox  
21 County GIS property search maps.

22 ALJ ASTA: Thank you. So marked as  
23 Company Exhibit 15.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 MR. SETTINERI: Thank you, your Honor.

1 Q. (By Mr. Settineri) Mr. Keesee, now you  
2 reside in the project area or near the project area,  
3 correct?

4 A. Correct.

5 Q. Okay.

6 A. It borders my property.

7 Q. Now, I have handed you what's been marked  
8 as Company Exhibit 15 which I will represent is a  
9 printout from the Knox County auditor's website. Is  
10 your property shown on this drawing?

11 A. Yes.

12 Q. All right. So first of all, how many  
13 parcels do you own in -- in -- well --

14 A. Yeah, I'm not sure, several.

15 Q. So your residence and the nonresidential  
16 land you reference in your testimony consist was of  
17 more than one parcel.

18 A. Correct, they are connecting.

19 Q. So the yellow box, would you agree that  
20 that is a parcel that's owned by you?

21 A. Yes.

22 Q. Okay. And is that the approximately  
23 45 acres of land that you reference in your testimony  
24 at page 3, line 1?

25 A. I own more land than that, but that is

1 the box that you show.

2 Q. Let's -- just for the record, if you look  
3 at page 3 of your testimony. I think you have a copy  
4 there.

5 A. Yes.

6 Q. And look at line 1.

7 A. Yeah.

8 Q. You say, "Approximately 45 acres of my  
9 land is occupied by woods and wetland that are  
10 teeming with wildlife and plant life." And is that  
11 yellow box -- does that represent the 45 areas?

12 A. Yeah, it's 45 acres.

13 Q. And then your house is to the bottom  
14 left-hand corner of that box; is that correct?

15 A. That's correct.

16 Q. And you have a very long driveway.

17 A. Very long.

18 Q. Okay. Now do you have -- and you have a  
19 row of trees up and down the -- from the -- from the  
20 road up all the way to the driveway and past your  
21 house, right? That's in the southern part of your  
22 property; is that right?

23 A. I have a row of trees along my driveway  
24 and there are some trees along the border.

25 Q. Border to the south, right?



1           A.    If I -- I am not sure which direction is  
2 south but, yes, I guess.

3           Q.    It would be towards -- let's call it  
4 south.

5           A.    Towards the top of the map.  Towards  
6 north towards the top.

7           Q.    Let me make sure I am clear.  Let's go to  
8 the -- let's -- just to make it easy for us let's do  
9 north to the top of the page and south to the bottom.

10          A.    Yeah, right.

11          Q.    Just for us.

12          A.    Yep.

13          Q.    And so you have for your property,  
14 especially your -- I will call it the residential  
15 property, which is your driveway and your house,  
16 there are a row of trees to the south of that all the  
17 way, right?

18          A.    I own the field that has the green and  
19 red writing on it as well towards -- towards the top  
20 of the page from my house.  It's 4 -- there is a  
21 4-acre lot there too.  Do you see that?

22          Q.    So let me ask, is it just to the right of  
23 Miller 19 in the drawing?

24          A.    You mean -- the Miller 19 is written  
25 twice, but the open land -- if you go from the

1 treeline to the bottom of -- bottom of my property  
2 clear up to where that white building is, that's --  
3 that field, that's all part of my property.

4 Q. If you could do me a favor, could you  
5 just draw the boundary of your property, if you have  
6 a pen, on that document, please?

7 A. Sure. Yes. And it cuts off to the  
8 yellow line. In other words, it's not a straight  
9 line to the marsh. It actually diagonally goes over  
10 and intersects the marsh.

11 MR. SETTINERI: Your Honor, to help move  
12 things along, may I approach the witness and look at  
13 the drawing?

14 ALJ ASTA: Yes, you may.

15 MR. SETTINERI: Thank you.

16 Q. (By Mr. Settineri) While I am going --  
17 looking at the drawing, or going to look at the  
18 drawing, Mr. Keesee, do you -- in that area within  
19 the yellow box, are there paths in that area?

20 A. There's a couple walking trails.

21 Q. Okay.

22 A. And -- yeah. So this is -- this field is  
23 all part of mine, too. This is the boundary here.  
24 Does that make sense?

25 Q. Yes, it does.

1 MR. SETTINERI: Do you want to see, Jack?

2 Q. (By Mr. Settineri) So if I go to the  
3 southern border and I -- for purposes of that it's  
4 towards the bottom of the drawing going south of your  
5 house, there's a row of trees along the bottom  
6 boundary of that property, right?

7 A. The bottom property of my property.

8 Q. Okay.

9 A. Yeah, along the fencerow.

10 Q. Okay.

11 A. Yeah.

12 Q. All right. And for -- do you use an ATV  
13 in -- on those walking paths at all?

14 A. Four wheeler.

15 Q. Four wheeler?

16 A. Sometimes.

17 Q. Do you have any children or grandchildren  
18 that use the ATV?

19 A. Yes, but not very often. I mean, we may  
20 go months without being in the woods. Usually in  
21 hunting season is really the only time we bow hunt  
22 for deer back there.

23 Q. Okay.

24 A. It's a big marsh. It's -- the State of  
25 Ohio wanted to buy it at one time because of its

1 value as a marsh, as well as Knox County also offered  
2 to buy it one time to put a park in there.

3 MR. SETTINERI: I will have to move  
4 everything after a big marsh and after, your Honor.  
5 I didn't have a question pending.

6 THE WITNESS: I know you are looking at  
7 it so I thought I would just add that.

8 Q. Thank you.

9 ALJ HICKS: I will grant the motion to  
10 strike.

11 Q. (By Mr. Settineri) Now, there's also a  
12 row -- if you go north -- do you see the yellow  
13 notation H724 to the north? Top -- towards the top  
14 of that map?

15 A. Clear up there?

16 Q. Okay. Those are woods as well along that  
17 area, correct?

18 A. Just -- just of that line is just brush  
19 and some --

20 Q. Okay.

21 A. Yeah.

22 Q. All right.

23 A. I don't know much about it. It's not my  
24 property.

25 Q. All right. And then let me ask you this:

1 You have a significant amount of woods around your  
2 property generally speaking, correct?

3 A. Say that -- I have the 45 acres, yes.

4 Q. Okay. And you are not planning to clear  
5 those acres?

6 A. Never.

7 Q. Okay. All right.

8 MR. SETTINERI: No further questions.  
9 Thank you.

10 ALJ ASTA: Thank you.

11 OEC?

12 MR. TAVENOR: No questions from OEC.

13 ALJ ASTA: Thank you.

14 Staff?

15 MS. BOTSCHNER-O'BRIEN: No questions from  
16 Staff.

17 ALJ ASTA: And Mr. Robinson?

18 MR. DOUGHERTY: No questions.

19 ALJ ASTA: IBEW?

20 MR. DOVE: No questions, your Honor.

21 ALJ ASTA: And the Farm Bureau?

22 MS. CURTIS: No questions.

23 ALJ ASTA: Any redirect, Mr. Van Kley?

24 MR. VAN KLEY: Could I have about 5  
25 minutes with the witness, please?

1 ALJ ASTA: Yes.

2 MR. VAN KLEY: Okay. Thank you.

3 ALJ ASTA: We'll go off the record.

4 (Discussion off the record.)

5 ALJ ASTA: We'll's go back on the record.

6 And Mr. Van Kley, redirect?

7 MR. VAN KLEY: Yes, I have a little bit  
8 of redirect, your Honor. Thank you.

9 - - -

10 REDIRECT EXAMINATION

11 By Mr. Van Kley:

12 Q. Mr. Keesee, approximately how many times  
13 has anyone, whether it's you or your wife or your  
14 grandkids, driven an ATV back into the woods on that  
15 larger property that you own?

16 A. Most of the time they ride up in the  
17 field up near the house, but I've been there three  
18 times this year just to check the property lines, and  
19 probably they probably four times, so maybe six or  
20 seven times this year.

21 Q. Got it. And how long does such a trip  
22 take?

23 A. 5 to 7 minutes.

24 Q. All right. Do you go back into the woods  
25 at any other time besides the times that you

1 mentioned that you use the ATV?

2 A. Hunting season.

3 Q. Okay.

4 A. Which would be September -- late  
5 September on through -- through February.

6 Q. Are there any other purposes for going  
7 back into the woods?

8 A. Walk it, walk through there, yeah,  
9 sometimes.

10 Q. Okay.

11 A. Like I said, not much.

12 Q. Can you describe the relative loudness or  
13 quietness of the ATVs that you use, or the ATV that  
14 you use?

15 A. They are 4 cylinder engines. They are  
16 pretty quiet -- not 4 cylinder, 4 cycle. I'm sorry,  
17 4 cycle engine.

18 MR. VAN KLEY: Thank you. Nothing  
19 further, your Honor.

20 ALJ ASTA: Thank you.

21 Frasier?

22 MR. SETTINERI: Yeah, sure.

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RECROSS-EXAMINATION

By Mr. Settineri:

Q. When was the last time you went hunting,  
Mr. Keesee

A. This year?

Q. Uh-huh?

A. I haven't hunted yet this year.

Q. And what about last year in 2023? When  
was the last time you hunted?

A. I hunted twice during bow season, I  
believe it was like October 10, and that week, so two  
times that week of October, probably, twice. And I  
bow hunt.

MR. SETTINERI: No further questions.

Thank you.

ALJ ASTA: Thank you.

You didn't ask any questions?

MR. TAVENOR: Yeah, no further questions.

ALJ ASTA: I believe that was the case  
down the way. Okay. Knox Smart, any clarifying  
questions you would like to ask?

MR. HOLTHUS: No. Thank you, your Honor.

ALJ ASTA: All right. I don't have any  
questions.

ALJ HICKS: No. Thank you.



1 THE WITNESS: Give these to?

2 ALJ HICKS: You can give them to your  
3 counsel. Oh, she doesn't have -- yeah, the one  
4 that's drawn, I assume.

5 THE WITNESS: Who does this go to?

6 COURT REPORTER: Me.

7 ALJ ASTA: And I will hand it back to ALJ  
8 Hicks for our next witness.

9 ALJ HICKS: So we can take up exhibits as  
10 well. I don't know if you moved already for  
11 admission but --

12 MR. VAN KLEY: I have not, your Honor, I  
13 would like to do so. I would like to move into  
14 admission PKCO Exhibit 4.

15 ALJ HICKS: Any objections to its  
16 admission?

17 Hearing none, it is admitted

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 MR. VAN KLEY: Your Honor, we would also  
20 like to move into admission Company Exhibit 15.

21 MR. SETTINERI: Good to go on that.

22 ALJ HICKS: Just to clarify, we are using  
23 the one --

24 MR. SETTINERI: That the witness marked.

25 ALJ HICKS: That he marked while --

1 MR. VAN KLEY: That's correct, your  
2 Honor.

3 ALJ HICKS: That will be so admitted.  
4 (EXHIBIT ADMITTED INTO evidence.)

5 ALJ HICKS: Okay. I think that takes  
6 care of exhibits. Now with our order, I believe we  
7 are handing it off to Frasier Solar to call their  
8 first witness.

9 Just for planning purposes my thought  
10 would be to go somewhere around 1:00 and break for  
11 lunch there, so if you see natural breaking points in  
12 cross around then, just let us know.

13 (Witness sworn.)

14 ALJ HICKS: Hand it off to you,  
15 Mr. Settineri.

16 MR. SETTINERI: Thank you, your Honor.

17 - - -

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

21 DIRECT EXAMINATION

22 By Mr. Settineri:

23 Q. Good morning, Mr. Adair.

24 A. Good morning.

25 Q. Can you please state your name and

1 business address for the record, please?

2 A. My name is Craig Adair, C-R-A-I-G  
3 A-D-A-I-R, and company address is 1105 Navasota  
4 Street, Austin, Texas 78702.

5 MR. SETTINERI: And, your Honor, at this  
6 time we are going to mark a number of exhibits.

7 ALJ HICKS: Okay.

8 MR. SETTINERI: The Bench should have  
9 copies of the Application, but first I would mark as  
10 Company Exhibit 1 the Application in this proceeding.

11 ALJ HICKS: So marked.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 MR. SETTINERI: Then, your Honor, we  
14 would mark -- give everyone a packet here. All  
15 right. So I have a number of exhibits to mark at this  
16 time.

17 ALJ HICKS: Let's go down the list now  
18 and get them marked.

19 MR. SETTINERI: Yes, sir. The Company  
20 Exhibit 2, which is the first supplement to the  
21 Application filed November 28, 2023.

22 ALJ HICKS: So marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 MR. SETTINERI: We have Company  
25 Exhibit 3, a notice of reduction to project area

1 filed April 2, 2024.

2 ALJ HICKS: So marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 MR. SETTINERI: We have Company  
5 Exhibit 4, which is a Proof of Service of the  
6 Application, and that would be -- actually  
7 December 14, 2023, and there are -- actually  
8 consists -- it looks like two filings.

9 ALJ HICKS: So those filings will be  
10 marked as Exhibit 4.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. SETTINERI: Company Exhibit 5 is  
13 various proofs of notice of the public information  
14 meeting.

15 ALJ HICKS: So marked.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 MR. SETTINERI: And we will mark as  
18 Company Exhibit 6, the Applicant's Responses to  
19 Staff's Data Responses, again a compilation, Company  
20 Exhibit 6.

21 ALJ HICKS: So marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. SETTINERI: Next we would mark the  
24 direct testimony of Mr. Adair as Company Exhibit 16.

25 ALJ HICKS: So marked.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 MR. SETTINERI: And last, we would mark  
3 the Stipulation that was filed in this proceeding  
4 as -- we will just call it Joint Exhibit 1.

5 ALJ HICKS: So marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 MR. SETTINERI: Thank you, your Honor.

8 Q. (By Mr. Settineri) All right, Mr. Adair.  
9 We are going to walk through some exhibits and have  
10 you identify them for the record. Let's start with  
11 Company Exhibit 1 which is the Application, please.  
12 Can you identify that for the record?

13 A. That is Frasier Solar's application for a  
14 certificate.

15 Q. Okay. Was that prepared by you or at  
16 your direction?

17 A. It was.

18 Q. All right. Let's next turn to Company  
19 Exhibit 2. And can you identify that for the record,  
20 please?

21 A. This is the first supplement to the  
22 Frasier Solar application.

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

25 A. It was.

1 Q. All right. And if you could turn then  
2 and identify Company Exhibit 3 for the record,  
3 please.

4 A. This is the notice of reduction of the  
5 project area.

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

8 A. It was.

9 Q. And if you could identify Company  
10 Exhibit 4, please, for the record.

11 A. This is proof of service -- proof of  
12 notice of the service of the Application.

13 Q. Okay. If you could identify then Company  
14 Exhibit 5 for the record.

15 A. Well, mine isn't numbered but I think  
16 this is my direct testimony.

17 Q. Yeah. We didn't write a number on it.  
18 Why don't you take your pen, you can write Company  
19 Exhibit 16.

20 A. Okay.

21 Q. All right. Now, can you identify what  
22 you've marked as Company Exhibit 16 for the record?

23 A. This is my direct testimony.

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

1           A.    It was.

2           Q.    And do you have any changes or revisions  
3 to your testimony at this time?

4           A.    I do.

5           Q.    And so if you could carefully walk us  
6 through this specially for the court reporter,  
7 please.

8           A.    Okay.  Bear with me.  There are a few of  
9 these.  So the first one is on page 5, line 12.  The  
10 current version says in parenthesis "Exhibits 1 and  
11 1C," and we've changed that to "Exhibit 1."

12                    The next one is on page 8, line 10, we  
13 changed "Exhibit 7" to "Exhibit 3."

14                    Page 13, line 15, same change as before,  
15 "Exhibits 1 and 1C" changed to "Exhibit 1."

16                    The next change is on page 21, lines 22  
17 and 23.  We inadvertently included the "Board of  
18 Miller Township Trustees" in the list of entities  
19 that had signed the RUMA agreement, so we've stricken  
20 the "Board of Miller Township Trustees" that was  
21 included in error.

22                    The next page is on page 31, line 16.  
23 Strike "Staff-proposed" and then after 25 and before  
24 the comma, "of the Stipulation."

25                    Okay.  The next changes are on page 40

1 and 41. Some additional comments, public comments  
2 were submitted after I prepared my testimony so I am  
3 going to update these figures here on pages 40 and  
4 41. So on line 11, instead of August 1" it should  
5 read "August 15." And then right after that on  
6 line -- line 11, instead of "4,223," it should read  
7 "4,875." The next change is on line 17, the number  
8 "2,723" should now read "3,060."

9 Also line 17, "64 percent" should become  
10 "69 percent." And then on line -- also on line 17,  
11 the "36 percent" changed to "31 percent." Next line  
12 18, the "4,238" again "4,875." Also on line 18, the  
13 "3,512" should be "4,144."

14 Next line 19, "3,512" again, "4,144."  
15 Also on line 19, "879" should be "896." Line 20,  
16 "2,633" should be "3,248."

17 Line 22, "879" becomes "896." Also line  
18 22, "328" becomes "345." And also on line 22,  
19 "37 percent" becomes "39 percent." Line 23, still on  
20 page 40, "63 percent" becomes "61 percent." And then  
21 line 24, "253" changed to "264." "879" -- also on  
22 line 24, "879" becomes "896."

23 Now moving to page 41, of the 626  
24 individuals, change -- sorry, this is line 2. "Of  
25 the 626 individuals" should read "632 individuals."



1 Line 3, "255" changed to "261."

2 Line 4, "2,633" becomes "3,248." Line 5,  
3 "1,888" changed to "2,503." Also on line 5,  
4 "72 percent" changed to "77 percent." And line 6  
5 "28 percent" changed to "23 percent."

6 Just a few more here. Further down on  
7 page 41, line 15, "879" becomes "896." Line 16,  
8 "377" changed to "394." Line 18, "226" changed to  
9 "243." "60 percent" changed to "62 percent."

10 And then also on line 18, the  
11 "40 percent" changed to "38 percent." Next on page  
12 48, line 13, instead of the founding -- "the founding  
13 member" it should say "a founding member."

14 Page 51, line 16, strike "Joint  
15 Stipulation" and replace with "Staff Report."

16 Page 58, line 7, at the end of the  
17 parenthetical after the word report insert "with  
18 minor clarifications."

19 ALJ HICKS: Say that one again.

20 THE WITNESS: Page 58, line 7, end of the  
21 parenthetical after the words "Staff Report," insert  
22 "with minor clarifications."

23 ALJ HICKS: Thanks.

24 Q. (By Mr. Settineri) Is that inside the  
25 parenthetical?

1           A.    Inside, yeah.  So after "Report" and  
2 before the end of the parentheses.  Now, page 60,  
3 line 12, strike the word "also."

4                   Page 61, lines 15 and 16, strike the last  
5 sentence which reads, "These notices are currently  
6 pending with the FAA," and add the sentence in its  
7 place, "The FAA has issued DNHS for these  
8 structures."

9                   And that's it.

10           Q.    Okay.  Thank you, Mr. Adair.  If I were  
11 to ask you the questions in your testimony as written  
12 today, would your answers today be the same as  
13 written subject to your revisions?

14           A.    Yes.

15           Q.    And I would like you to identify next for  
16 the record Joint Exhibit 1, please.  Do you have a  
17 copy of that?

18           A.    Uh-huh.

19           Q.    And can you identify that for the record,  
20 please?

21           A.    Yeah.  This is the Joint Stipulation and  
22 recommendation for Frasier Solar.

23           Q.    All right.  Were you involved in the  
24 negotiations that took place related to that  
25 Stipulation?

1           A.     I was.

2           MR. SETTINERI:   Okay.   Thank you.

3           All right, your Honor.  At this time we  
4 offer the witness for cross-examination and move for  
5 the admission, subject to cross, of Company  
6 Exhibits 1 through 6, Exhibit 16, and Joint  
7 Exhibit 1.

8           ALJ HICKS:   Thank you.  Anything from  
9 OEC?  Mr. Robertson.

10          MR. DOUGHERTY:  No questions.

11          ALJ HICKS:   IBEW?

12          MR. DOVE:    No questions, your Honor.

13          ALJ HICKS:   Farm Bureau?

14          MS. CURTIS:  No questions, your Honor.

15          ALJ HICKS:   Staff?

16          MS. BOTSCHNER-O'BRIEN:  No questions.

17          ALJ HICKS:  I assume you are going first,  
18 Mr. Van Kley.

19          MR. VAN KLEY:  I will on this one.  
20 Counsel for Knox Smart and I will kind of divide the  
21 witnesses as to who goes first.

22          ALJ HICKS:   Okay.  Refer to you.

23          MR. VAN KLEY:  I will go first on this  
24 one.

25          ALJ HICKS:   I appreciate on cutting down

1 on overlap.

2 MR. VAN KLEY: Sure.

3 - - -

4 CROSS-EXAMINATION

5 By Mr. Van Kley:

6 Q. Good afternoon, Mr. Adair.

7 A. Good afternoon.

8 Q. Why don't we start off on your testimony  
9 Company Exhibit 16. And we will start with page 3.  
10 I would like to direct your attention to your answer  
11 to question 1 where you've listed some companies that  
12 have some ownership interest in the solar facility or  
13 in the Companies that own Frasier Solar.

14 So why don't we start at the top with --  
15 let's just start with Frasier Solar. How many  
16 projects has Frasier Solar developed besides the one  
17 that we are hearing today?

18 A. This is the only project -- Frasier Solar  
19 is the project that's under development. Frasier  
20 Solar has no other solar projects.

21 Q. Okay. So it doesn't operate any solar  
22 projects?

23 A. Frasier Solar, no.

24 Q. All right. And you've indicated here  
25 that Frasier Solar, LLC, is owned by Radiant Planet

1 Renewable Energy, LLC, correct?

2 A. Correct.

3 Q. How many -- how many solar projects has  
4 Radiant Planet Renewable Energy developed besides  
5 this one?

6 A. I'm not sure off the top of my head. I  
7 would venture it's in the range of 8 to 12.

8 Q. Are those all located in the United  
9 States?

10 A. Yes.

11 Q. How many does -- how many solar  
12 facilities does that company operate?

13 A. Radiant Planet does not operate solar  
14 projects. We develop solar projects.

15 Q. All right. Then you've indicated in your  
16 testimony that Radiant Planet Renewable Energy, LLC  
17 is a joint venture partnership between Eolian L.P.  
18 and Open Road Energy, LLC, correct?

19 A. Correct.

20 Q. How many solar projects has Eolian L.P.  
21 developed?

22 A. I don't know. They have developed 134  
23 projects, and then in some cases such as the case of  
24 Frasier Solar, they are the investor and we are the  
25 developer.

1           Q.    Are any of the projects that Eolian has  
2 been involved with the same projects as the 8 or 10  
3 you mentioned that Radiant Planet has been  
4 developed -- has developed?

5           A.    Yes. All of them are the same. Eolian  
6 is our investor and so they are a partner in all of  
7 our solar projects that we develop.

8           Q.    And then you refer to Open Road Energy,  
9 LLC. Other than the projects you have already  
10 referred to in your answers today, has Open Road  
11 Energy, LLC developed any solar projects?

12          A.    Open Road Energy has developed many solar  
13 projects and they are listed further down here.

14          Q.    All right. Can you point out where those  
15 projects are referenced?

16          A.    The projects in Ohio are listed on page  
17 5, lines 3 through 6.

18          Q.    All right.

19          A.    And there are other projects in other  
20 states that are not listed here.

21          Q.    How many other projects in other states?

22          A.    Maybe 15 to 20. But that's an estimate.

23          Q.    Okay. And do any of those projects  
24 overlap with the projects that Radiant Planet  
25 Renewable Energy has been involved with?

1 A. What do you mean by overlap?

2 Q. Are they the same projects, any of them  
3 the same projects?

4 A. No.

5 Q. And then you state that Open Road Energy,  
6 LLC is an affiliate of Open Road Renewables, LLC,  
7 correct?

8 A. Correct.

9 Q. Okay. Other than the solar projects that  
10 we've already discussed today, has Open Road  
11 Renewables been the developer of any other solar  
12 projects?

13 A. Open Road has developed many solar  
14 projects, not other than the ones we have just talked  
15 about.

16 Q. All right. So no other projects other  
17 than the ones we've talked about?

18 A. Yeah. I think we talked about the  
19 projects in Ohio and we've talked about projects  
20 outside of Ohio. Those are the only projects that  
21 Open Road has developed.

22 Q. Thank you. Besides the Frasier Solar  
23 project how many solar projects have you been  
24 involved in the development of?

25 A. I would say 6 to 10.

1 Q. How many of those have been constructed?

2 A. One.

3 Q. Which one is that?

4 A. That is the Blue Jay Solar project in  
5 Grimes County, Texas.

6 Q. Go to the bottom of page 4 of your  
7 testimony, please, line 22 at the bottom. It refers  
8 to members of your team developing one of the first  
9 utility-scale solar projects to go through permitting  
10 in Ohio. Do you see that?

11 A. Yep.

12 Q. What was the name of that project?

13 A. Hillcrest Solar.

14 Q. Does your company currently operate  
15 Hillcrest Solar?

16 A. No.

17 Q. Was your -- by your company, maybe I  
18 should clarify that since there is a bunch of  
19 companies in answer 1.

20 Has Open Road Renewables, or any  
21 subsidiary of Open Road Renewables, been involved in  
22 the operation of Hillcrest Solar?

23 A. I don't believe so.

24 Q. Have -- who -- who are the members of  
25 your team that you are referring to in lines 21 and



1 22 on page 4 of your testimony?

2 A. Doug Herling was the lead developer on  
3 that project. We are a small team and so we help  
4 each other out. There were probably other members of  
5 the team, or may have been that helped him, but he  
6 was the lead developer for that project.

7 Q. Was Mr. Herling or any other employee of  
8 Open Road Renewables or its subsidiaries involved in  
9 the construction of Hillcrest Solar?

10 A. Can you repeat the question?

11 Q. Sure. Was Mr. Herling or any other  
12 employee of Open Road Renewables or its subsidiaries  
13 involved in the construction of Hillcrest Solar?

14 A. No.

15 Q. When did Open Road Renewables or Frasier  
16 Solar first start to plan the Frasier Solar project?

17 A. I wasn't involved at the -- the  
18 inception, but I believe it would have been sometime  
19 in mid to late -- no, probably mid 2019. Do I need  
20 to stay further away from this?

21 ALJ HICKS: Can you hear him okay?

22 MR. VAN KLEY: Yeah, he is coming through  
23 loud and clear.

24 ALJ HICKS: I don't know if it's because  
25 there is no cover on it. If they can hear you, we

1 are good.

2 THE WITNESS: Okay.

3 Q. (By Mr. Van Kley) At the time that the  
4 project was first being developed it was Frasier  
5 Solar that was developing it or one of its affiliates  
6 such as Open Road?

7 A. It was members of -- of the Open Road  
8 team.

9 Q. When did those members of the Open Road  
10 team first start their discussions with farmers about  
11 potentially leasing their land for the project?

12 A. Like I said, I was not involved. I  
13 didn't get involved with the project until November  
14 of 2021. But I believe those conversations started  
15 around the end of 2019 or possibly the beginning of  
16 2020.

17 Q. To your knowledge, did Open Road  
18 renewable begin any discussions with people that it  
19 knew would not be participating landowners to inform  
20 them that Open Road was thinking about putting a  
21 solar facility in the area?

22 A. In the early stages of a project you  
23 visit with a lot of people, some of whom are  
24 interested in considering participating, some of whom  
25 are not, and we have those conversations with

1 everybody, everybody that is in -- within the area,  
2 in this case within proximity to the substation on  
3 Sharp Road.

4 So, yes, a number of conversations  
5 happened with people about the project. Generally it  
6 was for the purpose of identifying farmers who would  
7 be interested in participating, but because many of  
8 those decided not to participate, we had lots of  
9 conversations.

10 Q. At that time did Open Road have any  
11 conversations with people who are not farmers and  
12 thus would not have any land available to sign up for  
13 the project?

14 A. If they -- if we did, it would have just  
15 been because -- incidental conversations. We didn't  
16 initiate those conversations at that time.

17 Q. When was the first contract with the  
18 participating landowners signed?

19 A. I believe it was March of 2020.

20 Q. Does Open Road Renewables or Frasier  
21 Solar have any options to purchase any of the land in  
22 the project area?

23 A. We do. We have one.

24 Q. And what's the amount of acreage subject  
25 to that option?

1           A.    It's around 100 acres.

2           Q.    At this point has Open Road or Fraiser  
3 Solar purchased any of the land in the project area?

4           A.    No.

5           Q.    When did Frasier Solar first inform the  
6 general public about this project?

7           A.    That would have been in the late spring  
8 of 2022 as when we started meeting with public  
9 officials, the County Commissioners. I believe it  
10 was June when we had our first set of meetings with  
11 Township Trustees.

12          Q.    Has Open Road -- well, I guess maybe at  
13 this point we can talk about Frasier Solar. When did  
14 Frasier Solar get formed?

15          A.    I don't know.

16          Q.    Do you know when approximately the  
17 activities for this project were transferred from  
18 Open Road Renewables to Frasier Solar?

19          A.    The activities were always within --  
20 housed within Frasier Solar, LLC.

21          Q.    Okay. Good. Did Frasier Solar ever  
22 encourage the public to write letters of support for  
23 the project to the Power Siting Board?

24          A.    Yes.

25          Q.    By what means did it encourage the public

1 to do that?

2 A. Lots of means. I mean, any time we  
3 attended events, any conversations we had, we let  
4 people know generally about the OPSB process and the  
5 opportunities for public participation. And if  
6 somebody was interested, would explain how they could  
7 do that.

8 So, you know, I gave presentations to  
9 University classes. We, you know, met with lots of  
10 different groups around. We also posted that  
11 information on our website. We have a Facebook page.  
12 So we did our best to generally inform the public  
13 about the project and the opportunities to  
14 participate.

15 Q. Did Frasier Solar take out any  
16 advertisements urging members of the public to write  
17 letters to the Power Siting Board supporting the  
18 project?

19 A. Yes.

20 Q. On which types of media did it do so?

21 A. Certainly Facebook -- well, I don't know  
22 which of the ads specifically mentioned comments, but  
23 we had ads about the project, Facebook, Knox Pages, I  
24 don't know if we had any in the Mount Vernon news.  
25 It was mostly social media as well as the Knox Pages.

1 I believe.

2 Q. What are the Knox Pages?

3 A. That's a local online newspaper based in  
4 Mount Vernon.

5 Q. Did Frasier Solar take out any radio ads  
6 about the project?

7 A. I don't believe so.

8 Q. How about TV ads?

9 A. I don't believe so.

10 Q. Did Frasier Solar provide any form  
11 letters for supporters to sign and send to the Power  
12 Siting Board?

13 A. We did.

14 Q. How many different forms were employed  
15 for that purpose?

16 A. I don't recall. I would venture to say  
17 in the 3 to 5 range.

18 Q. And on which public media did you provide  
19 the public with access to those form letters?

20 A. Well, as I recall, the -- well, we had  
21 form letters at the county fair. We sponsored a  
22 booth at the county fair in 2022 and 2023, and we had  
23 form letters at the 2023 county fair.

24 We also had tables at a number of local  
25 events, the First Friday events, the Music and Arts

1 Festival. In many of those cases it was not me  
2 personally, it would be members of our team  
3 we had a couple of interns -- had a  
4 couple of interns from local universities, so  
5 different people attended those events. But in -- at  
6 every event we went to we had those letters available  
7 and we would let people know that if they would like  
8 to they could sign one of those, and they were also  
9 welcome to submit personal letters.

10 Q. At which University's classes did you  
11 provide presentations?

12 A. Mount Vernon Nazarene University and  
13 Kenyon College.

14 Q. On how many occasions did you make  
15 presentations about the project?

16 A. I can recall two right now; one to each  
17 University.

18 Q. Was that a presentation to a particular  
19 class or was it a different setting?

20 A. No. One -- the presentation to -- at the  
21 Naz was to a group of engineering students and  
22 faculty. I believe it was more -- I think it was one  
23 class but they invited students from other classes,  
24 so I think there was students from the engineering  
25 department as well as faculty. And then the class at

1 Kenyon was a single class.

2 Q. Approximately what was the size of the  
3 audience at the Nazarene presentation?

4 A. I would estimate 40 to 50.

5 Q. Did you provide the attendees of that  
6 presentation with the opportunity to submit form  
7 letters in support of the project?

8 A. I don't think so.

9 Q. Did you inform the attendees that there  
10 were form letters available online or elsewhere for  
11 that purpose?

12 A. I don't think so.

13 Q. How many attendees, approximately, were  
14 at the presentation you gave at Kenyon?

15 A. 15 to 20.

16 Q. Did you inform those attendees about the  
17 opportunity to submit letters in support of the  
18 project?

19 A. Yes.

20 Q. Did you provide them form letters for  
21 that purpose?

22 A. I don't believe so.

23 Q. Did you tell them that form letters were  
24 available for that purpose?

25 A. I don't believe so.



1 Q. Going back to the Kenyon presentation,  
2 did you request letters of support for the project at  
3 that presentation?

4 A. At which presentation?

5 Q. The Kenyon project.

6 A. Can you repeat the question?

7 Q. Yeah. At the Kenyon presentation did you  
8 ask the students for letters of support for the  
9 project?

10 A. I believe I mentioned to them that if  
11 they were supportive of the project, that we would  
12 appreciate letters of support.

13 Q. And did you do the same during your --  
14 during your Kenyon presentation?

15 A. I thought we were just talking about the  
16 Kenyon presentation. You are asking about the Naz?

17 Q. Well, we might have been. So let me just  
18 ask, did you do the same at the Naz presentation?

19 A. I don't think so. I think I have to go  
20 back and remember the timeline. I believe the  
21 presentation to the group at the Nazarene University  
22 was before we had submitted an application. So I  
23 don't think there was a docket open at the time.

24 Q. Okay. At any point in time did Frasier  
25 Solar do any advertising or other outreach to the

1 students of those two universities requesting support  
2 for the project?

3 A. I don't believe any other outreach that  
4 we did directly, but because we had a -- two  
5 different students who were working with us as  
6 interns, I know they visited with their friends and  
7 colleagues and fellow students.

8 There were at least -- the two professors  
9 that teach the class at Kenyon, it's a class on solar  
10 energy, and they may have let their students know  
11 about the project and so they -- other students may  
12 have heard about it via other means.

13 Q. To your knowledge did any of the people  
14 affiliated with Frasier Solar go door to door or go  
15 to public areas where students were located, or use  
16 any other methods to canvass the universities to get  
17 letters of support?

18 A. Are you talking specifically about the  
19 Universities?

20 Q. Yes.

21 A. No. We never went door to door. I think  
22 one of our interns set up a table on some sort of  
23 campus day and talked to students about the project.  
24 I believe that was after the case docket was opened  
25 so he -- I assume he did visit with students about

1 the project and about the opportunity to -- to submit  
2 public comments.

3 Q. Let's go to the page of your testimony  
4 where you made all those changes about the number of  
5 comments. I think we are going to start on page 40  
6 of your testimony.

7 On pages 40 and 41 you made some changes  
8 to numbers of comments based on a more recent review  
9 of the docket in this case, correct?

10 A. Correct.

11 Q. When did you perform that more recent  
12 review?

13 A. That would have been in the first couple  
14 of weeks of August. Well, no, actually let me  
15 correct that. That would have been around August --  
16 mid August, because the update was current as of  
17 August 15. So then the analysis was done around that  
18 time.

19 Q. When did you submit your original  
20 testimony in this case?

21 A. I believe it was August 5.

22 Q. Okay.

23 A. Let me confirm that. Yeah, I think  
24 that's right.

25 Q. All right. So you originally submitted

1 your testimony on August 5 and now you have updated  
2 it to reflect a more recent review of the public  
3 comments on the docket, right?

4 A. Correct.

5 Q. And these figures for the comments are up  
6 to date as -- as of what date of August?

7 A. That's on line 11. What previously said  
8 August 1 we changed to August 15, so they are current  
9 as of August 15.

10 Q. Was that at the end of the day on  
11 August 15 or the beginning of the day?

12 A. I'm not sure.

13 Q. Did you actually review the comments  
14 yourself?

15 A. I reviewed all of the comments that were  
16 submitted from Knox County residents and I reviewed  
17 many of the other comments, but not all.

18 Q. Who compiled the numbers for comments and  
19 percentages that you included in your testimony on  
20 pages 40 and 41?

21 A. The raw numbers were compiled by members  
22 of my team and a consultant who helps us with the  
23 data analysis, and then I calculated the percentages.

24 Q. Who are the members of your team that  
25 participated in this task?

1           A.    Cyrus Tashakkori, Dan Cech, one of our  
2 interns helped. As you are aware it is a large  
3 volume of comments so there was several people  
4 involved. And then our consult -- yeah, then our  
5 consultant.

6           Q.    So what did your consultant do in this  
7 task versus what did your staffers do in this task?

8           A.    Our consultant helped us identify  
9 comments on the record, for example, that had  
10 addresses included, and then helped us determine  
11 which of those that had addresses included were from  
12 Knox County versus outside of Knox County.

13          Q.    And how did you or your consultant  
14 determine whether a commenter was a resident of Knox  
15 County at that time that they submitted their  
16 comments?

17          A.    I don't know. I think he had some sort  
18 of algorithm. I am not sure actually. But he  
19 only -- he analyzed the ones that included an  
20 address, so I don't know if he entered each  
21 individual address into a map and looked it up or if  
22 he has some sort of algorithm.

23          Q.    The numbers for the comments that you  
24 have presented us on pages 40 and 41, included  
25 college students from the two universities we've been

1 talking about in this testimony, correct?

2 A. They should include, because I know a  
3 number of students did submit comments. I didn't go  
4 individually to confirm, but I believe that's the  
5 case.

6 Q. Do you know how many in the comments in  
7 support of the project were from students at these  
8 two universities?

9 A. I don't.

10 Q. What was done to confirm that the  
11 students signing the comment letters in support of  
12 the project actually reside in Knox County?

13 A. We didn't do any work to verify -- if  
14 someone provided an address, we didn't do any work to  
15 check to confirm that that is in fact their address.

16 You know, as I -- well, it's my  
17 understanding that some students will use their --  
18 their University address as an address and others  
19 will use their permanent home address.

20 I didn't go check to see which of those  
21 were using an address from campus versus where they  
22 are originally from, so we just used whatever  
23 addresses were provided.

24 Q. Okay. So for those students that  
25 provided college addresses in Knox County on their

1 letters, those students were all counted as residents  
2 of Knox County, correct?

3 A. If the comment that the students  
4 submitted used an address in Knox County, then they  
5 were counted as residents in Knox County. I don't  
6 know how many of those used a local address versus a  
7 home address if they were from another state or  
8 another county.

9 Q. Did anybody on the Frasier Solar team  
10 check the voter registrations for these students to  
11 find out whether they had actually changed their  
12 address from wherever they were from to Knox County?

13 A. Nobody checked the students specifically.  
14 I know at one point our consultant offered to use  
15 voter registration databases to try to identify the  
16 addresses for the comments that did not include  
17 addresses, and so if any of the students had  
18 submitted comments that didn't have addresses they  
19 may have been -- he may have done that initially.

20 But we ended up deciding that was going  
21 to be too much work and too time consuming to try to  
22 locate people that did not include addresses, so  
23 these figures here only deal with or only include  
24 comments that were -- the commenter submitted their  
25 address.

1 Q. Okay. So just to clarify then, for  
2 college students that submitted comments and provided  
3 a college address in Knox County, those students were  
4 not checked against the voter registration roles for  
5 Knox County to determine whether they were registered  
6 to vote in Knox County, correct?

7 A. Correct.

8 Q. Let's go to page 41 of your testimony.

9 A. Okay.

10 Q. Let's take a look at line 17 and 18. And  
11 there you talk about, "Personalized comments by Knox  
12 County residents," correct?

13 A. Correct.

14 Q. Now, when -- for the form letters that  
15 Frasier Solar provided people as options to submit  
16 comments to the Power Siting Board in support of the  
17 project, did those form letters provide the  
18 opportunity for the commenters to add a sentence or  
19 more about their personal support for the project?

20 A. I don't believe so. That's not to say  
21 some people may not have done that, but I don't -- I  
22 don't recall including a space for that.

23 We generally let people know that, look,  
24 if you would like to submit a letter, here is a form  
25 you can use. If you would like to submit a personal



1 letter, you are welcome, here is the e-mail address.

2 Q. With respect to the personalized comments  
3 that you have referred to on these lines of your  
4 testimony that supported the project, did you treat a  
5 form letter signed by somebody with an added personal  
6 comment as a form comment or as a personalized  
7 comment?

8 A. I don't recall seeing any comments like  
9 that. And these are the ones in the county that we  
10 went through individually and I don't recall seeing  
11 any of -- comments like that.

12 Q. Do you know whether any of the project  
13 area is currently being leased out to  
14 nonparticipating farmers who farm the land?

15 A. I do know.

16 Q. Okay. Can you tell me whether there are  
17 any farmers who are not participants in the project  
18 that do farm parts of the project area?

19 A. There are, yeah.

20 Q. How many?

21 A. Are you talking about just leased parcels  
22 that will have -- or purchase option parcels that  
23 will have panels, or are you also asking about  
24 properties that will have easements that will only  
25 have buried electrical cables?

1 Q. That is a good request for clarification.  
2 Let me rephrase.

3 With regard to what is it, 840 acres that  
4 you are going to develop into the equipment, above  
5 ground equipment; is that right?

6 A. Yes.

7 Q. Okay. With regard to those 840 acres,  
8 how much of that acreage is farmed by  
9 non-participating farmers?

10 A. Okay. I believe three of the properties  
11 are farmed by non-participating tenant farmers. And  
12 in terms of acreage, that should be 150, 200, around  
13 300 acres give or take.

14 Q. So that would be 300 acres approximately  
15 out of the 840 acres?

16 A. Correct.

17 Q. Do you know how many people total,  
18 including employees of those farmers, work the land  
19 in those approximately 300 acres?

20 A. I don't.

21 Q. With respect to the other 540 acres or so  
22 in the project area that will be developed, do you  
23 know how many employees work that acreage?

24 A. I don't know for sure. Based on  
25 conversations I've had with those farmers, I would

1 estimate it's in the three to five range.

2 Q. Has Frasier Solar done any analysis to  
3 determine how many direct jobs may be lost if this  
4 project is built?

5 A. Yes. That -- an analysis is in the  
6 socioeconomic report.

7 Q. Okay. Are you sponsoring the  
8 socioeconomic report in this hearing?

9 A. What do you mean by sponsoring?

10 Q. Are you responsible for testifying about  
11 it?

12 A. Yes.

13 Q. Okay. Can you point me where in the  
14 socioeconomic report you provide that information?

15 A. Yes.

16 Q. And for the record we are going to  
17 Exhibit E entitled "Socioeconomic Report," correct?

18 A. Correct. Okay. Of a got it.

19 Q. Okay. Can you tell me what page to look  
20 at?

21 A. It's broke be up into two different  
22 second. The first part of the analysis is in section  
23 2.8 on pages 8 and 9. And there we estimated the  
24 total value of the crops produced in the -- well, we  
25 use order a thousand acres just to be conservative as

1 a proxy for the 840-acre project area. So that's on  
2 pages 8 and 9.

3 Q. Okay B you go on.

4 A. Okay.

5 Q. Point out exactly where in section 2.8 we  
6 can find that information.

7 A. Well, if you -- I mean that whole section  
8 is the -- explains the analysis. And then the  
9 numbers for the output for those thousand acres is in  
10 the last paragraph. It starts in 2022.

11 Q. All right. Proceed on to the second  
12 place where you find this information, please.

13 A. The second piece is on pages 16 and 17,  
14 section 4.4. The modeler used the output shall the  
15 1 million -- estimated \$1,028,818 in output to  
16 estimate the number of jobs currently supported by  
17 the thousand acre area. And concluded an estimate  
18 10.6 jobs or people are currently employed in the  
19 project area for agricultural use.

20 Q. And that information is on page 17,  
21 Table 8, correct?

22 A. Correct, yeah.

23 Q. Did Frasier Solar do an analysis to  
24 determine what local businesses may lose income as a  
25 result of the building of the project?

1           A.    I don't believe so but let me review this  
2 quickly and see if I am correct.

3                    No, I don't believe so.

4           Q.    Now, just to make sure that the record is  
5 clear, with regard to Table 8 on page 17 of Exhibit  
6 E, that table identifies indirect impacts for jobs  
7 that may be lost as a result of the building of the  
8 project, correct?

9           A.    Correct. We use the same methodology to  
10 estimate the current jobs as we did the number of  
11 jobs that would be created by Frasier Solar so that  
12 includes direct jobs, indirect jobs and induced.

13          Q.    Okay. And what is an indirect job?

14          A.    Indirect job would be people who sell  
15 products, say seed supplier or a member call spray  
16 year.

17          Q.    What is an induced job?

18          A.    Those are jobs that are created by the --  
19 what's the ride word? The income that people receive  
20 and then is spent and then that spending creates  
21 additional jobs so it's one degree of freedom further  
22 removed from the actual activity. So, for example,  
23 that -- that seed supplier then spends his money at a  
24 local grocery store and that creates jobs. Those are  
25 induced jobs.

1 Q. What model was run in order to come up  
2 with the data in Exhibit E?

3 A. Two different models one is the JEDI  
4 model that's published by NREL and then the IMPLAN  
5 model.

6 Q. Did you run either one of those models?

7 A. I have run the JEDI model before in other  
8 projects. I did not run it on this procurement.

9 Q. Who did?

10 A. That was Shawn -- I don't remember  
11 Shawn's last name but he is with EDR on the front it  
12 lists EDR prepared -- did the study and drafted the  
13 report.

14 Q. Is he an economic -- is he an economist?

15 A. I don't remember.

16 Q. Are you an economist?

17 A. I am not.

18 Q. Who ran the IMPLAN model that was used  
19 for this report?

20 A. Shawn did.

21 Q. Do you know who provided Shawn with the  
22 data that he used to run the two models?

23 A. I provided the data for the JEDI model  
24 and those inputs are listed on a different page.  
25 Those are on page 11, section 3.2. So the costs to

1 build the project and the -- the estimated cost to  
2 build the project and the estimated costs to run the  
3 project were provided by me.

4 Q. Does Exhibit E provide information about  
5 employees who may work on the sheep grazing  
6 activities that may be conducted in the project area  
7 if this project goes through?

8 A. Yes. So if you go back to page 17, right  
9 after that -- the tabling 8 that you were looking at  
10 that estimates the number of current jobs in the  
11 project area, the last paragraph of that section is  
12 an analysis of the number of jobs that would be  
13 created by the continued agricultural use of the  
14 solar project area through sheep grazing.

15 Q. And that would be six; is that right?

16 A. Correct. That's an estimate.

17 Q. How many acres will be involved in sheep  
18 grazing if this project goes through?

19 A. We anticipate that the whole project,  
20 840 acres now, I'll add the after I can't tell that  
21 if you look at the vegetation management plan, and I  
22 will also add that Camren Maierle is here with new  
23 slate land management with whom we have signed a  
24 letter of intent that would provide those services so  
25 he is going to be testifying and he's the expert on

1 this. But -- I am sorry can you repeat the question?  
2 I lost my train of thought.

3 Q. Yeah. Appreciate the information though.  
4 My question was how many of the 840 acres will be  
5 used for sheep grazing?

6 A. Yeah. We anticipate that eventually all  
7 of it will. It will take a few years or it will  
8 likely take a few years to transition for the cheap  
9 grazers to have enough sheep to phrase the entire  
10 project so initially it will be a combination of  
11 mowing and sheep probably more mowing and less sheep  
12 and then as he is able to build his flock and he can  
13 talk more to this but then eventually the entire  
14 project area will be glazed.

15 Q. Do you have a binding contract with the  
16 person or company that will provide the sheep grazing  
17 services?

18 A. We have a binding letter of intent.

19 Q. What do you mean by it being a binding  
20 letter of intent?

21 A. Well it's an agreement that expresses the  
22 intents of both parties to work together for Frasier  
23 Solar to hire new slate land management to provide  
24 the vegetation management services.

25 Q. Does that notice of intent provide a



1 binding total of acreage that will be used for sheep  
2 grazing?

3 A. I don't recall. I will refer you to  
4 Cameron. He is going to be testifying on that and I  
5 believe that agreement is attached to his testimony.

6 Q. Yes. The six full-time employees that  
7 are estimated to be assumption that there will --  
8 that all 840 acres will be used for sheep grazing?

9 A. I believe so, but I would defer to  
10 Cameron to confirm that.

11 Q. Will the solar panels to be used in this  
12 project be manufactured in Ohio?

13 A. We don't know yet where the panels will  
14 be manufactured because we haven't yet selected the  
15 specific model of panel for the project.

16 Q. So they could be manufactured in another  
17 kenotron.

18 A. They could. They could also be  
19 manufactured here.

20 Q. Yeah. Does the JEDI model or the IMPLAN  
21 model that was utilized in Exhibit E of the  
22 Application assume that any of the components of the  
23 solar panels will be manufactured in Ohio?

24 A. I don't know.

25 Q. Does Open Road Renewables or any of its

1 subsidiaries construct solar projects?

2 A. Generally, no.

3 Q. Has it constructed any solar projects?

4 A. No.

5 Q. For those projects that Open Road  
6 Renewables has been involved in developing, has Open  
7 Road Renewables been involved in selecting the model  
8 of the solar panels that would be used?

9 A. No.

10 MR. VAN KLEY: Your Honor, I think it is  
11 a good breaking point if you would like to.

12 ALJ HICKS: I was just about to ask you.

13 Okay. Like I talked about, we will take  
14 an hour lunch so if everyone wants to reconvene here  
15 at 2, we will keep going with Mr. Van Kley and we are  
16 off the record.

17 (Thereupon, at 12:57 p.m., a lunch recess  
18 was taken.)

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Monday Afternoon Session,  
August 19, 2024.

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ALJ HICKS: We'll go ahead and go back on  
the record.

Just coming back from lunch. We are  
still on the cross-examination being done by Mr. Van  
Kley, so I will hand it back off to him to continue.

MR. VAN KLEY: Thank you, your Honor.

- - -

CRAIG ADAIR

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

CROSS-EXAMINATION (Continued)

By Mr. Van Kley:

Q. Mr. Adair, could you go to page 13 of  
your testimony marked as Company Exhibit 16? I would  
like to direct you attention to line 8 and line 9.

A. You said page 13?

Q. Yes, sir.

A. Okay.

Q. All right. You see there, there is a  
reference to, "the Project's annual net capacity  
factor" that's expected to be 23 percent to  
25 percent. Do you see that?

1           A.    Yes.

2           Q.    The net capacity factor is the percentage  
3 of time that the solar project is expected to produce  
4 electricity, correct?

5           A.    Out of the total theoretical number of  
6 hours in the year that electricity could  
7 theoretically be produced, yes.

8           Q.    Now, does that mean that -- are you  
9 comparing that number to the total number of hours  
10 for the whole year, or just the total number of hours  
11 in which the sun may be shining?

12          A.    No, the total number of hours in the  
13 year, so 8,760 hours times the number of megawatts,  
14 the rated capacity, would be the theoretical total  
15 number of hours in the year, and then you divide the  
16 actual number of megawatt hours produced by that  
17 number to get the net capacity factor.

18          Q.    Got it. So the fact that the net  
19 capacity factor is expected to be 23 to 25 percent  
20 simply reflects the fact that the sun doesn't shine  
21 all the time, right?

22          A.    It's not just that. It also reflects  
23 panel efficiency, reflects cloud cover, it factors in  
24 everything. So, yeah, if you want it do different it  
25 wouldn't be called the net capacity factor, it would

1 be a different number if you divided by the number of  
2 daylight hours.

3 Q. Okay. Let's go to page 48 of your  
4 testimony. I would like to direct your attention to  
5 line 15 on that page.

6 A. Okay.

7 Q. And that line refers to the term "power  
8 generating system efficiency," correct?

9 A. Correct.

10 Q. Now that's a different concept than the  
11 net capacity factor, isn't it?

12 A. I don't know. I am not familiar with  
13 that term.

14 Q. Are you an engineer?

15 A. I am.

16 Q. Okay. So the quote that you have placed  
17 on page 48 of your testimony that refers to power  
18 generating system efficiency may be referring to a  
19 different concept than the net capacity factor,  
20 correct?

21 A. It could be.

22 Q. Okay. But when you wrote this testimony,  
23 you assumed they were the same, right?

24 A. I assumed that's what he was trying to  
25 say, yes.

1 Q. All right. Let's go to page 18 of your  
2 testimony. I would like to refer you to the sentence  
3 beginning on page -- on line 17 starting with the  
4 words the "grazing contractor."

5 A. Yes.

6 Q. This sentence refers to six full-time  
7 employment positions from agricultural activities,  
8 correct?

9 A. Correct.

10 Q. And those six employ -- positions are  
11 referring to the sheep grazing employees, right?

12 A. Correct, yeah. I will just clarify that  
13 it will be vegetation management which will include  
14 sheep grazing, but not only sheep grazing.

15 Q. Okay. Go to page 22, please, of your  
16 testimony.

17 A. Okay.

18 Q. I would like to refer you to lines 22 and  
19 23 where you see the language as follows:

20 "Generally, the area to be used for construction and  
21 a one-quarter mile buffer are not known to provide  
22 significant habitat for sensitive bird species," do  
23 you see that?

24 A. Uh-huh.

25 Q. Yes?

1           A.    Yes.

2           Q.    What's that sentence based on?  What  
3 information did you have that led you to the  
4 conclusion that I have just read?

5           A.    The wildlife report.

6           Q.    That's the wildlife report in the  
7 application?

8           A.    Correct.

9           Q.    And you concluded from the wildlife  
10 report in the Application that the habitat within  
11 one-quarter mile buffer is not known to provide  
12 significant habitat for sensitive bird species?

13          A.    Correct.

14          Q.    Have you read the testimony of Gary  
15 Keesee?

16          A.    I believe so.

17          Q.    Did you see the description in his  
18 testimony about sandhill cranes on his property?

19          A.    I don't recall that.

20          Q.    Oh, okay.  Would you regard the sandhill  
21 crane as being a sensitive bird species as you have  
22 used that term on page 22 of your testimony?

23          A.    Can you repeat the question?

24          Q.    Yeah.  Do you regard the sandhill crane  
25 as a sensitive bird species as you've termed -- as

1 you've used that term on page 22 of your testimony?

2 A. I'm not a biologist, but it's certainly a  
3 bird species. Whether it's sensitive or not I don't  
4 know.

5 Q. Do you know that the sandhill crane is  
6 rare in Ohio?

7 A. I believe that's right.

8 Q. Let's go to page 27 of your testimony.  
9 Let's take a look at the sentence that begins at the  
10 end of line 5 which reads as follows: "The area of  
11 potential panel visibility is highest (58.7%) within  
12 the immediate vicinity of the fenced solar panel  
13 areas (foreground zone) and the open fields adjacent  
14 to the Project." Do you see that sentence?

15 A. I do.

16 Q. Can you tell me how many homes of  
17 non-participating landowners are located within the  
18 foreground zone?

19 A. I can't.

20 Q. You can or you cannot?

21 A. Cannot.

22 Q. Moving further along in that page, let's  
23 go to lines 19 to 21. Do you see the reference there  
24 to "plant additional screening vegetation along the  
25 south side of the substation"?



1           A.    Yes.

2           Q.    Can you tell me how tall the trees will  
3 be in that screening at the time they are planted?

4           A.    At the time of planting?

5           Q.    Yes.

6           A.    No.  We had not selected the exact  
7 species that will be used in the landscaping  
8 perimeter.  The landscape plan includes examples of  
9 the types of vegetation that would be used.

10                   And we will have somebody testifying who  
11 drafted that report, but we added a taller buffer at  
12 the request of a few members of the community, and I  
13 think in the landscape plan that's called a height  
14 unrestricted buffer so there would be taller species  
15 planted in a few locations including this one.

16           Q.    Can you tell me how high -- how tall the  
17 trees will be in any of the vegetative screens that  
18 will be planted as part of this project at the time  
19 that they are planted?

20           A.    I don't recall if the plan specifies, so  
21 I could look at the plan and see.  In my experience  
22 trees are typically planted in the 4 to 6 feet range  
23 at planting.

24           Q.    Let's go to page 37 of your testimony.  I  
25 would like to direct your attention to lines 1 and 2.

1           A.    Okay.

2           Q.    And there in this sentence you state that  
3 pile driving will be relatively brief at any  
4 particular location; is that right?

5           A.    Yes.

6           Q.    How long will it last at any particular  
7 location?

8           A.    It depends on the size of the field  
9 the -- depending on a number of factors including the  
10 size of the array area, the number of pile drivers  
11 that are being used at the time.

12                    In general I would say it will probably  
13 be somewhere between a few days and a couple of weeks  
14 depending on the size.

15           Q.    Now if I were to rephrase the question to  
16 ask you what time period could pile driving be heard  
17 from any part of the project area at any particular  
18 location, what would your answer be?

19           A.    That pile driving would not be heard  
20 before 9:00 a.m. or after 6:00 p.m. But it may not  
21 be heard at all depending on the location of where  
22 the activity is occurring and the location of the  
23 listener.

24           Q.    Yeah. Let me reask the question because  
25 I think you didn't understand the question. Maybe

1 that's my fault.

2 For what period of time, that is how many  
3 days or how many weeks, do you expect a person would  
4 be able to hear pile driving from any particular  
5 location near the project area?

6 A. You're talking about -- are you asking  
7 about within a given day?

8 Q. No. Number of days or weeks.

9 A. Oh, I can't say because, like I said, it  
10 depends on the size of the array block in that area  
11 and it depends on the number of pile drivers that are  
12 being used by the contractor.

13 Q. Yeah. But you have how many blocks? 12  
14 blocks in your project area?

15 A. Around 12.

16 Q. Okay. Would you expect that an adjacent  
17 landowner near one of those blocks may be able to  
18 hear pile driving that's occurring on another one of  
19 those blocks?

20 A. Depends how far away that block is and  
21 depends whether there is trees intervening between  
22 the receptor and where the activity is occurring.

23 Q. If there are no trees between the two  
24 locations, at what distance would you expect someone  
25 would be able to hear pile driving?

1           A.     That I don't know.

2           Q.     Let's go to page 38 of your testimony,  
3 lines 14 to 16. And here you refer to the minimum  
4 setback of 500 feet from inverters and neighboring  
5 residential properties, correct?

6           A.     Correct.

7           Q.     How far are the inverters going to be  
8 from the residential yards of non-participating  
9 owners?

10          A.     Because we have not done final design, we  
11 don't know what the distances are. What we've  
12 committed to is that the inverters will be no closer  
13 than 500 feet to any adjoining or non-participating  
14 residents.

15          Q.     And by the residents in that answer you  
16 mean the house, right?

17          A.     Correct.

18          Q.     You are not committing to stay 500 feet  
19 back from people's yards?

20          A.     Correct.

21          Q.     Do you know where the laydown areas are  
22 going to be located?

23          A.     The precise locations have not been  
24 determined yet.

25          Q.     Does the Application contain some

1 tentative locations?

2 A. Yes.

3 Q. How many laydown areas do you expect to  
4 be a part of this project?

5 A. I don't recall. I think the number of  
6 laydown areas that are shown in the preliminary  
7 maximum site plan would be a good rough indication of  
8 how many we expect.

9 Q. Now laydown areas are where the equipment  
10 and supplies for the construction project are laid  
11 down before installation into the project, correct?

12 A. Correct.

13 Q. Do you expect that the laydown areas will  
14 also be used as parking areas for employees?

15 A. I think in most cases, no. There may  
16 occasionally be a car parked in one of them, but they  
17 are generally for storing equipment and supplies. In  
18 my experience, generally the workers park at the --  
19 at the construction headquarters, if you will.

20 Q. How many construction headquarters are  
21 there tentatively planned for this project?

22 A. Usually there's one per project.

23 Q. Do you know where that headquarters is  
24 going to be located?

25 A. No.

1 Q. Do you know what road, what public road,  
2 will provide access to that parking area?

3 A. No, not yet because we have not yet done  
4 final design for the project.

5 Q. Do you know approximately how many  
6 construction employees will be present at the project  
7 area at a maximum?

8 A. No. The socioeconomic report estimates  
9 the total number of full-time equivalent jobs that  
10 would be directly employed -- employed by the  
11 project. I believe that number is around 230.

12 I would have to pull it out to get the  
13 exact number, but that's a total number of jobs  
14 created at any given time. There could be fewer than  
15 that or more than that.

16 Q. So there could be more than that number  
17 of employees at the project area on any particular  
18 time?

19 A. Yes.

20 Q. Do you know what -- the maximum number of  
21 employees that may be present at the project area?

22 A. No.

23 Q. Is there anything in the Application that  
24 provides procedures to avoid congestion of the public  
25 roads by employees who are arriving at the project at

1 the same time?

2 A. I believe the preliminary transportation  
3 plan looks at the capacity of the roads and  
4 anticipated haul roads or delivery roads, but I  
5 don't -- I don't recall it trying to estimate traffic  
6 specifically resulting from the employees or the  
7 project construction personnel going to the site if  
8 that's what you are asking.

9 Q. Based on the current layout for the  
10 project, how close are the tentative locations for  
11 the laydown areas to the houses of non-participating  
12 landowners?

13 A. I don't -- because they are temporary, I  
14 don't know that we measured those. We did our best  
15 to do the preliminary siting as far away from  
16 neighboring homes as possible, but I don't -- I don't  
17 think we measured the exact distances of these. As  
18 we have discussed already, these locations are  
19 tentative or preliminary.

20 Q. I take it from the answers you've already  
21 given me that Frasier Solar has not yet identified  
22 the public roads with certainty that will be used for  
23 vehicles involved in the construction; is that  
24 correct?

25 A. Not with certainty, correct. We've

1 identified on a preliminary basis, and those are in  
2 the -- there is a map attached to the preliminary  
3 transportation plan as well as in the road use  
4 agreement. Those are subject to change based on  
5 final design and equipment selection.

6 Q. Would you go to Joint Exhibit 1, which is  
7 the Stipulation, page 12, please.

8 A. Okay.

9 Q. I would like to direct your attention to  
10 paragraph B on that page.

11 A. Okay.

12 Q. Let's take a look at the first sentence  
13 in paragraph (b) which reads as follows: "The  
14 Applicant shall seek to achieve a goal of grading no  
15 more than 5 percent, but firmly limits grading to no  
16 more than 20 percent, of the agricultural lands  
17 within the project area, as defined in the  
18 application." Do you see that?

19 A. I do.

20 Q. Okay. My question to you then is the  
21 definition of agricultural land within the project  
22 area as referenced in this sentence, can you tell me  
23 what that is?

24 A. I can't off the top of my head.

25 Q. Uh-huh. Is it a number that's different



1 than the 840 acres that you expect will be developed  
2 into above ground solar equipment?

3 A. It could be. I do not remember how it's  
4 defined there.

5 Q. If you take a look at the narrative of  
6 the Application, could you find the reference to the  
7 agricultural lands within the project area as defined  
8 in the Application?

9 A. I could try. I don't remember. I don't  
10 know if -- maybe we should come back to this because  
11 I could look, but it might take me a while to hunt.  
12 I don't recall where that is.

13 MR. SETTINERI: I would object to the  
14 question as ambiguous. It's circular. You are  
15 asking -- it was circular.

16 MR. VAN KLEY: Well, if the question is  
17 ambiguous, then the condition is ambiguous, too,  
18 because I am just asking for a definition.

19 ALJ HICKS: Okay. I don't think the  
20 question was ambiguous, but I also don't know that we  
21 need to have you search for this right now. So you  
22 can answer him as to what your answer is now. If  
23 it's something you want to clarify on redirect,  
24 that's certainly --

25 MR. VAN KLEY: Maybe I'll try the

1 question differently.

2 Q. (By Mr. Van Kley) Is there -- is there a  
3 difference between the term agricultural lands as  
4 used in this condition -- let me just back up a  
5 little bit. What's the entire size of the project  
6 area?

7 A. The total project area once constructed  
8 would be at most 866 acres. That's 840 acres for  
9 surface equipment and then roughly 26 acres of buried  
10 collection facilities.

11 Q. But the project area as currently defined  
12 in the Application is quite a bit bigger than  
13 840 acres, isn't it? It's like 1,397 acres or  
14 something along those lines?

15 A. Well, that's the leased -- the area to  
16 which we have rights. That's 1,395 acres,  
17 1,369 acres of leased area and then 26 acres of  
18 easements for buried collection facilities. But  
19 that's not the area where there would be equipment.

20 Q. Yeah. Do you know how many acres of  
21 agricultural land are within the areas to which you  
22 have leasing rights?

23 A. It's the vast majority of it, if not all  
24 of it.

25 Q. Now is the material agricultural lands

1 within the project area as referred to in the  
2 condition on page 12 of the Stipulation different  
3 than the number of agricultural acres within your  
4 leasing rights, or is it the same?

5 A. It should be similar. Part of the reason  
6 I am thinking and looking back, because there are  
7 figures in the Application for land that is an  
8 agricultural district and that's a different figure  
9 than the land that is in agricultural use.

10 I believe the vast majority, if not all  
11 of the land of both the leased property and the  
12 866 acres, are in agricultural use.

13 So just to make sure I am understanding  
14 you, you think that agricultural lands within the  
15 project area would include all land used for  
16 agriculture within the acreage that you have leasing  
17 rights for?

18 A. Yes.

19 Q. Now, you were involved in the negotiation  
20 of the Stipulation, right?

21 A. Yes.

22 Q. Why would you use that definition of a --  
23 of the agricultural lands instead of using a number  
24 equivalent to the number of acres of agricultural  
25 land within the 840 acres that will be developed into

1 solar facilities?

2 A. Well, I was just saying that both of  
3 those, the 1,395 and the 866 are principally, if not  
4 entirely, agricultural land.

5 Q. Yeah. But why -- why base your  
6 percentage of grading on a total figure of  
7 agricultural land outside of the 840 acres that you  
8 are going to develop for above ground facilities?

9 A. I would expect that the -- that the  
10 20 percent would be calculated based on the 866.

11 Q. Okay. The 866 being the land developed  
12 for both above ground and below ground facilities.

13 A. Correct.

14 Q. Okay. All right. Got it. Will there be  
15 a need to cross any streams with underground lines or  
16 fences or any other solar equipment?

17 A. There will be a need to cross streams  
18 with collection lines and I believe one or two access  
19 roads, not fences.

20 Q. So with respect to the underground lines  
21 that will cross the streams, will there be an open  
22 cut trench method used for those, or a horizontal  
23 drilling approach?

24 A. I think it depends. Many will be  
25 installed via HDD and others may be trench cut if we

1 can do that subject to federal regulations.

2 Q. Do you have any idea how many streams may  
3 be -- or how many stream crosses may be done by open  
4 cut?

5 A. I don't at this time. We will once we've  
6 done final design.

7 Q. How many road crossings did you say there  
8 would be? Two?

9 A. Let me look at the site plan. I believe  
10 the preliminary site plan shows one crossing, but  
11 because the locations of the access roads are not yet  
12 final it could change. I would not expect it to  
13 change much, so I would say one to three.

14 Q. Can you describe how the construction of  
15 a road across a stream would be conducted?

16 A. Only that there will be a culvert that  
17 would be installed typically. Mark Bonifas may be  
18 able to provide some more detail, but generally you  
19 would install a culvert and then install the access  
20 road on top of it.

21 Q. Do you have Exhibit N of the Application  
22 in front you?

23 A. No, but I could get it.

24 Q. That would be the ecological impact  
25 assessment.

1 A. Okay.

2 Q. Let's go to page 6.

3 A. Okay.

4 Q. All right. Let's take a look at the  
5 first paragraph on page 6 of Exhibit N to the  
6 Application. And you see the reference there to  
7 crossings of wetlands?

8 A. On the first paragraph?

9 Q. Yes, sir.

10 A. Yes.

11 Q. Okay. First of all, can you tell me how  
12 many crossings of wetlands will occur for underground  
13 cables?

14 A. No. This number was calculated based on  
15 the number of crossings shown in the preliminary  
16 maximum site plan, so we would expect that they would  
17 be this number of acres or fewer.

18 Q. How about -- how about the number of  
19 crossings? Do you know that number?

20 A. Not off the top of my head. I would have  
21 to go look at a map that shows the preliminary design  
22 of the collection system along with the wetlands.

23 Q. I would like to direct your attention to  
24 a sentence in that paragraph that you can find by  
25 counting four from the bottom of the paragraph.

1           A.    Okay.

2           Q.    The sentence reads, "Each crossing is  
3 anticipated to follow open trench methods." Do you  
4 see that?

5           A.    Yes.

6           Q.    Is it your understanding that that is  
7 still the case, that it's still planned that each  
8 crossing of a wetland will follow open trench  
9 methods?

10          A.    The analysis that was done for this  
11 ecology impact assessment was designed to  
12 conservatively estimate the maximum impacts, so for  
13 the purposes of this analysis I believe -- and we  
14 will have testimony by Verdantas that prepared this,  
15 but I believe the assumption was that all of them  
16 would be installed via trenching to estimate the  
17 maximum number of impacts and thus when -- some of  
18 them will be installed via HDD, the impacts would be  
19 less than estimated here.

20          Q.    Well, as you sit here today, can you tell  
21 us how many wetland crossings will be done by  
22 following open trench methods?

23          A.    No.

24                MR. VAN KLEY: Thank you, sir. I have no  
25 more questions for you at this time.

1 ALJ HICKS: Thank you, Mr. Van Kley.  
2 Any cross from Knox Smart Development?

3 MR. HOLTHUS: Yes. Thank you, your  
4 Honor.

5 ALJ HICKS: Go ahead.

6 MR. HOLTHUS: I will say it again. Yes,  
7 thank you, your Honor.

8 ALJ HICKS: I heard you.

9 - - -

10 CROSS-EXAMINATION

11 By Mr. Holthus:

12 Q. Good afternoon, Mr. Adair.

13 A. Good afternoon.

14 Q. I will let you know ahead of time that I  
15 will kind of create three silos in my questioning. I  
16 am going to start with just a series of questions  
17 that I have in my notes.

18 I am then going to go to a series of  
19 exhibits, and then I am going to go to testimony and  
20 your report, okay? So that kind of gives you a  
21 playbook.

22 A. Okay. Thank you. When you say report,  
23 you mean my testimony?

24 Q. Your testimony, excuse me.

25 A. Okay.



1 Q. Yep. You had mentioned Eolian, LLC,  
2 correct?

3 A. Yes.

4 Q. And I understand that's essentially the  
5 investor in Open Road?

6 A. Correct.

7 Q. Is it also then an investor in the  
8 Frasier project?

9 A. Yes.

10 Q. Through its interest in Open Road?

11 A. Yes.

12 Q. Where is Eolian's domicile; in other  
13 words, its state of incorporation?

14 A. Yeah, I believe it's California. They  
15 are based in California. I can't recall if it's Palo  
16 Alto -- they moved offices at some point, but it's --  
17 I believe it's California.

18 Q. Zach just said that it might be a  
19 Delaware corporation, but it has a home office as you  
20 understand in the Bay area?

21 A. Yeah, yeah. I mean, members of their  
22 team offices at different offices, but I believe they  
23 are -- their main office is in northern California.

24 Q. And you've worked with -- am I  
25 pronouncing it correctly, Eolian?

1 A. Yeah. Eolian.

2 Q. So it's phonetic?

3 A. Yes.

4 Q. Lots of vowels, one consonant, three  
5 consonants. In -- in your capacity, you are  
6 Vice-President of Development for Open Road?

7 A. Correct.

8 Q. In that capacity -- well, let me step  
9 back.

10 Do you know whether Eolian, as the  
11 funding arm of Open Road and Frasier, if it has made  
12 any financial forecasts relative to its intended  
13 success in having this project up and running?

14 A. I don't know.

15 Q. Okay. Certainly in your testimony and  
16 the various reports, you've identified what could be  
17 the benefit to the taxpayers and the local  
18 governments in Knox County, correct?

19 A. Correct.

20 Q. But can you tell the Commission what  
21 Eolian stands to gain?

22 A. I can't because I don't know.

23 Q. Okay. What does Open Road stand to gain?

24 A. Our business model, we get compensated  
25 through a development fee when the project is

1 acquired by the longterm owner.

2 Q. Okay. And I will get to that in a  
3 minute. What is the percent -- is that development  
4 fee charged on a percentage basis?

5 A. Every project is different, so it can  
6 vary from -- from project to project.

7 Q. And I believe from your prior testimony  
8 you've been involved in 6 to 10 of these projects  
9 previously?

10 A. 6 to 10 solar projects and then a number  
11 of wind projects before that.

12 Q. Okay. Let's just focus on solar. Thank  
13 you. Thank you for the clarification.

14 Of those 6 to 10, how many actually are  
15 on line and providing energy to the grid?

16 A. I think I included those figures in my  
17 testimony.

18 Q. Thank you.

19 A. And if you look at the bottom of page 4,  
20 I put the number of -- well, in megawatts the  
21 number -- the number of megawatts of projects that  
22 Open Road has developed that are in operation, under  
23 construction, or under development, and then a subset  
24 of those on page 5 there are in operations, under  
25 construction or under development in Ohio.

1 Q. Let's just focus on those regardless of  
2 which state those which are in operation. Can you  
3 identify those for us; in other words, in which  
4 states?

5 A. Okay. Let me see. In Ohio I believe the  
6 350 megawatts is two projects, I believe that's  
7 Hillcrest Solar and Willowbrook Solar. And then  
8 outside of Ohio, I know one of them is in Texas,  
9 there is 210-megawatt project in Texas. And then  
10 that's 460. I am not sure of the others. I think  
11 there are projects that are operational in Virginia  
12 and I am not sure beyond that.

13 Q. Okay. I have math anxiety, but I count  
14 four, two in Ohio, one in Texas, and you said  
15 projects in Virginia. Was that multiple or one  
16 project?

17 A. We have several projects in Virginia. I  
18 just don't recall right now the status of each, which  
19 ones are in operation versus under construction.

20 Q. All right. Are any of the other two  
21 projects in Ohio actually being operated by either  
22 Eolian, Frasier, or Open Road?

23 A. No.

24 Q. Same question with respect to the  
25 facility or project in Texas.

1 A. No.

2 Q. And same question then in respect to the  
3 project in Virginia.

4 A. No.

5 Q. So --

6 A. My company, we develop the projects and  
7 then generally a longterm owner comes and acquires  
8 them from us and does the construction and the  
9 operation.

10 Q. And it's at that point that you -- that  
11 they acquire the project that your company, Open  
12 Road, receives a development fee, correct?

13 A. Correct. Well, it depends. We don't  
14 generally obtain all of the fee at that time. It's  
15 usually on a schedule and depends on the project,  
16 but, yeah, that's when that -- when that amount is --  
17 is determined.

18 Q. Thank you. And is the development fee,  
19 whether it's paid initially at the time of  
20 acquisition, or over time of the life of the project,  
21 is it -- is part of that calculus of megawatt-hours  
22 that are produced?

23 A. It can -- it varies. Generally not.  
24 Generally it's a dollar per megawatt of capacity.

25 Q. Okay.

1 MR. SETTINERI: At this time I will  
2 caution the witness if there is anything that's  
3 confidential due to nondisclosure agreements, you  
4 need to make sure you ask us --

5 THE WITNESS: Yeah.

6 MR. HOLTHUS: That's fair. Thank you  
7 very much.

8 ALJ HICKS: Yeah, we don't want any  
9 confidential information.

10 THE WITNESS: No, I am not going to  
11 provide any confidential information.

12 Q. (By Mr.Holthus) Ultimately your companies  
13 stand to gain -- I am sorry. Open Road stands to  
14 gain financially if this project goes forward and  
15 it's sold to an operator, correct?

16 A. Yes. Although I would just clarify that  
17 it's more than that, and it is generally also tied to  
18 whether the project is built, becomes operational.

19 Q. Right.

20 A. Not just whether the power is contracted  
21 to be sold.

22 Q. Thank you. And that's -- that actually  
23 is a segue to one of my other silos of questions so  
24 we will probably double back to that issue.

25 So then when these projects are sold to

1 the operator, and recognizing Mr. Settineri's caution  
2 to you about proprietary, and I am not trying to go  
3 there so forgive me if you think I am, I'm imagining  
4 that those arrangements are confirmed in a black and  
5 white agreement with blue ink signatures?

6 A. With what signatures?

7 Q. Blue ink. I always sign contracts in  
8 blue ink so there is no --

9 A. Yes. Those agreements are -- the  
10 contract is an agreement in which the participating  
11 parties sign, yeah.

12 Q. And in your capacity in your role, are  
13 you part and parcel -- do you play a role, rather, in  
14 negotiating those contracts?

15 A. It's a minor role.

16 Q. All right. Are you familiar with the  
17 language of those contracts?

18 A. Very generally.

19 Q. Do you know if, in regard to the two Ohio  
20 projects, the one Texas project, and one Virginia  
21 project, whether or not once there is a sale from  
22 Open Road to the operator, Open Road has any  
23 liability?

24 A. I don't know that.

25 Q. Okay. Do you know what an indemnity

1 agreement is?

2 A. I do.

3 Q. What does that mean from your perspective  
4 as a nonlawyer? I am not asking for a legal  
5 conclusion, I am asking you as a business person.

6 A. Yeah. I mean, all of our lease  
7 agreements have indemnity provisions where we  
8 indemnify the landowner for certain things, meaning  
9 we assume responsibilities for certain things.

10 Q. So do you know if the agreements, when  
11 Open Road sells to the operator, Open Road retains  
12 any liability for, let's say some environmental  
13 hazard related to the operation of the project or any  
14 project?

15 A. That I don't know. I -- I would be very  
16 surprised if every one of the agreements does not  
17 have indemnity provisions. I just don't know enough  
18 about the details of them.

19 Q. Okay. Do I understand correctly that  
20 there is a -- I am probably not using the phrases  
21 artfully, so I apologize -- that there is still a  
22 40-megawatt portion of this project that is in the  
23 queue awaiting approval by PJM?

24 A. Yes. There are two queue positions, an  
25 80-megawatt and a 40-megawatt, both are still in the



1 queue. One -- the 80-megawatt position is further  
2 along in what's called the interconnection study  
3 process. We have the -- both the feasibility study  
4 and the System Impact Study which is the second of  
5 the three studies. We don't yet have the facilities  
6 study for the base 80-megawatt position.

7 The 40-megawatt queue position, which was  
8 submitted after the initial 80-megawatts, is further  
9 behind in the study process. We don't yet have the  
10 feasibility or the System Impact Study for that one.

11 Q. Will any of the construction on the  
12 Frasier project begin until the 40-megawatt has been  
13 approved by PJM?

14 A. It could. We don't know yet, but it  
15 could.

16 Q. Okay. Do you have a -- with your  
17 experience in this project, do you have an  
18 aspirational date for the completion of this project?

19 A. We --

20 Q. I'm sorry. Let me be a little more  
21 artful in my question. Not only the completion date,  
22 but completion generating power and distributing it  
23 to the grid.

24 A. I believe we put -- an expected schedule  
25 is attached to the Application, so let me get that

1 out.

2 Q. Well, that's -- it's 2006 -- or 2026?

3 A. Let me get it.

4 Q. Sure.

5 A. Yeah, you are correct. So in the -- this  
6 is in -- Figure 3 is the project anticipated project  
7 schedule. We assumed that it would be constructed in  
8 two phases, and under that schedule if everything  
9 happens along this timeline that we would hope, then  
10 the first 80-megawatt phase would become operational  
11 in the third quarter of 2026 and the second phase in  
12 the fourth quarter of 2027.

13 Q. And if the first phase is operational,  
14 does that mean it is actually now operational, sold  
15 to an operator and distributing power to the grid?  
16 Is that what you mean by --

17 A. Generally, yes.

18 Q. All right. In anticipation of these  
19 projects, if you know, does Open Road develop or have  
20 letters of intent from potential operators in respect  
21 of well, if you build it, we will come and buy it?  
22 Do you have those?

23 A. No.

24 Q. Okay. So it's like spec building a home.  
25 You build it and hope someone will buy it?

1           A.    I would say it differently.  I mean,  
2   having done this as long as we have, we have  
3   relationships with most of the major players in the  
4   industry.  They are called independent power  
5   producers.

6                    So those company -- because we have  
7   projects that are at different stages of development  
8   process, some that have already been built or  
9   operational, others are permitted, but -- so those  
10  conversations happen regularly and organically, and  
11  so I am not the one at Open Road that has these  
12  conversations, but I think there's a -- based on  
13  relationships and what we know of certain independent  
14  power producers, we think certain ones might be  
15  interested in a particular project.

16                   So it's not just a hope at some point,  
17  it's based on our knowledge of the industry and a  
18  particular market and the various independent power  
19  producers.

20           Q.    Is there one operator which operates both  
21  of the other projects that was developed by Open Road  
22  in Ohio?

23           A.    No.  One of those is owned now by Energex  
24  and the other one is owned by a company called RWE.

25           Q.    Okay.  And do those entities, meaning any

1 operator, do they sometimes then sell again to  
2 another operator?

3 A. Sometimes.

4 Q. You have seen that happen?

5 A. Yes.

6 Q. And, in fact, that may even happen in a  
7 third iteration where, in other words, Open Road  
8 develops, sells to operator 1, operator 1 sells to  
9 operator 2, operator 2 sells to operator 3, right?

10 A. It could happen, yeah.

11 Q. Have you seen that in your personal and  
12 professional experience?

13 A. I can't think of an example of one that  
14 has changed hands three times. I can think of ones  
15 that have changed hands twice.

16 Q. And in that instance, do you know what,  
17 if any, indemnity or hold harmless agreements were in  
18 place in those agreements so as to protect your  
19 adjoining landowners from any risk associated with  
20 the operation of the project itself?

21 A. I do not know that. But in case its  
22 helpful, each of the contracts that we sign, whether  
23 that's a lease agreement with a landowner, whether  
24 that's a study agreement with a consultant, whether  
25 that's a good neighbor agreement with a

1 non-participating landowner, or whether that's a  
2 certificate issued by the Siting Board, those are  
3 issued in the name of Frasier Solar, in this case  
4 Frasier Solar, LLC, so that regardless of who owns  
5 that entity, in this case Frasier Solar, those  
6 commitments in those contracts are binding on the  
7 subsequent owners through the counterparty of the  
8 agreement being Frasier Solar, LLC.

9 Q. Right. Binding on the subsequent owners,  
10 right?

11 A. Binding on the project company and  
12 therefore the owner of the project company.

13 Q. Right. But at that point, would Frasier  
14 or Open Road have any responsibility?

15 A. That I don't know. I'm sorry.

16 Q. Okay. Are you familiar, Mr. Adair, with  
17 an entity known as Knox County For Responsible Solar?

18 A. Yes.

19 Q. Okay. Has -- and I am just going to  
20 refer to gestalt as the affiliate group, that would  
21 be Open Road, Frasier, and Eolian.

22 A. All right.

23 Q. Has -- has that affiliate group, if you  
24 know, provided any funding, meaning monetary funding,  
25 to Knox County For Responsible Solar?

1           A.    No.  There was a landowner from a project  
2   that we developed in Licking County who -- who was --  
3   was being paid by Open Road for his assistance there  
4   and he provided some initial assistance to the  
5   founder of that group.  So indirectly we were  
6   compensating him.  That -- that ended quite a while  
7   ago.

8           Q.    Okay.  And they were in favor of the  
9   project, right?

10          A.    They who?

11          Q.    That group, Knox County For Responsible  
12   Solar.

13          A.    Everyone that I know that's associated  
14   with Knox County For Responsible Solar supports  
15   Frasier Solar.

16          Q.    Thank you.  Has the affiliate group as I  
17   defined it, Eolian, Open Road, and Frasier, has it  
18   provided any financial support to Ohio Land And  
19   Liberty Coalition?

20          A.    Not that I am aware of.

21          Q.    Are you familiar at all with that group,  
22   sir?

23          A.    Yes.

24          Q.    Okay.  What is your understanding of that  
25   group?

1           A.    They -- I've worked more with them in  
2 other states than I have in Ohio, but I believe they  
3 advocate for -- well, different types of energy, and  
4 I believe they have a focus on landowners' rights.

5           Q.    When you say different types of energy,  
6 do you mean what we would traditionally define as  
7 alternate energy sources?

8           A.    I -- I believe --

9           Q.    Wind and solar?

10          A.    Yeah, they advocate for renewable energy.

11          Q.    Thank you.

12          A.    I don't know if they support other types  
13 of energy development as well.

14          Q.    In respect of its efforts, I think you  
15 said you've been boots on the ground and involved  
16 since sometime in 2021 with this Frasier project; is  
17 that right?

18          A.    Yeah.

19          Q.    Has Frasier or Open Road or Eolian, the  
20 affiliate group, solicited the assistance of any  
21 third-party vendor to in turn solicit comments from  
22 the public in support of this renewable energy  
23 project?

24          A.    We have a communications firm that works  
25 with us, they are called Amplifier, and then another

1 one that's called the Remington Road Group, and I  
2 don't know if -- I would say they have solicited  
3 comments, but Amplifier, for example, helps us with  
4 media, so with press releases, with interviews with  
5 press, and places ads for the projects, and so some  
6 of those are oriented towards generating awareness  
7 and soliciting comments for the project, but it's not  
8 limited to that.

9 Q. Thanks. And I think you said the other  
10 one was the Remington Road Group?

11 A. Yes.

12 Q. So do -- as you have just described  
13 function, do Amplify and Remington Road Group have  
14 similar function?

15 A. I would say Amplifier is more of a media  
16 consultant, Remington Road is more of a general  
17 consultant.

18 Q. All right. And so it seems then that you  
19 think it's appropriate for a group like Frasier,  
20 Eolian group, or groups of individual companies,  
21 Eolian, Frasier and/or Open Road, to solicit the  
22 assistance of others to communicate that message  
23 which Frasier and Open Road wants to communicate to  
24 the public?

25 A. Yeah.



1 Q. Nothing wrong with that, is there?

2 A. No.

3 Q. Okay. And they charge a fee, I'm  
4 guessing, right?

5 A. Yes.

6 Q. In your capacity with Open Road or the  
7 Frasier project, do you know how much either  
8 Amplifier or the Remington group has been paid?

9 A. Yes, but I believe that's proprietary  
10 business information.

11 Q. Why do you say that?

12 A. Because I don't know how much they charge  
13 other clients and whether I am at liberty to say how  
14 much we pay them.

15 Q. Okay. But you have paid them.

16 A. Yes.

17 Q. They don't work for free.

18 A. No.

19 Q. All right. Do you know -- and I may be  
20 mispronouncing that name so I apologize to her and to  
21 you, Kathiann Kowalski.

22 A. I know who she is, yeah.

23 Q. Who is she?

24 A. She is a reporter.

25 Q. For what publication?

1           A.    I believe it's called the Energy News  
2 Network.

3           Q.    Okay.  Is that a national publication?

4           A.    I don't know.

5           Q.    Prior to your involvement in the Frasier  
6 project had you ever been introduced to Kathiann  
7 Kowalski?

8           A.    No.

9           Q.    Okay.  So that's that first silo of  
10 questions, okay?  What is your definition of dark  
11 money?

12          A.    I would say a dark money organization is  
13 one that does not disclose its sources of revenue or  
14 funding.

15          Q.    You were at Jared's deposition on Friday,  
16 weren't you?

17          A.    Yes.

18          Q.    And you were here when he testified  
19 today?

20          A.    Yes.

21               MR. HOLTHUS:  If I may approach the  
22 witness, your Honor?

23               ALJ HICKS:  Yes.

24               MR. HOLTHUS:  Thank you.  And I'll be  
25 introducing these as KSD 1 going forward.  And I

1 apologize for not premarking these.

2 ALJ HICKS: What is it just so we can  
3 mark it on the record, if would you describe it?

4 MR. HOLTHUS: It is -- it appears to be  
5 on some sort of letterhead from Open Road Renewables  
6 and the title is "The Truth About Knox Smart  
7 Development's 'Town Hall' Meeting."

8 ALJ HICKS: That will be marked as KSD  
9 Exhibit 1.

10 MR. HOLTHUS: Thank you.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. (By Mr. Holthus) Have you had an  
13 opportunity to review this exhibit, sir?

14 A. I'm generally familiar with the exhibit,  
15 so if there is a part you want me to review, please  
16 direct me there.

17 Q. Well, I want you to review all of it.  
18 Have you had an opportunity to review all of it?

19 A. I have reviewed it previously. I have  
20 not reviewed it all again now.

21 Q. Okay. Is -- as we see it on the first  
22 page here of this exhibit, No. 1 at the bottom, is  
23 this a true and accurate copy of a publication that  
24 was created and disseminated by Open Road Renewables?

25 A. I haven't reviewed every line of this,

1 but it appears to be a document that we put together  
2 and posted on our website.

3 Q. Okay. Do you have authority to vet and  
4 verify the information that's posted on the Open Road  
5 Renewables website?

6 A. Yes.

7 Q. Do you have authority to in turn remove  
8 information from the Open Road Renewables website?

9 A. Yes.

10 Q. Was this posted to the Open Road  
11 Renewables website?

12 A. If it was not posted in its entirety, I  
13 believe portions of it are.

14 Q. Has it ever been removed from the  
15 website?

16 A. I don't believe so.

17 Q. Could you read the first sentence out  
18 loud, please?

19 A. "The newly formed LLC backed by corporate  
20 dark money calling itself Knox Smart Development  
21 recently hosted a well funded propaganda event  
22 serving free alcohol and spreading misinformation  
23 about solar energy."

24 Q. What corporate dark money is being  
25 referenced there?

1 A. The Empowerment Alliance.

2 Q. Okay. Is the Empowerment Alliance a  
3 corporation?

4 A. I don't know what their -- what type of  
5 entity it is.

6 Q. But Open Road Renewables referred to it  
7 as a corporation insofar as it suggested Knox Smart  
8 Development was being backed by corporate dark money,  
9 correct?

10 MR. SETTINERI: Just object. The  
11 document speaks for itself, that's corporate dark  
12 money.

13 MR. HOLTHUS: I will withdraw the  
14 question.

15 MR. SETTINERI: Thank you.

16 Q. (By Mr. Holthus) What evidence -- when  
17 this was published what evidence did Open Road have  
18 that the Empowerment Alliance was even providing one  
19 dollar to Knox Smart Development?

20 A. The evidence that we had was, first of  
21 all, when the website appeared in November of 2023,  
22 there was a phrase at the top of the website that  
23 said "Empowering America," which looks a lot like the  
24 slogan for the Empowerment Alliance as I understand  
25 it.

1           That slogan was also a link, and it  
2 linked directly to the Empowerment Alliance's  
3 website. And then additionally, there was a fact  
4 sheet on the website that had TEA in the file name.  
5 I believe it was called TEA\_no solar\_US. So with  
6 other links to the Empowerment Alliance the TEA  
7 appeared to be related to the Empowerment Alliance.

8           And the other piece I would say was the  
9 publications that were appearing in township  
10 trustee's meetings and in this event were clearly --  
11 they appeared to me to be significantly higher  
12 production value, meaning there was more money going  
13 into the publications into the website and then  
14 when -- after the event, when it was clear speakers  
15 were flown in and there appeared to be a significant  
16 amount of money spent, then I decided from that that  
17 the Empowerment Alliance appeared to be involved.

18           Q.    Theory and conjecture on your part, but  
19 no evidence that even one dollar was provided to KSD  
20 by the Empowerment Alliance, that's true, isn't it?

21                   MR. SETTINERI: Object, argumentative.

22                   ALJ HICKS: Sustained.

23           Q.    (By Mr. Holthus) What evidence did you  
24 have at the time this exhibit was published on your  
25 website that the Empowerment Alliance had given even

1 one dollar to Knox Smart Development?

2 MR. SETTINERI: Object, asked and  
3 answered.

4 MR. HOLTHUS: It hasn't been answered.

5 ALJ HICKS: This is the last shot to  
6 answer it, so if you need to clarify anything --

7 THE WITNESS: Yeah, my answer is the same  
8 when you asked that a second ago, and that was the  
9 indications of the Empowerment Alliance on the  
10 website, and then the value of -- the production  
11 value and the event -- the amount of money that was  
12 being spent was -- was indicative to me of money  
13 coming from somewhere, and given the evidence there  
14 about the Empowerment Alliance, I expected that that  
15 money was coming from the Empowerment Alliance.

16 Q. (By Mr. Holthus) Without proof?

17 A. Without proof at the time, but we have  
18 that proof now.

19 Q. What is that proof?

20 A. The proof was Mr. Yost's testimony on  
21 Friday and today that Tom Rastin of the Empowerment  
22 Alliance was a major donor to his organization, as  
23 well as significant collaboration between Knox Smart  
24 Development and the Empowerment Alliance.

25 Q. Didn't Mr. Yost testify that Tom Rastin

1 had provided money?

2 A. Yes.

3 Q. Did he say, Mr. Yost, that Tom Rastin --  
4 Rastin had provided that money on behalf of the  
5 Empowerment Alliance?

6 A. I don't know. I was not part of that  
7 conversation.

8 Q. Well, you were here listening to his  
9 testimony.

10 A. I thought -- well, you can repeat the  
11 question. I thought you were asking of my knowledge  
12 of the conversation that happened between Jared Yost  
13 and Tom Rastin.

14 MR. HOLTHUS: This will be KSD 2. And  
15 for the record, this is a copy of what I understand  
16 to be two postings on KSD -- I am sorry, on the  
17 Frasier Solar website.

18 ALJ HICKS: Okay.

19 MR. HOLTHUS: Both dated December 20 of  
20 2023.

21 ALJ HICKS: So I think one is  
22 December 26, so with that clarification.

23 MR. HOLTHUS: 26, excuse me.

24 ALJ HICKS: It will be marked as KSD  
25 Exhibit 2.



1 MR. HOLTHUS: Thanks for the correction.

2 ALJ HICKS: Yep.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. (By Mr. Holthus) Have you had, Mr. Adair,  
5 an opportunity to review KSD 2?

6 A. I have reviewed the first page of it. Do  
7 you want me to review all of it?

8 Q. If you would, please.

9 A. Okay.

10 Q. Are these -- if you know, sir, are these  
11 true and accurate copies of postings that appeared on  
12 the Fraiser Solar website in or about December of  
13 2023 -- Facebook, excuse me.

14 A. Yeah, I don't believe these are on our  
15 website, I believe they were on our Facebook page.

16 Q. Did you, or do you, contribute content to  
17 the Frasier Solar Facebook page?

18 A. Yes.

19 Q. Did you provide this content to the  
20 Facebook page?

21 A. I did not provide it. Our media  
22 consultant recommended it, and either I or one of my  
23 colleagues reviewed it and approved it.

24 Q. Okay. Was it ever removed from the  
25 Facebook page?

1 A. I don't know.

2 Q. Looking at the first page of this KSD  
3 Exhibit 2, the first sentence reads, "A new corporate  
4 dark money group backed by traditional corporate  
5 energy interests was formed in November of 2023 with  
6 the sole purpose of misleading Knox County residents  
7 and officials about solar energy and the proposed  
8 Fraiser Solar project." Did I read that correctly so  
9 far?

10 A. Yes.

11 Q. Okay. I am going to stop right there.  
12 Is the reference to dark money the same reference as  
13 before to the Empowerment Alliance?

14 A. Yes.

15 Q. Any other reference that's being made to  
16 dark money in this posting?

17 A. No.

18 Q. All right. Frasier Solar certainly has  
19 its interests, right?

20 A. Yes.

21 Q. The Empowerment Alliance has its  
22 interests, correct?

23 A. Yes.

24 Q. KSD has its interests, correct?

25 A. I assume so.

1 Q. And on the last page of this exhibit,  
2 sir, do I understand that Open Road Renewables  
3 invited the public to a pizza party?

4 A. Yes.

5 Q. Not unlike a town open hall meeting where  
6 refreshments are provided, is it?

7 A. Yeah. I guess the venue was much cheaper  
8 in our case.

9 Q. How do you know that even a dollar was  
10 spent?

11 A. What do you mean?

12 Q. By KSD to use the facility where their  
13 open house public forum was held?

14 A. Well, Knox Smart Development hosted the  
15 event. I guess that's possible that somebody donated  
16 the use of the space and they didn't pay for it. In  
17 my experience generally is when you host an event,  
18 you pay to use the venue.

19 Q. Looking at the first page of this KSD  
20 Exhibit 2, do you see the photograph at the bottom?

21 A. I do.

22 Q. Did your media consultant choose to use  
23 that photograph?

24 A. He proposed it.

25 Q. And did you approve it?

1 A. Yes.

2 Q. And it appears to be a gentleman with a  
3 hooded sweatshirt, you can't see the face, holding a  
4 first full of dollars.

5 A. Yes.

6 Q. And then on the second page of this  
7 exhibit, there's a photograph also?

8 A. Yes.

9 Q. I'm just going to generally describe it,  
10 correct me if you think I'm wrong. Smoke stacks  
11 spewing ash and chemicals into the air, a pile of  
12 money in front of it, right?

13 A. I would say spewing emissions, I don't  
14 know what type of emissions.

15 Q. That's fair. Did you approve this  
16 photograph when it was posted?

17 A. I've seen it. I don't recall whether I  
18 approved it or a colleague did.

19 Q. If one were to go to the Fraiser Solar  
20 Facebook page today would they be able to find either  
21 this December 26, '23, posting or the December 20,  
22 '23, posting?

23 A. I don't know.

24 Q. I believe you have in front of you --  
25 next silo. I believe you have in front you --

1 A. Could you remind me which silo we are in  
2 now?

3 Q. That would be three.

4 A. And third silo is my testimony?

5 Q. Third silo is your testimony along with  
6 the Joint Stipulation and Recommendations.

7 A. Okay.

8 Q. If you would turn then to the Joint  
9 Stipulation and Recommendation.

10 A. Okay.

11 Q. And sensitive and certainly want to abide  
12 by the ALJ's instruction not to rehash ground, I am,  
13 but with a corollary question, going to ask you to  
14 turn to page 12 and paragraph -- parenthetical small  
15 (b).

16 A. Okay.

17 Q. Okay. And about -- oh, guess it's the  
18 second sentence, the third line, the sentence begins,  
19 "The plan shall minimize."

20 A. Yes.

21 Q. Do you see where I am reading, sir?

22 A. Yeah.

23 Q. "The plan shall minimize grading to the  
24 extent practicable and economically feasible." I  
25 want to stop right there and ask you, sir, who

1 determines whether the plan is economically feasible?

2 A. The project owner.

3 Q. Which would be Frasier or Open Road,  
4 correct?

5 A. Currently that's Open Road.

6 Q. Right.

7 MR. SETTINERI: Counsel, are you in the  
8 testimony or Stipulation? I missed that.

9 ALJ HICKS: Stipulation.

10 MR. HOLTHUS: I'm sorry, it's the  
11 Stipulation. Page 12, parenthetical small (b).

12 A. I am sorry, can you repeat the question?

13 Q. (By Mr. Holthus) I surely can. The  
14 sentence reads, "The plan shall minimize grading to  
15 the extent practicable and economically feasible,"  
16 and I stopped and I believe my question was this, or  
17 something very similar, who determines whether or not  
18 that grading plan is economically feasible?

19 A. The owner of Frasier Solar, or Frasier  
20 Solar.

21 Q. Okay. The sentence continues "Specify  
22 the percentage of agricultural lands within the  
23 project area for which grading is anticipated and, if  
24 applicable, provide the reason(s) that the 5-percent  
25 goal is not practicable or economically feasible for

1 the project area." Did I read that correctly?

2 A. Yes.

3 Q. And who makes that determination as to  
4 whether or not the 5 percent goal is or is not  
5 practicable or economically feasible?

6 A. Frasier Solar. It would be done in  
7 conversation or collaboration with the contractors  
8 and engineers, but Frasier Solar would make that  
9 determination.

10 Q. Now on behalf of Mr. Yost, because, as  
11 you are well aware, I represent Mr. Yost also in his  
12 intervening capacity as an adjoining property owner,  
13 does he have any opportunity to weigh in on  
14 practicality or economically -- economic feasibility  
15 in that instance?

16 A. Mr. Yost's opportunity to weigh in would  
17 be through -- well, let me back up a second.

18 So the process here is that once a final  
19 design is -- is completed, then a full grading  
20 analysis or a full civil analysis will be performed  
21 that will become a part of the stormwater and  
22 pollution prevention plan pursuant to the Ohio  
23 general -- EPA's general construction permit.

24 That document will have all the  
25 engineering details of the various stormwater

1 controls, erosion and sediment controls, including  
2 the amount of grade, vegetation, the various measures  
3 to minimize erosion and sediment loss as well as  
4 stormwater runoff.

5 That plan would be provided to OPSB so  
6 any member of the public could review it, but we  
7 further offered in consultation with the Soil and  
8 Water District to provide a copy of that SWPPP it's  
9 called.

10 Q. Sure.

11 A. And so Soil and Water will get a chance,  
12 as well as the county engineer, to review it. So a  
13 neighbor as of now would not have the ability to  
14 weigh in directly, get a copy it and review it, but  
15 he would be able to visit with the Soil and Water  
16 staff or the county engineer, see it, review it,  
17 provide comment, and then those -- the engineer and  
18 Soil and Water will have the opportunity to provide  
19 comment.

20 Q. And even -- even after -- correct me if I  
21 am wrong, but even after the grading plan goes  
22 through those iterations of bureaucratic approval,  
23 Frasier or Open Road can still tap the brakes and  
24 say, hey, we have your approval and authority, but  
25 for us it's not economically feasible, correct?



1           A.     Frasier Solar would be the one at the end  
2 of the day who makes the decisions based on Ohio EPA  
3 regulations, and we are very interested in what the  
4 local authorities, in this case the engineer and Soil  
5 and Water, they are very knowledgeable as are local  
6 landowners, so there's still significant consultation  
7 that will happen in the process. But at the end of  
8 the day, it will be Frasier Solar's decision subject  
9 to state regulations.

10           Q.     But if those state regulations created an  
11 environment where Fraiser Solar says this isn't  
12 economically feasible, Frasier Solar can back away  
13 from even putting a first shovel in the dirt,  
14 correct?

15           A.     I didn't understand the question.

16           Q.     Let me try to rephrase it. The grading  
17 plan is submitted for approval, step 1, correct?

18           A.     It's submitted as part of the SWPPP to  
19 Ohio EPA, yes.

20           Q.     Right. And if EPA approves it, it then  
21 goes to the local Soil and Water Conservation  
22 District, correct?

23           A.     No.

24           Q.     No?

25           A.     No. If you read the -- the -- well, it's

1 in the additional commitments that we've made that  
2 are attached to my testimony. I can look that up and  
3 see which exhibit it is. And then in the proposed  
4 MOU with Soil and Water, that it's the other way  
5 around.

6           Once the SWPPP is prepared, it would be  
7 submitted to the county engineer and Soil and Water  
8 first for comment prior to submitting it to Ohio EPA,  
9 so we have the opportunity to incorporate feedback  
10 that we get.

11           Q. Thank you. But even with that correction  
12 of the process, even if EPA says, yes, you are good  
13 to go, gives you the green light, Frasier and/or Open  
14 Road, as the case might be, can still tap the brake  
15 and say thanks for the approval but we have decided  
16 this is not economically feasible? Do I have that  
17 correct?

18           A. Well, we could not do something which  
19 violates Ohio EPA's general construction permit, but  
20 if those requirements are met, then, yes, beyond  
21 that, the decision of what other measures to  
22 incorporate are ultimately the decision of Frasier  
23 Solar.

24           Q. And again, Frasier at that time could  
25 make the decision this is not -- we have all of the

1 permits, everyone is onboard, but we unilaterally are  
2 deciding this is not economically feasible? That is  
3 a decision which Frasier can unilaterally make,  
4 correct?

5 MR. SETTINERI: Objection, asked and  
6 answered.

7 ALJ HICKS: Sustained. I think you have  
8 established your point on this.

9 MR. HOLTHUS: All right. Thank you.

10 Q. (By Mr. Holthus) If you would turn now to  
11 subpart B of silo three of your testimony. Begin, if  
12 you would, please, sir, at page 4.

13 A. Which page?

14 Q. 4, question 5, answer 5, beginning at  
15 lines -- line 16.

16 A. Okay.

17 Q. Does Open Road have currently a project  
18 that is supplying energy to the grid anywhere in  
19 Kentucky?

20 A. We have a project that we developed in  
21 Kentucky. I do not know the status of whether it is  
22 under construction or operational.

23 Q. How about same question with respect to  
24 Maryland?

25 A. I believe that the projects we developed

1 in Maryland, none of them are yet producing  
2 electricity.

3 Q. And Pennsylvania?

4 A. Not producing electricity.

5 Q. If you would turn to page 9, sir.

6 A. Okay.

7 Q. Question 9, answer 9, beginning at line  
8 14.

9 A. Okay.

10 Q. The portion of your answer which it  
11 appears to me begins on the fifth line, the sentence  
12 begins "The project will help meet." Do you see  
13 where I am reading?

14 A. Line 19.

15 Q. It's line 19, yes.

16 A. Okay.

17 Q. "The project will help meet electricity  
18 demand in the region, particularly in light of recent  
19 retirement of coal-fire generated assets located in  
20 Ohio and throughout the country." And then there is  
21 a footnote, correct?

22 A. Yeah.

23 Q. All right. What is -- if you know, what  
24 is precipitating the retirement of coal-fired  
25 generating assets in Ohio?

1           A.    I think it's a combination of things.  
2    Many coal plants are no longer economic, meaning they  
3    are not able to produce power at a price that is  
4    competitive in an open market.  I think there are  
5    some plants that because of regulations are now too  
6    costly to operate.  In another case I believe some  
7    have reached the end of their useful life.

8           Q.    And when you say "regulations," do you  
9    mean federal regulations?

10          A.    Yes, federal regulations.  I don't know  
11    if there are others.

12          Q.    Okay.  Are there any federal regulations  
13    that pertain to the development of solar as an  
14    alternate energy source?

15          A.    Yes.

16          Q.    And they -- those regulations are  
17    promoting solar, aren't they?

18          A.    Not necessarily.  They regulate.

19          Q.    If you would turn to page 10, and I am  
20    focusing on line 4, it's a continuation of your  
21    answer from the preceding page.

22          A.    Okay.

23          Q.    The sentence on line 5 which begins "An  
24    example of the growth."  Do you see where I am  
25    reading, sir?

1           A.    Yeah.

2           Q.    "An example of the growth in the demand  
3 for renewable energy is Intel's \$20 billion  
4 investment to construct two semiconductor  
5 manufacturing factories in Ohio that will span nearly  
6 1,000 acres in Licking County." And then again a  
7 footnote to the Intel website, correct?

8           A.    Yes.

9           Q.    All right. Continuing, "Importantly,  
10 it's my understanding that Intel has a goal for its  
11 operations to be powered by 100 percent renewable  
12 electricity by 2030," correct?

13          A.    Yes.

14          Q.    Do you know -- on a timeline do you know  
15 when Intel announced its intention to construct its  
16 facility in Licking County relative to Open Road's  
17 and 2021 your coming to the state to look for  
18 possible sites for the Frasier project?

19          A.    I should know that. I believe it was  
20 sometime in 2022. I'm not certain. I just remember  
21 because I know we were not yet -- we did not yet have  
22 all the land rights to the project.

23                   And when the Intel project was announced,  
24 as often happens when a -- there's development like  
25 this, then it changed landowners' expectations for

1 rents, for sales prices of land, so I know that we  
2 had not yet finished the land. We signed our last  
3 agreement in, I believe it was May of 2023. So it  
4 was sometime before that.

5 Q. Your -- I don't believe you're suggesting  
6 that Intel is coming even in part because of the  
7 proposed Frasier project, are you?

8 A. No.

9 Q. Okay. If you would turn to page 11.

10 A. Well, can I clarify my answer a minute  
11 ago? You said -- can you say that question again?

12 Q. Well, I will just ask our court reporter  
13 to reread the question.

14 A. Okay.

15 MR. HOLTHUS: Yeah.

16 (Record read.)

17 A. Yeah. And I think I said no. I would  
18 just clarify that I think based on Intel's goal as  
19 articulated in that press release, their desire to be  
20 able to power their facility with renewable energy,  
21 that the amount of -- of renewable energy that's  
22 available for purchase would be a factor in them  
23 deciding where to locate a new facility, but it was  
24 not -- certainly not specific to Frasier Solar.

25 Q. That's conjecture on your part. You

1 don't have any facts for that conclusion, do you?

2 A. Correct.

3 Q. Okay. Question 10 and your response  
4 then, sir -- we are on page 11. I'm sorry. I will  
5 wait until you get there.

6 A. Okay.

7 Q. Question 10 and that portion of your  
8 answer that begins at line 15, "Consequently." Do  
9 you see where I am reading, sir?

10 A. Yes.

11 Q. "Consequently, almost all of the land in  
12 the project area" and that's in reference to the  
13 Frasier project, right?

14 A. Yes.

15 Q. "Has been previously cleared for farming  
16 and will easily accommodate the installation of PV  
17 panels," correct?

18 A. Yes.

19 Q. Do you know who cleared the land?

20 A. No.

21 Q. But the fact that the land is cleared  
22 makes Frasier's installation of the panels an easier  
23 job, doesn't it?

24 A. It does. It also reduces the impacts of  
25 construction.



1 Q. If you would turn now to page 12.

2 A. I'm there.

3 Q. Thank you. Question 11 and answer 11  
4 which begins on line 4, if you could just read to  
5 yourself that first paragraph within your answer and  
6 let me know when you are done.

7 A. Okay.

8 Q. There's a phrase within that paragraph --  
9 well, I will just read the entire sentence. "The  
10 racking system will include a stowing feature. This  
11 feature moves panels into a defensive position during  
12 high winds, which minimizes load on the panels'  
13 piling structure and minimizes the risk of damage to  
14 the tracker system and solar panels." That was all  
15 read correctly, right?

16 A. Yes.

17 Q. "Minimizes load on the panels' piling  
18 structure," is there any way to design and construct  
19 this solar panel array and all of its component parts  
20 to eliminate those risks?

21 A. That says "minimize the load."

22 Q. I'm sorry.

23 A. I am not aware of a way to eliminate the  
24 load in all circumstances, so I think that -- that  
25 feature is designed to minimize, not eliminate.

1 Q. And when you say "the load," are you  
2 referring to the wind loading?

3 A. Yeah. This would be the mechanical  
4 loading from the wind.

5 Q. Any idea what not only the force of the  
6 wind in miles per hour but the length of duration of  
7 any gusts of wind that this defensive position will  
8 withstand?

9 A. I think it depends on the panel model. I  
10 think it also depends on the tracker model. We have  
11 included that information for the representative  
12 components that we've -- and used in this  
13 Application.

14 And we also answered a question Staff  
15 asked -- asked this question in a data response, and  
16 so one of our answers in the data response is on this  
17 question, so I could pull that up.

18 As I recall, I believe this -- I don't  
19 remember if it was the panel or the tracker is rated  
20 for 150 -- gusts of 150 miles per hour winds.

21 Q. Okay. If you would turn to page 13.

22 A. Okay.

23 Q. Question 12, answer 12.

24 A. Okay.

25 Q. I'm going to begin reading at line 8.

1 "The Project's annual net capacity factor is expected  
2 to be 23 percent to 25 percent, which means that the  
3 Project would generate 225,080 to 250,520  
4 megawatt-hours of electricity annually, with an  
5 expected 5 percent annual decline." Did I read all  
6 of that correctly?

7 A. Yes.

8 Q. And that calculation is -- maybe I am not  
9 using the phrase correctly but that's an exponential  
10 reduction; in other words, it's not 5 percent each  
11 year from the total. It's 5 percent of the year  
12 before?

13 MR. SETTINERI: I am just going to  
14 object. I believe it's .5 percent, not 5 percent.

15 MR. HOLTHUS: Thank you for the  
16 correction. I agree.

17 MR. SETTINERI: I think that was in  
18 your initial -- when you read the sentence the first  
19 time.

20 MR. HOLTHUS: Thank you for the  
21 correction. I agree.

22 MR. SETTINERI: Thank you.

23 Q. (By Mr. Holthus) Do you understand the  
24 question?

25 A. I do, and I don't know the answer.

1 That's a good question.

2 Q. If you would turn to page 14 -- and just  
3 so you understand, I've got just four more questions  
4 subject to counseling with Zach. Page 14. Page  
5 14 --

6 A. Okay.

7 Q. -- question 15 -- let me correct myself,  
8 four more areas of questions. Question 15, answer  
9 15, the second paragraph which begins "Additionally,"  
10 do you see where I am reading, sir?

11 A. Line 7?

12 Q. Line 7, yes, sir.

13 A. Okay.

14 Q. "Additionally, Frasier Solar sent various  
15 other mailings to property owners and tenants around  
16 the Project Area to keep them informed about the  
17 Project," correct?

18 A. Yeah.

19 Q. "These include an invitation to a solar  
20 educational open house during January 2023." Is that  
21 the pizza party, or was that some other event?

22 A. No. That was an educational event that  
23 we hosted at the Mount Vernon Nazarene University.  
24 And we had various experts on different topics there  
25 to talk about solar -- utility-scale solar

1 development generally more than specifically to the  
2 Frasier project.

3 Q. Were those experts that you had invited  
4 to speak at that event, were they compensated by  
5 Frasier, Eolian, or Open Road?

6 A. Any of the ones that traveled, we  
7 compensated their -- paid their travel expenses.

8 Q. Okay. But not for their time, correct?

9 A. I don't believe so.

10 Q. Okay. So you would agree with me that in  
11 your --

12 A. Actually let me say I actually don't  
13 remember. We certainly compensated them for travel.  
14 I don't remember if we compensated for time.

15 Q. Based upon your experience -- well, is it  
16 unfair of me to say that in your capacity and your  
17 professional capacity, you are promoting solar as an  
18 alternative energy source?

19 A. Yes.

20 Q. And don't you in your capacity embrace  
21 experts who are willing to convey that same message  
22 without any compensation or quid pro quo?

23 MR. SETTINERI: I'll object as to the  
24 phrase "your capacity" as ambiguous.

25 ALJ HICKS: Can you ask the question

1 again?

2 MR. HOLTHUS: Sure.

3 Q. (By Mr. Holthus) Would Frasier or Open  
4 Road say no to any expert who might speak at a  
5 Frasier or Open Road open house event who in turn was  
6 a proponent for alternative energy?

7 A. Let's see if I got the question. Are you  
8 saying would we turn down a speaker who is a  
9 proponent of solar energy for one of our -- an event  
10 that we host?

11 Q. Yes.

12 A. Yeah.

13 Q. On what basis?

14 A. Their expertise, their knowledge of the  
15 subject matter, the factual basis for their  
16 information, whether they are an effective  
17 communicator.

18 Q. If all of those things passed your muster  
19 and they said and we would do this without  
20 compensation, would you turn them away from speaking?

21 A. Not on that sole basis. The other things  
22 that I just listed would be the -- the main criteria  
23 for deciding.

24 Q. Same page, sir, this is question 17,  
25 answer 17, beginning at page 25 (sic).

1 A. Okay.

2 Q. Generally speaking the question and  
3 answer involves this topic Verdantas has been a  
4 primary consultant for Frasier and Open Road on the  
5 Frasier Solar project, correct?

6 A. Yes.

7 Q. Of these 6 to 10 other projects in which  
8 you have been involved, how many times has Verdantas  
9 been the lead consultant?

10 A. If you are only asking about projects  
11 that I have been involved with --

12 Q. Yes.

13 A. -- none.

14 Q. How about Open Road generally? Are you  
15 able to give us that number?

16 A. It is several projects. I don't know  
17 whether it's three or five, but it's several. I  
18 think it's fewer than five and more than two.

19 Q. And three or five out of how many in  
20 total?

21 A. Out of six to eight.

22 Q. Okay. So half or more than half.

23 A. Or close to half.

24 Q. Or close to half. Line 17, with respect  
25 to his Honor's admonition about asking -- going over

1 trotted ground, this is a corollary question --

2 A. Can you pull the mic a little closer to  
3 you?

4 Q. This is lines -- page 17, question 20.

5 A. Okay.

6 ALJ HICKS: You made your references.  
7 I'm not -- what page are you on?

8 MR. HOLTHUS: Page 17 of his testimony,  
9 your Honor.

10 ALJ HICKS: You said question 20 or you  
11 mean line 20?

12 MR. HOLTHUS: Question 20, line 8.

13 A. Okay.

14 Q. (By Mr. Holthus) Thank you. "Based on  
15 economic modeling performed for the Project," and  
16 then you reference the exhibit, "the Project will  
17 create an estimated 232 full-time  
18 construction-related jobs," right?

19 A. Yes.

20 Q. How long is constructed -- construction  
21 anticipated to last if we include those two which are  
22 still in the queue?

23 A. If it's built as one phase, 12 to 15  
24 months.

25 Q. Okay.



1           A.     Generally 12 months, but if there are  
2     delays, it could be 15.  If it's built in two  
3     separate phases, would likely be more like a total of  
4     18 months, not more than 12 months at any one  
5     location, but from start to finish, it could be more  
6     likely 18 months because the phase 2 would be in a  
7     different time.

8           Q.     So while these construction jobs may be  
9     full-time, they will only be full-time for at most 18  
10    months, correct?

11          A.     That's right.  They are full-time  
12    equivalents.

13          Q.     And then after that, while the project is  
14    being operated, you estimate 11 full-time jobs for  
15    the operation and maintenance and upkeep of the  
16    project, correct?

17          A.     Well, yes.  But you are mixing two  
18    different statistics.  The 230 are direct jobs  
19    employed by the project.  The number, if you include  
20    indirect and induced jobs, the estimate is closer to  
21    350, I believe, according to the socioeconomic  
22    report.  And then for the operations, it's more like  
23    five, I believe it's five direct full-time equivalent  
24    jobs.

25          Q.     Thank you.

1           A.    And then seven includes the indirect and  
2 induced.

3           Q.    And induced -- and you provided a nice  
4 explanation for induced earlier in your testimony.

5           A.    And I will just remind you that does not  
6 include the additional jobs that would be created for  
7 the vegetation management with the sheep grazer.

8           Q.    But those 11 full-time direct incidental  
9 and induced are the 11 jobs which would be created  
10 incidental or induced after the project has completed  
11 construction, correct?

12          A.    Correct.

13           MR. HOLTHUS: All right. If I might just  
14 have one minute to consult with Zach. Thanks.

15           ALJ HICKS: Sure.

16           MR. HOLTHUS: Nothing further, your  
17 Honor. Thank you.

18           Thank you, Mr. Adair.

19           ALJ HICKS: Thank you.

20           Need a minute?

21           MR. SETTINERI: Yeah, not only for the  
22 restroom but maybe a little time, 15-minute break?  
23 We have been going a couple hours.

24           ALJ HICKS: That's what I was going to  
25 suggest. Come back -- what time is it now? So let's

1 say 4:10.

2 MR. SETTINERI: Stay out of the  
3 elevators.

4 ALJ HICKS: We are off the record.  
5 (Recess taken.)

6 ALJ HICKS: We will go back on the  
7 record.

8 Just came back from a break and I am now  
9 turning it back over to Mr. Settineri to see if he  
10 has any redirect?

11 MR. SETTINERI: Yeah, briefly, your  
12 Honor.

13 - - -

14 REDIRECT EXAMINATION

15 By Mr. Settineri:

16 Q. Mr. Adair, you were asked a number of  
17 questions related to condition 23 of the Stipulation,  
18 correct? Do you remember that?

19 A. Yes.

20 Q. Okay. Do you have a copy of the Joint  
21 Stipulation with you?

22 A. Yes.

23 Q. All right. In regards to the  
24 agricultural protection plan, is the Applicant  
25 required to file that on the Power Siting Board's

1 docket?

2 A. Yes.

3 Q. And when is that filing supposed to  
4 occur?

5 A. At least 60 days prior to the  
6 pre-construction conference.

7 Q. And to that extent, does that -- that  
8 requirement is in Condition 23; is that right?

9 A. Yes.

10 Q. Just for the record, can you read the  
11 first sentence of Condition 23, please?

12 A. "At least 60 days prior to the  
13 preconstruction conference, the Applicant shall file  
14 an agricultural protection plan that is designed to  
15 minimize impacts to agricultural land use during  
16 construction, operation, maintenance, and  
17 decommissioning."

18 Q. And would that plan include the grading  
19 for the project?

20 A. Yes.

21 Q. All right. And would you expect because  
22 it's filed on the docket that a member of the public  
23 could then review that plan prior --

24 A. Yes.

25 Q. -- prior to construction starting?

1           A.    Yes.

2           Q.    Okay.  And you were asked some questions  
3 about sensitive birds, and I know there was a  
4 reference to a sandhill crane.  Is there a condition  
5 in the Joint Stipulation related to sandhill cranes?

6           A.    There is.

7           Q.    What condition is that?  And I'll, if I  
8 may save time, direct the witness's attention to  
9 Condition 52.

10          A.    Yeah, Condition 52.

11          Q.    Okay.  And if you could just read that  
12 for the record so everyone can hear it, please.

13          A.    "Construction in sandhill crane preferred  
14 nesting habitat types shall be avoided during the  
15 species' nesting period of April 1 through April --  
16 through August 31.  If present, mapping of these  
17 habitat areas shall be provided to the construction  
18 contractor along with instructions to avoid these  
19 areas during the restricted dates, unless  
20 coordination with the Ohio Department of Natural  
21 Resources allows a different course of action."

22               MR. SETTINERI:  All right.  No further  
23 questions, your Honor.  Thank you.

24               ALJ HICKS:  Thank you, Mr. Settineri.

25               Mr. Van Kley, anything further?

1 MR. VAN KLEY: Yes, your Honor.

2 - - -

3 RE-CROSS-EXAMINATION

4 By Mr. Van Kley:

5 Q. Mr. Adair, go back to Condition 52 of the  
6 Stipulation. That states that "Construction in  
7 sandhill crane preferred nesting habitat types shall  
8 be avoided during the species' nesting period of  
9 April 1 through August 31," correct?

10 A. Yes.

11 Q. In other words, Frasier Solar or its  
12 successor is not allowed to build on sandhill crane  
13 nesting habitat during that time period, right?

14 A. Yes.

15 Q. Okay. So in the case of a neighbor that  
16 has a sandhill crane habitat and maybe even nesting  
17 sandhill cranes, is there anything you see in  
18 Condition 52 that would preclude construction of the  
19 solar facility to occur between April 1 and  
20 August 31?

21 A. Can you rephrase that question?

22 Q. Sure. Is there anything in Condition 52  
23 that prevents the solar project from being  
24 constructed between April 1 and August 31 if sandhill  
25 crane nesting is occurring on adjoining property?

1           A.    No.    Condition 52 -- we don't have rights  
2   to that neighbor's property, so we will not be  
3   engaged in construction activities on that property.

4           Q.    Yeah.

5           A.    So, no, Condition 52 has nothing to do  
6   with what we can and can't do on someone else's  
7   property.

8           Q.    Right.  So because 52 only pertains to  
9   sandhill crane habitat that might exist inside the  
10  project area, it doesn't protect sandhill crane  
11  project -- or sandhill crane habitat outside the  
12  project area, does it?

13          A.    If those cranes were coming from the  
14  project area onto the neighbor's property, then this  
15  condition would prevent activity in the nesting area  
16  of those cranes, but if they are nothing to do with  
17  the project, then, no.

18          Q.    Yeah.  So if there are sandhill cranes  
19  nesting on the Keese property, Condition 52 won't do  
20  anything to protect them, will it?

21               MR. SETTINERI:  I'll just object to the  
22  lack of foundation as to whether there will be any  
23  impact to sandhill cranes on a separate property.

24               MR. VAN KLEY:  I don't think that was  
25  assumed in the question.

1 ALJ HICKS: Overruled. You can answer if  
2 you know.

3 A. Can you repeat the question?

4 Q. (By Mr. Van Kley) I don't know if I can.  
5 I'll -- I'll just ask a question and then -- or may  
6 not be a repeat. I don't know. So if -- if sandhill  
7 cranes are nesting on a neighbor's property between  
8 April 1 and August 31, then Condition 52 will do  
9 nothing to protect those sandhill cranes, will it?

10 A. No, because we don't have rights. We  
11 can't do anything on that neighbor's property  
12 regardless of Condition 52.

13 MR. VAN KLEY: Yeah. Okay. Thank you.

14 ALJ HICKS: Mr. Holthus?

15 MR. HOLTHUS: No. Thank you very much.

16 MR. SETTINERI: Any clarifying questions  
17 from anyone else?

18 ALJ HICKS: I am going to assume no  
19 clarify questions.

20 MR. DOVE: I will have one, if you will  
21 allow it.

22 MR. VAN KLEY: I won't allow it.

23 ALJ HICKS: I will kick it over to  
24 Mr. Dove on behalf of IBEW.

25 - - -



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CROSS-EXAMINATION

By Mr. Dove:

Q. If you recall in your conversation with --

A. Can you speak a little closer to your microphone?

Q. Sure. Sorry about that. If you recall in your conversation with counsel for Mr. Yost, there was some discussion regarding Remington Road and media consulting, I believe named Adair [SIC], and the use of ads by Open Road. Does that ring a bell?

A. Yes.

Q. What was the purpose from Open Road's perspective in purchasing and publishing those ads?

MR. VAN KLEY: Objection, friendly cross.

ALJ HICKS: I am not following the -- any response to Mr. Van Kley? Sorry.

MR. DOVE: Well, I am just trying to understand why these ads were purchased, so I'm -- just clarification because that was left unsaid in the discussion regarding the use of the media consultants, but that's why I said I was going to ask it subject to the Bench's discretion.

ALJ HICKS: Any response, Mr. Van Kley?

MR. VAN KLEY: No. I still think it's

1 friendly cross.

2 ALJ HICKS: I'll let the witness answer.

3 A. The purpose -- the purpose of the ads was  
4 to generate awareness about the project, let as many  
5 members of the public know about the project, and  
6 particularly about the misinformation that was being  
7 disseminated about the project and the dark money  
8 that was being used to fund that misinformation.

9 MR. DOVE: No further questions, your  
10 Honor.

11 ALJ HICKS: Based on that, I think it's  
12 only fair to allow either counsel here if they have  
13 any questions. You're done, but if Mr. Van Kley or  
14 Mr. Holthus have any questions based on that.

15 MR. HOLTHUS: I don't on behalf of KSD or  
16 Mr. Yost, thank you.

17 MR. VAN KLEY: Nothing here.

18 ALJ HICKS: Anyone else?

19 Okay. Thank you for your time today. We  
20 will go ahead and take up exhibits from Mr. Adair's  
21 testimony.

22 THE WITNESS: Shall I leave these here  
23 or?

24 ALJ HICKS: I would probably just give  
25 them to your counsel.

1 He was just asking what to do with the  
2 exhibits.

3 MR. SETTINERI: Throw them in the pile.

4 MS. SANYAL: On top of that. Yeah, thank  
5 you.

6 ALJ HICKS: Let's start with Company.  
7 And you may have already moved for some of these but  
8 let's go ahead and take it from the top.

9 MR. SETTINERI: If I may just have a  
10 moment, your Honor.

11 ALJ HICKS: Sure.

12 MR. SETTINERI: Yeah, your Honor, at this  
13 time we will renew our motion for the admission of  
14 Company Exhibit 1, 2, 3, 4, 5, 6; Company Exhibit 16,  
15 testimony of Mr. Adair. We also move for the  
16 admission of KSD Exhibit 1. And we will also move  
17 the admission of Joint Exhibit 1. Thank you.

18 ALJ HICKS: Okay.

19 MR. VAN KLEY: Could we have that list  
20 reread, please?

21 ALJ HICKS: Yeah. I'll break it up  
22 because -- at least 1 through 6, so 1 is the  
23 Application; 2, first supplement to application; 3 is  
24 the notice of the reduction of project area; 4 is  
25 proof of service of the Application; 5 is proof of

1 service of the public information meeting; and then 6  
2 is the notice of the filing of the data responses to  
3 Staff requests. I may be overly optimistic but I  
4 think we can probably group those together but if  
5 someone wants to --

6 MR. VAN KLEY: I have no objection to 1  
7 through 6.

8 ALJ HICKS: Okay.

9 MR. HOLTHUS: KSD and Yost have no  
10 objections either.

11 ALJ HICKS: Any objections from any of  
12 the other parties?

13 Okay. So Company Exhibits 1 through 6  
14 will be admitted.

15 (EXHIBITS ADMITTED INTO EVIDENCE.)

16 ALJ HICKS: Now we will jump to Company  
17 Exhibit 16 which is the direct testimony of Craig  
18 Adair. Is there an objection to the admission of  
19 Company Exhibit 16?

20 MR. VAN KLEY: No.

21 MR. HOLTHUS: No.

22 ALJ HICKS: Then Exhibit 16 will be  
23 admitted.

24 (EXHIBIT ADMITTED INTO EVIDENCE.)

25 ALJ HICKS: Then you had also moved for

1 the admission of KSD Exhibit 1; is that correct?

2 MR. SETTINERI: That's correct.

3 ALJ HICKS: Any objection to the  
4 admission of KSD Exhibit 1?

5 MR. HOLTHUS: No, sir.

6 ALJ HICKS: Any other parties?

7 MR. VAN KLEY: No.

8 ALJ HICKS: Then Exhibit KSD Exhibit 1  
9 will be admitted.

10 (EXHIBIT ADMITTED INTO EVIDENCE.)

11 MR. SETTINERI: Joint Exhibit 1.

12 ALJ HICKS: Joint Exhibit 1, is there any  
13 objection to the admission of Joint Exhibit 1?

14 MR. VAN KLEY: No.

15 MR. HOLTHUS: No.

16 ALJ HICKS: Joint Exhibit 1 will be  
17 admitted.

18 (EXHIBIT ADMITTED INTO EVIDENCE.)

19 ALJ HICKS: And then does KSD want to  
20 move for Exhibit 2?

21 MR. HOLTHUS: Yes, yes. Move for  
22 admission of KSD 2 also.

23 ALJ HICKS: Okay. Any objection to the  
24 admission of KSD Exhibit 2?

25 MR. SETTINERI: No.

1 ALJ HICKS: Hearing none, KSD Exhibit 2  
2 is admitted.

3 (EXHIBIT ADMITTED INTO EVIDENCE.)

4 ALJ HICKS: I think that brings us up to  
5 date as to all exhibits as of now.

6 Let's go off the record for a second.

7 (Discussion off the record.)

8 ALJ HICKS: Go ahead and go back on the  
9 record.

10 We just took a brief break to discuss  
11 scheduling. I am going to hand it back to the  
12 Company to call the next witness.

13 MS. SANYAL: And we call Mr. Camren  
14 Maierle. And if I may pass out --

15 ALJ HICKS: I will swear him in while you  
16 are.

17 MS. SANYAL: Thank you.

18 (Witness sworn.)

19 ALJ HICKS: Have a seat. Once Ms. Sanyal  
20 is ready after passing things out, we will keep  
21 going.

22 MS. SANYAL: Would you like a printed  
23 copy, your Honor?

24 ALJ HICKS: Sure.

25 MS. SANYAL: Why don't I give you two

1 since I have so many.

2 - - -

3 CAMREN MAIERLE, Ph.D.

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

6 DIRECT EXAMINATION

7 By Ms. Sanyal:

8 Q. Good afternoon, Mr. Maierle.

9 A. Good afternoon.

10 Q. Would you please state your name and  
11 business address for the record, please?

12 A. Yes. Camren Maierle, C-A-M-R-E-N  
13 M-A-I-E-R-L-E -- L-E, business address P.O. Box 100,  
14 Jacksontown, Ohio 43030.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 Q. Thank you, Mr. Maierle. And do you have  
17 what has been marked as Company Exhibit 18 in front  
18 of you?

19 A. I do, yes.

20 Q. Okay. Can you please identify for the  
21 record what is Company Exhibit 18?

22 A. This is my direct testimony.

23 Q. Okay. And was this direct testimony  
24 prepared by you or under your direction?

25 A. Yes, it was.

1 Q. Okay. And do you have any changes to it?

2 A. I do have one minor change.

3 Q. Okay. If you will go slowly for the  
4 court reporter.

5 A. Okay.

6 Q. Thank you.

7 A. On page 2, line 20, "Exhibit 1" needs to  
8 be changed to "CM-1." That's it.

9 Q. Okay. Thank you. And if I asked you the  
10 questions that are in your direct testimony today,  
11 would your answers remain the same?

12 A. They would, yes.

13 MS. SANYAL: Your Honor, Mr. Maierle is  
14 now ready for cross.

15 ALJ HICKS: Okay. Going down the line  
16 here, we will go to the similarly-situated parties  
17 here first.

18 Mr. Dove.

19 MR. DOVE: No questions, your Honor.

20 ALJ HICKS: Farm Bureau?

21 MS. HETRICK: No questions.

22 ALJ HICKS: Staff?

23 MS. BOTSCHNER O'BRIEN: No questions,  
24 your Honor.

25 ALJ HICKS: Is there a decided order



1 here?

2 MR. WEIGEL: I am going to start on this  
3 one.

4 ALJ HICKS: Then I will hand it off to  
5 KSD and Mr. Yost's counsel for cross.

6 - - -

7 CROSS-EXAMINATION

8 By Mr. Weigel:

9 Q. Good afternoon, Mr. Maierle. Am I  
10 pronouncing that correctly?

11 A. Yeah, close enough. We're good.

12 Q. It's actually Dr. Maierle.

13 A. It is.

14 Q. Okay. I apologize.

15 A. Yeah, formality.

16 Q. Just a couple of questions for you here.  
17 You state in your testimony on page 1 at line 2 that  
18 you are the sustainability director at the American  
19 Land Board; is that correct?

20 A. That should also be corrected to the  
21 American Lamb Board as in sheep production.

22 Q. Okay. And where is that organization  
23 located?

24 A. So home base is located in Denver,  
25 Colorado.

1 Q. And is just a branch here or --

2 A. So I'm here testifying in the capacity of  
3 New Slate Land Management. That's the day job.

4 Q. Okay. But you are a partner in New Slate  
5 Land Management?

6 A. Correct.

7 Q. That's based out of Jacksontown?

8 A. It is, yes.

9 Q. And Jacksontown is in Licking County,  
10 correct?

11 A. Correct.

12 Q. Does New Slate Management -- let me back  
13 up. You run New Slate Management with a partner,  
14 correct?

15 A. That is correct.

16 Q. And that is part of your testimony Brad  
17 Carothers family?

18 A. Yes. It would be the company Brad and  
19 Katie Carothers.

20 Q. And you established New Slate in 2022.  
21 Is there -- with New Slate -- with starting New  
22 Slate, is there any connection with New Slate or the  
23 American Lamb Board between that organization and  
24 Open Road Renewable or Frasier Solar?

25 A. There is not a connection between the

1 two -- or three parties.

2 Q. They are not -- New Slate isn't a  
3 subsidiary or anything like that.

4 A. No, correct.

5 Q. I want to go to page 2 of your testimony.  
6 Question 6, it starts at line 22, you state that you  
7 are currently -- "New Slate currently grazes one  
8 community solar site comprised of 12 acres in  
9 Oberlin, Ohio"; is that correct?

10 A. In the state of Ohio, that's correct.

11 Q. Okay. New Slate has sheep grazing in  
12 other states?

13 A. That's also correct.

14 Q. Okay. What states?

15 A. So recently received the contract to  
16 graze utility scale in the state of Kentucky.

17 Q. Is that project in operation yet?

18 A. It is pre-construction and should be  
19 online in 2025.

20 Q. And do you know how many acres that  
21 Kentucky project is?

22 A. Yeah. I should rephrase. It's a  
23 grouping of projects, some community scale. The one  
24 that will be online in 2025 is 1,300 acres under  
25 panel with 300 ancillary, total footprint of

1 1,600 acres.

2 And the other two, I guess other two  
3 developments that are community scale are 20 acres  
4 and roughly 40 acres and those are generating power  
5 with sheep grazing underneath them right now.

6 Q. Going back to the Oberlin site, how many  
7 sheep do you have on that site right now?

8 A. So they are actually home right now. We  
9 pulse graze that site or introduce sheep for a short  
10 period of time with a higher stocking rate and manage  
11 vegetation for that period of time, remove sheep, and  
12 then bring sheep back to that site because of the  
13 scale that it is.

14 This year it supported right around 100  
15 ewes in two separate grazing events and there will  
16 probably be a third grazing event this fall if we get  
17 rain.

18 Q. On page 3 of your testimony, line 1, I  
19 will represent to you that the -- the word that is  
20 cut off at the beginning of that sentence is "we,"  
21 you state, "We are dependent on the development of  
22 large scale-utility solar projects, like Frasier  
23 Solar, to ensure our flock growth."

24 Is that because there's no interest in  
25 sheep farming in Ohio at the moment?

1           A.    There's actually growing interest. We  
2 look at USDA statistics from last year, we've shown  
3 growth as a state industry. It has more to do with  
4 cost of land, cost of production, and access to  
5 acreage for grazing livestock.

6           Q.    You said it's a growing industry. Do you  
7 know approximately how many sheep the USDA currently  
8 estimates are in the state of Ohio?

9           A.    I believe if we look at survey data from  
10 last year, right around 120 mature animals.

11          Q.    I had 125,000.

12          A.    120,000, yeah.

13          Q.    And do you know how many of those are in  
14 Knox County?

15          A.    I do not. Again, it's survey data, so  
16 we're kind of held to a participation basis.

17          Q.    Okay. If I approximated that the USDA  
18 said in 2022 there was 7,500 sheep in Knox County,  
19 would you call me crazy for that?

20          A.    I think it's -- it's a number that's  
21 reported. I wouldn't call it crazy, but with the  
22 plain sect community, Amish producers, as we get to  
23 the northern portion of the state it's really hard to  
24 quantify how many sheep actually exist in those  
25 regions.

1 Q. Is there -- we kind of touched on this,  
2 is there a demand for sheep jobs or farmers changing  
3 their position or --

4 A. Yeah. So sheep jobs is -- is hard to  
5 capture. So myself growing up would have loved to  
6 have had an opportunity with having a sheep job.  
7 Those are not prevalent in this part of the world  
8 just because of the scale of sheep production systems  
9 we have.

10 As we move to larger scale flocks in the  
11 western United States, we see I guess what would be  
12 termed sheep jobs there.

13 Q. Moving to page 5 of your testimony, this  
14 is question 10, lines 18 through 20, you state that,  
15 "New Slate is comprised of four members who started  
16 the Company." Is it still at four members today?

17 A. It is, yes.

18 Q. And are those boots on the ground  
19 shepherds, or are they the management?

20 A. It's a combination of both. So all  
21 managers are -- are shepherds as it stands today.

22 Q. Okay. And then you go on to say, "We  
23 expect to add a single full-time individual for every  
24 1,000 ewes."

25 Do you know right now what your

1 projections are? I think you put it in here 2,500  
2 ewes for the entire Frasier project?

3 A. Yes. Specific to Frasier that 2,500 mark  
4 we would be looking at two and a half additional  
5 employees to the main New Slate team.

6 Q. Okay. So 2,500, your increase is like a  
7 30 percent increase? I am terrible at math. I  
8 apologize. That's about a 30 percent increase to the  
9 total ewe population of Knox County?

10 A. We'll take your word. I am not good at  
11 math either. If that's what it is, we'll call it  
12 that.

13 Q. Okay. Is that a significant increase in  
14 the kind of sheep world?

15 A. Yeah. I think it could be seen as a  
16 significant increase. Reason for that increase, we  
17 import about 70 percent of our domestically-consumed  
18 lamb product, so industry push has been increasing  
19 coast to coast. At least the goal has been to  
20 increase production coast to coast.

21 Q. And obviously sheep, like any farm  
22 animal, are giving birth and that's how your flocks  
23 are increasing, but this initial push of sheep once  
24 the project begins, where are those coming from?

25 A. Yeah. So initially the goal is to grow

1 internally. We have a pretty rigorous genetic  
2 selection metric put in place as well as we are  
3 adding in ewe lamb purchases or replacing female  
4 purchases from flocks around Ohio, flocks in the  
5 mid-Atlantic and midwestern region.

6 Q. So not all the sheep you are planning on  
7 using in this project initially would start from in  
8 Ohio. You would be sourcing them possibly from other  
9 states.

10 A. The -- when we start grazing, ideally  
11 those will be sourced from inside the New Slate  
12 commercial sheep farm.

13 Q. And those are all located within Ohio?

14 A. The New Slate flock is located in Ohio.

15 Q. What's the New Slate's current flock  
16 size?

17 A. We are right about 400 ewes and looking  
18 to grow.

19 ALJ HICKS: When you say 400, you mean  
20 400,000 or 400?

21 THE WITNESS: No. Those are 400  
22 individual ewes.

23 ALJ HICKS: Because earlier --

24 THE WITNESS: Yes, I appreciate that.

25 MR. WEIGEL: Yeah. Apologies, 125,000.



1 THE WITNESS: Thousand --

2 MR. WEIGEL: Total in Ohio and 400 for  
3 the flock.

4 Q. (By Mr. Weigel) And so you are looking to  
5 grow and that would be -- you would be putting all  
6 400 of those sheep on to the Frasier project --

7 A. Yes.

8 Q. -- day one that you are able to?

9 A. So if we are looking at just projected,  
10 and assuming this project goes through, if we look at  
11 the projected online date of I believe it's 2027, is  
12 that correct?

13 Q. I would defer over to the Frasier people.

14 A. Okay. So where we are at today, and it  
15 gets pretty complicated when we talk about grazing  
16 and vegetation management through biological means,  
17 we have time to grow and so those sheep are actively  
18 reproducing and replicating and that flock is  
19 expanding internally and then with the support of --  
20 of outside flocks as well.

21 Q. And so what is your project -- do you  
22 project that you will have all 2,500 needed for the  
23 project by 2027?

24 A. Assuming that our growth projections fall  
25 in line, again, we are dealing with an animal, a

1 living thing, we should be very close to that number.

2 Q. That's a great point because it kind of  
3 parlays into my next question which was what is the  
4 kind of average survivability of a lamb, you know,  
5 once it's born? What's that rate?

6 A. Yeah. Again, super complicated. But if  
7 I -- I will break it down just briefly. If we look  
8 at those young animals from day 0 to day 7, we are  
9 shooting for a 5 percent death loss in a -- just an  
10 early stage of life mortality rate.

11 When we look at the mature ewe in a  
12 maintenance stage, how she lives her life  
13 reproducing, that annual ewe flock average we look at  
14 1 to 2 percent death loss and can be due to  
15 predation, old age, a number of factors that affect  
16 sheep and affect us as well.

17 Q. Okay. And I guess your growth rate, it  
18 assumes a little bit though the -- the sex of the  
19 animal born, correct?

20 A. Correct. When we are talking about  
21 sheep, small ruminants in general, we have  
22 twin-bearing species so average lambing percentage  
23 for us right now for how many lambs are being born  
24 for the flock is anywhere from 180 percent to  
25 210 percent, so we are having multiple births out of

1 those ewes. While statistics and research will show  
2 us that over the years, we expect a 50/50 average,  
3 male/female split.

4 Q. Usually checks out that way.

5 A. It does, yes.

6 Q. Okay. So then with -- with the 50/50  
7 with the males that aren't -- am I correct that the  
8 males would not be grazing?

9 A. It really depends. It depends on if  
10 we -- we need mouths to feed or need mouths to  
11 consume vegetation. It really depends what our  
12 outlook is for direct market consumption. Weather is  
13 a huge player in that aspect.

14 If we have forage to consume, ideally we  
15 would love to graze those males, get them to a  
16 market-ready size and then sell them through the  
17 various channels that we have access to.

18 Q. Okay. The market channels that you are  
19 selling to, are they solely located in Ohio?

20 A. Again, it really depends. We in the east  
21 as an industry, as a lamb-consuming industry, consume  
22 more land -- lamb in this portion of the country than  
23 in other portions.

24 Columbus is a great example of an ethnic  
25 buying area. We have a lot of cultures that are

1 lamb-consuming cultures, and so the hope is to move  
2 into some of those direct marketing channels to get a  
3 fresh meat product to those ethnic channels.

4 Q. Okay. I am going to kind of just ask  
5 again though, as of right now, you know, can you  
6 definitively say what percentage of your lambs or,  
7 you know, meat that goes to market would stay within  
8 Ohio?

9 A. Yeah. The meat that stays in Ohio --  
10 again, we are talking complexities. Everything that  
11 would be sold on the commercial side is sold through  
12 Mount Vernon -- I'm sorry, not Mount Vernon, Mount  
13 Hope Auction. And so those are being sold in the  
14 state of Ohio. Where they end up in the food chain  
15 is not -- not up to me based on suppliers that are  
16 there that Wednesday.

17 Q. What about the wool market for the sheep?  
18 Is that being sold in Ohio?

19 A. So right now, we are -- the bulk of the  
20 flock is currently a hair possessing breed of sheep  
21 so they shed naturally meaning we don't have the need  
22 to shear that wool off. I shear sheep for a lot of  
23 producers in Ohio.

24 Unfortunately just a facet of the  
25 industry and a lack of wool product or a wool

1 marketing availability in the states, our one co-op  
2 that we had in Ohio closed I believe last year, maybe  
3 two years ago. For us it's not necessarily an issue  
4 because the majority of the sheep possess hair. On  
5 the subset that do possess wool, those are -- are  
6 being sold to anybody that will buy the product.

7 Q. So do you know if, you know, Knox County  
8 will benefit financially directly from the sale --  
9 the sale of either the wool that you have or the meat  
10 that you are selling off?

11 A. Based on the price of wool for the last  
12 10 years, nobody is benefiting unfortunately. From  
13 the meat sale side of it, it's hard to say depending  
14 on what avenues we pursue whether it's via farmers  
15 market, that direct-to-consumer avenue.

16 It's -- again, it's difficult to  
17 guarantee what we're -- where we are selling and what  
18 the quantity is going to be.

19 Q. And if I am understanding, I am in your  
20 report now, which I believe you changed to CM-1, the  
21 pasture management and grazing plan? Was I  
22 understanding that change correctly?

23 MS. SANYAL: Just for clarification, CM-1  
24 is the letter of intent, and it has various exhibits  
25 attached to it.

1 ALJ HICKS: I think he is just  
2 referencing generally.

3 MR. WEIGEL: The part I am seeing is  
4 marked as Exhibit 3.

5 MS. SANYAL: And just to clarify, it's  
6 the pasture management and grazing plan attached to  
7 the LOI.

8 MR. WEIGEL: Yes, you're right. That's  
9 my mistake.

10 Q. (By Mr. Weigel) I am -- this is page 2.  
11 It doesn't have page numbers on it. It's the wool --  
12 it's subpart C, animal movement. Are you there?

13 A. Yeah. Perfect.

14 Q. So it looks like at this time, and  
15 correct me if I am wrong, you don't have a completely  
16 defined plan of if you are going to keep sheep in  
17 each of these pastures full-time or if you are going  
18 to be moving them around, correct?

19 A. Correct. That will be a logistics  
20 assessment on our end on what vegetation looks like,  
21 what the growth pattern looks like, and class of  
22 livestock that we have to maybe we have a need  
23 separate into separate paddocks.

24 Q. And if you do need to move them around,  
25 how is that going to be accomplished?

1           A.    So great question.  So depending on what  
2 array you are on, there is a possibility of moving  
3 those sheep between arrays of if gate placement is  
4 set up correctly.

5                    If we use say an array which is  
6 highlighted in red, that primary section 1 and  
7 primary section 4, we're unable to take them down 661  
8 on hoof, so that would be transportation via  
9 livestock trailer.

10                   When we -- when we look at what some  
11 sheep grazers, some target grazers are doing in other  
12 parts of the country, some areas that maybe we would  
13 hope to use a county or township road for brief  
14 transportation on hoof, assuming that everything is  
15 okay with the municipality and who is in charge of  
16 those rules with procedure gate placement, just lower  
17 stress on those animals, easier time laborwise, it  
18 would be nice to move some of those sheep on those --  
19 those local roads, but we have no way of knowing if  
20 that's a possibility.

21           Q.    And then on average, how many sheep fit  
22 in a livestock trailer?

23           A.    All depends on the size of the trailer.

24           Q.    Let's go with the biggest one you have.

25           A.    The biggest one, if we had a semi with

1 what we would call a quad deck trailer, again  
2 dependent on class of animal, mature size, which  
3 would dictate kind of how many you could get in  
4 there, 5 to 6 hundred head per trailer.

5 Q. So could be up to five -- if you brought  
6 in the semi, could be up to five loads to shuttle  
7 around the entire herd?

8 A. Yeah, that would be assuming we were  
9 moving from primary project area, you know, jump from  
10 1 to 2 to 3 to 4.

11 When you look at how the arrays are  
12 spaced out, it's most likely that we will have sheep  
13 on separate arrays or at least broken up into those  
14 kind of primary regions that are outlined.

15 Q. Just a couple more questions for you.  
16 I'm sorry. I don't know what page this is on, but  
17 it's called large No. 3, the Animal Welfare section.

18 In the middle of that first paragraph you  
19 say "Water is a primary need for grazing sheep and  
20 addressed in the previous section."

21 And maybe I was just reading it too fast.  
22 Can you point me to where -- the section you are  
23 talking about where you talk about the water?

24 A. Yes. Third line down in that subsection  
25 b) paragraph above, "Access of quality drinking water



1 for the sheep can significantly reduce labor for the  
2 grazer and reduce emissions by limiting the need to  
3 haul water to sheep."

4 Q. Okay. And where is this drinking water  
5 coming from?

6 A. Yeah. So when we are looking at hauling  
7 water, oftentimes, for example, the site in Oberlin,  
8 we have a maintenance department that we fill up a  
9 tank and then fill up water tanks as needed on the  
10 grazing allotment.

11 Fortunately, for example, in the  
12 utility-scale site in Kentucky, they have what's  
13 called county water, which was a new thing for us at  
14 least. And that water is a -- is a paid service that  
15 we water from.

16 Q. Okay. And do you know how you are going  
17 to do that, water these sheep on this project?

18 A. Yeah. That's something we need to  
19 address in the -- once a project is approved and we  
20 get a final site design.

21 Q. And do you have any idea what you are  
22 leaning towards at this time?

23 A. I do not.

24 Q. Okay. So you could theoretically be  
25 hauling in water for 2,500 sheep?

1           A.    We could.  Again, it just depends what  
2   it -- with what it looks like once we get to that  
3   final development stage.

4           Q.    Okay.  If you can go to the next page,  
5   please.  In the middle of that paragraph you mention  
6   housing sheep for the solar arrays during the winter  
7   months.  And paraphrasing, you talk about how there  
8   is opportunities and challenges for this both from an  
9   animal welfare standpoint and an opportunity for what  
10  I would call late season graze, correct?

11          A.    Correct.

12          Q.    During the winter months you state that  
13  it can be of concern.  However, the coats or the wool  
14  fleece lower the air temperature making it  
15  negligible.  Can you -- do you know what temperature  
16  is dangerous for a sheep outside?

17          A.    It's pretty low.  I can pull it out of a  
18  textbook, if need be.

19          Q.    Okay.  Pretty low as in, again just using  
20  numbers, like under 10 degrees or?

21          A.    Yeah.  Anecdotal we housed sheep outside  
22  this year with no signs of frostbite or any visual  
23  signs of discomfort on those ewes with temperatures  
24  reaching negative 5 with windchill.

25          Q.    Okay.

1           A.    And that's again an anecdotal example at  
2 one point in time this year.

3           Q.    Okay.  Have you had any consultation --  
4 or let me ask it in two parts.

5                    Have you had any consultation with any  
6 animal welfare groups about maintaining the sheep  
7 outside?

8           A.    I don't refer -- I don't refer to animal  
9 welfare groups as my source of information when it  
10 comes to -- to what best practice is.  If we tune  
11 into the extension resources that are both in this  
12 state or in colder climate regions, that's where  
13 we'll base our information from.

14          Q.    Okay.  And that kind of goes into my  
15 second question.  Have you gotten any pushback from  
16 animal welfare groups on housing sheep outside during  
17 the winter?

18          A.    Directly, no.  We'll have a neighbor  
19 occasionally that will come up when it's snowing  
20 like, oh, we didn't know if you knew your sheep were  
21 outside, and treat that as an opportunity to educate  
22 the public on agriculture and some of the practices  
23 and highlight what we're doing that's improving  
24 animal welfare in that outdoor environment.

25          Q.    You mentioned on this same page that, you

1 know, one of the benefits is this kind of late  
2 state -- late season grazing, but if there isn't any  
3 grazing to be had, you would use hay to feed the  
4 sheep.

5 A. Correct.

6 Q. Do you know where you are getting that  
7 hay from?

8 A. In 2027 I do not.

9 Q. Safe to assume though it would be from a  
10 farmer?

11 A. It would be safe to assume that, yes.

12 Q. Okay. I think my last question, famous  
13 last words, is is there any chance with the grazing  
14 of sheep and with -- correct me if I am wrong, with a  
15 somewhat plan of permanency for leaving them in the  
16 fields to increase predation in the area?

17 MS. SANYAL: Objection, vague. Can you  
18 rephrase the question?

19 Q. (By Mr. Weigel) Having 2,500 prey  
20 animals, will there be more coyotes?

21 A. I don't know that we can -- I am not a  
22 wildlife biologist. There are plans in place.  
23 Currently on the home farm we utilize livestock  
24 guardian animals. A donkey, for example, is what our  
25 primary means have been as well as livestock guardian

1 dogs, so breeds that have been selected for a number  
2 of years to guard and protect sheep from those  
3 predator species.

4 Q. And is that the current plan for the  
5 Frasier project?

6 A. It will be once we see that final  
7 development plan.

8 Q. I guess is there any concern about the  
9 donkeys walking around in a solar field?

10 A. Yeah. There won't be any donkeys on the  
11 solar site. Guard dogs are widely accepted on a  
12 number of other solar developments across the  
13 country, again, to limit death loss to those predator  
14 species. And those are both avian and canine.

15 MR. WEIGEL: Give me just one second, if  
16 you would.

17 ALJ HICKS: Sure.

18 MR. WEIGEL: I think that's all we have  
19 right now. Thank you so much.

20 ALJ HICKS: Thank you.

21 Mr. Van Kley, any cross?

22 MR. VAN KLEY: Yes, your Honor.

23 - - -

## 1 CROSS-EXAMINATION

2 By Mr. Van Kley:

3 Q. How many acres do you expect to use for  
4 sheep grazing in this project?5 A. Again, without that final development  
6 plan, I would love to graze everything that's  
7 suitable to be grazed.8 Q. Do you know how many acres in the area  
9 where solar equipment will be located will be  
10 suitable for sheep grazing?11 A. I would assume if it's a previous  
12 agricultural use land, that land will be suitable for  
13 grazing. The areas I'm referring to would be areas  
14 where just some soil structure may not be as  
15 conducive. And I think we will still be able to  
16 graze though. It's just a matter of the intensity  
17 and stocking rate that we'd have to use.18 Q. What are the characteristics of this soil  
19 that need to be present for sheep grazing to be  
20 profitable?21 A. We need forage, without classifying the  
22 soil entirely, I am here as a livestock expert versus  
23 a soil scientist.24 Q. I guess what you just told me was as long  
25 as the soil can grow the plants that the sheep need

1 to eat, then it's acceptable for sheep grazing?

2 A. Correct. As long as we have ground cover  
3 and there is forage present that an animal can  
4 consume, as a service provider, then that ground is  
5 profitable for the sheep grazer.

6 Q. Uh-huh. How fertile does the ground have  
7 to be in order to provide the plants necessary for  
8 the sheep to eat?

9 A. It's a -- that's a big question. It's a  
10 complex question. Just some of the examples that I  
11 have been involved with, we have soils with pHs as  
12 low as 4 that are being grazed by sheep under panel  
13 in states like North Carolina. What that looks like  
14 here, as long as we can grow that forage, we should  
15 be good.

16 Q. I mean, isn't it true that sheep are  
17 often grazed on land that is not fertile enough to  
18 grow farm crops?

19 MS. SANYAL: Objection. Your Honor, I  
20 mean, the witness' answer already mentioned that he  
21 is not a soil scientist, so I think we are kind of  
22 going down a line of questions on soil that is --  
23 this witness may not be an expert on.

24 MR. VAN KLEY: Your Honor, anybody --

25 ALJ HICKS: I am going to overrule. He

1 asked about grazing. I think it's a valid question.  
2 I will overrule the objection.

3 A. Yeah. So if we look at the sheep  
4 industry as a whole as it spans across the whole  
5 United States, we have sheep that graze beautiful  
6 grass on Iowa, soils that are far more fertile than  
7 what we have here in Ohio.

8 That being said, we also have sheep that  
9 are really good at grazing what we would term as  
10 brownfields or strip mine grounds, just areas that --  
11 pine plantations that I had mentioned. The sheep  
12 don't care.

13 Obviously sheep that are on a -- a grass  
14 that's an improved fertility from that soil, our  
15 carrying capacity is greater. So I think one of the  
16 highlights is if we have more fertile soils, our  
17 carrying capacity or the number of sheep we can  
18 produce is greater.

19 Q. Uh-huh. I mean, correct me if I am  
20 wrong, but when I think of sheep grazing, for  
21 example, in the movies you always see them on the  
22 hillsides and the mountains and so forth. Is that an  
23 accurate picture of places where sheep can graze?

24 A. It would be an accurate picture of where  
25 they can graze. I think another accurate picture



1 would be where the sheep are at right now in central  
2 Ohio on ground that's certainly suitable for row crop  
3 production.

4 Q. Okay. So either type of land would be  
5 suitable for sheep grazing.

6 A. Yes, very versatile.

7 Q. Okay. Have -- I thought I saw something  
8 in the materials either in the Application or in  
9 the -- attached to your testimony stating that you or  
10 maybe your partners have been growing sheep in  
11 Kentucky?

12 A. I would have stated that earlier. I  
13 don't know where specifically in here it would be  
14 listed.

15 Q. Okay. But are you aware -- I mean, have  
16 you ever produced or graze sheep in Kentucky?

17 A. Yes.

18 Q. Okay.

19 A. Yep. And West Virginia and Pennsylvania.

20 Q. Excellent. Okay. So what kind of --  
21 what kind of terrain is the sheep -- are the sheep on  
22 in Kentucky where you can graze them?

23 A. Yeah. So that would be a site that was  
24 previously in what I would call row crop ground,  
25 previously came out of soybean production and was

1 then planted to a perennial pasture mix for the  
2 construction phase and for the soil development.

3 Q. Okay. What about the land in West  
4 Virginia? What was that used for before you started  
5 using it for --

6 A. So it was in rotation of corn silage,  
7 soybeans, and grass pasture mix.

8 Q. Okay. How about in Pennsylvania?

9 A. Pennsylvania would be very much like --  
10 like what's been described.

11 Q. Okay. Is there anything in your note --  
12 in your letter of intent that states the parties'  
13 expectations as to how many acres will be provided to  
14 you for sheep grazing?

15 A. Without looking over it in depth right  
16 now, I don't feel confident in answering that  
17 question.

18 Q. Okay. So you don't know or you don't  
19 recall as you are sitting here today?

20 A. Correct. Our expectation is to graze as  
21 much as we are allowed.

22 Q. If 840 acres of land were grazed in this  
23 project area, how many employees would that sheep  
24 grazing support?

25 A. So it's specifically to the sheep

1 enterprise. Those direct impact jobs of six was the  
2 number that was provided to Open Road.

3 Q. Okay. So that would be six direct jobs  
4 would be supported by 840 acres of sheep grazing?

5 A. Correct.

6 MR. VAN KLEY: Okay. All right. I think  
7 those are all the questions I have for you. Thank  
8 you.

9 ALJ HICKS: Sure. Just I think I already  
10 asked Staff, but since you traditionally go last,  
11 I'll just verify, no questions?

12 MS. BOTSCHNER O'BRIEN: No questions.

13 ALJ HICKS: I think the Bench has a  
14 question.

15 - - -

16 EXAMINATION

17 By ALJ Asta:

18 Q. Just a clarifying question. So you said  
19 regarding the negative 5 degrees like through the  
20 winter, is that through the entire winter months,  
21 like December to February, or is there a specific  
22 time frame that --

23 A. Yeah. I would have to go and look at our  
24 weather station data to like confirm that. That's  
25 not sustained cold for the entire winter --

1 Q. Yeah.

2 A. -- which is -- we probably wouldn't live  
3 very good so.

4 ALJ ASTA: Okay. That was my only  
5 question.

6 THE WITNESS: Perfect.

7 ALJ HICKS: Do you need a moment or --

8 MS. SANYAL: Probably like 2 or 3 minutes  
9 very quickly.

10 ALJ HICKS: We will go off the record.

11 (Discussion off the record.)

12 ALJ HICKS: Okay. We will go ahead and  
13 go back on the record.

14 Took a brief break and I am going to hand  
15 it back to Ms. Sanyal if the Company has any  
16 redirect.

17 MS. SANYAL: Your Honor, no redirect.

18 ALJ HICKS: Okay. I will throw out if  
19 there are any clarifying questions from any of the  
20 other counsel.

21 Hearing none, thank you for your  
22 testimony today.

23 THE WITNESS: Appreciate it.

24 MS. SANYAL: And, your Honor, at this  
25 time I would like to move for the admission of

1 Company Exhibit 18, which was Mr. Maierle's direct  
2 testimony.

3 ALJ HICKS: Any objection to the  
4 admission of Company Exhibit 18?

5 Hearing none, it is admitted.

6 (EXHIBIT ADMITTED INTO EVIDENCE.)

7 MS. SANYAL: Thank you, your Honor.

8 ALJ HICKS: Okay. I think that's about  
9 all we are going to get through today. It looks like  
10 we have a full roster for tomorrow. We'll start,  
11 assuming that's what the parties want, with  
12 Mr. Bonifas first tomorrow or --

13 MR. SETTINERI: Check with Mr. Dove. So  
14 tomorrow we have Mr. Hamilton from IBEW. We don't  
15 start until 10:00.

16 ALJ HICKS: We will start at 9:00  
17 tomorrow.

18 MR. SETTINERI: Oh, that's even better.  
19 We start at 9:00.

20 ALJ HICKS: We can go off the record. We  
21 will resume at 9:00 tomorrow. We can talk about all  
22 of this off the record.

23 (Thereupon, at 5:12 p.m., the hearing was  
24 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, August 19, 2024, and carefully compared with my original stenographic notes.

\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7664)

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Summary: Transcript of Frasier Solar, LLC hearing held on 08/19/24 - Volume I electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..