

STATE OF ILLINOIS)
)SS
COUNTY OF LEE)

In the Matter of the Petition
 of
South Dixon Solar Development
Lee County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 9th day
of December, A.D., 2020,
before the Lee County
Zoning Board of Appeals

Present:

Craig Buhrow
Glen Hughes
Gene Bothe
Rex Meyer
Bruce Forster, Chairman

Alice Henkel, Secretary
Dee Duffy, Zoning Enforcement Officer

Honorable Judge Tim Slavin, Facilitator

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1 JUDGE SLAVIN: Good evening, ladies and
2 gentlemen. I call out of recess Lee County
3 Zoning Board of Appeals hearing on
4 Petition 20-3-1558, South Dixon Solar, LLC's,
5 request for a Special Use Permit to construct a
6 solar energy system in South Dixon Township here
7 in Lee County.

8 I assume everyone's got on the continuing
9 meeting now, but wanting to make sure that
10 everyone that wants to participate can, in case
11 you're listening to this on YouTube and can't
12 figure out how to get to -- get on Zoom, the
13 continuing meeting, as is every night, has an ID
14 number of 915-3923-9154, and the password is
15 209840.

16 If you want to just listen and view on
17 YouTube but not participate, you go to
18 www.youtube.com. YouTube is Y-O-U-T-U-B-E, by
19 the way. In the search bar type in "Lee County
20 IL Zoning Board of Appeals." No need to worry
21 about upper or lower case letters. Then from
22 the drop-down menu, find the session date you
23 want to listen to. Assuming that's tonight,
24 that would be December 9th. Select the date you

In Totidem Verbis, LLC (ITV)
815.453.2260

In Totidem Verbis, LLC (ITV)

1 want, press on it, and whala, you should be able
2 to see and hear us.

3 As far as attendance here at the
4 courthouse goes this evening, I am looking at
5 honorable members of the ZBA: Chairman Forster,
6 Vice Chair Buhrow, Mr. Bothe, Mr. Hughes,
7 Mr. Meyer. Mr. Barry, attorney for the
8 Petitioner, is here, with one of his company
9 reps. Wandering in and out but now is out is an
10 IT -- very skilled IT tech from Lee County. Our
11 IT in-courtroom skill is provided by Alice;
12 she's present. Our wonderful court reporter,
13 Callie, is present. Himself is present. And
14 that adds up to ten people.

15 Ms. Duffy is present but not in the
16 courtroom. Your newly-elected State's Attorney,
17 Mr. Boonstra, is also present but not physically
18 in the courtroom. And I'm told we have three in
19 attendance in the rear former jury deliberation
20 room and no one downstairs on the first floor
21 lobby.

22 So we have ten people in one meeting room,
23 complying with the governor's Tier 3/Phase 3,
24 whichever it is, mandate.

1 At this point, as with other spaces in the
2 building, no matter where you are, I ask you to
3 turn your cell phones off or at least on silent.

4 Housekeeping, before I forget, gentlemen
5 of the ZBA and those of you in the courtroom,
6 I'm going to go through some dates. Just
7 indicate yes or no. I hope we'll be able to
8 complete the process by the next dates we get.

9 (A discussion was held off the
10 record.)

11 JUDGE SLAVIN: Those, again, I emphasize
12 are just available dates. We'll just have to
13 see if -- we'll try and work with your schedule
14 as well, Mr. Barry. I want to get a feel with
15 where we are.

16 MR. BARRY: And those are in addition to
17 the other available dates that we talked about
18 before?

19 JUDGE SLAVIN: Yes. I just wanted to -- I
20 could very well leave tomorrow night without
21 doing so.

22 Okay. I think the ball is still in your
23 court, Mr. Barry, and you may proceed.

24 MR. BUHROW: Judge, again, tomorrow night

1 is the last one until the 30th then?

2 JUDGE SLAVIN: No.

3 MR. BUHROW: What else did you have then?

4 JUDGE SLAVIN: The 15th and the 21st.

5 MR. BUHROW: 15th and 23rd?

6 JUDGE SLAVIN: No, -1st, -1st.

7 MR. BUHROW: Okay. Thank you.

8 MS. DUFFY: For this petition.

9 JUDGE SLAVIN: Right, but don't forget we
10 have a different one on the 16th.

11 COURT REPORTER: 7 o'clock.

12 JUDGE SLAVIN: But that one is at 7. See
13 this color-coated sheet I have got? That's how
14 I am able to keep track of it.

15 MR. MEYER: Text that to him.

16 JUDGE SLAVIN: I think tonight I'm going
17 to recess until the 15th -- no, no, tonight
18 until tomorrow night, and then tomorrow night
19 until the 15th. But a brand-new one starts on
20 the night after the 15th, the 16th. Then we'll
21 probably go back to this one on the 21st. Okay.
22 Those are available dates, but tomorrow night is
23 a certainty.

24 Okay. Mr. Barry, you may.

1 MR. BARRY: Thank you.

2 I'd like to call to the witness stand
3 Mr. Patrick Smith.

4 JUDGE SLAVIN: Okay. We'll Zoom you
5 bigger, Mr. Smith.

6 MR. SMITH: Thanks. Can you hear me all
7 right?

8 JUDGE SLAVIN: Yup.

9 MR. SMITH: Great.

10 JUDGE SLAVIN: There you are. Now your
11 head is bigger than it really is.

12 MR. SMITH: I don't know.

13 JUDGE SLAVIN: Want to raise your right
14 hand for me.

15 (Patrick Smith was duly sworn.)

16 JUDGE SLAVIN: Thank you.

17 You may inquire, Counselor.

18 MR. BARRY: Thank you.

19 PATRICK SMITH (via Zoom),
20 having been duly sworn, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BARRY:

24 Q. Good evening, Mr. Smith. Could you please

1 state your name for the record.

2 A. Patrick Smith.

3 Q. Could you tell us a little bit about your
4 background, please.

5 A. Sure. I'm a civil engineer. My degree is in
6 civil engineering, with an emphasis on
7 structural engineering. I am a licensed
8 professional engineer in three different states,
9 and I specialize in energy and energy
10 infrastructure project development.

11 Q. And are you employed?

12 A. I work for Duke Energy Renewables as a solar
13 development engineer.

14 Q. All right. Can you describe what you do as a
15 solar development engineer, please?

16 A. I do civil-design-related elements to solar
17 projects. So, you know, site selection, site
18 optimization, equipment selection, geotech,
19 really all internal engineering elements for
20 Duke. Interconnection analysis, things like
21 that.

22 Q. Okay. Great.

23 Let's talk about South Dixon Solar.

24 What's your role with the Applicant?

1 A. I'm the lead engineer on that project.

2 Q. And so I think you mentioned this, but you have
3 experience developing other solar energy
4 projects?

5 A. Yeah, I -- yes. I am the lead engineer on
6 about three and a half gigawatts' worth of
7 solar. That's 16 active projects across five
8 different states, including one project that
9 could be up to a gigawatt.

10 Q. Okay. And can you convert gigawatts to
11 megawatts for everyone?

12 A. Sorry. 1,000 megawatts.

13 Q. Thank you.

14 So I take it you're familiar with the
15 South Dixon Solar Project then?

16 A. I am.

17 Q. Could you please describe the work you have
18 performed in connection with the South Dixon
19 Solar Project?

20 A. Everything I stated before. So I helped
21 develop and optimized the site. I helped select
22 the current specked equipment, you know, looked
23 at the geotechnical analysis, the
24 interconnection analysis, pretty much everything

1 engineering related to the project.

2 Q. Okay. Thank you.

3 Now, I believe you have some slides for
4 show and tell tonight?

5 A. I do.

6 MR. BARRY: I think maybe at this time it
7 would be a good idea to put the slides up. I
8 think there are only four or five of them,
9 Judge.

10 (Petitioner's Exhibit Number 6
11 marked for identification.)

12 JUDGE SLAVIN: And I have marked your hard
13 copies Petitioner's Number 6.

14 MR. BARRY: Thank you.

15 A. Can you --

16 (Technical difficulties.)

17 JUDGE SLAVIN: Patrick, just a minute,
18 please. First of all, I hope you've got enough
19 broadband where you are, because you were
20 cutting in and out.

21 THE WITNESS: I should.

22 JUDGE SLAVIN: There you go, that was
23 better. Whatever you did before, you were --
24 sounded like a Donald Duck cartoon.

1 Just a minute, Patrick. We're getting the
2 exhibit up on the screen share.

3 MS. HENKEL: Call for Zack.

4 JUDGE SLAVIN: Zack. Zack. Zackary,
5 little help please. Screen-sharing issue. Oop,
6 there it is. Just popped up.

7 MS. HENKEL: Is it sharing it? Did you
8 start the screen share?

9 JUDGE SLAVIN: Okay. Patrick, do you --

10 MS. HENKEL: He's going to check to make
11 sure it's on.

12 JUDGE SLAVIN: Oh, we are going to check
13 to make sure it is on a remote screen,
14 Mr. Smith.

15 THE WITNESS: Sure.

16 JUDGE SLAVIN: And it is, so we're okay.
17 I forgot the question pending, so if you
18 want to re-ask, if there was one.

19 MR. BARRY: We're just introducing the
20 slides at this point.

21 THE WITNESS: Did you want to -- yeah, if
22 you want to go to Slide Number 2.

23 Q. (By Mr. Barry:) All right. Mr. Smith, let's
24 talk about the solar panels that will be used

1 for the South Dixon Solar Project. First, could
2 you please describe the solar panels and explain
3 how they will work?

4 A. Yes. So I brought along a couple of pictures
5 here that shows kind of a representative solar
6 site, what they're going to look like, and it
7 will kind of assist as I talk through this.

8 This first slide here just shows the
9 layout of a site, what we mean by grassland
10 prairie, kind of what a typical site will look
11 like. This is a Duke Energy Project, so this is
12 what the typical site will look like as far as
13 the covering on the ground.

14 If you go to the next slide, you'll see
15 bifacial and monofacial panels, and you look at
16 those, the first thing you notice is that they
17 look really similar. They are really similar.
18 The only difference between a bifacial --

19 (Technical difficulties.)

20 JUDGE SLAVIN: Rats.

21 A. -- and a monofacial panel is the monofacial
22 panel has a white backing on it and --

23 JUDGE SLAVIN: Mr. Smith.

24 A. -- the bifacial has a --

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(Technical difficulties.)

A. -- this is because --

JUDGE SLAVIN: Mr. Smith. Mr. Smith.

THE WITNESS: Yes.

JUDGE SLAVIN: You were cutting in and out again. We're having a technical problem. We missed about the last 30 seconds.

MR. BARRY: You were describing the difference between a bifacial and a monofacial panel.

THE WITNESS: Okay. Am I clear now again?

MR. BARRY: Yes.

JUDGE SLAVIN: Yeah.

THE WITNESS: Okay. Sorry about that.

A. So the difference between a monofacial and a bifacial panel is -- they are very similar. The only difference between them is that a monofacial panel has a white back sheet, a cheaper, plastic white back sheet, and a bifacial panel has a glassed, transparent back sheet.

The reason there's a difference is because in the past the panel was not efficient enough to take advantage of the rear side energy gain.

1 Today's panels are so efficient that it's worth
2 it to put a little more price at it with a glass
3 back sheet and collect the rear side irradiants.
4 So that's the difference between a monofacial
5 and a bifacial panel.

6 And then the third --

7 (Technical difficulties.)

8 A. Would you go to the next slide?

9 JUDGE SLAVIN: Patrick, we missed about
10 the last ten seconds of that.

11 MR. BARRY: The last word we heard was
12 "the third."

13 THE WITNESS: Did you lose me again?

14 JUDGE SLAVIN: Yup.

15 A. If you go to the third slide, or the last
16 slide, these are representative pictures of what
17 we mean when we say tracker and inverter pad.
18 That's a tracker at a 60 degree angle, so that's
19 highest angle, and that would be tracking the
20 sun on east to west.

21 MR. BARRY: Did you get it?

22 COURT REPORTER: I did. I don't think
23 he's actually cutting out. It seems delayed.

24 A. Then the pad is a couple years outdated, so the

1 most current ones are a little bit more compact,
2 but that's typically what they look like on
3 piles like that.

4 Q. (By Mr. Barry:) Okay. Thank you. Can we go
5 back to Page 3 of the slides?

6 I see a lot of green in the bottom slide
7 in particular. Can you describe what we're
8 seeing underneath the panels?

9 A. Yeah, that's just the --

10 (Technical difficulties.)

11 A. -- you know, the panels are --

12 JUDGE SLAVIN: Mr. Smith. Mr. Smith.

13 THE WITNESS: Yes.

14 JUDGE SLAVIN: You're cutting in and out
15 again. Can you -- I don't know enough -- I
16 mean, I know when I do some mediations or
17 arbitrations, when it's cutting in and out
18 usually somebody doesn't have enough broadband.
19 We're going to be here all night if -- do you
20 know any way to track down the issue?

21 THE WITNESS: I can -- it could be,
22 honestly, the work computer I'm using. I can
23 try a different laptop and that might assist.
24 It will take me two, three minutes to try to get

1 another laptop. Is that all right?

2 MR. BARRY: Can you try maybe not using
3 your headset.

4 COURT REPORTER: Yeah, call in.

5 THE WITNESS: I can try to disconnect my
6 headset right now and see if that works, but it
7 might not be the internet there.

8 JUDGE SLAVIN: Give it a try. Let's give
9 it a try.

10 THE WITNESS: Okay. I'll be right back.

11 JUDGE SLAVIN: Off the record.

12 (A discussion was held off the
13 record.)

14 THE WITNESS: Let's try this again. Can
15 you all hear me better? the same?

16 JUDGE SLAVIN: Now we can hear you as well
17 as we could at the beginning. We'll just have
18 to see. The first two or three minute were
19 fine, then you wandered in and out, but let's
20 give it a try.

21 THE WITNESS: Where did I leave you?
22 Where should I -- what question was asked?

23 MR. BARRY: I'll take over.

24 Q. (By Mr. Barry:) So we're on Page 3 of the

1 slide show. It shows bifacial and monofacial
2 panels, and my question was, and is, I see a lot
3 of green in the photograph, in particular in the
4 bottom photograph. Can you describe what we're
5 seeing there?

6 A. Yes. That's the typical -- that's what a
7 typical solar site would look like. That's, you
8 know, the local species there that we planted.
9 So that's what a typical site would look like.
10 We would plan to grow everywhere around the
11 panels. So that's what you're seeing.

12 Q. So as far as I can see in the bottom
13 photograph, the grass and other species are
14 growing underneath the panels, around the poles
15 that they're -- the panels are being supported
16 by; is that correct?

17 A. Yes. Our intent would be to plant the whole
18 site.

19 Q. And will the South Dixon Solar panel arrays
20 look something similar to this depicted in the
21 photograph on Page 3 of your presentation?

22 A. They will. They will be bifacial and actually
23 a little bit further spread out than that.

24 Q. Okay. Thank you.

1 Do you know what the panels -- strike
2 that.

3 Can you describe the size of the panels
4 that would be deployed on the South Dixon Solar
5 Project?

6 A. Panels are typically 2 meters by 1 meter, so
7 6-ish by 3-ish feet, and about 65 pounds.

8 Q. Okay. Thank you.

9 And do you know at this time whether
10 there's a plan to clean the project panels at
11 all?

12 A. We don't schedule any cleaning, any washing.
13 Typically there's enough rain that keeps the
14 panels clean enough to function efficiently. At
15 most we would do it once a year, but we wouldn't
16 schedule or plan anything like that. We don't
17 anticipate a frequent need.

18 Q. Thank you.

19 Mr. Smith, can you tell us how many acres
20 that the project infrastructure, including the
21 solar panels and the inverters, et cetera, will
22 occupy?

23 A. Well, the project area is around 3800 acres,
24 but that number is a little bit misleading. We

1 use a number in solar development called the
2 ground coverage ratio, the GCR, and that's the
3 ratio of paneled area to essentially just grass
4 prairie land. And on the project it's going to
5 be close to a third. So only a third of the
6 site will actually be covered in panels. The
7 rest of it will just be grass prairie land, and
8 that has a couple of benefits.

9 The first benefit is that we don't shade
10 ourselves early in the day and at night. The
11 panels don't shade one another. Second, it
12 allows us to access everywhere for maintenance,
13 it allows us to mow and kill weeds. Another
14 thing it does is, it allows us to -- most have
15 -- two-thirds of this site is just going to be
16 grass prairie land, so it will reduce erosion
17 and runoff, and it's mostly just a grass prairie
18 land.

19 Q. Mr. Smith, will the panels that will be
20 deployed for the South Dixon Solar Project
21 generate heat?

22 A. They might generate a very small amount of heat
23 directly above the panel, but it would just be
24 directly above the panel. It would be a very

1 small amount and localized to right over the
2 panel. So it wouldn't extend beyond the array
3 and it wouldn't extend beyond the fence.

4 Q. Do you know if the -- if you know, will the
5 amount of heat generated by the panels affect
6 the weather in the area of the project?

7 A. No. It would -- it is not a material amount.
8 Additionally, that effect would go away if the
9 panels weren't generating heat. So at night it
10 would go away. If there's cloud cover, it would
11 go away. When the panels aren't working, the --
12 it returns to normal.

13 Q. Mr. Smith, have you examined wind patterns
14 around the project site?

15 A. Not yet, but as part of the final engineering,
16 we will do a full structural analysis, which
17 includes analyzing local wind loading.

18 Q. And can you describe to us what wind loading
19 means?

20 A. The wind forces subjected to the panels
21 according to the local building codes and
22 federal electrical code.

23 Q. So the panels will be constructed to withstand
24 a certain level of wind and a certain amount of

1 wind speed, correct?

2 A. That's correct.

3 Q. Mr. Smith, will the panels that will be
4 deployed at the South Dixon Solar Project
5 contain hazardous materials?

6 A. Yes, they can contain a trace amount of lead,
7 depending on the soldering used by the
8 manufacturers. Any amount of lead will be less
9 than the EPA-regulated limit.

10 I should say that all electrical equipment
11 that has soldering in it could contain a trace
12 amount of lead. So your cell phone, your
13 laptop, your TV, all of those could contain that
14 same trace amount, depending on the soldering
15 used.

16 Q. And if the panel contains lead or if the
17 soldering material used on the panels contains
18 lead, will that be on the outside of the panel?

19 A. No, it's completely encapsulated in two layers
20 of this tempered glass that's on the panel. So
21 completely encapsulated inside.

22 Q. And is the inside of the solar panels sealed
23 then with that glass?

24 A. Yes, it's completely encapsulated. And this is

1 tempered glass, so even if it breaks, it
2 shouldn't shed small debris, it shouldn't shed
3 any glass or anything like that. It would stay
4 mostly in one piece.

5 Q. Okay. Can you tell us what other materials the
6 panels will be comprised of?

7 A. The panel is mostly glass and aluminum, and
8 then silicon, copper wiring, and silver, that's
9 most of the panel.

10 Q. Okay. Anything else?

11 A. No, that's the panel.

12 Q. Will the panels contain cadmium?

13 A. No. Cadmium is a material found in thin-film
14 panels, which are not specked for this site.

15 Q. All right. Let's talk about how the solar
16 panels and the project will generate
17 electricity.

18 Could you explain how that works, in a
19 general way?

20 A. Yeah, sure. The sun strikes the collector
21 face, which generates low-voltage DC current.
22 That current is transported to the inverters,
23 the wires, cabling. That inverter converts into
24 alternating currents and steps up the voltage.

1 Medium voltage cables transform to the main
2 power transformer, which steps the voltage up to
3 the transmission voltage, which in our case is
4 345 kV, and injects it onto the transmission
5 grid.

6 Q. And that's the point at which the project
7 delivers the electricity into the electric grid,
8 correct?

9 A. That's correct.

10 Q. It's essentially the point at which the project
11 is plugged into the grid, right?

12 A. That's right.

13 Q. Will the electricity generated by the South
14 Dixon Solar Project be stored?

15 A. No. We don't have any batteries planned for
16 the site, so it will go directly from generation
17 to the transmission line.

18 Q. Okay. Mr. Smith, what happens if a panel
19 breaks?

20 A. We would replace it immediately.

21 Q. Okay. And what -- I think earlier you said
22 something about how the -- if the glass is
23 damaged, it won't shatter. Can you tell us more
24 about that again? What would happen if

1 something heavy landed on the panels?

2 A. Sure. Even in the -- even in the case of an
3 extreme break, it wouldn't lose any material.
4 It's tempered glass, which is very strong and
5 maintains its shape. So even in the event of a
6 break, you wouldn't have anything leach out of a
7 panel.

8 Q. Okay. That's my next question. Do you
9 anticipate that the panels that will be deployed
10 for the South Dixon Solar Project will leak?

11 A. No. No, for all things I stated before: the
12 tempered glass is very strong, it will not
13 shatter, it won't break -- it won't shed debris
14 in any case, even in a break.

15 Q. Thank you.

16 Will the South Dixon Solar Project
17 generate electromagnetic fields, Mr. Smith?

18 A. Yes, every -- everything that has electricity
19 generates electromagnetic fields, but it won't
20 be at a dangerous level. So it's similar to a
21 laptop, TV, cell phone. All of these things
22 generate electromagnetic fields.

23 You know, we have people work on these
24 solar sites every day across the U.S., people

1 put them on their rooftops, we put them on the
2 tops of hospitals. The EMS-level PV system is
3 not dangerous.

4 Q. So you're saying that the electromagnetic
5 fields as generated by the solar panels are at
6 safe levels immediately next to the panels,
7 correct?

8 A. Yes.

9 Q. What about outside of the fence line?

10 A. They are also safe levels.

11 Q. Speaking of fencing, what type of fencing is
12 planned to be used for the project?

13 A. We typically -- we would typically use chain
14 link, but we would be willing to consider any
15 commercially-reasonable fencing that meets the
16 federal electrical code.

17 Q. Okay. Are there any examples that you care to
18 mention? Or can you give a couple examples of
19 other types of fences that would --

20 A. Woven wire could be used. We would be willing
21 to consider that.

22 Q. Okay. Does the design of the project
23 contemplate that a fence would cross any
24 floodplains?

1 A. No, we would not cross any floodplains or
2 floodways with any fencing.

3 I think there was some confusion earlier
4 in the week with the site plan. There's a red
5 dotted line on the site plan that is the project
6 boundary. That is not the fence line. The
7 fence line is almost shrink-wrapped to the
8 panels -- it's not shrink-wrapped, but it's very
9 close to the panels and is a separate line on
10 that site plan. So we won't be crossing any
11 floodway or floodplain with a fence.

12 Q. Thank you.

13 Next I'd like to ask you a question or two
14 about decommissioning. What vehicles and
15 equipment will be used to deconstruct or
16 decommission the South Dixon Solar Project?

17 A. We won't use anything oversized or overweight
18 to decommission the plant. It's typical
19 equipment, construction equipment. Nothing
20 oversized or overweight. The only thing that is
21 overweight is the main power transformers, and
22 we talked about that in the Road Use Agreement.
23 But other than that, it's just typical
24 equipment.

1 Additionally, according to the AIMA, any
2 compaction that occurs we are to decompact. So
3 that's part of the agreement in the
4 decommissioning plan and in the AIMA.

5 Q. And I think this might have been covered
6 before, but are the pilings that -- on which the
7 solar panels sit, are those -- are concrete --
8 is concrete used to put those in the ground?

9 A. No. All of the -- all of the steel -- all of
10 the panels will be supported by steel piles.

11 Q. And so how are those removed during the
12 decommissioning project or are they -- how --

13 A. A pile extractor. It's a small piece of
14 equipment. We wouldn't use, like, a heavy crane
15 or anything like that that you would associate
16 with maybe a wind farm. We wouldn't use
17 anything like that.

18 Q. Did you say a pile extractor?

19 A. Uh-huh.

20 Q. You have to answer verbally.

21 A. Yes.

22 Q. And can you describe what a pile extractor
23 looks like?

24 A. Just a track-mounted vehicle. Looks like a

1 tractor would or -- and it pulls the piles out.
2 That's one option that we would use to pull the
3 piles out, just an example.

4 Q. And is that the size of a small or a large
5 tractor?

6 A. I would say a small one.

7 Q. Okay. Will any of the components of the
8 project be recycled or reused after it completes
9 its useful life?

10 A. Yes. Most of it will be recycled or reused.
11 You know, the steel is the most of it, and the
12 steel will definitely. That's easy to recycle
13 and reuse. The panels are mostly glass and
14 aluminum, and those have robust recycling
15 industries around them.

16 As well as the PV cells themselves, they
17 have a developing recycling industry around
18 them. It's developing all the time, and there's
19 a lot of research being done into how to
20 increase the recyclability of the PV cells. In
21 fact, Duke Energy funds a lot of research into
22 recyclability, and that research says that in
23 the coming years the PV recycling industry reuse
24 is going to be robust. People will --

1 particularly by the time this project is
2 decommissioned, we expect that there will be a
3 very robust recycling and reuse industry.

4 Q. Do you know what the closest recycling facility
5 would be to the South Dixon Solar Project?

6 A. There's a PV recycling facility in Wisconsin.

7 Q. Where in Wisconsin?

8 A. I think it's in Madison.

9 Q. Mr. Smith, what is the projected lifespan of a
10 solar panel?

11 A. Between 30 and 40 years.

12 Q. Thank you.

13 Let's talk a little bit about the ground
14 that will be used to support the project
15 infrastructure. If topsoil is removed, will it
16 be returned to the parcel that it came from or
17 will it be placed on another landowner's parcel?

18 A. No. According to the AIMA, we're going to take
19 best practices to keep the topsoil exactly where
20 it is. In the event that any is removed, it
21 will be stockpiled by itself, away from
22 subsoils. We won't mix it with subsoils, and
23 we'll put it back where we found it, and that's
24 required with the AIMA.

1 Q. Do you know what the current use is for the
2 parcels that will be used to host the
3 infrastructure for the South Dixon Solar
4 Project?

5 A. It's row crop.

6 Q. If the project is built, will soil erosion
7 issues increase or decrease? Will they become
8 greater or will the erosion issues improve?

9 A. Erosion issues will improve. We expect erosion
10 to decrease and runoff to decrease because we're
11 transforming it to grass prairie land, which
12 has -- which is better for erosion. So we
13 expect it to get better.

14 Q. And we saw a depiction of that on Slide 3 of
15 your presentation, correct?

16 A. That's correct.

17 Q. Mr. Smith, is the project removing any trees at
18 this time?

19 A. No. We have not -- we don't know of any trees
20 being removed. We haven't commissioned any
21 trees being removed. We haven't approved of any
22 trees being removed.

23 Q. So no trees have been removed recently along
24 Three Mile Branch?

1 A. We are not associated with any tree removal by
2 Three Mile Branch.

3 Q. Thank you.

4 Mr. Smith, do solar projects increase the
5 frequency of lightning strikes?

6 A. No, there are no studies that say they increase
7 the frequency of lightning strikes. In fact, if
8 the sun isn't shining, the panels aren't on or
9 generating at all. So if there's a storm, the
10 panels wouldn't be generating, there would be
11 too much cloud cover.

12 Q. Okay. Mr. Smith, is there currently a plan to
13 drill any water wells for the project?

14 A. We have no plans right now to drill any water
15 wells.

16 MR. BARRY: Judge Slavin, that's all I
17 have for the witness at this time.

18 JUDGE SLAVIN: Very good.

19 Mr. Boonstra, questions of this witness?

20 MR. BOONSTRA: No questions. Thank you.

21 JUDGE SLAVIN: Thank you.

22 How about you, Ms. Duffy?

23 MS. DUFFY: I have one, Judge.

24 EXAMINATION

1 BY MS. DUFFY:

2 Q. Mr. Smith, do you know approximately how many
3 transformers are going to be used on this
4 project?

5 A. The final equipment hasn't been specked yet and
6 they differ in size, so we don't have a final
7 number right now.

8 Q. And will the transformers -- will concrete be
9 under the transformers?

10 A. There's a potential. Typically we would just
11 put them on piles. As far as the ones that are
12 located throughout the site, we would just put
13 them on piles just like we put the panels on,
14 but that hasn't -- that final design hasn't been
15 done yet.

16 MS. DUFFY: Okay. Thank you.

17 JUDGE SLAVIN: Thank you.

18 ZBA. Mr. Forster?

19 MR. FORSTER: No questions.

20 JUDGE SLAVIN: How about you, Mr. Buhrow?

21 MR. BUHROW: Yes.

22 EXAMINATION

23 BY MR. BUHROW:

24 Q. Mr. Smith, we have had some of these questions

1 your attorney here has brought up earlier, and
2 one of them that you possibly know the answer,
3 the heat above the panel that you mentioned, is
4 that something just a few degrees, or what would
5 you expect that to be for heat above the panels?

6 A. Yeah, no more than a couple of degrees. So,
7 yes, a very small amount.

8 Q. Okay. And you mentioned a wind analysis and
9 wind loading. When is that study going to be
10 done, or is that slated to be done soon?

11 A. It would be done as part of the final
12 engineering package, so probably not until
13 closer to construction. So sometime in 2021.

14 MR. BUHROW: Okay. I think that's all I
15 have. Thank you.

16 JUDGE SLAVIN: Thank you.

17 Mr. Bothe?

18 MR. BOTHE: No questions.

19 JUDGE SLAVIN: Mr. Hughes?

20 MR. HUGHES: No questions.

21 JUDGE SLAVIN: Mr. Meyer?

22 EXAMINATION

23 BY MR. MEYER:

24 Q. Mr. Smith, what materials, if any, would be

1 required when they're being delivered, you know,
2 to the site by truck?

3 A. I don't know the answer to that question.

4 Q. Okay. What kind of steel are the pilings made
5 of?

6 A. Could you be more specific?

7 Q. Are they galvanized steel, are they carbon
8 steel, or just mild steel?

9 A. Typically they're galvanized steel.

10 Q. And the same for the racking materials, they
11 would probably be galvanized steel also?

12 A. I don't know the answer to that question. I
13 believe so, but I don't know for certain.

14 MR. MEYER: Okay. Thank you.

15 JUDGE SLAVIN: Thank you.

16 All right. Interested Parties. Going to
17 minimize Mr. Smith.

18 MS. HENKEL: Up at the top.

19 JUDGE SLAVIN: Huh?

20 MS. HENKEL: They show up, up at the top.

21 JUDGE SLAVIN: Oh, there they are.

22 Okay. Jennifer Lawson. Can you hear me,
23 first of all, Jennifer?

24 MS. LAWSON: Yes. Can you hear me?

1 JUDGE SLAVIN: Yup, sure can. All right,
2 and remind us where you live in relation to the
3 project.

4 MS. LAWSON: Within the project
5 boundaries.

6 JUDGE SLAVIN: All right. And questions
7 for Mr. Smith.

8 MS. LAWSON: Yes.

9 EXAMINATION

10 BY MS. LAWSON:

11 Q. What is the estimated project life for this
12 solar field?

13 A. I think it's somewhere between 30 and 40 years.

14 Q. You had mentioned that your -- any soils that
15 are moved would be set aside. How can you
16 guarantee it's going to be there 32 years later,
17 35 years --

18 A. I'll clarify that -- oh, excuse me. You can
19 finish your question.

20 Q. No. 35, I was taking an average of 30 to 40
21 years.

22 A. Sure.

23 That would be during the construction
24 phase. If we needed to dig anything, we would

1 separate the topsoil before we put it back down.
2 So the intent is that the site would remain the
3 same, but during construction, if we segregated
4 any topsoil, it would go back into the same
5 place.

6 Q. Okay. That's --

7 A. So it wouldn't be anything long-term.

8 Q. Thank you. That was my misunderstanding.

9 Is there an estimated seasonal output for
10 the project?

11 A. Yes, but I don't know it off the top of my
12 head.

13 Q. Okay. Is it in a report?

14 A. I don't know.

15 Q. Okay. What is the offset from a water
16 floodplain on it for the solar?

17 A. I don't know.

18 MS. LAWSON: Okay. Those are the only
19 questions I have.

20 JUDGE SLAVIN: Thank you.

21 How about Jamie? I think your last name
22 is Lawson as well.

23 MR. LAWSON: That's correct. Can you hear
24 me?

1 JUDGE SLAVIN: Sure can. And you live
2 within the boundary of the project?

3 MR. LAWSON: That's correct.

4 JUDGE SLAVIN: Okay. Go ahead.

5 EXAMINATION

6 BY MR. LAWSON:

7 Q. I guess my first question would be, Patrick, is
8 there going to be another representative from
9 Duke speaking? Are we going to have an
10 opportunity to ask another rep, so we don't
11 waste everybody's time asking you questions that
12 you don't know, as Jennifer did?

13 JUDGE SLAVIN: I don't -- well, okay.

14 MR. LAWSON: Can you hear me?

15 JUDGE SLAVIN: Patrick Smith, are you
16 there?

17 MR. HUGHES: He's muted.

18 MS. HENKEL: He got muted. Sorry.

19 THE WITNESS: There we go. I was muted by
20 the host. Sorry.

21 A. I believe I'm the last one answering questions,
22 but I could be wrong.

23 MR. LAWSON: I don't know if it's
24 appropriate, Judge, would you know if someone

1 else would be speaking?

2 JUDGE SLAVIN: I have no idea. I don't
3 run the Petitioner's --

4 MR. LAWSON: All right. I'll ask my
5 questions.

6 Q. (By Mr. Lawson:) How many of the 61 operating
7 facilities, for a total of 1335 megawatts, did
8 Duke build?

9 A. Could you be more specific?

10 Q. The actual -- the initial paperwork we were
11 given said that Duke Energy operates -- is
12 currently operating 61, for a total of 1335
13 megawatts. My question would be, how many of
14 those 61 facilities did Duke actually build?

15 A. I don't know.

16 Q. This is going to be a long question. Is it
17 true that the only -- they had stated earlier
18 that there's two -- are there two 200-megawatt
19 systems in Texas that's part of the 61?

20 A. Yes.

21 Q. And is it true that the only house affected by
22 the one in San Angelo, Texas, is the one that's
23 on the ranch in which the project was built?

24 A. I don't know.

1 Q. Okay. Is it true, in Wingate, Texas, where the
2 other 200-megawatt facility was built, the
3 population is 231 people?

4 A. I don't know.

5 Q. Okay. Did Duke Energy start both 200-megawatt
6 solar farms in Texas, or were they purchased
7 from 8minute and Recurrent Energy up to halfway
8 through the project?

9 A. I don't know.

10 Q. Okay. Is it true that Duke Energy is wanting
11 to build a 500-megawatt, 3,838-acre solar farm
12 in Lee County but the most experience you have
13 in building solar farms averages just 21.88
14 megawatts, or roughly 210 acres?

15 A. I don't think that's a fair characterization of
16 Duke.

17 Q. I'm just basing these numbers on the handout
18 that we were given.

19 JUDGE SLAVIN: Don't tell him things.
20 Just ask him a question.

21 MR. LAWSON: Okay. I'm sorry.

22 Q. (By Mr. Lawson:) Why is Duke Energy proposing
23 this project in this area?

24 A. I don't know.

1 Q. Okay. Are you aware that the Lee County
2 Generating Station, which is a peaker plant
3 formerly owned by Duke Energy, only ran for 84
4 days in 2020 due to the extreme record heat and
5 that -- which was 34 days higher than the
6 average of 50 days a year that it normally runs?
7 In other -- that's my question there.

8 A. No, I'm not familiar with that project.

9 Q. Okay. Where will the electricity go that's
10 provided from the project -- that is generated
11 by the project?

12 A. You can't pinpoint or know the specific place
13 that it's going to go. It's not known at this
14 time. It just falls in line with the other
15 electrons.

16 Q. Okay. Referencing -- I believe, referencing
17 your closing statement of the Special Use
18 Permit, does it not say that free elec- -- or
19 that it would provide pollution-free electricity
20 to businesses and homes in Lee County and
21 surrounding communities?

22 A. Yes, that's what the -- your transmission grid
23 is in the town. It's most likely going to be
24 used local- -- you don't know where it's going

1 to go, but it could be used locally, so sure.

2 Q. Okay. So how would you know that it's going to
3 go to Lee County if you don't know where it's
4 going to go?

5 A. You don't know where it's going to go, but it
6 will -- the transmission will go to the
7 substation, which will go to local distribution
8 networks. It's more likely to be used locally
9 than further away.

10 Q. Okay. Thank you.

11 Has Duke Energy entered into a power
12 purchase agreement?

13 A. No.

14 Q. How will the project affect traffic with up to
15 450 workers during the two-year period of
16 construction and beyond?

17 A. The traffic on the roads will be increased
18 during construction. We have addressed this
19 with the Road Use Agreement that we submitted as
20 part of the Special Use Permit. But beyond
21 that, we anticipate traffic will go down. We'll
22 only have five to ten workers onsite, and they
23 will be using an access road to get in and out
24 of the operations and maintenance building. So

1 you won't have as many -- as much heavy
2 equipment driving around or as many people.

3 Q. So you just said that traffic will go down.
4 Are you referring to your traffic or traffic in
5 general in the area?

6 A. Our traffic will go down. I would expect
7 traffic in the area goes down as well, but I
8 don't know the traffic study.

9 Q. Why would you say that the traffic will go down
10 in the area?

11 A. Well, 3,000 acres are now being used by five to
12 ten people.

13 Q. Exactly, okay. Thank you.

14 Will the project change the character of
15 the land?

16 A. I don't know.

17 Q. You're not aware that if you put 10-foot solar
18 panels and 6-foot fences and vegetation screens
19 that it won't change the character of the farm
20 ground, row crop?

21 A. That's not my area of expertise.

22 Q. Okay. Will this project affect surrounding
23 properties?

24 A. I don't know.

1 Q. Besides the 8 percent increase in the total
2 general revenue for Lee County per year, what
3 other positives will this project provide for
4 surrounding residents other than money?

5 A. I don't know.

6 Q. Okay. With all of the "I don't know," "that's
7 undecided at this time," and "those studies have
8 not been completed" answers that we have heard
9 over the last four nights, is this hearing a
10 little premature?

11 MR. BARRY: Objection to the form of the
12 question.

13 JUDGE SLAVIN: Sustained. The Zoning
14 Board makes its decision, Mr. Lawson.
15 Appreciate the question but --

16 MR. LAWSON: That's all I have. Thank you
17 for your time.

18 JUDGE SLAVIN: Okay. Thank you.

19 I'm looking for hands. I see Brad Apple.
20 First of all, can you hear me, Brad?

21 MR. APPLE: Yes, I can.

22 JUDGE SLAVIN: We can hear you. Remind us
23 where you live in relation to the project,
24 please.

1 MR. APPLE: Directly adjacent.

2 JUDGE SLAVIN: Okay. Questions for
3 Mr. Smith.

4 EXAMINATION

5 BY MR. APPLE:

6 Q. My question is pertaining to the wind study
7 that has not been completed yet. Do you have
8 any kind of information on what the structures
9 are rated for, for wind speed?

10 A. I don't know what the rating requirements of
11 the area are, but I -- we'll abide by local,
12 federal, and State codes. But off the top of my
13 head, I don't know what those specific wind
14 loadings are.

15 Q. Okay. For myself, I live on the west side of
16 the project -- excuse me, the east side of the
17 project. So with prevailing west winds and the
18 storms that come through, it seems odd to me
19 that --

20 JUDGE SLAVIN: Mr. Apple, you're telling
21 him things. You can have your chance to testify
22 or give a closing comment. This is the time for
23 questions.

24 Q. (By Mr. Apple:) Okay. When will we have the

1 information on wind speed and what they're rated
2 for?

3 A. That would be taken care of as part of the
4 final engineering package as part of the
5 structural engineering done. And as I said
6 before, it would be sometime in 2021 probably.

7 Q. So would it be correct to say that we would not
8 have this information until after this is
9 approved?

10 MR. BARRY: I'm going to object to the
11 form of the question because, just to make sure
12 everybody is clear, Your Honor, this is a
13 Special Use Permit application, and if it is
14 approved, the project still is required to get
15 additional approvals later on before it obtains
16 a building permit to actually construct the
17 facility.

18 JUDGE SLAVIN: Obviously I understand
19 that, whether Mr. Apple does or not, but the
20 objection is sustained because he doesn't know
21 which approval you mean.

22 MR. APPLE: I'm referring to it being
23 approved by the Zoning Board.

24 JUDGE SLAVIN: So want to re-ask the

1 question? So, Mr. Smith --

2 Q. (By Mr. Apple:) Okay. Yeah, so we will not
3 have the wind study completed prior to the
4 Zoning Board approval or disapproval; would that
5 be correct?

6 A. Prior to this approval, that's correct.

7 Q. Okay. Are the pilings and the structures that
8 these are mounted on electrically grounded? Are
9 you having ground cables and drilling grounds
10 installed?

11 A. Yes, they will be grounded.

12 Q. Okay. So the question on the lightning, you do
13 not expect this to attract lightning with that
14 amount of metal being grounded?

15 A. No, that -- no.

16 Q. Can I ask you why you don't expect that?

17 A. It won't be generating during a storm, and this
18 is not generating static electricity, which is
19 what causes lightning.

20 Q. Okay. My question would be, if you have a
21 large amount of metal that's directly grounded,
22 I believe that would attract lightning.

23 JUDGE SLAVIN: That's a statement.

24 Q. (By Mr. Apple:) Is that a correct or incorrect

1 statement?

2 A. That is not consistent with the studies I'm
3 aware of.

4 Q. Okay. Earlier in your presentation you
5 mentioned that this would be mainly prairie
6 grass that will be planted here, but then you
7 did refer to "other than having to kill weeds."
8 What kind of herbicides will you be using to
9 kill weeds and how much?

10 A. I don't know what the herbicides we will be
11 using are, but there are specifications laid out
12 in the AIMA and we will be abiding by those
13 specifications.

14 MR. APPLE: Okay. That's my last
15 question.

16 JUDGE SLAVIN: Thank you.

17 Looking for further hands. Mr. Lusz,
18 first of all, can you hear me?

19 MR. LUSZ: Yes, sir.

20 JUDGE SLAVIN: Okay.

21 MR. LUSZ: Hello, Patrick.

22 JUDGE SLAVIN: And you live within a mile
23 and a half of a boundary of the project; is that
24 correct?

1 MR. LUSZ: Yes, sir. Thank you.

2 JUDGE SLAVIN: Okay. Mr. Lusz, go ahead
3 and ask Mr. Smith questions.

4 EXAMINATION

5 BY MR. LUSZ:

6 Q. Mr. Smith, we have talked about -- are you
7 familiar with the peaker plant Duke Energy owns
8 in close proximity to this project?

9 A. I am not.

10 Q. Do you have a price estimate on the substation
11 that you're looking to create for this project?

12 A. I do not.

13 Q. Is that -- that's something that is generated
14 before the building permit is done then?

15 A. I don't know. Typically, yes.

16 Q. On a previous project we had in the county,
17 there were cost estimates upwards of \$56 million
18 for the substation to be created. Would that be
19 a general estimate of what a substation might
20 cost for this project?

21 A. No. That's not within the ballpark of a solar
22 substation.

23 Q. What is the ballpark?

24 A. It's tough to say because it depends so much on

1 size and location.

2 Q. Okay. Regarding that type of infrastructure,
3 would it be wise that we use current
4 infrastructure that would already have been
5 created that your company owns within close
6 proximity of this project?

7 A. Can you be more specific?

8 Q. Would the land around your peaker plant be a
9 prime location for the placement of the solar
10 panels, since there's already infrastructure
11 there tied into the grid?

12 A. No, not necessarily. That -- no.

13 Q. That would not be of a benefit?

14 A. No. There may not be open bays, there may not
15 be capacity that you would have to -- you most
16 likely would have to expand that. And depending
17 on where it's located, the expansion of it -- we
18 have seen expansion of substations cost more
19 than building a new substation. It's not fair
20 to say that any existing substation is cheaper
21 to tie into.

22 Q. Okay. Thank you.

23 The heat island effect that they're --
24 regarding solar, that is not an issue with this

1 5,000-plus acres we will have in this area of
2 solar?

3 MR. BARRY: I'm going to object to the
4 form of the question. He didn't define what a
5 heat island effect is, number one. Number two,
6 he said -- referred to 5,000 acres of solar.
7 This project, I think he testified earlier, is
8 3800 acres.

9 JUDGE SLAVIN: Well, let's -- I'll help
10 you out, Mr. Lusz.

11 Mr. Smith, are you familiar with the term
12 heat island?

13 THE WITNESS: I am.

14 JUDGE SLAVIN: Go ahead, Mr. Lusz.

15 Q. (By Mr. Lusz:) So you are not concerned about
16 the creation of a heat island with the close to
17 5,000 acres of solar panels that will be in this
18 area, including --

19 JUDGE SLAVIN: Well, objection
20 sustained -- oh, within the area, okay.

21 Q. (By Mr. Lusz:) -- within the area, including
22 Eldena Solar?

23 A. No. That heat island hypothesis, we don't --
24 it won't affect the -- any area outside of

1 directly above the panels.

2 Q. Are you able to provide studies that back up
3 that this is just a hypothesis?

4 A. There are studies out there that study the heat
5 island effect. Most of them are done in arid
6 desert locations. So it's not a one-to-one
7 comparison. You know, say, one in Arizona,
8 where there's no cover crop, isn't fair to
9 compare to here, in South Dixon -- in Dixon.

10 Even in the ones that are in a place
11 without cover crop and in a desert environment,
12 that's a very minimal, couple-degree effect. It
13 doesn't extend beyond the bounds of the solar
14 farm.

15 Q. So in those studies in those areas, it's not a
16 5- to 10-degree difference?

17 A. No, I have not seen any studies that suggest a
18 5- to 10-degree difference.

19 Q. Okay. There's no real study then on this site,
20 solar in our environment, regarding a heat
21 island effect then?

22 A. I -- not -- I -- I don't know.

23 Q. So this would be the experiment, essentially is
24 what I'm asking; is that correct?

1 A. No, I don't think that's fair. There have been
2 studies about heat islands generated by solar
3 farms, and they typically find what I said. And
4 the situations those studies were conducted in
5 were more extreme than the situation here, so
6 you would expect a lesser effect here.

7 Q. Okay. The -- if we move to a different topic
8 here, the fence you all talked about earlier,
9 are you familiar with the proximity that the
10 fence is to nonparticipating residents on this
11 site?

12 A. Not in exact feet, but I have a general idea.

13 Q. Are you familiar with different setbacks being
14 afforded to different participants or
15 nonparticipants in this -- within this site?

16 A. No.

17 Q. Are you familiar with the Lee County Ordinance
18 changing the setback requirements for solar
19 systems in Lee County?

20 A. Prior to our application -- post our
21 application, yes.

22 Q. And did you evaluate those new setbacks to your
23 project?

24 A. I have not. That wouldn't be my role.

1 Q. Would increasing the setbacks to
2 nonparticipating residents have a dramatic
3 impact on your project you have here?

4 A. It could. Depending on the setback, it
5 absolutely could.

6 Q. Are you familiar with Duke potentially moving
7 forward for tax abatement of this project?

8 A. I'm not aware of -- that's not my area of
9 expertise.

10 Q. Okay. You talked a lot about the panel makeup.
11 Do you have a spec sheet of the panels you're
12 using for this facility that you're speaking so
13 eloquently to -- eloquently?

14 A. I think we submitted a spec sheet as part of
15 the use permit.

16 Q. So those -- there is a specific panel that is
17 going to be used then outlined?

18 A. It's a representative panel. It will be
19 similar. It will be of similar quality, similar
20 manufacturer.

21 Q. Is there any nonstick coatings applied to the
22 surface of those panels?

23 A. There may be. I'm not aware of PFAS or GenX
24 being used on any of our solar panels.

1 Q. What would be used in lieu of those?

2 A. I don't know.

3 Q. But you're confident that GenX is not used on
4 those panels?

5 A. I am confident that I don't know of any panels
6 that use PFAS or GenX chemicals.

7 MR. LUSZ: Okay. I think that's all I
8 have got. Thank you.

9 THE WITNESS: Thanks.

10 JUDGE SLAVIN: Thank you.

11 Wendy's iPad. And, Wendy, remind us of
12 your last name, please.

13 MS. EISELE: Eisele.

14 JUDGE SLAVIN: And where do you live in
15 relation to the proposed project.

16 MS. EISELE: Approximately two miles.

17 JUDGE SLAVIN: Go ahead, ask Mr. Smith
18 questions you have.

19 EXAMINATION

20 BY MS. EISELE:

21 Q. Okay. The vegetation screening that you will
22 be planting, will that be planted on a berm to
23 -- so it raises it off the ground to shade the
24 fence and panels from the homeowners?

1 A. I don't know. I don't believe so.

2 Q. Okay. Thank you.

3 And is there evidence that a 6-foot fence
4 with barbed wire is necessary around the
5 project?

6 A. Fencing is --

7 (Indiscernible crosstalk.)

8 Q. -- from someone damaging the panels?

9 A. Fencing is dictated by the National Electric
10 Code, and a typical fence is 6 foot of chain
11 link with 1 foot of barbed wire. It's not the
12 only -- I don't believe it's the only fence. We
13 would be willing to consider other types of
14 fences if they are commercially reasonable and
15 meet the standards set out in the Federal
16 Electric Code.

17 Q. Okay. I was just curious if there was, like, a
18 history and that necessitated the need for the
19 height of the fence with the barbed wire, is
20 all. Okay. Thank you.

21 A. No problem.

22 MS. EISELE: That's it. Thank you very
23 much.

24 JUDGE SLAVIN: Thank you.

1 I don't see any more. Alice?

2 MS. HENKEL: Nothing.

3 JUDGE SLAVIN: Back room. Mr. Boonstra,
4 Mr. Doorkeeper.

5 Mr. Shippert, good evening. And you live
6 where in relation to the project?

7 MR. SHIPPERT: Adjacent to.

8 JUDGE SLAVIN: And, Mr. Smith, can you
9 hear him?

10 THE WITNESS: I can.

11 JUDGE SLAVIN: Okay. Go ahead.

12 EXAMINATION

13 BY MR. SHIPPERT:

14 Q. Okay. Are you aware of any other ongoing solar
15 practices that surround nonparticipating
16 residents on all four sides?

17 A. Could you be more specific?

18 Q. Are you aware of any other projects -- are you
19 involved with any other projects that the solar
20 project surrounds the nonparticipating residents
21 immediately adjacent or residing within the
22 solar project on all four sides of the property?

23 A. Yes, I have seen that.

24 Q. How often do you see that?

1 A. I couldn't guess, but I have seen that before.

2 Q. Is it common practice for Duke Energy, once the
3 solar project is up and running, to have any
4 community outreach or involvement?

5 A. That's not my area of expertise, but I believe
6 so.

7 Q. Do you know if a nonparticipating resident can
8 request additional landscape buffers?

9 A. I don't know.

10 Q. Are your inverters and transformers air-cooled
11 or oil-cooled?

12 A. The inverters and transformers haven't been
13 specked yet. I can tell you that the inverters
14 that we currently spec are air-cooled. All
15 transformer tend -- all transformers are air-
16 and oil-cooled, but any oil we use will be
17 what's called FR3 oil, which is 100 percent
18 vegetable oil. And if we don't use that, we'll
19 have a secondary containment, but in all
20 likelihood we'll use the 100 percent vegetable
21 oil.

22 Q. Okay. We'll change to a different subject
23 here.

24 This is regarding the structure itself.

1 Is the wind rating of your tracking structure
2 greater than or less than the wind speed rating
3 of an EF2 tornado?

4 A. I don't know the wind speed rating of an EF2
5 tornado off the top of my head. What I do know
6 is, we have operating plants on the east coast
7 of the United States that are subjected to
8 hurricane-force winds every year, and they are
9 rated to that, so they are strong.

10 Q. So then are you suggesting that hurricane-force
11 winds and tornadic-force winds are similar in
12 rating?

13 A. No. I don't know the wind speed loads of a
14 tornado.

15 Q. Are PV panels bolted to the tracking structure
16 or clamped to the tracking structure?

17 A. I don't know. It depends on the module, it
18 depends on the tracking system used. There are
19 a couple of different factors.

20 Q. So have you picked out a tracking system to be
21 used on this project then?

22 A. We have not.

23 Q. Okay. How many panels will be involved in this
24 -- approximately how many panels will be

1 involved with this project?

2 A. Panels come in a lot of different wattages, so
3 it's difficult to estimate how many panels are
4 going to be on the site.

5 Q. When will you know how many panels will be on
6 the site, approximately?

7 A. When the final design is done, when we spec the
8 panel, we can give you a more approximate
9 number.

10 Q. Okay. Now, with the next questions I'm going
11 to refer to your application. Give me one
12 second here to find it or.

13 In Appendix P, Section 1.2.1, there's two
14 figures there, Figure 2 and Figure 3. You
15 stated earlier that you will not be using the
16 frameless thin-film panel, correct?

17 A. That is correct.

18 Q. So Figure 3 is irrelevant to this project,
19 correct?

20 A. I can't see Figure 3.

21 Q. Is there any way you can or --

22 A. I can pull it up on my computer.

23 Q. Okay.

24 JUDGE SLAVIN: That would be great.

1 A. If you could describe for me what's in the
2 figure, I might be able to explain it faster
3 than I can get there on my computer.

4 Q. (By Mr. Shippert:) Well, the questions I had
5 regarding that Figure 3 were the ingredients
6 used in there, specifically cadmium sulfide?

7 A. Won't be on our project.

8 Q. Okay. So if you could -- if you could get
9 there, and you see Figure 2, would that be more
10 of the composition of the panels that will be
11 used then, what is called a crystalline silicon
12 panel?

13 A. Yes, it will be a silicon crystalline panel.

14 Q. Okay. I have one more question. On your
15 presentation, Page 3, the lower picture for the
16 monofacial panel, what is the invasive weed
17 species pictured there with the yellow flower?

18 A. I don't know.

19 MR. SHIPPERT: Okay. That's all the
20 questions I have.

21 JUDGE SLAVIN: Thank you.

22 Anybody else in the back room?

23 Good evening, Ms. Johannsen. Remind us
24 where you say you live in relation to the

1 project.

2 MS. JOHANNSEN: I live within one and a
3 half miles of the boundary.

4 JUDGE SLAVIN: Great. Would you go
5 ahead -- feel free to go ahead and ask Mr. Smith
6 any questions.

7 EXAMINATION

8 BY MS. JOHANNSEN:

9 Q. How many site entrances to the project will
10 there be?

11 A. I don't know that figure off the top of my
12 head.

13 Q. What is the efficiency of this solar system?

14 A. I don't know that number off the top of my
15 head. Typically panels are 20 percent efficient
16 or more.

17 Q. What is the loss of efficiency per year?

18 A. I don't know.

19 Q. Will the tree screening be established around
20 the entire project site?

21 A. I don't believe so.

22 Q. Will the tree screening be completely around
23 all the residences involved, whether they are
24 adjacent or embedded in the project?

1 A. I don't know.

2 Q. Will any blasting occur during the
3 construction?

4 A. No, not that I'm aware of.

5 Q. These -- I call them posts, I think you call
6 them poles, that you put into the ground that
7 hold the panel, what is the size of this post?

8 A. It depends on the panels specked, you know, how
9 big it is and things like that. If W6 by 7, you
10 know, they are not very big, as far as steel
11 piles go.

12 Q. Would they be 3 inches in diameter? 4 inches in
13 diameter?

14 A. 6 inches in diameter maybe. That's an
15 approximation. I don't know. I don't know off
16 the top of my head. That's a guess.

17 Q. How far into the ground will these poles be
18 inserted?

19 A. We haven't done the final geotech work, so we
20 don't know how deep the panels will need to be
21 driven -- piles will need to be driven.

22 Q. Will these poles have any anchoring
23 construction in -- under the ground surface?

24 A. No. No, we don't intend to have any anchoring

1 other than driving them into the earth.

2 Q. So just a pole would be inserted into the
3 ground?

4 A. That's correct.

5 Q. How many miles of internal roads will there be
6 on the project?

7 A. The roads have not been designed yet, so I
8 don't know.

9 Q. What would be the construction of these roads?

10 A. We like to use naturally-compacted soil. To
11 get to the substation, the utility will probably
12 require a gravel road, so there might be one of
13 those.

14 Q. During decommissioning, these roads then would
15 be removed?

16 A. Per the AIMA, we will remove those roads,
17 decompact where necessary.

18 Q. Has any money been set aside to repair any
19 Township or County roads that might be damaged
20 due to heavy traffic and excessive tonnage?

21 A. I don't know the answer to that. The only
22 overweight shipment we'll have is a one-time
23 shipment of the main power transformers, which
24 we outline in our Special Use Permit and in the

1 Road Use Agreement.

2 Q. If any trees die around the landscape, would
3 they be replaced?

4 A. I don't know.

5 Q. Who would inform the company of any dead trees
6 or bushes around the perimeter?

7 A. We'll have a contact number, I believe, that
8 you could contact.

9 Q. Will any equipment, such as the electrical
10 lines to the inverter and inverter to substation
11 or other equipment, be buried underground?

12 A. Yes, that's possible.

13 Q. Would the soil be removed in order to do this?

14 A. Not necessarily. You could use cable pulling.

15 Q. What is the average depth of the topsoil on
16 this project?

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

18 Q. Since grass fires spread rapidly, what is the
19 assurance that the residents adjacent to or in
20 the project might be protected from a possible
21 grass fire?

22 A. We have a dedicated O and M team there that
23 will be using preventive measure to keep that
24 kind of thing from coming, but also will be --

1 the equipment will be monitored 24/7, so we'll
2 know -- we would know that pretty quickly.

3 Q. If erosions would start from the rain cascading
4 off of a panel, would they be repaired?

5 A. The -- we don't believe that erosion will
6 increase from it cascading off the panels. It's
7 not -- even at its highest, it's not that far
8 off the ground. And per the AIMA, I believe we
9 have to repair erosion.

10 Q. During construction, do you work when the
11 ground is soft?

12 A. No, I don't believe so.

13 Q. How many years has Duke's largest solar system
14 been in operation?

15 A. They get increasingly larger as time goes on
16 and panels become more efficient and there's
17 more of a need for renewable energy in the U.S.
18 So our largest plant was built in 2020.

19 Q. Is this plant in operation then?

20 A. Yes.

21 Q. Who is responsible for mowing the ditches along
22 the road around the site?

23 A. If it's in our project boundary, it -- I
24 believe that falls on our O and M team, but I

1 don't know for certain.

2 Q. If the panels are not producing electricity,
3 like at night or it's cloudy, how will you
4 supply your buyer through the transmission
5 lines?

6 A. We won't.

7 Q. So what will the buyer do for its customers?

8 A. It depends on the nature of the agreement.

9 Q. How do you measure the electricity that you
10 would produce from what other facilities would
11 produce if you're all sharing the same
12 transmission line?

13 A. The same way you would do it in your house,
14 just a bigger meter, a lot bigger.

15 Q. Will the barbed wire on the fence be straight
16 up or slanted outward?

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

18 MS. JOHANNSEN: Okay. Thank you.

19 THE WITNESS: Thank you.

20 JUDGE SLAVIN: Thank you.

21 Somebody else in the back room? There
22 should be only one more person, if at all.

23 Ms. Shippert, good evening. Remind us
24 where you live in relation to the project.

1 MS. SHIPPERT: Adjacent to.

2 JUDGE SLAVIN: Questions of Mr. Smith.

3 MS. SHIPPERT: I'm sorry, can you repeat?

4 JUDGE SLAVIN: Sure. Questions of
5 Mr. Smith.

6 MS. SHIPPERT: Yes.

7 EXAMINATION

8 BY MS. SHIPPERT:

9 Q. Could you please repeat how many -- how much
10 lead was in each panel?

11 A. Trace amounts. I couldn't give you a number
12 because it would vary depending on the soldering
13 used by the panel manufacturer.

14 Q. Okay. What are the materials that go into a
15 solar cell?

16 A. A solar cell is made of silicon. That's what
17 the cell is. The whole panel itself is mostly
18 glass and aluminum, copper, silver, small
19 amounts of semi-conducting metals. That's the
20 entire makeup.

21 Q. And did you say that there is currently no
22 recycling program for this specific cell?

23 A. No. In fact, there are recycling programs, and
24 the recycling programs are growing rapidly. The

1 closest recycling program is fairly close to
2 here. I believe it's in Madison, Wisconsin,
3 which is a two-hour drive north. So it's fairly
4 close to one and will become more robust as time
5 goes on. These are valuable metals, and the
6 reuse market will be strong as well. That's
7 what our research and that's the funding --
8 that's what our research says.

9 Q. Does Duke have a guarantee that these cells
10 will be recycled?

11 A. Per the decommissioning plan, I believe --
12 well, I guess, no, I don't know. I assume we
13 would want to. They are valuable.

14 Q. Is it possible, with the no guarantee, that
15 these cells would end up in a landfill?

16 A. I don't know if we have a guarantee, so I don't
17 know.

18 Q. Okay. Thank you. I had a couple more
19 questions.

20 A. Sure.

21 Q. Are you aware of the litigation that Duke has
22 in regards to a pipeline project?

23 A. You'd have to be more specific.

24 Q. Are you aware of the litigation that Duke has

1 in the Carolinas with a pipeline project there?

2 A. You'd have -- I guess, no. You would have to
3 be more specific. I -- maybe.

4 Q. Okay. I'll go to something else.

5 What fasteners would you use in this
6 project?

7 A. Fasteners? Could you be more specific?

8 Q. To fasten the panel to the bottom piece.

9 A. That would be determined by the module and the
10 racking companies. They would work together to
11 have a fastener that works for their panel and
12 the racking system we use. So I don't know.

13 Q. Okay. In your experience, have those fasteners
14 been rated for certain wind miles per hour?

15 A. Yes, the whole system will be rated for certain
16 wind loads.

17 Q. And that includes the fasteners themselves?

18 A. Yes. We don't want these panels to blow off
19 any more than you do.

20 Q. What is the lowest approximation you can make
21 of how many panels would be on an acre?

22 A. Oh, gosh. I'd have to do some math. I
23 don't -- off the top of my head, I don't know.
24 Yeah, I don't know.

1 Q. Can you --

2 A. The lowest, yeah, I don't know. Sorry.

3 Q. Can you provide a range from low to high of how
4 many panels could be on an acre?

5 A. I would need some time to think about it, to be
6 honest. I -- and I'd need to know a lot more
7 information, so -- so no.

8 Q. Was any of that information submitted for this
9 project, the approximation of the number of
10 panels?

11 A. I don't know.

12 Q. So we don't know if there's one panel on 3800
13 acres or a million?

14 A. We -- I don't think we know an exact amount,
15 and I don't know if the other members of the
16 Duke team have had to submit something that has
17 an approximation. I don't know.

18 MS. SHIPPERT: Okay. Thank you so much.

19 THE WITNESS: Thank you.

20 JUDGE SLAVIN: All right. Mr. Boonstra,
21 that should do it for folks out there; is that
22 right?

23 MR. BOONSTRA: Yes, sir.

24 JUDGE SLAVIN: And looking at the Zoom

1 board, and I see no other hands raised, right,
2 Alice?

3 Mr. Smith, thank you, and usually I say
4 step down, but you can sign out.

5 THE WITNESS: Thanks. I'll step down.

6 JUDGE SLAVIN: We'll take a recess,
7 gentlemen, until 20 of.

8 (A recess was taken at 7:32 p.m.
9 and proceedings resumed at
10 7:42 p.m.

11 JUDGE SLAVIN: All righty. Back on the
12 record.

13 Mr. Barry.

14 MR. BARRY: Judge, the Applicant has no
15 further witnesses to present and I believe that
16 completes the Applicant's, certainly, direct
17 examination of witnesses in terms of this
18 process.

19 JUDGE SLAVIN: All right. Very good.
20 Thank you.

21 Turning to other parties that may present
22 witnesses, first off is the Honorable Dee Duffy,
23 Zoning and Planning Officer of Lee County.

24 Do you have a witness you want to call,

1 Ms. Duffy?

2 MS. DUFFY: Yes, Your Honor. Mr. Coon.

3 JUDGE SLAVIN: Mr. Coon, want to raise
4 your right hand for me, please. It's the Slavin
5 Rule: once past midnight, you have to be sworn
6 in again.

7 (Tyler Coon was duly sworn.)

8 JUDGE SLAVIN: Ask away.

9 MS. DUFFY: Thank you.

10 TYLER COON,
11 having first been duly sworn, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MS. DUFFY:

15 Q. Mr. Coon, as the person in charge of this
16 proposed project on behalf of South Dixon Solar,
17 LLC, would it be bound by all representations
18 and promises in its application or made under
19 oath during the hearing process by any of its
20 employees or agents?

21 A. I didn't fully understand the question. Could
22 you repeat that one more time?

23 Q. Would South Dixon Solar, LLC, be bound by all
24 representations and promises in its application

1 or made under oath during the hearing process by
2 any of its employees or agents?

3 A. Yes.

4 Q. Okay. If the facility becomes operational,
5 will South Dixon Solar, LLC, be using cameras as
6 a security supplement?

7 A. Video cameras are commonly used on our solar
8 facilities, so I would -- the design has not
9 been done yet for the security of this facility,
10 but I would assume, yes.

11 Q. Okay. And if so, then will you promise that
12 these cameras will always be pointed away from
13 any nearby residence?

14 A. Yes.

15 MS. DUFFY: Thank you. And I do believe
16 that would be all.

17 JUDGE SLAVIN: All right. Very good.
18 Questions of this witness, Mr. Boonstra?

19 MR. BOONSTRA: No, Your Honor.

20 JUDGE SLAVIN: Zoning Board members.
21 Mr. Forster?

22 MR. FORSTER: No, no questions at this
23 time.

24 JUDGE SLAVIN: Mr. Buhrow?

1 MR. BUHROW: No -- is it --

2 JUDGE SLAVIN: Mr. Bothe?

3 MR. BOTHE: No questions.

4 JUDGE SLAVIN: Mr. Hughes?

5 MR. HUGHES: No additional questions.

6 JUDGE SLAVIN: Mr. Meyer?

7 MR. MEYER: No.

8 JUDGE SLAVIN: Mr. Barry?

9 MR. BARRY: No.

10 JUDGE SLAVIN: Okay. Interested Parties,
11 questions based on Ms. Duffy's questions?

12 I think I see Ms. Lawson's hand raised; is
13 that right?

14 MR. HUGHES: Yes.

15 JUDGE SLAVIN: I can't tell if it's an
16 arrow or hand raised.

17 Ms. Lawson, can you hear me?

18 MS. LAWSON: Yes.

19 JUDGE SLAVIN: Okay. Questions based on
20 Ms. Duffy's questions of Mr. Coon?

21 MS. LAWSON: No. I misunderstood that.
22 Sorry.

23 JUDGE SLAVIN: Okay. Any other hands
24 raised?

1 change your fence that you were asked -- you're
2 looking to put around the perimeter of this site
3 to a woven wire fence with barbed wire straight,
4 you know, if it has to be on the top of it?

5 A. Yes, that is something that we would consider
6 doing, as long as it's commercially viable and
7 meets the National Electric Code requirements
8 for fencing around a solar facility.

9 MR. LUSZ: Thank you. I have got no
10 further questions.

11 JUDGE SLAVIN: Thank you.

12 I don't see any more hands.

13 How about in the back room, Mr. Boonstra?
14 The State's Attorney is the gatekeeper of the
15 rear room.

16 MR. BOONSTRA: No questions, Your Honor.

17 JUDGE SLAVIN: Okay. Thank you, Mr. Coon.
18 You may be at ease.

19 And thank you, Ms. Duffy.

20 Now do you wish to testify yourself?

21 MS. DUFFY: I do.

22 DEE DUFFY,
23 being first duly sworn, testified as follows:

24 JUDGE SLAVIN: All right. Ms. Duffy,

1 would you please, for the record, state your
2 name.

3 MS. DUFFY: Dee Duffy.

4 JUDGE SLAVIN: And your occupation?

5 MS. DUFFY: Zoning Administrator for Lee
6 County.

7 JUDGE SLAVIN: All right. And I promised
8 I'd help you. So as the Zoning and Planning
9 Administrator for Lee County, is it part of your
10 duties to receive and maintain documents sent to
11 you for any particular Zoning Board matter?

12 MS. DUFFY: Yes.

13 JUDGE SLAVIN: Have you received any
14 correspondence or documents regarding this
15 particular hearing?

16 MS. DUFFY: Yes, I have.

17 JUDGE SLAVIN: Okay. And what are they?
18 You don't have to read them. Would you give the
19 folks a general idea what you're talking about?

20 MS. DUFFY: I have the Lee County Soil and
21 Water Conservation District Natural Resource
22 Report.

23 (ZO Exhibit Number 1 marked for
24 identification.)

1 JUDGE SLAVIN: Okay. Before you go too
2 far, and we'll try and remember where we left
3 off, but I understand that report is lengthy.
4 In round numbers, how many pages is it?

5 MS. DUFFY: 1400 pages.

6 JUDGE SLAVIN: And so you did not make
7 copies of that to hand out; is that correct?

8 MS. DUFFY: Correct.

9 JUDGE SLAVIN: But that is available to
10 anyone who wants to come to your office to view
11 it; would that be correct?

12 MS. DUFFY: Yes, and will be on the
13 website also.

14 JUDGE SLAVIN: Oh, it will also be on the
15 website. Actually, they can't come to your
16 office because this courthouse -- the Old
17 Courthouse will be closed for awhile. It will
18 be on the website. All right. Thank you.

19 Next what kind of documents do you have?

20 MS. DUFFY: I also have several letters of
21 objection and support.

22 (ZO Group Exhibit Number 2 marked
23 for identification.)

24 JUDGE SLAVIN: All right. And they are

1 labeled ZO Number 2 through Number 16; is that
2 correct?

3 MS. DUFFY: I believe 15.

4 JUDGE SLAVIN: 15. Thank you. Sorry.
5 Is that correct?

6 MS. DUFFY: That's correct.

7 JUDGE SLAVIN: Okay. And will those be
8 available on your website? Were you going to
9 scan them in?

10 MS. DUFFY: Yes.

11 JUDGE SLAVIN: Okay. And the Board has
12 been passed out copies of those exhibits and
13 Petitioner has a copy.

14 Anything to add, based -- other than the
15 questions I asked you?

16 MS. DUFFY: No.

17 JUDGE SLAVIN: All right. Based on that
18 testimony, questions of Ms. Duffy?

19 Mr. Boonstra? Now is your chance.

20 MR. BOONSTRA: Got her under oath, now I
21 have got some questions -- no, thank you.

22 JUDGE SLAVIN: Board members.
23 Mr. Forster?

24 MR. FORSTER: No questions.

1 JUDGE SLAVIN: Mr. Buhrow?

2 MR. BUHROW: No questions.

3 JUDGE SLAVIN: Mr. Bothe?

4 MR. BOTHE: No, thank you. No questions.

5 JUDGE SLAVIN: Mr. Meyer?

6 MR. MEYER: No questions.

7 JUDGE SLAVIN: Mr. Hughes?

8 MR. HUGHES: No questions.

9 JUDGE SLAVIN: Okay. Interested --

10 Mr. Barry?

11 MR. BARRY: No questions.

12 JUDGE SLAVIN: Interested Parties,
13 questions of Ms. Duffy? I think I saw a hand
14 raise. Jamie Lawson, I assume.

15 MR. LAWSON: Yes, that's correct.

16 JUDGE SLAVIN: Okay. Question of
17 Ms. Duffy?

18 EXAMINATION

19 BY MR. LAWSON:

20 Q. My only question that would be to Ms. Duffy is,
21 how many of those letters received, what are the
22 -- how many are pro and how many are against?

23 JUDGE SLAVIN: I'm not sure --

24 A. I'm not sure --

1 JUDGE SLAVIN: -- that she should
2 characterize what's for and against. I haven't
3 read the letters either, but there may be --

4 MR. LAWSON: I thought she said in her
5 statement that there was opposition and -- I
6 can't remember exactly what she said, but she
7 had clarified the two differences. I'm sorry.
8 Thank you.

9 JUDGE SLAVIN: Any other hands raised?
10 Okay. Very good. You may step down.

11 MR. HUGHES: The back.

12 JUDGE SLAVIN: I'm sorry. The back room,
13 I forgot the back room.

14 MR. BOONSTRA: No questions back here.

15 JUDGE SLAVIN: Okay. You did get off
16 easy.

17 MS. DUFFY: Thank you.

18 JUDGE SLAVIN: Well, the next stage is for
19 Interested Parties to testify. This is -- I'm
20 going to give the same speech I usually give.
21 Those of you that heard it before, please
22 forgive me, but I would like to pay attention as
23 well.

24 This is the time for Interested Parties to

1 be put under oath and to give their own
2 testimony as to facts. This is not the time for
3 you to tell the Board how you feel, what you
4 think, what they ought to do. That's the
5 time -- that time will come in closing comments,
6 public comments, closing statements, call it
7 what you will.

8 This is the time to allege facts. You
9 might want to think about, if you're going to
10 make a closing comment or a public comment that
11 will include facts, if you want to testify about
12 them now, because if you start doing that during
13 the closing comments, you won't be under oath
14 and you won't be subject to cross-examination,
15 the two biggest factors in truth-finding during
16 a hearing process, and I would stop you,
17 hopefully politely, but I would stop you from
18 doing that in any public comments or closing
19 statements.

20 So now is the time if you want to allege
21 facts. Facts are things like, "My son brought
22 home a blanding's turtle and he found it at a
23 branch of Three Mile Creek." "I disagree that
24 the sun shines as much as Mr. So and So said it

1 does. I kept track last year and the sun shone
2 only 157 days." Those are facts.

3 So with that sort of admonition, where am
4 I going to start? I think I'll start in the
5 back room. Folks in the back jury deliberation
6 room, is there anyone back there who wants to be
7 put under oath, testify, and be subject to
8 cross-examination questions? I'm assuming you
9 heard me.

10 MR. BOONSTRA: I'm told that they have no
11 comments to give at this point, just comments at
12 the end.

13 JUDGE SLAVIN: As long as they understand
14 that the end is for comments based on the
15 evidence. You can't add things factually at the
16 end.

17 MR. BOONSTRA: Is that correct?

18 JUDGE SLAVIN: Because you're not under
19 oath and you're not subject to
20 cross-examination.

21 MR. BOONSTRA: You don't want to testify?
22 Correct, they do not want to testify.

23 JUDGE SLAVIN: Okay. Very good.

24 Well, we'll turn to the Zoomers. Anyone

1 wanting to testify at this point? I think
2 there's a hand. Jennifer Lawson.

3 Jennifer, can you hear me?

4 MS. LAWSON: Yes, I can.

5 JUDGE SLAVIN: And you want to be put
6 under oath and testify to some facts; is that
7 right?

8 MS. LAWSON: Yes, sir.

9 JUDGE SLAVIN: All right. Do you -- are
10 you on video or are you just on audio
11 conferencing?

12 MS. LAWSON: I believe I'm only on audio.

13 JUDGE SLAVIN: Okay. Want to raise your
14 right hand, even though I can't see you.

15 MR. HUGHES: There she is.

16 JUDGE SLAVIN: Oh, there you are. There's
17 your face. I didn't hear you say -- I'll start
18 again.

19 JENNIFER LAWSON,
20 being first duly sworn, testified as follows:

21 JUDGE SLAVIN: Okay. Very good.

22 I'll help you get started. State your
23 name -- oops, I think we lost her.

24 MS. HENKEL: She muted herself.

1 JUDGE SLAVIN: Just a minute, Jennifer.
2 There you are. Can you hear me? You're moving
3 in and out. You may not have enough -- you may
4 not have enough broadband to bring us your
5 video. If you want to stay just on the audio,
6 that's fine with me.

7 MS. LAWSON: Okay. Give me a second.
8 There.

9 JUDGE SLAVIN: Okay. State your name,
10 please.

11 MS. LAWSON: Jennifer Lawson.

12 JUDGE SLAVIN: And I avoid asking people
13 for their address, but tell us more particularly
14 now where you live in relation to this project.

15 MS. LAWSON: We live on the north central
16 side of the project off of Levan Road.

17 JUDGE SLAVIN: And how far away would you
18 estimate you are from the nearest boundary to
19 the project?

20 MS. LAWSON: 500 feet.

21 JUDGE SLAVIN: Okay. All right. And with
22 whom do you -- who lives is in the household
23 with you?

24 MS. LAWSON: My husband, James Lawson,

1 Jr.; my son, Tanner Lawson; and my daughter,
2 Kodie Lawson.

3 JUDGE SLAVIN: I can't guess what you want
4 to testify about, so you go ahead and stick to
5 facts and I'll --

6 MS. LAWSON: I just want to -- hopefully
7 I'm doing this appropriately.

8 In regards to the Illinois State
9 endangered species, the spiny back and smooth
10 softshell turtles, I am stating the fact that we
11 have seen and, in fact, captured, via fishing
12 the Three Mile Branch creek, the smooth shell
13 turtle in Three Mile Branch, which is an
14 endangered species in Illinois.

15 JUDGE SLAVIN: Okay. Anything else?

16 MS. LAWSON: No, sir.

17 JUDGE SLAVIN: Okay. Questions of
18 Ms. Lawson? And we'll stick to that -- the
19 turtle business. Mr. Barry?

20 MR. BARRY: No, thank you.

21 JUDGE SLAVIN: Ms. Duffy?

22 While we find her, Mr. Boonstra,
23 questions?

24 MR. BOONSTRA: No questions. Thank you,

1 Judge.

2 JUDGE SLAVIN: Okay. How about the Zoning
3 members. Mr. Chairman?

4 MR. FORSTER: No questions.

5 JUDGE SLAVIN: Mr. Buhrow?

6 MR. BUHROW: Yes.

7 EXAMINATION

8 BY MR. BUHROW:

9 Q. Ms. Lawson, the turtle that you were
10 mentioning, have you found that just one time or
11 more than once? And how long ago did you see
12 that?

13 A. It has been on at least three occasions. It
14 was -- the most recent occasion was a year and a
15 half ago in the summer.

16 MR. BUHROW: Okay. Thank you.

17 MS. LAWSON: Yup.

18 JUDGE SLAVIN: Mr. Bothe?

19 MR. BOTHE: No questions.

20 JUDGE SLAVIN: Mr. Hughes?

21 MR. HUGHES: No questions.

22 JUDGE SLAVIN: Mr. Meyer?

23 MR. MEYER: No questions.

24 JUDGE SLAVIN: Mrs. Duffy?

1 MR. BOONSTRA: She's coming out that way.

2 JUDGE SLAVIN: Any questions?

3 MS. DUFFY: No questions, sir.

4 JUDGE SLAVIN: Other Interested Parties,
5 questions of Ms. Lawson? Hands raised on the --

6 MS. HENKEL: He's got a -- I think he
7 wants to testify. His hand has --

8 JUDGE SLAVIN: Do you have -- I'll check
9 though.

10 Jim, do you have any questions of
11 Ms. Lawson?

12 MR. SCHIELEIN: I have no questions for
13 Ms. Lawson.

14 JUDGE SLAVIN: Okay. In the back room,
15 questions for Ms. Lawson?

16 MR. BOONSTRA: No questions.

17 JUDGE SLAVIN: Okay. Great.

18 Thank you, Ms. -- I think I have covered
19 everybody.

20 Mr. Barry?

21 MR. BARRY: No, no thanks.

22 JUDGE SLAVIN: Okay. Thank you,
23 Ms. Lawson.

24 MS. LAWSON: Thank you, I appreciate it.

1 JUDGE SLAVIN: And I see somebody else's
2 hand raised, someone named Jim. Do you want to
3 testify, Jim, if you can hear me?

4 MR. SCHIELEIN: Yes, and I'm trying to get
5 the video started. There we go.

6 JUDGE SLAVIN: Okay. Jim, you want to
7 raise your right hand, please.

8 JAMES SCHIELEIN,
9 being first duly sworn, testified as follows:

10 JUDGE SLAVIN: Okay. Start with your
11 name, please.

12 MR. SCHIELEIN: James Schielein.

13 JUDGE SLAVIN: Would you spell your last
14 name for my court reporter.

15 MR. SCHIELEIN: S-C-H-I-E-L-E-I-N.

16 JUDGE SLAVIN: You went too fast.

17 MR. SCHIELEIN: Oh, I'm sorry.

18 S-C-H-I-E-L-E-I-N.

19 JUDGE SLAVIN: Very good.

20 And would you tell us, please, where you
21 reside in relation to this proposed development.

22 MR. SCHIELEIN: My home is within the
23 project, and I'm also a participating landowner.

24 JUDGE SLAVIN: All right. If you would

1 please stick to facts and tell us the facts you
2 want to relay.

3 MR. SCHIELEIN: Sure. And I'm going off
4 of the letter that I submitted in support of the
5 petition. I just wanted to be able to go
6 through this as submitted testimony at the end
7 so I don't get admonished by the presiding
8 judge.

9 One of the facts that, as I wrote this, is
10 that Duke Energy is a top utility firm listed on
11 the New York Stock Exchange, with revenues of
12 over \$25 billion in 2019.

13 JUDGE SLAVIN: Excuse me just a minute.

14 Ms. Reporter, are you able to catch this?

15 COURT REPORTER: If he could go a little
16 closer, that would be great.

17 JUDGE SLAVIN: You're real hard to hear,
18 sir. If you can get a little closer to your
19 speaker and maybe go a little slower.

20 MR. SCHIELEIN: Certainly.

21 My fact is that Duke Energy is a top
22 utility firm listed on the New York Stock
23 Exchange, with revenues of over \$25 billion in
24 2019.

1 JUDGE SLAVIN: All right. Questions of
2 this witness? Mr. Barry?

3 MR. BARRY: No questions.

4 JUDGE SLAVIN: Mr. Boonstra?

5 MR. BOONSTRA: No questions.

6 JUDGE SLAVIN: Ms. Duffy?

7 MS. DUFFY: No questions.

8 JUDGE SLAVIN: Mr. Forster?

9 MR. FORSTER: No questions.

10 JUDGE SLAVIN: Mr. Buhrow?

11 MR. BUHROW: No questions.

12 JUDGE SLAVIN: Mr. Bothe?

13 MR. BOTHE: No questions.

14 JUDGE SLAVIN: Mr. Hughes?

15 MR. HUGHES: No questions.

16 JUDGE SLAVIN: Mr. Meyer?

17 MR. MEYER: No questions.

18 JUDGE SLAVIN: Other Interested Parties.

19 We'll start with on the board, hands raised.

20 Jamie, questions of the gentleman.

21 EXAMINATION

22 BY MR. LAWSON:

23 Q. Hi, Jim. Jamie Lawson.

24 A. Yes, Jamie.

1 Q. Just a quick -- with your statement, with that
2 much money, why you do you feel they need more
3 or why do they need -- why would they need to, I
4 guess, my opinion, pollute this area with a
5 solar farm? With that much money, can they go
6 elsewhere?

7 JUDGE SLAVIN: His opinion is not what he
8 stated. He just stated they have -- that
9 they're listed on the Stock Exchange, some net
10 worth.

11 MR. LAWSON: Okay.

12 JUDGE SLAVIN: Any other questions about
13 that fact?

14 MR. LAWSON: No. That's all I have.

15 JUDGE SLAVIN: Okay. Mr. -- Ms. Lawson,
16 questions? Oh, that's an arrow. I'm sorry.

17 Mr. Lusz, questions?

18 EXAMINATION

19 BY MR. LUSZ:

20 Q. Hello, Mr. Schielein.

21 Has Duke Energy been involved in any
22 lawsuits regarding solar arrays?

23 A. That is not part of the fact that I'm
24 presenting.

1 MR. LUSZ: Okay. Thank you.

2 JUDGE SLAVIN: Okay. In the back room,
3 questions -- did I already ask that?

4 Mr. Boonstra, in the back room, any
5 questions?

6 MR. BOONSTRA: No questions.

7 JUDGE SLAVIN: Okay. Great. And I see --
8 and you may step down, Mr. Schielein. Thank
9 you.

10 MR. SCHIELEIN: I wasn't done.

11 JUDGE SLAVIN: When I say step down, you
12 can sign out, you can -- we're looking at you
13 right now.

14 COURT REPORTER: He wasn't done. He's
15 saying that he wasn't done.

16 MR. BARRY: He said he wasn't finished.

17 JUDGE SLAVIN: Oh, all right.
18 Mr. Schielein, you said you weren't finished?
19 There was this long pause and you said, Thank
20 you.

21 MR. SCHIELEIN: For some reason, my iPad
22 muted me. No, I have several things, I want to
23 make sure that I'm covered, so that when I read
24 my statement into the record that I don't get

1 admonished.

2 JUDGE SLAVIN: Okay. Go ahead, Jim, and
3 we'll have to go around the horn again, but fair
4 enough. You had a technical glitch.

5 MR. SCHIELEIN: So can I go through the
6 things and then I'll tell you when I'm done?

7 JUDGE SLAVIN: As long as you stick to
8 facts, that's great.

9 MR. SCHIELEIN: Correct.

10 Duke is over a century-year-old company.
11 It is my understanding that they have a
12 long-term utility business in that regard. They
13 have agreed to sign an AIMA contract with the
14 Department of Agriculture. They have also
15 agreed to restoration provisions in our
16 individual lease agreements.

17 As far as, just for clarification, Judge
18 Slavin, is the statement of facts also in
19 regards to myself? Do I make statements in
20 regards to the years I have lived in the
21 community and that kind of thing?

22 JUDGE SLAVIN: No, that's all right.

23 MR. SCHIELEIN: Okay. Also, there's
24 several things that I state in regard to facts

1 about the state of agriculture and the price of
2 commodities and that kind of thing. Is that
3 necessary to be entered into the record?

4 JUDGE SLAVIN: I would think so.

5 MR. SCHIELEIN: Okay. One of the facts
6 that -- in looking at the record of my career in
7 agriculture, which is 40 years, I sold corn in
8 1980 for \$3.80 a bushel, or thereabouts.
9 Corrected for inflation, that \$3.80 per bushel
10 is equivalent to \$12 a bushel today. Also, in
11 January I'll be delivering on a corn contract
12 for the value of \$3.70 per bushel.

13 It is also a fact that in the course of
14 farm bill -- multiple farm bills over the course
15 of the last 40 years, set-asides have been used
16 as methodology to stabilize commodity prices and
17 also to reduce production of several types of
18 commodities.

19 I very much appreciate your patience here.

20 Also, this type of development -- and I
21 state this as a fact as a former member of the
22 Dixon School Board, also as a former supervisor
23 and trustee of South Dixon Township, and also a
24 current Lee County Board member, that the type

1 of development and tax revenue that this type of
2 project brings to the taxing bodies is kind of
3 what you call a clean revenue stream.

4 The revenue brought in does not include
5 the necessity of extending government services
6 such as -- and I'll use the example of
7 subdivisions, where when you build a house or
8 you build an industry within an area, necessary
9 infrastructure and services, government
10 services, need to be extended to those things.

11 In this case, the solar array is built, it
12 produces property taxes but yet has minimal
13 impact on government services. So that creates
14 a greater impact of the revenues generated by
15 the facility.

16 Also, I do refer to a report given by the
17 Executive Director, Kevin Marx, of the Lee
18 County Industrial Development Association, in
19 which -- and I am paraphrasing his report, that
20 renewable -- Lee County being welcoming to
21 renewable energy projects is a net benefit to
22 attracting businesses to our county, and
23 specifically to his work in attracting
24 businesses to the Dixon industrial. Those --

1 that report can be accessed through -- and I
2 think that was --

3 Dee, if you'll remind me, I think he gave
4 that report at the September meeting.

5 I'd also state as a fact, wildlife habitat
6 and small mammals, birds, and other wildlife
7 will be greatly enhanced. The systems will
8 encourage a rich ecosystem for birds, small
9 mammals, butterflies, and other pollinators
10 underneath the panel systems.

11 I'd also like to state as fact that there
12 is no net loss of prime farm ground with this
13 array. The farmland underlying the array is
14 intact and, by the very nature of the project,
15 has the ability to be restored and would be back
16 in production in a short period of time.

17 I think that's all I have.

18 JUDGE SLAVIN: All right. Question.

19 We'll start again. So, Mr. Boonstra?

20 MR. BOONSTRA: No questions, Judge.

21 JUDGE SLAVIN: Ms. Duffy?

22 Mr. Barry?

23 MR. BARRY: No questions.

24 JUDGE SLAVIN: Mr. Forster?

1 MR. FORSTER: No questions.

2 JUDGE SLAVIN: Mr. Buhrow?

3 MR. BUHROW: No questions.

4 JUDGE SLAVIN: Mr. Bothe?

5 MR. BOTHE: No questions.

6 JUDGE SLAVIN: Mr. Hughes?

7 MR. HUGHES: No questions.

8 JUDGE SLAVIN: Mr. Meyer?

9 MR. MEYER: No questions.

10 JUDGE SLAVIN: Ms. Duffy? Last chance.

11 Let's start at the back of the room.

12 This Marilyn Shippert.

13 MS. SHIPPERT: I'm Angie Shippert.

14 JUDGE SLAVIN: Angie. I'm sorry. I was
15 looking at your mom on the screen -- or your
16 mother-in-law, it would be.

17 MS. SHIPPERT: Not that either, but. . .

18 JUDGE SLAVIN: Okay. Whatever.

19 MS. SHIPPERT: She's my relative.

20 JUDGE SLAVIN: Okay. Questions of this
21 witness.

22 MS. SHIPPERT: Yes.

23 EXAMINATION

24 BY MS. SHIPPERT:

1 Q. You said, quote, Wildlife will be greatly
2 enhanced. What evidence or peer-reviewed
3 research gives you this impression?

4 A. Angie, I have not had any peer-reviewed
5 research that I have had access to. This is
6 over the experience that I have had in both
7 being an agriculturist, operating both pasture
8 systems for livestock operations and the like.

9 It's -- it's almost common sense to
10 understand that, compared to a row crop
11 situation, it's -- having a prairie situation is
12 going to be very beneficial and enhancing to
13 small mammals, skunks, opossums, coons, all
14 those things, including fowl.

15 Now, do I have evidence of that? No, I
16 don't. That's just simply been my experience.

17 Q. So when we're speaking under oath, just to
18 clarify, this is your opinion rather than a
19 fact?

20 A. It's 40 years of being an agriculturalist.

21 Q. Is it a fact that wildlife will be greatly
22 enhanced with this project?

23 A. In my 40 years of experience as an
24 agriculturalist, my answer is yes.

1 Q. Okay. When you referred to "short period of
2 time" when you were referring to farm ground,
3 what is your definition of short in this case?

4 A. Well, since human beings have been in the
5 agricultural business for thousands upon
6 thousands of years, there's -- depends on the
7 scale that you want to look at. The scale --
8 the time period of this project, 35 years,
9 potentially another 35 years, relatively
10 speaking, is a short period of time.

11 Q. Would you consider 70 years the same as a
12 lifetime?

13 A. No.

14 Q. Do you know the approximate lifespan of an
15 American male?

16 A. About 76 years of age.

17 Q. But you think 70 years and 76 years are not
18 comparable?

19 A. Angie, I -- no, I don't.

20 Q. Okay. So you said no net loss of prime farm
21 ground. Do you know the approximate bushels in
22 either corn or soybeans on this amount of
23 acreage that could be lost over 70 years?

24 A. Well, I haven't done the math calculation, but

1 that could be easily done. I could do that in a
2 few minutes.

3 The fact of the matter is -- and I guess
4 this is another -- if I am allowed, Judge -- we
5 have recently --

6 JUDGE SLAVIN: No, just answer the
7 question.

8 MR. SCHIELEIN: This would be part of that
9 question. It would be relevant.

10 The --

11 JUDGE SLAVIN: Well, I don't want you to
12 ask a question. I'm sorry, I'm not being
13 difficult, but I just want you to answer the
14 question.

15 A. Okay. So therefore, yes, I could get that
16 answer for you, Angie. I just need a moment to
17 do the calculation.

18 Q. (By Ms. Shippert:) When you say no net loss of
19 prime farm ground -- this is on what I would
20 understand is Grade A farm ground, so when you
21 say no net loss of prime farm ground, is that
22 your opinion?

23 A. Where's the farmland going? It's not going
24 anywhere.

1 Q. Will farmers be able to farm this ground during
2 the time frame that -- I'm sorry, I can't hear
3 you.

4 A. This is prime -- A Class ground has specific
5 characteristics. I know my farm would not be
6 considered Class A ground.

7 Q. Is there any land in the project that is
8 considered Class A?

9 A. Oh, sure.

10 Q. And would farmers be able to farm this land for
11 the 70 years that the panels could potentially
12 be on them?

13 A. Yes.

14 Q. So you're saying they are physically able to
15 farm them while the panel structures exist on
16 the land?

17 A. Oh, I misunderstood your question.

18 No, while the panels are on the land, the
19 land is being used for a different purpose for a
20 temporary period of time.

21 Q. And, again, can you define temporary?

22 A. Temporary means it's not permanent. When I say
23 permanent, if you build a house on a piece of
24 land, there's permanent damage to that land. Or

1 if you put -- you know, I can give you the
2 example of when you put concrete and compact
3 soil and change the soil profile of a piece of
4 land used for agriculture purposes, it can take
5 an exceedingly long time for that property to
6 regain its productive potential.

7 Now, it's not forever, maybe it's not --
8 maybe in a strict sense of what we are talking
9 about, it's permanent. There's always -- time
10 eventually heals all wounds. But it's
11 definitely a different time period for other
12 structures that does damage to farm ground as
13 opposed to the temporary-type structure we are
14 talking about in this array.

15 Q. Are you aware of Duke's admission in this
16 hearing that they would move topsoil?

17 A. Yes.

18 Q. And when you reference there would be no change
19 to soil structure, are you taking that into
20 account?

21 A. Yes. If you remember, as part of the testimony
22 was that the soil would be moved in order to
23 facilitate the installation of the panels and
24 then be put back. I do that all the time.

1 Q. Can you tell me what year Duke Renewables was
2 found in?

3 A. No. I'd have to look it up. It's readily
4 available.

5 MS. SHIPPERT: No further questions.

6 JUDGE SLAVIN: Thank you.

7 MS. SHIPPERT: Thank you.

8 JUDGE SLAVIN: Anybody else in the back
9 room?

10 MS. SHIPPERT: Yes.

11 JUDGE SLAVIN: And then, Mr. Shippert,
12 questions of --

13 MR. SHIPPERT: Yes, I have a few
14 questions.

15 EXAMINATION

16 BY MR. SHIPPERT:

17 Q. Will the wildlife that you mentioned earlier
18 have access to the prairie systems that you
19 mentioned?

20 A. I guess I shouldn't answer a question with a
21 question, Brad, but the animals would live
22 within the grasses that's are underneath the
23 panels. There's nothing that prevents -- what
24 would -- there's nothing in the system that

1 would prevent animals from living within the
2 grasses that would be growing underneath the
3 panels.

4 Q. How will wildlife access through a chain link
5 fence or pass through a chain link fence?

6 A. In my experience, again, as being an
7 agriculturalist and handling livestock on
8 various farms and fences, I have never found a
9 woven wire chain link fence that they can't
10 figure out how to get around.

11 Q. So you're saying they can access through a
12 chain link fence or they can't?

13 A. They travel -- they can either burrow
14 underneath of it. There's all kinds of ways
15 that -- Mother Nature always finds a way, Brad.

16 Q. And how will said wildlife get back out in an
17 easy fashion?

18 A. Same way as they got in.

19 Q. Does wildlife have access to growing crops for
20 food and shelter currently?

21 A. They have access to food, they have access to
22 water. They're also more exposed in a row crop
23 situation. It's commonly known that -- and we
24 have seen this with the rise in coyote

1 populations, decreases in rabbit populations and
2 small animal populations, also privation by red
3 tail hawks, the row crop situation is not ideal
4 for small mammals.

5 Q. You mentioned set-aside programs. How are
6 these set-aside programs funded?

7 A. By the federal government.

8 Q. Are those same set-aside programs provided
9 today?

10 A. No, they are not. There was a change in the
11 Farm Bill, I believe it was the 1996 Farm Bill,
12 the Freedom to Farm Act, that ended the formal
13 set-aside program as it was designed going back
14 to 19-, I think it was '38.

15 Q. Is the CRP program still available today?

16 A. Yes.

17 COURT REPORTER: He mouthed "yes." Judge,
18 I believe he answered that question, you just
19 couldn't hear him.

20 JUDGE SLAVIN: Did you hear that question?

21 THE WITNESS: Oh, I answered. Yes.

22 A. Yes, the CRP program is still available.

23 Q. (By Mr. Shippert:) Is your farmland more
24 productive now than it was in 1980?

1 A. Yes, and that's part of the -- in my letter, I
2 mentioned the increase -- the continual increase
3 of production, trend-line yields that have
4 occurred from 1980 to the present time.

5 Q. Would you say that's contributed mostly from
6 improved farming practices, improved -- give me
7 a second here -- let's just say improved farming
8 practices?

9 A. Yes, improved practices, improved genetics.

10 Q. Okay. Fair enough.

11 MR. SHIPPERT: That's all the questions I
12 have.

13 JUDGE SLAVIN: Thank you. Anybody else in
14 the back room?

15 MR. BOONSTRA: No other questions.

16 JUDGE SLAVIN: Thank you.

17 And any other hands raised, questions
18 of --

19 MS. HENKEL: Adam.

20 JUDGE SLAVIN: Mr. Lusz, questions.

21 EXAMINATION

22 BY MR. LUSZ:

23 Q. Hello, Mr. Schielein.

24 You talked about tax revenue from this

1 site. Can you tell me about the tax abatements
2 this site is going to be requesting or seeking?

3 A. No.

4 Q. Are you familiar with the program that they're
5 looking to apply for?

6 A. The program that -- the only program that
7 I'm -- have an understanding of, and it's been a
8 while since I have seen the specifics, but that
9 is the enterprise zone abatement, and that's a
10 25 -- five-year -- 20 percent abatement over
11 five years.

12 Q. Okay. Are you familiar with what rate the
13 solar site is supposed to be assessed at then?

14 A. I have that number from Wendy, and I can't
15 remember it off the top of my head. But that
16 is -- that is fixed by statute.

17 Q. And so they're going to be being assessed at
18 that full rate then for the first six years of
19 this project; is that correct?

20 A. Well, if they qualify under the enterprise
21 zone, it would be a declining abatement over
22 this -- the first five years of the project.

23 Q. And what percentage was that?

24 A. If they use the enterprise zone that I'm

1 familiar with, it's a 25 percent -- or
2 20 percent-per-year declining abatement.

3 Q. So --

4 A. But I don't know that this project is going to
5 be utilizing that.

6 Q. Are you familiar with them referencing that
7 they were going to apply for that?

8 A. I don't remember in their testimony that I
9 heard that, Adam. It was -- it could have been
10 Monday night. I wasn't able to be on Monday
11 night.

12 Q. That's fair.

13 Are you familiar then with wind being
14 assessed at a \$314,000-, or thereabout,
15 per-megawatt figure at a State level?

16 A. Yeah, I really haven't studied wind, Adam.

17 Q. Yeah. Are you familiar that solar would be in
18 a \$218,000-per-megawatt rate?

19 A. I thought a little higher than that. I thought
20 it was 243-, and, yes, as I remember those, but
21 those numbers -- I don't have them. I'm not at
22 my regular office, so I don't have those in
23 front of me.

24 Q. Okay. You talked about that report, talking

1 about jobs. How many jobs have -- has Lee
2 County seen in our green energy participation
3 that we have had in this county for quite some
4 time?

5 A. I have direct knowledge from friends that have
6 had family members work for the wind energy
7 companies. How many that amounts to as total
8 employment over Lee County, I'm not familiar
9 with.

10 Q. What other jobs have moved into the county from
11 our green energy boom do we have in this county?

12 A. I don't know that full list, Adam.

13 I do know that, you know, the construction
14 jobs, the temporary positions in regards to the
15 constructing and also the repowering of the wind
16 farms in Lee County, has contributed to the
17 overall employment, at least temporarily, and
18 then maintenance positions of those jobs are --
19 have been added.

20 You know, this -- I can only go by the
21 estimate that Duke Energy Renewables had
22 provided to us that five to ten permanent
23 positions will be added through the course of
24 this project.

1 Q. In your presentation about that report, you
2 talked about the green energy attracting other
3 industries to Lee County; is that correct?

4 A. Yeah, that was a report made by the Executive
5 Director of LCIDA to the Lee County Board, I
6 believe --

7 MR. SCHIELEIN: Again, Dee, correct me if
8 I am wrong.

9 A. -- I believe that was in September where he
10 made the statement that renewable energy would
11 be an attractive attraction to businesses that
12 were looking at different sites for locating
13 utilities at.

14 Q. And in the years that Lee County has had green
15 energy, what other industries then have moved to
16 Lee County because of this?

17 A. I didn't ask that, Adam. I simply -- I'm
18 simply repeating as fact that that was a report
19 made by the Executive Director of Lee County
20 Industrial Development Association.

21 Q. What other industries do you anticipate moving
22 in because of this green energy boom in Lee
23 County? As a county leader, what do you
24 anticipate coming to this county?

1 A. I would say that I am not an expert in economic
2 development, so I am not aware of all the
3 possibilities that exist.

4 I can tell you though that I talk
5 frequently with people in the field as a course
6 of my responsibilities as a County Board member,
7 and they can run the gamut. Whether or not --
8 the report was, was that the proposed project
9 over on the east side of the county, the initial
10 project that was approved by the Board prior --
11 or it was right after I got on the Board, but
12 that project was sold to Amazon. Amazon is
13 putting a distribution plant in DeKalb as we
14 speak. Are those two connected? I have no
15 idea.

16 Q. So you're referencing the jobs that are created
17 from DeKalb County and referencing that that
18 would be a benefit to Lee County then?

19 A. Well, I'm using that as an example, that Amazon
20 had reportedly purchased that 750-acre-solar
21 array from Geronimo, and that was reported in
22 the Dixon paper, and that it is also a fact that
23 Amazon is currently building a distribution
24 facility in DeKalb. Whether or not those two

1 are connected, I have no idea.

2 It is not out of the realm of possibility
3 that it's a benefit to Lee County residents to
4 have job opportunities in DeKalb County. I am
5 sure that we have got people all the time going
6 from Lee County to DeKalb County for employment
7 opportunities.

8 Q. Okay. The layout of the SES being in close
9 proximity to the south edge of Dixon, where do
10 you propose the industry go in the future over
11 the next 70 years?

12 A. The -- there's multiple acres that is available
13 south of Plexiglass on the east side of 52.
14 There's property that's been available for a
15 long time on -- north of Bloody Gulch Road, east
16 of Route 26 that needs to be filled. There's --
17 and south of Bloody Gulch Road. There's also
18 property on the west side of Route 26 that is
19 currently under owner development by a
20 partnership with the LCIDA and another
21 development group whose name escapes me at the
22 moment. So there's still plenty of expansion
23 opportunities and siting opportunities for
24 industry in the community.

1 Not only that, I referenced a study that
2 was done, if I remember right, in 1968 that
3 evaluated the impact that the tollway would have
4 on Dixon, and that study had estimated that the
5 population in Lee County would be over 52,000
6 people and that we needed a new high school and
7 we needed all kinds of things because of all of
8 the people that were going to be here, and the
9 reality and what's come since 1968 is that our
10 population has actually decreased, not
11 increased.

12 Industrial development is an extremely
13 long-term gain, as it's been related to me
14 through professionals in the field, and that
15 it's a difficult thing to do. So the reality is
16 that without a huge push from the east -- we all
17 know what the east is -- that we will have
18 plenty of development property in the
19 foreseeable future.

20 Q. In one of your statements you talked about your
21 lease agreement. What is the duration of that
22 contract?

23 A. The contract that I have signed is
24 confidential. I think I have -- I don't think

1 I'm free to be specific over the terms of the
2 contract.

3 Q. Did you share a specific bullet point from the
4 lease of that contract with us here publicly in
5 your statement?

6 A. I referenced that -- it was a generalized
7 statement, it was not specific. I don't think I
8 broke the spirit of -- or at least I did not
9 intend to break the spirit of the
10 confidentiality clause within the contract.

11 Q. So some things are able to be shared from the
12 contract at will and others are not, depending
13 on your --

14 A. Some things are generally known. You know, it
15 would be like me saying, I am going to be
16 compensated under this contract. Well, that's
17 kind of an assumed known.

18 Q. The statement that you made, that was the
19 bullet point that was in the contract that you
20 referenced?

21 A. It was a generalized statement of a provision
22 within the contract.

23 Q. And what was that provision?

24 A. The restorative provision of the contract in

1 regards to restoring the property after the
2 close of the -- or decommissioning of the solar
3 plant -- solar array.

4 Q. What restoration work do you expect that would
5 have to be done?

6 A. Well, my expectation, as a landowner and
7 steward of the land and as the principal person
8 responsible for the property that my family
9 owns, is that once the life of the project is
10 over that that land would be restored as
11 productive of farmland as it was when we began
12 the project. That's my expectation. That's --
13 that was -- we spent --

14 Q. So, Mr. Schielein, do you expect that your
15 yields will be 70 years behind all the rest?

16 A. Oh, heavens no. If anything, my experience --

17 JUDGE SLAVIN: Just, folks, we're going on
18 and on. It's now 25 of. Please just answer the
19 question.

20 A. Okay. My anticipation is that when the land
21 comes back in production, it will have many
22 great advantages compared to when -- before, as
23 it is now.

24 Q. (By Mr. Lusz:) And how many acres did you have

1 entered into that agreement?

2 A. That's proprietary information.

3 Q. What is the setback on your personal residence
4 from your site to the fence?

5 A. Some of that is yet to be determined as they --
6 but the project has allowed participating
7 landowners to set their own setbacks to what
8 they're comfortable with.

9 Q. On government set-aside property you talked
10 about, do any of those government programs
11 require a 6-foot chain link fence with barbed
12 wire around the top of it?

13 A. No.

14 MR. LUSZ: I have got no further
15 questions.

16 JUDGE SLAVIN: Thank you.

17 I'm looking at the Zoom screen. I see no
18 more hands raised, so you may sign off,
19 Mr. Schielein.

20 MR. SCHIELEIN: Thank you.

21 JUDGE SLAVIN: You have one more back
22 there that wants to testify?

23 MR. BOONSTRA: Not testify. To ask
24 questions.

1 JUDGE SLAVIN: I'm sorry?

2 MR. BOONSTRA: There was one more that
3 wants to ask a question of Mr. Schielein.

4 JUDGE SLAVIN: I don't see that. Oh, you
5 mean in the back room. I'm sorry.

6 Mr. Schielein, can you hear me?

7 MR. SCHIELEIN: I can. I'm back.

8 JUDGE SLAVIN: I thought we had been
9 through the back room, but apparently not.

10 EXAMINATION

11 BY MS. JOHANNSEN:

12 Q. Do you have the largest acreage in the solar
13 project?

14 A. I don't know the answer to that. I hadn't
15 calculated that, so I'm not sure if I know.

16 Q. Do you realize that, once you look at the plat
17 book and find out that information?

18 A. It really isn't relevant to me who has what.

19 Q. Do you plan to live in this area if the project
20 is approved?

21 A. Part of the testimony, and I'll submit -- I
22 submitted today to Dee Duffy in my support --

23 JUDGE SLAVIN: That was not -- just answer
24 the question, please.

1 A. Okay. The answer is that I or my family will
2 continue living in -- within the project.
3 There's no plans at this time to move anywhere.

4 Q. (By Ms. Johannsen:) Are you presently living
5 at home today?

6 A. Today?

7 Q. Yes.

8 A. I spend some time in Florida, so I'm speaking
9 from Florida.

10 MS. JOHANNSEN: Okay. Thank you.

11 JUDGE SLAVIN: All right. Now,
12 Mr. Schielein, you may sign off.

13 MR. SCHIELEIN: Thank you.

14 JUDGE SLAVIN: All right. I understand
15 there's one person in the back room who has
16 changed their mind and wants to testify.

17 MR. BOONSTRA: That's correct.

18 JUDGE SLAVIN: Angie, raise your right
19 hand.

20 ANGIE SHIPPERT,
21 being first duly sworn, testified as follows:

22 JUDGE SLAVIN: All right. Go ahead. I'll
23 help you get started. State your name.

24 MS. SHIPPERT: Angie Shippert.

1 JUDGE SLAVIN: And you live where in
2 relation to the project, Angie?

3 MS. SHIPPERT: Adjacent to within 1.5
4 miles.

5 JUDGE SLAVIN: With whom do you live in
6 that residence?

7 MS. SHIPPERT: My husband and children.

8 JUDGE SLAVIN: Okay. Go ahead. I don't
9 know what facts you want to --

10 MS. SHIPPERT: Okay. Lead, according to
11 the EPA -- so according to the EPA, in children
12 under six, exposure to lead can result in
13 behavior and learning problems, lower IQ, and
14 hyperactivity, slows growth, and hearing
15 problems.

16 And in adults, lead exposure can -- is
17 connected with reproductive problems and
18 cardiovascular problems.

19 That is all.

20 JUDGE SLAVIN: Okay. Questions of this
21 witness, Mr. Boonstra?

22 MR. BOONSTRA: No questions, Your Honor.
23 Thank you.

24 JUDGE SLAVIN: No, thank you.

1 Mr. Barry?

2 MR. BARRY: No questions.

3 JUDGE SLAVIN: Mrs. Duffy?

4 MS. DUFFY: No, thank you.

5 JUDGE SLAVIN: Mr. Forster?

6 MR. FORSTER: No questions.

7 JUDGE SLAVIN: Mr. Buhrow?

8 MR. BUHROW: No questions.

9 JUDGE SLAVIN: Mr. Bothe?

10 MR. BOTHE: No questions.

11 JUDGE SLAVIN: Mr. Meyer?

12 MR. MEYER: No questions.

13 JUDGE SLAVIN: Mr. Hughes?

14 MR. HUGHES: Yes, sir.

15 EXAMINATION

16 BY MR. HUGHES:

17 Q. Ms. Shippert, what is the context that those
18 parameters or those -- I'm drawing a blank on
19 the word.

20 What are the parameters of those negative
21 effects? Does it include consumption? Does it
22 include direct contact over a period of time?
23 What's the reference point on those negative
24 effects?

1 A. Exposure. I don't know all the forms of
2 exposure.

3 Q. Okay. And do you know how close you need to be
4 for that exposure?

5 A. No.

6 Q. And do you think that exposure would be
7 something in excess of 25 feet?

8 A. I don't know.

9 Q. And are you aware that it was testified that
10 the lead, the trace amounts of lead in these
11 panels, would be encapsulated?

12 A. Yes.

13 MR. HUGHES: No further questions.

14 JUDGE SLAVIN: All right. I see one other
15 hand raised. I think Ms. Lawson. Questions of
16 Ms. Shippert?

17 MS. LAWSON: Yes.

18 EXAMINATION

19 BY MS. LAWSON:

20 Q. I appreciate -- first of all, I appreciate that
21 information in regards to lead. I was just
22 wondering if you happen to have any information
23 in regards to the crystalline silica?

24 A. That's not something that I --

1 JUDGE SLAVIN: Just answer the question
2 yes or no.

3 A. No.

4 JUDGE SLAVIN: Any other questions?

5 MS. LAWSON: No, that was all.

6 JUDGE SLAVIN: Okay. Thank you.

7 All right. I think that concludes our
8 business for tonight, and I will close this
9 stage.

10 MS. HENKEL: Did the back room get to
11 cross-examine?

12 JUDGE SLAVIN: Thanks, Alice.

13 Back room, any questions of Angie
14 Shippert?

15 MR. BOONSTRA: No questions.

16 JUDGE SLAVIN: Okay. Angie, you may step
17 down, walk back, whatever we call it in this
18 format.

19 MS. SHIPPERT: Thank you.

20 JUDGE SLAVIN: Thank you, all.

21 That concludes the evidence-taking stage
22 for everyone. So I will close the hearing as
23 far as evidence goes, and we will pick up again
24 tomorrow night, 6 o'clock, here in the second

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floor of the -- or third floor of the Old Lee
County Courthouse and begin the closing
arguments/public comments stage.

See you all then.

(The hearing was recessed at
8:46 p.m.)

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On this 9th day of December, A.D., 2020, I do signify that the foregoing testimony was given before the Lee County Zoning Board of Appeals.

Bruce Forster, Chairman

Dee Duffy,
Zoning Enforcement Officer

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