

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 8th 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: Well, good evening, ladies  
2 and gentlemen. I call out of recess Lee County  
3 Zoning Board of Appeals hearing on Petition  
4 20-P-1558, South Dixon Solar, LLC's, request for  
5 a Special Use Permit to construct a solar energy  
6 system in the South Dixon Township here in Lee  
7 County.

8 I always remind people, in case you have  
9 forgotten and you're listening on your phone,  
10 that the Zoom -- or on YouTube, your Zoom ID is  
11 915-3923-9154, and the password is 209840, and  
12 those -- that ID and password remain the same  
13 throughout the course of this hearing.

14 As to YouTube, on your computer or cell  
15 phone, use your browser and go to  
16 [www.youtube.com](http://www.youtube.com). In the search bar, type "Lee  
17 County IL," short for Illinois, "Zoning Board of  
18 Appeals." You don't need to be concerned with  
19 upper or lower case letters. Find the session  
20 date, which presumably you're wanting to watch  
21 tonight's, December 8, 2020. Fill the box with  
22 that, and whala, you should be seeing and  
23 hearing us.

24 If you have technical questions, you're

1       having difficulty, feel free to call Zoning  
2       Officer Duffy's help line at 815.973.3449.

3               As I look around the room, tonight we have  
4       present in the Old Lee County Courthouse  
5       courtroom all members of the -- all honorable  
6       members of the Zoning Board of Appeals:

7       Chairman Forster, Vice Chair Buhrow, Mr. Bothe,  
8       Mr. Hughes, and Mr. Meyer.

9               Dee Duffy is around, but because of the  
10       mitigator -- of the COVID mitigation tier, she  
11       is not in the room. The astute State's  
12       Attorney, Mr. Boonstra, is also present but he  
13       is not in the courtroom.

14              Mr. Barry is here representing the  
15       Petitioner, along with one of the Petitioner's  
16       representatives. Our IT specialist, Alice, is  
17       here. Our fine court reporter is here. Himself  
18       is here.

19              And, once again, that makes ten people in  
20       the space, which meets the governor's Phase --  
21       I'm not sure if it's Phase 3 or Tier 3  
22       restrictions.

23              And I'm told that there are three people  
24       in what used to be the rear jury deliberation

1 room, a big jury room, which -- in which ten  
2 people could space out, socially distance at  
3 6 feet, but there are only three people back  
4 there this evening.

5 All right. Appreciate it if everyone  
6 would either turn your cell phones off or at  
7 least to silent, just a reminder. And that's  
8 all my housekeeping business.

9 Mr. Barry, that's the handoff to you to  
10 continue your client's presentation.

11 MR. BARRY: Thank you, Judge Slavin. I'd  
12 like to call Jennifer Klingshirn as a witness.

13 JUDGE SLAVIN: Okay. Jennifer, you want  
14 to -- you can hear me, I hope. Want to raise  
15 your right hand?

16 MS. KLINGSHIRN: Yes, sir.

17 (Jennifer Klingshirn was duly  
18 sworn.)

19 JUDGE SLAVIN: Thank you.  
20 You may inquire, Counselor.

21 MR. BARRY: Thank you.

22 JENNIFER KLINGSHIRN (via Zoom),  
23 having been first duly sworn, was examined and  
24 testified as follows:

DIRECT EXAMINATION

BY MR. BARRY:

Q. Good evening, Ms. Klingshirn. Could you please state your name for the record.

A. Jennifer Klingshirn.

Q. Could you spell your last name for the court reporter, please.

A. Yes. K-L-I-N-G-S-H-I-R-N, Klingshirn.

Q. Thank you.

Could you tell us a little bit about your background, please?

A. Yes. I am with Energy Renewal Partners. My title is senior project manager, and there I specialize in renewable energy development with regard to environmental studies, as well as natural resources.

As an environmental consulting firm, Energy Renewal Partners, or ERP, has partnered with Duke Energy Renewables, the project developer for the proposed South Dixon Project. We have partnered with them for over ten years, developing successful renewable energy projects through development, construction, and operations.

1           Additionally, my focus is in environmental  
2           site studies, particularly in regards to streams  
3           and wetlands, cultural resources, protected  
4           wildlife. Additionally, my job is to help  
5           identify environmental project constraints and  
6           seeing them through -- and to identify and  
7           implement avoidance and minimization efforts as  
8           well.

9           Additionally, I have completed regulatory  
10          consultations throughout the U.S. for those  
11          agencies in the state of Illinois and which have  
12          oversight of the project. I have experience  
13          with federal agencies, such as the U.S. Fish and  
14          Wildlife Service and the U.S. Army Corps of  
15          Engineers, as well as State agencies such as the  
16          Illinois Department of Natural Resources and  
17          Soil and Water Conservation District.

18 Q.       What's your educational background,  
19           Ms. Klingshirn?

20 A.       My educational background, I have a bachelor of  
21           science in environmental sciences and a minor in  
22           physical anthropology.

23 Q.       Thank you.

24           Have you previously identified wildlife,



1 environmental, soils, vegetative, and wetlands  
2 issues for solar energy projects?

3 A. Yes, I have.

4 Q. Have any of those been in Illinois?

5 A. Yes. I have been involved in the development  
6 process of over 150 solar energy projects and  
7 approximately ten of those have been in the  
8 state of Illinois.

9 Q. Are you familiar with the wildlife and  
10 environmental studies prepared for the South  
11 Dixon Solar Project?

12 A. Yes. Duke Energy has commissioned several  
13 environmental wildlife studies and other natural  
14 resource studies for the South Dixon Solar  
15 Project to date. These studies are completed as  
16 part of the developer's due diligence to  
17 actively identify, evaluate -- identify and  
18 evaluate potential project constraints to  
19 ultimately design the project to avoid and/or  
20 minimize impact to wildlife and natural  
21 resources.

22 Q. Okay. Thank you.

23 I believe you have a slide deck, if we can  
24 put that on the screen?

1 A. Yes.

2 (Petitioner's Exhibit Number 4  
3 marked for identification.)

4 MR. BARRY: And I'd ask everyone who has a  
5 copy to turn to Page 2, please.

6 THE WITNESS: Yes, I apologize. I can  
7 share that now.

8 MR. BARRY: Just give us a second here.

9 IT TECHNICIAN: Is she sharing it or are  
10 we?

11 MS. HENKEL: We can, yeah.

12 IT TECHNICIAN: I just didn't want us both  
13 to do it.

14 MR. BARRY: Sure.

15 JUDGE SLAVIN: Thanks, Zack.

16 IT TECHNICIAN: Ask if everybody can see  
17 it.

18 MR. BARRY: So we have the slide show up  
19 on the screen. Can everyone see it?

20 (Multiple simultaneous answers in  
21 the affirmative.)

22 MR. BARRY: Please advance the slide to  
23 Slide Number 2.

24 Q. (By Mr. Barry:) So, Ms. Klingshirn, we have

1 Page 2 of the slide deck on the screen, if you  
2 want to continue through your discussion of the  
3 wildlife environmental issues.

4 A. Thank you, Mr. Barry.

5 As I said previously, several  
6 environmental site studies have been  
7 commissioned for the project to date as a part  
8 of the project's due diligence efforts.

9 First, we identify existing or potential  
10 natural resources that are on the site or within  
11 the vicinity of the site.

12 Second, we evaluate what was found in that  
13 identification process on a case-by-case basis  
14 to understand if those resources can generate a  
15 project constraint.

16 And a constraint can be defined in several  
17 ways. A constraint could affect the feasibility  
18 of the project or can present a significant  
19 engineering challenge. A constraint may also be  
20 an existing condition which has the potential to  
21 have an adverse effect on sensitive, critical,  
22 or protected resources.

23 MS. HENKEL: Judge.

24 A. Additional resources may be --

1 JUDGE SLAVIN: Excuse me, Ms. Klingshirn.  
2 Just a minute. We are having a technical  
3 problem.

4 THE WITNESS: Oh, okay.

5 JUDGE SLAVIN: Go to Page 2, if you can do  
6 that.

7 All right. Ms. Klingshirn, can you hear  
8 me now?

9 THE WITNESS: Yes, sir.

10 JUDGE SLAVIN: Okay. You may continue.

11 THE WITNESS: Thank you.

12 A. The final project constraint I was referring to  
13 were at the local level. So beyond those that  
14 could potentially affect the feasibility of the  
15 development, those that could have an adverse  
16 effect on sensitive, critical, or protected  
17 natural resources, there are those additional  
18 regulations at the Lee County level which the  
19 project is adhering to.

20 Environmental and other project  
21 constraints are generally analyzed early and  
22 throughout the development of the project, as  
23 there are federal, state, and local regulations  
24 that must be adhered to with regard to potential

1 impacts to natural resources and protected  
2 wildlife.

3 Q. All right. Let's go ahead and advance to Slide  
4 Number 3, please.

5 Ms. Klingshirn, is -- was that Preliminary  
6 Wetland and Habitat Evaluation Report prepared  
7 for the project?

8 A. Yes, in April of 2020.

9 Q. And could you provide an overview of the  
10 results of the wetland study, please?

11 A. Yes. Regarding streams and wetlands, the  
12 project would be designed to avoid  
13 infrastructure impacts to streams to the  
14 greatest extent practicable and presently would  
15 be designed to avoid impacts to wetlands.

16 In order to identify stream and wetland  
17 features on the site, an assessment was  
18 completed as part of the Preliminary Wetland and  
19 Habitat Evaluation Report, which was, as stated  
20 previously, completed in April of 2020. The  
21 study determined that there are streams and  
22 wetlands that are located within the bounds of  
23 the project.

24 These features are depicted on the site

1 plans presented in the application, as well as  
2 in Appendix H that includes exhibits from that  
3 assessment depicting waters assessed during that  
4 site visit.

5 Currently the site plan has been designed  
6 to avoid impacts to all streams and wetlands  
7 identified in that process to the greatest  
8 extent possible.

9 Following planned 2021 studies, additional  
10 studies are planned for the new year.

11 The project intends to seek an approved  
12 jurisdictional determination from the U.S. Army  
13 Corps of Engineers to receive a formal  
14 concurrence with that final report next year.

15 At the time the project -- if streams were  
16 to be impacted, the project would consult with  
17 the Corps to determine which of those features  
18 are jurisdictional and therefore are subject to  
19 permitting. And should it be determined that  
20 stream crossings would be necessary for the  
21 project to connect certain parts of the project,  
22 at that time -- at this time the project would  
23 qualify for an Army Corps Nationwide Permit.  
24 These are general permits which are issued and

1 approved for impacts that are considered to be  
2 minimal.

3 And reiterating, again, that at this time,  
4 presently, wetlands are not anticipated to be  
5 impacted by the project.

6 Q. Thank you.

7 Let's turn to Slide Number 4. I believe  
8 Slide Number 4 addresses federally-protected  
9 species, and maybe you can tell us a little bit  
10 about the federal components of the wildlife  
11 studies and regulatory consultations that were  
12 performed for the project.

13 A. Yes. Regarding federally-protected wildlife  
14 species, the project would be designed to avoid  
15 and/or minimize impacts to protected species.  
16 This is generally achieved through close  
17 coordination with the U.S. Fish and Wildlife  
18 Service, the federal agency which oversees the  
19 Endangered Species Act, as well as avoiding of  
20 impacts, minimization of impacts, and the  
21 implementation of construction and operations  
22 best management practices, which are generally  
23 industry standard practices to avoid and/or  
24 minimize impacts to federally-protected wildlife

1 species.

2 A habitat assessment was completed for the  
3 project as part of the preliminary Wetland and  
4 Habitat Evaluation completed in April of 2020.  
5 The project would be designed such that no  
6 federal -- federally-listed species would be  
7 adversely impacted by the project.

8 Consultation with the U.S. Fish and  
9 Wildlife is ongoing as necessary at this time.  
10 And similar to the stream and wetland  
11 assessment, additional onsite studies are  
12 planned for 2021.

13 Just in general, an overview of potential  
14 best management practices in coordination  
15 that -- within the industry is very standard.  
16 That would be implemented to either avoid and/or  
17 minimize impacts to federally-listed species.

18 Those could include taking into account  
19 the movement of small mammal species, such as  
20 foxes, rodents, raccoons, and other small mammal  
21 species. The movement of those species in and  
22 around the site can be supported with elevation  
23 fence -- fences elevated approximately 6 inches  
24 to allow for passage of those smaller species.

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1 So that's an example of an avoidance measure  
2 which could be implemented.

3 Additionally, through consultation with  
4 the U.S. Fish and Wildlife, it is very typical  
5 to see requirements from the office to complete  
6 presence/absence surveys and clearing of trees  
7 outside of specific seasons in order to limit or  
8 minimize impact to federally-listed species.

9 So those are just some examples of  
10 industry standard practices.

11 Q. Okay. That addressed federally-protected  
12 species. Let's move to the next slide. I'm  
13 going to ask you to address State-protected  
14 species. And to that extent, are you -- I'm  
15 going to ask you if you're familiar with the  
16 EcoCAT application filed by the project with the  
17 Illinois Department of Natural Resources?

18 A. Yes. That is included as Appendix Q to the  
19 application.

20 Q. Maybe you can tell us what an EcoCAT  
21 application is.

22 A. Yes. So in regards to State-protected species,  
23 the project is required as part of the Lee  
24 County Ordinance to initiate a Natural Resource

1 Review Consultation with the State office that  
2 oversees the State-protected species, which is  
3 the Illinois Department of Natural Resources.

4 That consultation is completed by  
5 initiating a review through the Department's  
6 Ecological Compliance Assessment Tool, or  
7 EcoCAT. The request was submitted through that  
8 portal, and a response was received from the  
9 IDNR through the EcoCAT. That response is  
10 included as an Appendix Q to the application, as  
11 stated previously.

12 The response from the IDNR, which is an  
13 official response, states that there are no  
14 records of the following items, including  
15 State-listed threatened or endangered species,  
16 Illinois Natural Area Inventory Sites, dedicated  
17 Illinois nature preserves, or registered land or  
18 water reserves on the site. And the response  
19 indicated within the letter received that  
20 consultation is terminated.

21 Q. And just to make it clear, the Department of  
22 Natural Resources found no expected impact on  
23 threatened or endangered species, correct?

24 A. That is correct. The Illinois Department of

1 Natural Resources determined that there is no  
2 anticipated impact on State-listed species.

3 Q. Thank you.

4 Let's move to the next slide.

5 Ms. Klingshirn, was there a preliminary cultural  
6 resource study performed for the project?

7 A. Yes.

8 Q. And are you familiar --

9 A. The --

10 Q. Are you familiar with that study?

11 A. Yes, I am.

12 Q. Can you tell us about the study and its  
13 results, please?

14 A. Yes. The preliminary cultural resource  
15 investigation was completed in April of 2020.  
16 That study found evidence of historic sites  
17 within the bounds of the project. The  
18 recommendation within the conclusions of that  
19 report recommended those historic sites for some  
20 additional testing in those particular areas.

21 A formal phase one level site survey is  
22 expected to be completed prior to land  
23 disturbance activities on the site. And  
24 consultation with the State Historic

1 Preservation Office, or SHPO office, is -- will  
2 be completed as necessary in addition to that  
3 formal phase one level site survey as required.

4 Additionally, there are other permits  
5 which may trigger the need for additional  
6 cultural resource review. Typically for a solar  
7 development project, this would be the U.S. Army  
8 Corps of Engineers permitting. Should an Army  
9 Corps Permit for those minimal impacts to  
10 jurisdictional streams, if that is required,  
11 then additional site work would be likely  
12 necessary within those areas of impact as well,  
13 and that would be evaluated further down the  
14 development line once it is determined -- once a  
15 jurisdictional determination from the Army Corps  
16 is received and there is consultation with them  
17 if it is determined that a stream --  
18 jurisdictional stream would be impacted by the  
19 project.

20 Q. And by the way, Ms. Klingshirn, a phase one  
21 archaeological survey, in your experience with  
22 approximately 150 solar projects, is that a  
23 pretty common study that's done for solar  
24 projects?

1 A. It is, yes.

2 Q. Okay. Let's move to the next slide, please.

3 And this slide addresses the natural resources  
4 information screening that was performed for the  
5 project, correct?

6 A. Yes.

7 Q. Are you familiar with that NRI screening that  
8 was performed for the project?

9 A. Yes.

10 Q. Okay. Can you describe that screening and tell  
11 us who did it?

12 A. Yes. Per Section L of the Lee County Ordinance  
13 that pertains to land evaluation site  
14 assessment, a LESA, that is required per the  
15 Ordinance familiar with the -- that section of  
16 the Ordinance. This Ordinance was developed by  
17 Lee County. It provides a framework through  
18 which utility-scale solar projects can be  
19 developed. As part of that, a review of natural  
20 resources is completed by the Soil and Water  
21 Conservation District, in this case the Lee  
22 County Soil and Water Conservation District, to  
23 produce that land evaluation site assessment  
24 that is required per the Ordinance.

1 Q. Okay. Thank you.

2 Are you familiar with Section L of the  
3 Solar Ordinance pertaining to the LESA?

4 A. I am, yes. The section of the Ordinance, as I  
5 had stated, provides -- the Ordinance itself  
6 provides for a framework for a project to be  
7 constructed. The Ordinance itself states in the  
8 Ordinance language that the harvesting of solar  
9 energy is not incompatible with agriculture.

10 I'm also familiar with the fact that  
11 the -- this portion of the Ordinance, Section L,  
12 states that the Lee County Board must not follow  
13 the LESA system widely, but that the project  
14 should be reviewed as a whole.

15 It is also my understanding that Lee  
16 County is an agricultural county. It is also my  
17 understanding of Lee County and the Ordinance  
18 put in place that this was developed and  
19 implemented where -- in a county where  
20 approximately 90 percent of the land is  
21 considered to be prime farmland.

22 The Ordinance itself requires a LESA, as I  
23 stated, and that is issued through the Natural  
24 Resources Information Report, which I can

1 discuss further.

2 So the results of the NRI report were  
3 received. The application itself was provided  
4 in Appendix B, and the final copy was provided  
5 to Dee Duffy today, and a hard copy will be  
6 submitted today as well.

7 The results of the NRI report, I can run  
8 through those as well. The LESA, for the entire  
9 project area indicates a score of 81. This is  
10 an average score. A LESA was established for  
11 each individual parcel and then averaged to the  
12 entire project, and that score is 81. According  
13 to the Soil and Water Conservation District,  
14 prime soils are those with a LESA of 75 to 100.

15 Additionally, approximately 88 percent of  
16 the project area was found to be comprised of  
17 prime farmland. Comparing that to Lee County in  
18 general, the county is comprised of  
19 approximately 90 percent prime farmland, and  
20 that's according to the Soil and Water  
21 Conservation District.

22 Additional findings of the NRI report  
23 provided review of additional natural resources  
24 that the Soil and Water Conservation District

1 reviewed.

2 Regarding cultural resources, none were  
3 identified in the report.

4 Regarding woodlands, none were identified  
5 in the report.

6 Regarding preserved or recognized  
7 ecological sites, none were identified in the  
8 report.

9 And regarding agricultural areas, no  
10 State-designated agricultural areas were  
11 identified within the report.

12 Furthermore, it is understood and stated  
13 in the Lee County Ordinance that solar energy is  
14 not incompatible with agriculture and that solar  
15 developments are considered to be a temporary  
16 use, meaning that this is a use that can  
17 ultimately be returned to prime farmland after  
18 the life of the project.

19 Q. All right. Thank you.

20 Let's turn to the next slide.

21 Ms. Klingshirn, are you familiar with the Lee  
22 County Solar Ordinance's requirements with  
23 respect to weed and grass control and vegetation  
24 plan?



1 A. Yes. A copy of the submitted weed and grass  
2 control and landscape plan is included with the  
3 application as Appendix L.

4 Q. And can you tell us a little bit about that  
5 plan, please?

6 A. Yes. The Ordinance, in Sections E.2.e and  
7 E.2.g, outlines the requirements for a weed and  
8 grass control and landscape plan for the  
9 project. A summary of that plan I have included  
10 here.

11 The project will utilize a seed mix that  
12 is regionally appropriate that will include  
13 grasses and forbs and other low-growing species  
14 with solid, stable root systems and generally  
15 rather deep root systems.

16 The ground cover will provide for growing  
17 season pollinator habitat for the plan,  
18 overwintering wildlife habitat, and will provide  
19 for increased soil health and stabilization.  
20 Again, these forbs and grass species generally  
21 have deeper root systems which will provide for  
22 soil stabilization and overall soil health  
23 throughout the life of the project, as the soils  
24 will not be disturbed once the project is in

1 operation.

2 Those grass and forb species would be  
3 maintained through regularly-scheduled  
4 maintenance. That could include spot mowing or  
5 weeding.

6 Another portion of the plan outlines  
7 invasive species. Invasive species would be  
8 controlled as outlined in the plan, and those  
9 weeds which were identified as invasive were  
10 obtained from the Illinois Wildlife Action Plan,  
11 Invasive Species Campaign. Those are outlined  
12 in the plan as well. And additionally, annual  
13 inspections will also take place for that plan.

14 Q. All right. Thank you.

15 Let's go to the last slide, please. And  
16 this slide references the Agricultural Impact  
17 Mitigation Agreement, or AIMA, which we have  
18 talked about, I believe, in both of the previous  
19 nights.

20 Are you familiar with the AIMA that the  
21 project has entered into with the Illinois  
22 Department of Agriculture?

23 A. Yes, I am. A copy of the executed AIMA is in  
24 Appendix U.

1 Q. Okay. Again, can you tell us about some of the  
2 AIMA requirements and provisions, please?

3 A. Yes. The AIMA itself is specific to solar  
4 energy development. It was developed at the  
5 State level specific to solar, understanding  
6 that solar energy developments are a temporary  
7 use, are compatible with agriculture, and put in  
8 place a system for which the project would be  
9 constructed in a mindful manner and also  
10 decommissioned as well.

11 Due to the general flat topography of the  
12 project, it is anticipated that minimal grading  
13 would take place for construction of the  
14 project. However, if and where necessary,  
15 pursuant to the AIMA, those graded areas would  
16 have the topsoil and organic matter stripped and  
17 separated from the subsoil, and temporary and  
18 permanent stabilization measures would be  
19 implemented for that topsoil in accordance with  
20 a State-approved stormwater pollution prevention  
21 plan, which is required for the project, which  
22 I'll also discuss in one moment.

23 Furthermore, it is understood that the Lee  
24 County Ordinance does state that solar energy is

1 not incompatible with agricultural, stating,  
2 again, that solar developments are considered to  
3 be a temporary use and that the AIMA itself is  
4 in place to preserve and/or restore the  
5 integrity of the affected agricultural land  
6 during construction and decommissioning  
7 activities in a solar-specific agreement.

8 Q. Okay. You just referenced the stormwater  
9 pollution prevention plan, or SWPPP as it's  
10 known in the industry -- or in the construction  
11 industry, I should say.

12 Will the project be required to prepare a  
13 SWPPP?

14 A. Yes, it will. Prior to construction, prior to  
15 any earth-moving activity, the State of Illinois  
16 requires that a stormwater pollution prevention  
17 plan is approved by the State, as well as a  
18 sediment and erosion control plan.

19 These are permitted plans. They provide  
20 for best management practices, structural  
21 control practices, permanent stormwater  
22 controls, and other controls that are approved  
23 by the State and localities. It also provides  
24 for maintenance and inspection, as well as

1 measures for erosion, sediment control, and  
2 stormwater management. And, yes, that is  
3 required prior to permitting activities for the  
4 project.

5 MR. BARRY: All right. Thank you,  
6 Ms. Klingshirn.

7 Judge Slavin, that's all the questions I  
8 have for the witness at this time.

9 JUDGE SLAVIN: Very good.

10 Mr. Boonstra, if you can hear me,  
11 questions of Ms. Klingshirn?

12 MR. BOONSTRA: No, sir.

13 JUDGE SLAVIN: Thank you.

14 How about you, Ms. Duffy?

15 MS. DUFFY: No, thank you.

16 JUDGE SLAVIN: Members of the ZBA.

17 Mr. Chairman, Mr. Forster, any questions?

18 MR. FORSTER: No questions.

19 JUDGE SLAVIN: Mr. Buhrow?

20 MR. BUHROW: Yes.

21 EXAMINATION

22 BY MR. BUHROW:

23 Q. Ms. Klingshirn, where is your company located?

24 A. Our company -- our main office is in Austin,

1 Texas, and we have satellite offices in  
2 Charlotte, with personnel who are based out of  
3 Sweet Water, Texas, as well as Blackwell,  
4 Oklahoma, and in Michigan as well.

5 Q. Okay. You mentioned all these studies. Have  
6 you -- do you or your associates personally do  
7 these studies or are these studies that other  
8 agencies have done that you were referring to?

9 A. Duke Energy commissioned Burns & McDonnell to  
10 complete the studies as an environmental  
11 professional. As a scientist with a  
12 certification for wetland delineation, I have  
13 reviewed the report. I found they are typical  
14 in their results, and the methodologies employed  
15 are both industry standard and are regulatorily  
16 correct.

17 Q. Even though the company is not building in the  
18 wetlands or some of these areas that had the  
19 creeks, were those areas also included in the  
20 studies, too, as far as species and that type of  
21 thing, do you think?

22 A. The studies so far include a wetland  
23 assessment, as well as a habitat assessment.  
24 That was completed in one deliverable or one

1 report. So, yes, they would have been studied  
2 simultaneously: species, wetlands, and streams  
3 in the same report.

4 Q. It was mentioned in a couple of the studies  
5 that they would be ongoing studies. Is that  
6 something your company will be doing then?

7 A. We will be supporting Duke Energy in the  
8 continued regulatory consultation with federal,  
9 State, and local agencies.

10 Q. Okay. Is there any other work that your  
11 company will be doing then after this is  
12 constructed or is your job done at that time of  
13 construction time?

14 A. Again, we are going to continue to support Duke  
15 in site studies and regulatory consultations as  
16 requested by Duke.

17 MR. BUHROW: Okay. Thank you.

18 THE WITNESS: Thank you.

19 JUDGE SLAVIN: Thank you.

20 Mr. Hughes?

21 MR. HUGHES: No questions.

22 JUDGE SLAVIN: Mr. Bothe?

23 MR. BOTHE: No questions.

24 JUDGE SLAVIN: Mr. Meyer?

EXAMINATION

BY MR. MEYER:

Q. What kind of historic sites were found?

A. U.S. historic sites are generally defined as those which are, you know, 1950 or prior. In this region, they are typically associated with agricultural structures and agricultural activities surrounding residences and in the vicinity of those types of practices.

MR. MEYER: No other questions.

JUDGE SLAVIN: All right. Interested Parties. Let me look at the Zoom screen. If you folks remember how to raise your hand, you go to the bottom of the screen, click on the words -- the word "participant," then there should be an icon that appears that -- I think it says "hand raised," but at least it's got a hand, click on that and we should see your hand raised.

If you're teleconferencing, keep on the phone but hit -- go to the keypad and hit star, or asterisk, nine, and we should see your hand raised.

Okay. I can see in the upper left -- and,



1 folks, I just go from left to right on the top  
2 going down.

3 So, Jamie, can you hear me?

4 MR. LAWSON: Yes, sir.

5 JUDGE SLAVIN: Okay. And I have to go  
6 through it every night because my memory is not  
7 that good and we are making a record anyway. So  
8 you live on the edge of the proposed  
9 development; is that correct?

10 MR. LAWSON: I live right in the middle.

11 JUDGE SLAVIN: Right in the middle, I'm  
12 sorry.

13 All right. Questions of Ms. Klingshirn.

14 EXAMINATION

15 BY MR. LAWSON:

16 Q. I'm going to apologize if I butcher your last  
17 name.

18 A. That's okay.

19 Q. My first question is, what protected species  
20 were found within the borders of the project or  
21 boundaries?

22 A. Yes, the initial studies with consultation with  
23 the U.S. Fish and Wildlife indicated that for  
24 federally-protected species, which consultation

1 is ongoing, species included several  
2 federally-protected bat species, which is very  
3 common for the Midwest, as well as two  
4 federally-protected plant species, one of which  
5 is only found within wetland areas and one of  
6 which is only found within prairie. So the  
7 project at this point is not going to be  
8 impacting those wetlands. There is no prairie  
9 habitat that was identified on the site.

10 And for the two federally-listed bat  
11 species, that consultation with the U.S. Fish  
12 and Wildlife is ongoing, and it typically  
13 includes, I mentioned previously, clearing trees  
14 outside of specific seasons in order to avoid  
15 impacts or just regular, you know, consultation  
16 with the U.S. Fish and Wildlife to determine if  
17 there would be any impacts to species, and there  
18 are no adverse impacts anticipated for either of  
19 those protected bat species.

20 Q. Okay. Thank you.

21 And then my next question is, are you  
22 familiar with the farmland preservation policy  
23 adopted by the Lee County Board on May 19th,  
24 1998?

1 A. I am not familiar with the specifics of that,  
2 no.

3 MR. LAWSON: Okay. Thank you. That's all  
4 I have.

5 JUDGE SLAVIN: Thank you.

6 Jennifer Lawson. Can you hear me,  
7 Jennifer? Jennifer, are you there?

8 MS. LAWSON: Can you hear me?

9 JUDGE SLAVIN: There we go. Very good.  
10 Remind us, Jennifer, where you live in relation  
11 to this project.

12 MS. LAWSON: Adjacent to.

13 JUDGE SLAVIN: Within a mile and a half?

14 MS. LAWSON: Easily.

15 JUDGE SLAVIN: Okay. Thank you.

16 Questions of Ms. Klingshirn.

17 EXAMINATION

18 BY MS. LAWSON:

19 Q. Are you aware of the waterways that are located  
20 throughout the project area, Three Mile and Five  
21 Mile Branches?

22 A. Yes, I am aware. They were evaluated as part  
23 of the preliminary waters assessment.

24 Q. So have there been studies to determine what

1 type of waterfowl are in that habitat?

2 A. I'm sorry, you broke up. Did you say  
3 waterfowl?

4 Q. Correct.

5 A. For waterfowl, the majority of waterfowl are  
6 not a protected species. In our initial  
7 evaluation, a typical constraint is looking at  
8 areas that could be considered a quote-unquote  
9 ecological attracter, and those are large water  
10 systems, ponds, rivers, lakes, unique features  
11 that could attract unique wildlife. At this  
12 time, there are no known impacts to protected  
13 waterfowl, and therefore there are no additional  
14 plans to study that at this time.

15 Q. Okay. Are you aware of what is called the lake  
16 effect with large solar projects?

17 A. Yes, ma'am.

18 Q. Okay. Which would, in turn, impact waterfowl.

19 JUDGE SLAVIN: Is that a question?

20 MS. LAWSON: No --

21 JUDGE SLAVIN: Let's stick to questions.

22 MS. LAWSON: -- that wasn't.

23 Q. (By Ms. Lawson:) Okay. Are you aware of the  
24 migration of the monarch butterfly?

1 A. I am.

2 Q. Okay. Are you aware the monarch butterfly is  
3 on the endangered list?

4 A. I am familiar with the monarch butterfly, yes.

5 Q. Are you aware that they are on the endangered  
6 list?

7 A. I am aware.

8 Q. Okay. What studies have been done to show the  
9 effects of a large solar project on the  
10 migration patterns of monarch butterflies?

11 A. The consultation that is required of the U.S.  
12 Fish and Wildlife, which oversees the Endangered  
13 Species Act which would protect the monarch  
14 butterfly, the consultation with U.S. Fish and  
15 Wildlife completed for the project, and is  
16 required of any development, is completed  
17 through the -- is called the IPAC system, and  
18 that is the integrated system for planning and  
19 consultation. It is considered formal  
20 consultation with the U.S. Fish and Wildlife.  
21 That is implemented for any development project,  
22 and that was conducted for this project as well.

23 The monarch butterfly was not a species  
24 that was identified as one of the four

1       federally-protected species for the South Dixon  
2       Project; therefore, per the official U.S. Fish  
3       and Wildlife consultation, it is determined by  
4       the federal agency that the monarch butterfly  
5       would not be impacted by the project.

6             The project also intends, per the  
7       landscape plan, to implement pollinator habitat.  
8       Monarch butterflies, being one of the greatest  
9       pollinators and one of the furthest-moving  
10       pollinators at that, from Mexico, so once the  
11       project is in place and the vegetation -- the  
12       native vegetation, the pollinator vegetation, is  
13       in place, the project itself could serve as a  
14       thoroughfare for that species. It would not  
15       impact that species.

16    Q.     So I guess that kind of answers my other  
17             questions. You are going to be planting  
18             butterfly-friendly vegetation within those grass  
19             and forbs that you said?

20    A.     Correct. Per the vegetation plan, yes,  
21             pollinator habitat is habitat, flowers and  
22             forbs, which are attractive to pollinators such  
23             as butterflies.

24    Q.     Okay. So we are actually members of Pheasants

1 Forever and have several acres --

2 MS. LAWSON: Shut up. Sorry.

3 Q. (By Ms. Lawson:) -- plant -- we have several  
4 actual acres of CRP on our property, which is  
5 adjacent to the project.

6 What effects does the solar have on  
7 pheasants?

8 A. To my knowledge, with the consultation that we  
9 have completed and is ongoing, therefore with  
10 input from the highest of agencies regarding  
11 species, that is ongoing and it's -- would not  
12 be impactful per the regulations set forth at  
13 the federal or State level.

14 Q. Okay. With the 6-foot fences and the barbed  
15 wire, what effects does that have on deer and  
16 larger mammals? You mentioned small mammals but  
17 not large.

18 A. The entire property will be fenced. It will be  
19 fenced for security reasons constantly, or  
20 monitored; therefore, it's unlikely that large  
21 animals such as deer would enter the project.  
22 Otherwise, I don't know -- you know, I can't  
23 speak to a specific scenario such as that.

24 The intention is that the fence is to keep

1 out larger animals such as deer.

2 Q. Okay. Are you aware of the smooth softshell  
3 turtle as endangered in Illinois?

4 A. I have not reviewed the full list of Illinois  
5 endangered species. I did not review that as a  
6 part of this project, as it did not appear on a  
7 list that we were to be concerned with.

8 Q. Okay. That specific turtle is, in fact, found  
9 at Three Mile Branch. Can you revisit the IDNR  
10 evaluation of endangered species that they  
11 determined?

12 A. The turtle species is a State-listed species?

13 Q. Yes, it is.

14 A. At this time the IDNR consultation was -- is  
15 terminated. The IDNR determined that there  
16 would be no impact to State-protected species.  
17 That IDNR consultation stands for two years.

18 Q. Okay. Has a solar project of this size ever  
19 been rejected to your knowledge because of  
20 endangered species?

21 A. Not to my knowledge. I know of a project that  
22 is comparable in size, the project was required  
23 to adhere to and complete a plethora of studies  
24 in regards to federally-protected species. I



1 believe it was specific surveys and studies for  
2 over 20 federally-protected species.

3 So there are -- not to my knowledge has a  
4 project of this size been rejected due to its  
5 potential to impact protected species.

6 Surveys and best management practices and  
7 coordination with federal and State agencies led  
8 that project to receive all permits required and  
9 was ultimately constructed.

10 Q. Okay. So you had said that DNR had terminated  
11 it and they will not revisit for two years, but  
12 if new objective evidence is presented of a  
13 potential endangered species, can that be  
14 revisited?

15 A. There isn't a requirement for the Applicant to  
16 resubmit that within two years, so.

17 Q. It's been two years.

18 A. There's no requirement to -- the termination  
19 stands for two years per the regulations at the  
20 State level.

21 MS. LAWSON: Okay. I know that was a lot  
22 of questions. Thank you. I appreciate it. I'm  
23 done.

24 JUDGE SLAVIN: Thank you.

1 Wendy on iPad. First of all, can you hear  
2 me, Wendy?

3 MS. EISELE: Yes.

4 JUDGE SLAVIN: Okay. Remind us where you  
5 live in relation to the project.

6 MS. EISELE: I live in Dixon,  
7 approximately two miles.

8 JUDGE SLAVIN: Okay. Great. Questions of  
9 Ms. Klingshirn.

10 MS. EISELE: Just a couple.

11 EXAMINATION

12 BY MS. EISELE:

13 Q. I was wondering, your presentation showed that  
14 88 percent of this project is prime farm ground,  
15 and I'm wondering if you feel that's a good idea  
16 and that you can, in good conscience, recommend  
17 that proceeding with the project, taking that  
18 much prime farm ground out of service?

19 A. For the purposes of development of the project,  
20 the Soil and Water Conservation District  
21 determined the 88 percent. Again, that is  
22 comparable to the percentage for the entire  
23 state -- I'm sorry, for the entire Lee County,  
24 as well as surrounding counties.

1           As a temporary use, I see, professionally,  
2           that the soils overall are stabilized and  
3           maintained, and it's rare within the framework  
4           of solar energy development to require a project  
5           to adhere to an agreement such as the AIMA.  
6           That is -- that is an uncommon agreement for  
7           most solar energy developments, and that is in  
8           place, I believe, in my professional judgment.

9           So as Illinois is such a farmland- and  
10          prime-farmland-centered state, that the State  
11          did recognize that, and that that agreement is  
12          in place in order to preserve and/or improve the  
13          farmland, whilst understanding that the solar  
14          development has the potential to take that  
15          farmland out of use for a set number of years,  
16          and then -- with the AIMA, and still bring the  
17          property back to its original state.

18 Q.       Okay. So you are -- you think it is a good  
19           idea then?

20 A.       I do not object to development of a solar  
21           energy project on prime farmland. It happens in  
22           other states as well.

23 Q.       Okay. Well, I'm aware of that. I'm just  
24           saying, this is the third project in Lee

1 County --

2 JUDGE SLAVIN: You're making a speech now.  
3 Just ask her -- you ask her questions; she  
4 answers the question. The trouble with asking  
5 questions is, sometimes you like the answer and  
6 sometimes you don't.

7 MS. EISELE: I was making a statement to  
8 follow up --

9 JUDGE SLAVIN: No, you don't make a  
10 statement. You're not under oath. You're not  
11 subject to cross-examination. That's what I  
12 explained the other night. That stage is  
13 coming.

14 MS. EISELE: Okay. Well, now I have  
15 forgotten the question I was going to ask, so  
16 I'm done. Thank you.

17 JUDGE SLAVIN: Thank you.

18 Jamie, you have already asked your  
19 question.

20 So, Mr. Lusz, I think, as I look over my  
21 shoulder. Can you hear me?

22 MR. LUSZ: Yes, thank you.

23 JUDGE SLAVIN: Okay. Remind us, you live  
24 within a mile and a half of a boundary of the

1 project; is that correct?

2 MR. LUSZ: Yes, sir.

3 JUDGE SLAVIN: Okay. Go ahead. Questions  
4 of Ms. Klingshirn.

5 EXAMINATION

6 BY MR. LUSZ:

7 Q. Ms. Klingshirn, thank you for joining us.

8 So you studied Five Mile Branch and Three  
9 Mile Branch that run through this project?

10 A. Correct. Those are included in the waters  
11 assessment completed back in April.

12 Q. You referenced that the cultural resource  
13 review was to be done before land disturbance on  
14 the site; is that correct?

15 A. That is correct.

16 Q. Are you familiar with trees being removed along  
17 the shoreline of Three Mile Branch currently?

18 A. I am not aware.

19 Q. Is that land under contract currently with Duke  
20 Energy -- leased contract, that you're aware of?

21 A. I am not aware.

22 Q. Would Duke Energy be paying for those -- the  
23 removal of the trees along the bank of that  
24 Three Mile Branch?

1 A. I can't answer that question. That would be a  
2 question for a representative of Duke Energy.

3 Q. Should that be happening currently on this land  
4 as this project is evaluated on that property?

5 A. I can't answer that question.

6 Q. Was there to be no disturbance of the site  
7 until the cultural resource review was done?

8 A. For the purposes of what is disturbance, that  
9 is in regard to an action taken by the project  
10 to clear the land and -- in terms of clearing it  
11 for the construction of the project.

12 There are defined definitions of what is  
13 considered to be a disturbance. I understand  
14 your question, that tree-clearing in the  
15 capacity that is taking place right now would  
16 not, to my knowledge, be considered ground  
17 disturbance, triggering a cultural resources  
18 review.

19 Q. Is there plans to widen Three Mile or Five Mile  
20 Branch to allow for better flow?

21 A. The intent of the project is to impact stream  
22 features as little as possible. The only impact  
23 or disturbance of the stream would be, should a  
24 crossing road or collection be required, the

1 collection would likely -- electrical collection  
2 lines would likely be bored underneath the  
3 stream. And at this time it is not known if a  
4 road crossing would be required, although it is  
5 likely not to be required.

6 So to answer your question, no.

7 Q. Are you familiar with Eldena Solar, LLC?

8 A. I am familiar.

9 Q. What impacts -- are you familiar with where  
10 that is located then in proximity to this  
11 project?

12 A. Generally, yes, I am familiar.

13 Q. What impact on Three Mile Branch and Five Mile  
14 Branch might that project have in conjunction  
15 with this one?

16 A. Cumulative impacts are not assessed. A project  
17 is looked at from a stormwater and from a waters  
18 impact within those specific localities. That  
19 would be perhaps a question to ask of the Duke  
20 engineer who will be testifying, I believe,  
21 tomorrow.

22 Q. Okay.

23 A. But overall there should be no cumulative  
24 impact. These are rather small impacts to these

1 features overall.

2 Q. Okay. Did you study the soil report then that  
3 was provided to the County?

4 A. I have reviewed the report, yes.

5 Q. And how many acres on that report were  
6 considered Grade A on the PI index, do you  
7 recall?

8 A. I don't have the number in front of me. The  
9 NRI report will be available for review shortly,  
10 I believe, online for your answer.

11 Q. That has been submitted then?

12 A. It has been electronically submitted to  
13 Ms. Duffy, and a hard copy will be entered in as  
14 well. I can't answer when that would be  
15 available for review.

16 Q. Okay. Are you aware of any increases in  
17 lightning strikes within the proximity of a  
18 solar array?

19 A. No.

20 Q. Has that been studied?

21 A. Not to my knowledge.

22 Q. Okay. On the layout that we saw, it looked as  
23 though the fence was being constructed across  
24 the waterway. Have you reviewed that layout --



1 A. I have.

2 Q. -- site plan layout?

3 A. Yes.

4 Q. And is there going to be fence constructed  
5 across the waterways?

6 A. The preliminary site plan -- the site plan is  
7 showing preliminary crossing there. The intent  
8 would be to minimize any impacts where possible;  
9 impacts not necessarily being negative, just an  
10 impact in general. However, there are --  
11 similar to the raising of fences for the  
12 movement of small mammals, there is, and is  
13 frequently utilized, stormwater management and  
14 stormwater techniques that are implemented that  
15 are very common that would be placed underneath  
16 that fence so as not to impact the stream but  
17 would still qualify as a security for the  
18 requirement that a fence is in.

19 So there are definitely options when  
20 crossing a stream feature for minimizing the  
21 actual disturbance or impact to that feature and  
22 allowing flow to flow normally.

23 Q. So in your professional opinion then, you would  
24 advise them to construct that fence across and

1 through the waterway?

2 A. That has not been decided yet. I don't know.

3 Q. In your professional opinion, would you  
4 recommend that they run parallel to the waterway  
5 perhaps, the waterway being Three Mile Branch  
6 and Five Mile Branch?

7 A. Many times that is feasible. I do not know in  
8 respect to this project. That might impact more  
9 than just crossing and implementing certain  
10 techniques, you know, at the headwaters and  
11 outlet of these features. So I think that the  
12 site plan as stands, or if changes are made,  
13 that is up to Duke.

14 But both options -- I've seen both options  
15 in a variety of different projects and a variety  
16 of different locations along the fence lines of  
17 projects as well. It's not an either/or. It's  
18 a combination sometimes, as well.

19 Q. So the wildlife corridors are not of concern to  
20 you personally then, or professionally, it  
21 seems; is that correct?

22 A. They -- where feasible for the project design  
23 and in consultation with State and federal  
24 agencies, it is sometimes determined that a

1 specific feature does provide a significant  
2 corridor for animals and wildlife species. In  
3 those cases, those recommendations would be  
4 taken into account.

5 And at this time the federal consultation  
6 is still ongoing, so therefore, I can't answer  
7 your question until consultation has been  
8 completed.

9 Q. Thank you.

10 Are you familiar with PFAS's, that  
11 acronym, as it pertains to --

12 A. Perhaps I --

13 Q. -- to a chemical compound? I'm sorry.

14 PFAS, a chemical compound, as it relates  
15 to solar, are you familiar with that?

16 A. I am not a civil engineer or familiar with the  
17 specific components of the panels. That is not  
18 my area of expertise.

19 Q. Okay. But from an environmental standpoint,  
20 you would have concern, correct?

21 A. I can't speak to that. I -- I don't have any  
22 evidence either way.

23 Q. So if there was a potentially harmful  
24 substance, like GenX chemicals, that potentially

1           come off the surface of the panel, you know, the  
2           nonstick surface of the panel, were to come off  
3           of that and be on the soil there, from an  
4           environmental standpoint you would not have  
5           concern or -- you would not have concern for  
6           that?

7           MR. BARRY: I'm going to object to the  
8           form of the question as a hypothetical. He  
9           hasn't established that there's anything to be  
10          concerned about in the first place.

11          JUDGE SLAVIN: I'll let him ask it.

12          Can you ask it -- do you want the  
13          question, Ms. Klingshirn --

14          MR. LUSZ: Yeah, do you --

15          JUDGE SLAVIN: No, wait a minute. I'm  
16          sorry. My fault.

17          Ms. Klingshirn, do you remember the  
18          question?

19          THE WITNESS: I can answer.

20          A. For the purposes of a typical and general solar  
21          development for -- it is my understanding that  
22          there are limited to no hazardous or chemical  
23          compounds that would be significantly -- that  
24          would significantly impact soil or wildlife.

1 That's my understanding.

2 Q. (By Mr. Lusz:) Do you recommend any baseline  
3 tests to be done pre-construction to compare  
4 then in an ongoing fashion with -- after  
5 post-construction?

6 A. I have never seen that completed for a solar  
7 development before.

8 Q. Have you seen other types of fences used in  
9 lieu of a chain link?

10 A. I have seen renderings of other types of fence,  
11 yes.

12 Q. And what types of fence, if you could describe  
13 them?

14 A. It was a fencing that was required for a  
15 specific solar ordinance, and it was the only  
16 that I have seen of its kind. The vast majority  
17 of requirements from local zoning regulations  
18 require a 6- or 8-foot chain link fence with  
19 barbed wire 99 percent of the time.

20 Q. In the instance that you viewed a different  
21 type of a fence, can you describe what that  
22 fence -- what was different about it? Describe  
23 that fence for me, if you would.

24 A. It was a full-screen fence for a less than

1 5-megawatt project that was adjacent -- on a  
2 property as a -- of the owner of the property  
3 that was being leased for the solar project, and  
4 the requirement in the lease was to install a  
5 full-screen wooden fence.

6 Q. Okay. Are you familiar with woven wire-style  
7 agriculture fence?

8 A. I am familiar.

9 Q. Would that be applicable to surround the  
10 perimeter of an SES of this size?

11 A. That is not specified in the Ordinance.

12 Q. Would that have better impact from an  
13 environmental standpoint or better impact for  
14 wildlife, the woven wire-style fence?

15 A. I don't see a difference in the utilization of  
16 either.

17 Q. Have you studied that in the layout of an SES  
18 at all in your history?

19 A. Not officially, no.

20 Q. Okay. Earlier it was talked about the ponding  
21 effect as it pertains to migratory birds and the  
22 panel -- the ability of the panel to confuse the  
23 migratory birds to potentially land in that  
24 area. Are you familiar with that?

1 A. I am familiar.

2 Q. In your opinion, from a wildlife standpoint or  
3 environmental standpoint, are there things that  
4 you would recommend to mitigate that potential  
5 issue?

6 A. So I believe your question is in regard to the  
7 previous question regarding the lake effect  
8 hypothesis?

9 Q. Correct.

10 A. As it stands, this is considered in the  
11 industry the lake effect hypothesis.

12 It is being studied with regard to  
13 utility-scale PV solar where panels are at a  
14 specific gradient. The hypothesis being that  
15 they resemble water. Duke Energy is actively  
16 engaged with government agencies and  
17 nongovernment agencies as well, including the  
18 Avian Solar Working Group, to support that  
19 research. There is no -- there's currently no  
20 studies which prove that theory, to my  
21 knowledge.

22 MR. LUSZ: I believe that's all the  
23 questions I have got. Thank you.

24 JUDGE SLAVIN: Thank you.

1           Ms. Lawson, I think you have already asked  
2 questions.

3           So to the back room. I think you said  
4 there are three people back there. Any  
5 questions from the jury deliberation room?

6           Again, it's a new night, Mr. Shippert. So  
7 if you'll state your name and remind us where  
8 you live in relation to the project.

9           MR. SHIPPERT: My name is Brad Shippert.  
10 I live adjacent to the project.

11          JUDGE SLAVIN: Questions of -- first of  
12 all, can you hear him, Ms. Klingshirn?

13          THE WITNESS: Yes, I can.

14          JUDGE SLAVIN: Okay. Great. Questions.

15                                   EXAMINATION

16 BY MR. SHIPPERT:

17 Q.       So under the cultural resources page that you  
18 had in the pamphlet provided here, I just kind  
19 of want to expound upon what defines, like, an  
20 archeological or architectural resource?

21 A.       That is -- it depends. So time is one. An  
22 archeological is pre-1550, is generally the  
23 industry standard. Historical would be  
24 considered -- post-1650/1700 is considered a



1 historical artifact.

2 Q. Could you provide some examples of those  
3 resources that you have seen in other projects?

4 A. Examples for historical resources would be  
5 shards of glass or pottery, indicating historic  
6 use as an agriculture site. Pre-historic, an  
7 example is an arrowhead or a spear point.

8 Q. And what was the evidence that was found that  
9 required the initial testing?

10 A. That is generally a blanket recommendation. I  
11 put together these reports, as well as a review  
12 of their consultants' reports. This is very  
13 standard to state that -- you know, state the  
14 facts, what is found on the site.

15 For the State of Illinois, there is a  
16 publicly-available database called the HARGIS.  
17 Apologies, I don't have the full acronym, but  
18 that is a publicly-available database that was  
19 reviewed that would contain resources that are  
20 documented by the State. They are, again,  
21 generally agricultural residences and those  
22 artifacts or those items that could be  
23 associated with agricultural activities,  
24 speaking for this specific project area.

1           So those items were reviewed as part of  
2           that report, and the recommendation for further  
3           studies is a general recommendation,  
4           particularly if those locations -- specific  
5           locations will be impacted. If they are not  
6           anticipated to be impacted, then generally a  
7           study is not required; however, as part of due  
8           diligence, the project intends to complete that  
9           Phase 1 ESA study for those cultural -- historic  
10          cultural finds.

11 Q.       Okay. One more question. Just give me one  
12          second here.

13               MR. SHIPPERT: I believe you answered my  
14          questions. Thank you.

15               JUDGE SLAVIN: Thank you.

16               Any other folks in the back room?

17               All right. Ms. Johannsen, please remind  
18          us of your name and where you live in relation  
19          to the project.

20               MS. JOHANNSEN: Martha Johannsen. Within  
21          one and a half miles of the project.

22               JUDGE SLAVIN: All right. Questions of  
23          Ms. Klingshirn.

24                               EXAMINATION

1 BY MS. JOHANNSEN:

2 Q. Did you state that the fence is going to be  
3 6 inches above the ground?

4 A. No. That was stated as an example of a  
5 potential minimization effort in regard to  
6 protected species.

7 Q. Okay. Will milkweed be one of the plants that  
8 will be sewn for the monarch butterfly?

9 A. At this time, the vegetation plan included,  
10 which I described, includes a general seed mix  
11 as an example; however, the project will utilize  
12 a regionally-appropriate seed mix. So I do not  
13 know if that would include a milkweed species at  
14 this time.

15 Q. Do you regard a 35- or a 70-year lease as a  
16 temporary lease?

17 A. Yes, because the use itself will be  
18 decommissioned entirely. It will be  
19 decommissioned to the extent that is required by  
20 both the State, through the AIMA agreement, as  
21 well as the decommissioning plan submitted with  
22 the application.

23 Q. Have any solar energy systems been  
24 decommissioned yet?

1 A. Not to my immediate knowledge.

2 Q. How then can you say that the lands will be  
3 returned as good or better after the  
4 decommissioning than before, than it is now?

5 A. Due to the overall minimal impacts anticipated  
6 during construction, minimal anticipated  
7 grading, as well as rather minimal impacts to  
8 the surface, the posts themselves for the  
9 panels, as well as project roads are, overall  
10 for the entire acreage of the project, rather  
11 minimal. Additionally, it's my understanding  
12 that only one-third of the project area would be  
13 covered in infrastructure. It would not be  
14 100 percent cover of the site.

15 Q. Would the wildlife become more abundant on  
16 adjacent landowners, since they will be denied  
17 access to the site?

18 A. Not to my knowledge. I would assume a general  
19 shift, as is generally seen through any  
20 development of a road or of a housing  
21 subdivision.

22 Q. Do you know how much topsoil might be removed?

23 A. That has not been determined at this time, no.

24 Q. Being told that a cover crop will be planted

1 first before installation begins, how much  
2 damage to this cover crop would be done during  
3 construction?

4 A. I cannot accurately answer that question at  
5 this time.

6 Q. Is this cover crop part of the permanent grass  
7 that will be on the site then?

8 A. That is the intent, that that cover crop be the  
9 initial cover to then be integrated with an  
10 additional regionally-applicable seed mix, yes.

11 Q. If birds would land on a panel, would there be  
12 any heat produced that could bother them, burn  
13 their feet?

14 A. Not to my knowledge, no.

15 Q. Will any water wells be drilled on the site?

16 A. That has yet to be determined for the project.

17 Q. Is water going to be used to wash the panels?

18 A. It is typically part of a property's  
19 regularly-scheduled maintenance, that that is a  
20 possibility for cleaning the panels of any  
21 settled dust, but at this time that has not  
22 been -- has not been decided.

23 Q. Generally how often would the panels be washed?

24 A. I do not know --

1 Q. Do you know what --

2 A. -- but there is a regularly-scheduled  
3 maintenance that will be in place to determine  
4 that.

5 Q. Do you know where this water would come from?

6 A. I do not.

7 MS. JOHANNSEN: Okay. That's all. Thank  
8 you.

9 JUDGE SLAVIN: Thank you.

10 Anyone else, questions? The magic door  
11 that opens with nobody in it.

12 Ms. Shippert, would you remind us of your  
13 first name and your location -- your residence  
14 location of the project -- proposed project?

15 MS. SHIPPERT: Yeah. Angela Shippert.  
16 I'm adjacent to the project within one and a  
17 half miles.

18 JUDGE SLAVIN: Okay. Questions of  
19 Ms. Klingshirn.

20 MS. SHIPPERT: Yes.

21 EXAMINATION

22 BY MS. SHIPPERT:

23 Q. All right. What is the year of the earliest  
24 project that you worked on in regards to solar

1 farms?

2 A. Personally, 2014.

3 Q. 2014, okay. Thank you.

4 And have you personally conducted or  
5 reviewed any long-term studies on the impacts of  
6 solar to wildlife?

7 A. I am not aware of any studies that have been  
8 conducted to study such a question.

9 Q. So to your knowledge, there are zero studies to  
10 the long-term impacts of wildlife from solar  
11 projects?

12 A. To my knowledge, there are no studies that  
13 generally review wildlife impacts.

14 Q. Thank you.

15 My next question is, have you done any  
16 studies on the frequency of tornado, high winds,  
17 derechos, or hail in Lee County?

18 A. I have not.

19 Q. You understand that Lee County is an area that  
20 has tornados, hail, high winds, and sometimes  
21 derechos?

22 A. I am aware.

23 Q. In your professional opinion, is it possible  
24 that a tornado, high wind, or hail could damage

1 solar panels?

2 A. I do not have the background to answer that  
3 question. That would be a question for an  
4 upcoming witness.

5 Q. Okay. Are you familiar with the classification  
6 H372, a long-term, chronic aquatic hazard?

7 A. Not specifically, no.

8 Q. Are you aware that cadmium sulfide in these  
9 panels has the classification of H372, a  
10 long-term, chronic aquatic hazard?

11 MR. BARRY: Object to the form of the  
12 question. She hasn't established that there's  
13 any such chemical inside the panels.

14 JUDGE SLAVIN: Sustained.

15 You can ask the question in a little  
16 different way, Ms. Shippert. Ask her if she  
17 knows if the panels contain that substance.

18 Q. (By Ms. Shippert:) Do you know that the panels  
19 contain cadmium sulfide?

20 A. For the proposed panel to be utilized for the  
21 project, I am not aware. That would be a  
22 question for an upcoming witness.

23 Q. Okay. Do you know that the proposed panels  
24 contain cadmium telluride?



1 MR. BARRY: Same objection.

2 JUDGE SLAVIN: I think she said "if," I  
3 think, but we'll presume.

4 Do you know if the panels contain that  
5 substance, Ms. Klingshirn?

6 Q. (By Ms. Shippert:) Do you know if the panels  
7 contain cadmium telluride?

8 A. If they contain cadmium telluride. For the  
9 purposes of this project, a panel has not been  
10 chosen; therefore, this is a question for an  
11 upcoming witness.

12 Q. Is a bifacial solar panel the panel that will  
13 be used within this project?

14 A. As stated previously by Mr. Tyler Coon of Duke  
15 Energy, yes, that is the intent.

16 Q. Okay. Next question, you mentioned a  
17 federally-protected prairie plant. What  
18 technique would you use to plant the proposed  
19 pollinator mix without disturbing this plant?

20 A. Based off of our consultation with the U.S.  
21 Fish and Wildlife to date, this is one of the  
22 four species that appears on a list to be  
23 considered to have potential effects on this  
24 particular species. For the purposes of the

1 preliminary Waters and Habitat Assessment Report  
2 that was completed, it was determined, based on  
3 a desktop and site assessment, that the habitat,  
4 the prairie habitat in particular that this  
5 rather endemic species requires, is not located  
6 on the property, and therefore the impacts to  
7 this species are considered to be of a no-effect  
8 determination.

9 Q. Okay. What impact does stripping topsoil have  
10 on soil structure?

11 A. I do not know, to my knowledge.

12 MS. SHIPPERT: No further questions.

13 Thank you.

14 JUDGE SLAVIN: Thank you. Were you the  
15 last one out there, Ms. Shippert?

16 MS. SHIPPERT: Yes, I am the last.

17 JUDGE SLAVIN: Thank you.

18 All right. I think that's it, unless  
19 there --

20 MS. HENKEL: No others on Zoom.

21 JUDGE SLAVIN: Okay. Very good.

22 It is break time. We will recess until --

23 MS. HENKEL: Is she excused?

24 JUDGE SLAVIN: Oh, sure. Ms. Klingshirn,

1 thank you very much. I'm used to saying, You  
2 may step down, but that doesn't really  
3 accurately describe -- I guess you can sign off.

4 THE WITNESS: Thank you very much.

5 MR. BARRY: Judge Slavin, before we take a  
6 break, can I ask to enter Ms. Klingshirn's  
7 PowerPoint into evidence?

8 JUDGE SLAVIN: Sure. Done.

9 (Petitioner's Exhibit Number 4  
10 admitted into evidence.)

11 JUDGE SLAVIN: Okay.

12 MS. DUFFY: I would also like -- could I  
13 also enter the Natural Resource Report into  
14 evidence?

15 JUDGE SLAVIN: When it's your turn.

16 MS. DUFFY: Sure.

17 JUDGE SLAVIN: Okay. Break time until 25  
18 of 8; ten minutes, in other words. On that  
19 clock, that clock is -- Ms. Duffy must have --  
20 or Zack --

21 MS. FORSTER: Ms. Duffy did.

22 (A recess was taken at 7:26 p.m.  
23 and proceedings resumed at  
24 7:36 p.m.)

1 JUDGE SLAVIN: Back on the record. We're  
2 out of the 10-minute recess. Everybody is back  
3 in their places.

4 You may continue, Mr. Barry.

5 MR. BARRY: Thank you.

6 The next witness I'd like to call is  
7 Mr. Mike MaRous.

8 Are you there, Mr. MaRous?

9 JUDGE SLAVIN: Turn your audio on.

10 MR. BARRY: You're muted, Mike.

11 MR. MaROUS: Okay.

12 JUDGE SLAVIN: There we go.

13 Mr. MaRous, do you want to raise your  
14 right hand for me, please.

15 (Mike MaRous was duly sworn.)

16 JUDGE SLAVIN: All right. You may  
17 inquire, Counselor.

18 MR. BARRY: Thank you.

19 MIKE MaROUS (via Zoom),  
20 having been first duly sworn, was examined and  
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BARRY:

24 Q. Mr. MaRous, could you please state your name

1 for the record and spell it.

2 A. Michael S. MaRous, M-A-R-O-U-S.

3 Q. And can you tell us a little bit about your  
4 background, Mr. MaRous?

5 A. Sure. I am president of MaRous & Company,  
6 which is a full-service real estate appraisal  
7 and consulting firm located in Park Ridge,  
8 Illinois. I have graduated from University of  
9 Illinois-Champaign with a degree in finance,  
10 specialization in urban land economics. I have  
11 held the MAI designation for over 35 years, and  
12 probably appraised over 15,000 properties with a  
13 concentration in the state of Illinois.

14 We specialize in complex valuation issues,  
15 and have appraised thousands and thousands of  
16 acres and major properties in the state of  
17 Illinois. As part of this, we have probably  
18 done a couple hundred impact studies for all  
19 types of properties, including major industrial  
20 properties, landfills, waste transfer stations,  
21 commercial development, and also quite a bit  
22 having to do with energy and have done many,  
23 many studies of major solar farms throughout the  
24 Midwest, looking at the value impacts of these

1 proposed developments, similar to the study that  
2 I have presented for the South Dixon Solar  
3 Project.

4 I have had the MAI since 1980, president  
5 of the Chicago Chapter. Also invited to  
6 membership to the Councils of Real Estate, sat  
7 on that national board for nine years, and hold  
8 the general certified licensure in the state of  
9 Illinois since it became available, which is the  
10 highest form of real estate appraisal, and hold  
11 that license in five or six other states.

12 Q. Mr. MaRous, you said you examined property  
13 value impacts for other solar energy projects.  
14 Were any of those in Illinois?

15 A. Yes, quite a few.

16 Q. Okay. Mr. MaRous, do you have a presentation  
17 for us this evening?

18 A. Yes, I do.

19 (Petitioner's Exhibit Number 5  
20 marked for identification.)

21 Q. Okay. Could I ask us to turn to Page 2 of the  
22 presentation?

23 A. Yes. So --

24 Q. Mr. MaRous, if you could bear with us, we're

1 going to put it on the screen here.

2 A. Okay. I can't see the screen.

3 Q. Understood.

4 JUDGE SLAVIN: He's going to check to make  
5 sure it's showing on the remote screen.

6 THE WITNESS: I can see it on my screen.

7 JUDGE SLAVIN: Okay. Just answer the  
8 question, thank you.

9 Yup, we're all set. You may continue.

10 MR. BARRY: Okay. Thank you.

11 Q. (By Mr. Barry:) Can you turn to Page 2 of the  
12 presentation, please?

13 Okay. Mr. MaRous, Page 2 appears to show  
14 information about the background of your company  
15 and some of the projects you have worked on. Is  
16 this -- before we move on, I just wanted to  
17 check to see if there's anything more you want  
18 to say about the information --

19 A. No.

20 Q. -- on Page 2?

21 A. No, I believe that summarizes the general  
22 information of the company on the left, major  
23 solar projects on the top right, and then major  
24 wind projects by state on the bottom right.

1 Q. Okay. Thank you.

2 Mr. MaRous, did you perform a property  
3 values impact market study in connection with  
4 the South Dixon Solar Project?

5 A. Yes.

6 Q. Is that study Appendix C in the permit  
7 application?

8 A. Yes, it is.

9 Q. And what were the conclusions you made from the  
10 study?

11 A. There's no market data indicating that the  
12 solar project will have a negative impact on  
13 property values in the area, no measurable  
14 difference between homes located near an  
15 operating solar farm and those located some  
16 distance from an operating solar farm.

17 Q. I'm going to ask you to -- you were trailing  
18 off there a little bit at the end.

19 MR. BARRY: Did you get that?

20 COURT REPORTER: I did get it.

21 MR. BARRY: Thank you.

22 Q. (By Mr. Barry:) I just want to remind you,  
23 Mr. MaRous, to try not to tail off at the end of  
24 your sentences.



1 JUDGE SLAVIN: It may be, Mr. MaRous,  
2 you're getting your mouth further away from your  
3 computer's speaker -- microphone.

4 THE WITNESS: Understood.

5 MR. BARRY: Thank you.

6 Can we turn to Page 3 -- oh, we're  
7 actually there. Thank you.

8 Q. (By Mr. Barry:) So Page 3 on the presentation,  
9 Mr. MaRous, what factors tend to affect property  
10 values that you -- did you look at in your  
11 study?

12 A. Numerous factors, including appearance,  
13 actually the visual or aesthetics of a project;  
14 the environment and sustainability, probably  
15 good examples of pollution, spewing smokestacks,  
16 some other pollution such as from a landfill;  
17 noise and odor, noise from heavy truck traffic,  
18 or odor from, let's say, as an example, a hog  
19 containment facility; traffic, high volumes of  
20 traffic such as on a major state highway or  
21 interstate; hazardous materials, such as  
22 chemicals, gasoline, or other dangerous items  
23 used generally in the manufacturing process.

24 Then the consideration of both the

1 positive and negative to public services,  
2 including infrastructure, the burden on the  
3 roads but the participation to upgrade of the  
4 road systems or the lack of burden on the roads.  
5 The benefit of additional income or taxes to a  
6 school district compared with a new subdivision  
7 that creates significant costs and educational  
8 costs.

9 Public safety, obviously certain  
10 aggressive or more dense uses can create some  
11 concerns for public safety, where passive use  
12 of, like, a solar do not create a demand for  
13 public safety.

14 Q. Okay. Thank you.

15 The next three slides, I believe, are  
16 specific to your study. Page 4 includes an  
17 executive summary, which, I believe, discusses  
18 the conclusion. You already stated the  
19 conclusion, but is there anything you would like  
20 to say more about that? Would you like to  
21 elaborate on that?

22 A. Yes. First of all, the controls are placed to  
23 ensure ongoing compliance. There are very  
24 significant financial benefits to the local

1 economy, including significant long-term land  
2 payments that are not impacted by commodity  
3 pricing or weather, and also the significant  
4 increase in the amount of various taxes paid,  
5 both real estate and other. There will be some  
6 jobs created, which is a benefit, and then what  
7 I'll be going into later in discussion with the  
8 consideration of residential transactions, land  
9 transactions, and how these impact a county or a  
10 township or the project area.

11 And then I will discuss briefly a certain  
12 peer-reviewed study that was done in regard to  
13 impact of solar on real estate, and also where I  
14 actually interviewed assessors in Illinois  
15 counties where there were major solar facilities  
16 to question in regard to real estate tax appeals  
17 and reduction in value and if the assessors  
18 actually diminished values proximate to solar  
19 facilities. And the simple answer, in Illinois  
20 and five other states I have done that in, there  
21 have been no instances where assessors are  
22 valuing or assessing property lower proximate to  
23 solar farms and nor have there been any  
24 successful appeals.

1 Q. All right. Thank you.

2 Let's move to the next slide. I think you  
3 have already covered part of this, but is there  
4 anything else you would like to say about the  
5 scope of the work you have performed in  
6 connection with the study?

7 A. Yes, briefly. I reviewed the proposed project,  
8 I inspected the area, the footprint, the  
9 comparables that are provided in the report. I  
10 drove the road system, I looked at the  
11 demographic and the income and population levels  
12 of Lee County, and I looked at transactional  
13 data in regard to sale prices of single-family  
14 and ag land in the area.

15 Q. Okay. And then the next slide shows a map of  
16 the project. If we could go one more slide,  
17 please.

18 Mr. MaRous, did you look at actual sales  
19 data when you were preparing your report and  
20 doing your study? Did that -- did you compare  
21 sales of residences, for example?

22 A. Yes, both in the project area -- and there are  
23 no as-built solar projects, so it was not  
24 possible to provide sales proximate to solar

1 projects, but what I did do is look into other  
2 areas where a solar project had been developed  
3 to research sales of property that were  
4 proximate to solar panels and similar properties  
5 in the same area that were not proximate, to  
6 analyze and determine if there was any  
7 differential based on the proximity to solar  
8 panels.

9 Q. And we're on a slide that's entitled Matched  
10 Pair Analysis. Can you explain to us what a  
11 matched pair analysis is?

12 A. Yes. It's basically attempting to take two  
13 similar properties and adjusting for their  
14 differences to look and see if a proposed use or  
15 an existing use has any impact on value, whether  
16 you're looking at a comparable ranch property  
17 next to a proposed factory and a comparable  
18 ranch-type property a mile away that has similar  
19 characteristics. You're attempting to determine  
20 if this was any discernible difference based on  
21 that use.

22 In this situation, the matched pairs were  
23 done for properties proximate to solar arrays  
24 and those similar properties in the same area

1 that were not proximate to solar arrays.

2 Q. And I believe your presentation has some  
3 examples, correct?

4 A. Yes.

5 Q. All right. Let's go to the next slide, and do  
6 you want to discuss Matched Pair Number 1?

7 A. Sure. Matched Pair Number 1, and the following  
8 page will show an aerial overview, but it's  
9 basically two single-family residences that were  
10 built in the mid-90s. The first is about  
11 485 feet from a solar array; 1B is not  
12 proximate. They're both in Streator. The first  
13 one sold for \$186,000, the one proximate; the  
14 one that wasn't proximate sold for 151,000.  
15 Adjustments were made for the larger building  
16 and lot size of the property proximate to the  
17 solar. They both -- the first one, proximate,  
18 had three bedrooms, four baths; the one not,  
19 three bedrooms, two and a half baths.

20 So analysis was made and adjustments were  
21 made, I inspected the properties, and there was  
22 no discernible difference based on the proximity  
23 of 1A to the solar panel.

24 Q. Okay. Thank you.

1           Can we move to the matched -- first  
2           matched pair in Indiana, I believe, which is  
3           Madison County, Indiana?

4   A.    Yes.  So these are both in Frankton, Indiana.  
5           They are relatively small, ranch-style houses.  
6           1A sold for 112,725.  Again, 425 feet from a  
7           solar array.  The picture on the top of the  
8           page, you know, shows the distance, shows the  
9           house, shows the solar array.

10           The one not proximate, is a few blocks  
11           away, sold for 74,500 (sic).  That is an older  
12           building, so there's adjustments made there.

13           The building sizes are very similar.  The  
14           one proximate to the solar array had a larger  
15           lot size, but they were both one-story,  
16           three-bedroom.  The first one next to the solar  
17           had two baths; the one not had one and a half.

18           Again, adjustments were made and analyzed,  
19           and there was no evidence that there was a  
20           negative impact based on the proximity to the  
21           solar array.

22   Q.    Okay.  I think you have a third example from  
23           North Branch, Minnesota?

24   A.    Yes, I do, and this --

1 Q. Okay. Can we move to that slide, please.

2 A. I'm sorry.

3 This is interesting because it's proximate  
4 to the North Star Solar Farm, which is north --  
5 kind of a northern suburb of the Twin Cities,  
6 St. Paul and Minneapolis. And this is a large  
7 -- the largest installed solar farm, over a  
8 thousand acres, in the Midwest.

9 This one is actually showing a sale-resale  
10 of the same property. It's 165 feet from the  
11 solar farm. It had sold, on the right, in May  
12 of 2010 for \$219,900, and then the solar farm  
13 was finished in the mid-, I think, 2016-ish, and  
14 the property resold for \$302,500. Quite  
15 frankly, the market was somewhat flat  
16 economically until probably about 2013, but this  
17 reflected a significant increase in property  
18 value.

19 This is another assessor I spoke with who  
20 actually did a study, was cited in a newspaper  
21 article discussing the fact of major solar in  
22 his county and the fact that there was  
23 absolutely no negative --

24 COURT REPORTER: Absolutely no negative,



1 what was the last thing he said?

2 JUDGE SLAVIN: Your voice trailed off  
3 again, Mr. MaRous.

4 THE WITNESS: And the assessor's  
5 conclusion was that there was absolutely no  
6 negative impact on value.

7 JUDGE SLAVIN: You have got to keep your  
8 mouth close to the mic. I know it's hard to do.

9 Q. (By Mr. Barry:) And you provided these three  
10 examples in your presentation, but did your  
11 report include additional examples, Mr. MaRous?

12 A. Yes, it did, many more examples.

13 Q. Thank you.

14 Now, you mentioned the assessors again,  
15 and you said you -- I think earlier you said you  
16 talked to county assessors in Illinois and other  
17 states. How many assessors did you speak to in  
18 Illinois about impacts of solar properties --  
19 solar projects?

20 A. Six Illinois counties. There are a couple  
21 small solar installations in Cook County, but  
22 that has a population of about 4 million people,  
23 so that really wasn't relevant. But six, what I  
24 would say somewhat rural counties, in Illinois

1           that had solar installations.

2   Q.    And what questions did you pose to these  
3           assessors?

4   A.    Well, I explained who I was, what I was doing,  
5           where I was performing the work.  Then I  
6           discussed, because I was aware, you know,  
7           through public research, the information  
8           concerning the solar farms that is available.  
9           And then I discussed their familiarity with  
10          them, their experience with them, and then asked  
11          them, number one, were they familiar?  They all  
12          were.

13                 Number two:  Were they assessing  
14                 properties proximate to solar facilities in a  
15                 different value than similar properties in the  
16                 same township and county?  And their answer was  
17                 no.

18                 Third question was:  Were there any tax  
19                 appeals filed with an allegation that the  
20                 property values were diminished compared to  
21                 solar?  And that answer was no.

22                 Which was then the easy answer (sic):  
23                 Were there any appeals provided because of the  
24                 existence of solar?  And that answer was no.

1           Now, as part of the conversation, we  
2           talked about the predevelopment and some of the  
3           concerns that they had, and they said there was  
4           concern and they had had some calls in regard to  
5           the solar development, but once it was developed  
6           and installed, they hadn't had any; it became  
7           essentially part of the fabric of the community.

8    Q.    And so just to make sure I understand, if the  
9           solar projects had visited a negative impact on  
10          property values, would you have expected to see  
11          lower assessed values of those properties?

12   A.    Definitely so. I have been involved as a  
13          consultant, as an appraiser, in probably over a  
14          thousand tax appeal cases in my career, and  
15          probably half representing public bodies  
16          defending that. And clearly when people think  
17          they're overassessed, they will go ahead and  
18          appeal their taxes. It's a significant economic  
19          impact to them.

20   Q.    But the assessors you spoke to, again, just to  
21          be clear, they were aware of no reductions in  
22          assessed valuation based on proximity to solar  
23          projects, correct?

24   A.    Correct.

1 Q. And they were aware of no tax appeals that had  
2 been made for people who live near solar  
3 projects, correct?

4 A. Correct.

5 MR. BARRY: Okay. Let's move to the next  
6 slide, please. One more.

7 Q. (By Mr. Barry:) Okay. This slide, Mr. MaRous,  
8 shows a summary of residential sales nearest to  
9 South Dixon Solar. Can you walk us through the  
10 next couple slides and explain why you included  
11 these slides?

12 A. Well, as an appraiser, it's always important to  
13 understand the community: the price points, the  
14 type of properties, the typical building size  
15 and typical lot size, the activity in the area,  
16 and try and find recent sales in and around the  
17 footprint.

18 And that's what was done here with these  
19 comparables, I believe there are six of them,  
20 basically reflecting values, sale prices from  
21 110- to \$266,000 that took place from basically  
22 late 2018 through third quarter of 2020.  
23 Generally they were one-and-a-half-, 2-, maybe  
24 3-acre sites built earliest 1901 to 2000, and

1 the building sizes here probably averaged about  
2 1800, and then the price per foot, on the right  
3 side, generally indicates typical average in the  
4 \$90-per-square-foot building area range.

5 Then the next slide, I think there's  
6 information in regards to agricultural sales. I  
7 believe that's my Page 21. And this again is  
8 looking at prices of agricultural properties in  
9 and around the solar farm. Obviously some of  
10 the smaller acreage will reflect some higher  
11 unit values, some of the properties that have  
12 higher quality soil will reflect higher unit  
13 values, and those that have significant building  
14 improvements.

15 These are, you know, fairly typical  
16 acreage value in comparable counties, whether it  
17 be Livingston or Henry or McLean or LaSalle,  
18 that we have been seeing over the last several  
19 years.

20 Q. All right. Thank you.

21 I believe earlier you mentioned something  
22 that your report and your review included a  
23 literature review. So can we move to that  
24 slide, please.

1 A. Sure.

2 This is interesting. There's been quite a  
3 few peer-reviewed articles on wind, but there  
4 were virtually none on solar. A lot of what was  
5 written was basically blogs and a lot of it  
6 unsupported opinion.

7 The University of Texas at Austin  
8 commissioned a study in 2018 where they  
9 basically looked at solar development throughout  
10 the United States, and, again, they queried  
11 assessors to see what had happened in their  
12 various counties, and what they found were  
13 assessors that had no experience with solar were  
14 generally negative. They, you know, just didn't  
15 have the experience, they were uncertain, they  
16 had concern.

17 But then when they did the research with  
18 assessors that actually had had solar farms  
19 developed, found that there was no negative  
20 impact on value.

21 Part of this is influenced by proximity to  
22 population centers and, you know, generally a  
23 more suburban population may have a density of  
24 800 to a thousand residents per square mile.

1 The subject area appears to be in the 30 to 40  
2 residents per square mile, which is obviously a  
3 low-density, agricultural-type location.

4 Q. All right. Thank you.

5 Mr. MaRous, we covered a lot of ground in  
6 a short period of time. Your report looks at a  
7 number of different data points in a  
8 comprehensive way, including actual sales data,  
9 discussions you had with tax assessors, and  
10 peer-reviewed literature.

11 Just to summarize then, Mr. MaRous, does  
12 your study show that the South Dixon Solar  
13 Project will have no negative effect on the  
14 property values to homes located in or near the  
15 project's footprint?

16 A. Yes. My study determined that the South Dixon  
17 Solar Project will have no negative impact on  
18 property values in the area surrounding the  
19 project.

20 MR. BARRY: Okay. Thank you.

21 Judge, that's all the questions I have for  
22 Mr. MaRous.

23 JUDGE SLAVIN: Okay. Mr. Boonstra, if you  
24 can hear me?

1 MR. BOONSTRA: No questions, Judge. Thank  
2 you.

3 JUDGE SLAVIN: Thank you.

4 How about you, Ms. Duffy?

5 MS. DUFFY: No questions, Judge.

6 JUDGE SLAVIN: ZBA. Mr. Forster?

7 MR. FORSTER: No questions.

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

9 MR. BUHROW: Yes.

10 EXAMINATION

11 BY MR. BUHROW:

12 Q. Questions, a couple of them on your data.  
13 First off, I guess, would be the question about,  
14 what's the largest solar area that you were  
15 dealing with in your appraisals?

16 A. In my appraisals, it was the North Star in  
17 Minnesota, which is about a thousand acres, a  
18 little -- somewhere in the area of a hundred  
19 megawatts.

20 I have had experience with solar in  
21 Indiana exceeding 600 megawatts on over 4500  
22 acres, and I have looked at -- the majority of  
23 solar projects I have looked at probably average  
24 in the 150- to 300-megawatt range, which, you



1 know, generally translates from, you know, 1200  
2 to 4,000 acres.

3 Q. Did you notice any difference in the size of  
4 the solar project as to any difference in the  
5 values that the appraisals came in?

6 A. That's a very interesting question. Answer is,  
7 it appeared, because of the rural nature of the  
8 projects and the size of the projects, the  
9 larger ones had an economic impact to the  
10 community as far as land rents. You know, it's  
11 basically four to five times what a land rent  
12 will be for agricultural use, and plus it's  
13 stability rent, it makes an easier loan, and so  
14 it provides that type of economic viability.  
15 And it's a multifold increase in the amount of  
16 taxes. So it adds money into the infrastructure  
17 of a community and provides that economic  
18 benefit.

19 So the answer, from what I can see, is  
20 yes. And, again, it becomes another part of the  
21 agricultural community and provides more  
22 stability and more synergy.

23 Q. Okay. The first property you had -- the first  
24 property you had, I think it was the Streator,

1 Illinois, one, what was the size of that  
2 project? Was that, like, 160 acres or  
3 something? I don't know -- I don't think the --

4 JUDGE SLAVIN: Let him answer the  
5 question.

6 MR. BUHROW: Okay.

7 JUDGE SLAVIN: Mr. MaRous, did you hear  
8 the question?

9 THE WITNESS: I did. I needed to look at  
10 my report.

11 JUDGE SLAVIN: As long as you heard.

12 A. And it appears that it's probably in the 150-,  
13 plus or minus, acre range probably, could be 130  
14 to 200 acres.

15 MR. BUHROW: Okay. That's all I have got  
16 then. Thank you.

17 JUDGE SLAVIN: Mr. Bothe?

18 MR. BOTHE: No questions.

19 JUDGE SLAVIN: Mr. Hughes?

20 MR. HUGHES: Yes, I have got a few  
21 questions.

22 EXAMINATION

23 BY MR. HUGHES:

24 Q. You indicated that you've -- you're familiar

1 with projects that are 3-, 400, even as large as  
2 600 megavolts. Why is the largest one in this  
3 comparison only that hundred-megavolt,  
4 thousand-acre project?

5 A. Because the large-scale solar has -- a lot of  
6 it had been approved in the last several years  
7 that are under the development stage and  
8 construction but they haven't been open and  
9 operated. There's, you know, a 300-megawatt one  
10 in western Wisconsin that's under construction  
11 now. There's a couple to be developed but  
12 haven't in Christian County. There is about a  
13 hundred-megawatt project north of Indianapolis,  
14 but that just opened up earlier this year.

15 So these larger-scale projects haven't  
16 been open -- or, you know, finished construction  
17 and open long enough, even though they have been  
18 approved, to be able to, you know, properly  
19 study sales transactions and see the real impact  
20 on the market.

21 Q. Okay. Going back to the Streator one, I notice  
22 that the one proximate sale was in October of  
23 2016, the one not proximate was October of 2010.  
24 Would that generally be an acceptable time frame

1 for comparing properties?

2 A. That's a good question. It depends on the  
3 market. From probably 2010, late 2010, until  
4 probably 2014, the market in Streator was  
5 relatively flat. So there would be a -- you  
6 know, a reasonable, probably a 3 to 4 percent  
7 adjustment, starting in '14 to 2016, which was  
8 not -- you know, there was a period probably  
9 from '08 to '10 where there was a negative drop.  
10 Then at the end of '10, beginning of '11, the  
11 market started to come back.

12 But really in a market like Streator, it  
13 didn't really start to get that much stronger  
14 until '14-ish or so. You know, still it's a  
15 pretty stable market. There haven't been huge  
16 spikes annually in value, and part of it is  
17 impacted by crop prices.

18 Q. Okay. Another question. You indicated that  
19 you had checked with assessors in six counties  
20 in Illinois. Why is LaSalle County the only  
21 matched pair example provided? Are there  
22 others, at least for the purpose of the  
23 presentation?

24 A. In the other counties in Illinois where there

1           were solar projects, I didn't find acceptable  
2           matched pairs.

3   Q.    What do you mean by acceptable?

4   A.    Where there had actually been transactions of  
5           similar properties. You know, some of these are  
6           in such rural areas, there are very few  
7           transactions, and many times they may be to  
8           family members, which doesn't qualify in the  
9           definition of market value as an arm's length  
10          transaction. So there was just little data, and  
11          a lot of them are in stable areas, where there  
12          just aren't any sales. So that was the problem.

13   Q.    Okay. I understand.

14                 One other question, and it may just be a  
15                 technical glitch, but in the most recent  
16                 single-family residential sales summary that you  
17                 provided you have got 847 Lievan Road but you  
18                 have Edinburg, Illinois. Did you pull this  
19                 information up off of the internet, I mean,  
20                 internet or research stuff, or did you actually  
21                 make local contact for your -- local MLS contact  
22                 for your information?

23   A.    I'm looking at my report and I show Lievan Road  
24           in Dixon, Illinois, in my report. So what

1 document did I have the other address? Was  
2 it --

3 Q. Yeah, it's in your presentation. It says --

4 A. Oh, that's -- I apologize. That's a typo.  
5 That's in Dixon, Illinois.

6 MR. HUGHES: Okay. That's all my  
7 questions.

8 JUDGE SLAVIN: Okay. Mr. Meyer?

9 EXAMINATION

10 BY MR. MEYER:

11 Q. How long has the North Star Solar Farm been in  
12 operation?

13 A. Sometime between 2015 and 2017. So it's plus  
14 or minus five years or so.

15 MR. MEYER: Thank you. That's all.

16 JUDGE SLAVIN: All right. As far as  
17 Interested Parties go, I'm going to do it a  
18 little differently.

19 In the back room first, if somebody back  
20 there can hear me and you want to ask questions.  
21 There's the magic door.

22 All right. Ms. Shippert, just for the  
23 record, your name, please.

24 MS. SHIPPERT: Angela Shippert.

1 JUDGE SLAVIN: Go ahead, Angela, questions  
2 of Mr. MaRous.

3 MS. SHIPPERT: Yes, thank you.

4 EXAMINATION

5 BY MS. SHIPPERT:

6 Q. In your presentation you talked about job  
7 impacts to the area. Did you take into  
8 consideration in that analysis impact the loss  
9 of jobs in agribusiness?

10 A. The answer is yes, and the solar farm itself  
11 will not have a large number of workers, but in  
12 the agribusiness world, you know, we're seeing  
13 more and more of -- with the major equipment  
14 that, you know, some of these farmers are  
15 farming 3- to 7,000 acres, so a lot of  
16 agribusiness jobs have been reduced because of  
17 the efficiencies of equipment. So that's really  
18 the answer there.

19 Q. Are you aware of other solar projects in the  
20 Lee County area?

21 A. Well, my understanding, there are none but  
22 there have been a couple approved relatively  
23 recently, yes.

24 Q. And are you aware of the total acreage of these

1 projects combined?

2 A. The exact number, no, but I believe it's well  
3 over 2,000 acres.

4 Q. Could you say that last part again?

5 A. I'm not aware of the exact acreage, but my  
6 understanding is that when developed it could be  
7 over 2,000 acres.

8 Q. Are you aware that this project is over 3,000  
9 acres?

10 A. I am.

11 Q. And so you're saying cumulatively you think the  
12 total amount is over 2,000 acres?

13 A. No, I was referring to the two other projects  
14 that you described. Did you mean the subject  
15 which is not approved but is -- so are you  
16 adding it into the other two? I don't  
17 understand your question.

18 JUDGE SLAVIN: Just say you don't  
19 understand. Don't ask her a question. Just,  
20 you don't understand.

21 Want to re-ask your question,  
22 Ms. Shippert?

23 MS. SHIPPERT: Sure.

24 Q. (By Ms. Shippert:) With Duke Energy's project



1 in combination with other solar projects in this  
2 county, are you aware of the acreage total of  
3 those projects?

4 A. The exact number, no, but my understanding, it  
5 should be over 5,000 acres.

6 Q. Okay. Thank you.

7 Have you done any market research on homes  
8 surrounded on four sides by solar?

9 A. Please define four sides and the distance that  
10 the houses are from solar.

11 JUDGE SLAVIN: Do you understand the  
12 question or not understand the question?

13 THE WITNESS: Not the -- no. It's not  
14 specific enough, Your Honor.

15 JUDGE SLAVIN: Okay.

16 Q. (By Ms. Shippert:) Have you done market  
17 research on any homes that are adjacent within a  
18 solar project on four sides of the residence?

19 A. Again, I don't understand the question without  
20 more specifics.

21 Q. Are you aware that this project has residences  
22 surrounded on four sides by this project?

23 A. In a couple instances, I am aware, and some  
24 with significant setbacks and distances.

1 Q. Do you foresee any property value reduction to  
2 those homes?

3 A. No.

4 Q. Would you personally buy a home enclosed by  
5 four sides of a solar project?

6 A. Again, without more specifics, I don't  
7 understand the question.

8 Q. Okay. Did you say that in your opinion there  
9 would be zero impact to property value of any of  
10 the homes within this project?

11 A. I did.

12 Q. Okay. And have you done any matched pair  
13 studies on any residences that have solar panels  
14 on two sides of the residence?

15 A. The answer is yes.

16 Q. And in those instances, did you find a  
17 reduction in market value of those properties?

18 A. No.

19 Q. I'm sorry, I couldn't hear the answer.

20 A. No.

21 Q. Have you done a matched pair study on any  
22 properties that have panels on three sides of a  
23 residence?

24 A. Yes.

1 Q. And did you find any property value reduction  
2 to those residences?

3 A. No.

4 Q. Okay. You mentioned that there's no  
5 peer-review -- did you mention that there are no  
6 peer-reviewed articles on solar property values  
7 available?

8 A. No, I didn't say that.

9 Q. Okay. Are you aware that this project annually  
10 would only generate approximately \$1.3 million  
11 in revenue to this community?

12 A. All revenue, no, that's incorrect.

13 Q. Are you aware that there would be 1 -- roughly  
14 1.3 million in tax revenue generated to this  
15 community?

16 A. I would have to refresh my recollection, but  
17 that's possible, yes.

18 Q. Okay. Are you aware that our neighboring  
19 community has a nuclear plant that generates  
20 \$38 million annually in tax revenue to their  
21 residents -- to their community, excuse me?

22 A. I am aware of the neighboring nuke plant that  
23 generates significant tax revenue. I don't know  
24 the exact amount.

1 Q. Would you say that that tax revenue is greater  
2 than that of this -- the tax revenue for this  
3 project, which is solar?

4 A. As long as it stays open, yes. It's a much  
5 larger, more expensive facility, so it's really  
6 not a comparison. It's like comparing a  
7 storefront to a Lowe's Home Improvement store.  
8 So the answer is, yes, but it's really not a  
9 fair comparison.

10 Q. Okay. You said you consulted with other  
11 assessors. Were there any questions that you  
12 raised to those assessors about properties with  
13 panels on three or four sides of the residences?

14 A. The answer is, I asked about all panels  
15 proximate, of any amount, of any distance, and  
16 the answer was no impact.

17 Q. Okay.

18 A. I don't recall if I answered your specific  
19 question, but my question (sic) covers your  
20 question.

21 Q. Okay. Are you aware that --

22 MS. SHIPPERT: Actually, I have no further  
23 questions. Thank you.

24 JUDGE SLAVIN: Thank you.

1 THE WITNESS: Thank you.

2 JUDGE SLAVIN: Is there someone else in  
3 that room with questions?

4 MR. BOONSTRA: They're coming.

5 JUDGE SLAVIN: Okay.

6 All right. Mr. Shippert, you may ask  
7 questions of Mr. MaRous.

8 EXAMINATION

9 BY MR. SHIPPERT:

10 Q. Okay. Have you or have you seen any real --  
11 appraisals of real property on adjacent or  
12 surrounding properties to a solar facility  
13 before and after solar development?

14 A. With a hypothetical assumption, yes, I have,  
15 but that was the appraiser's hypothetical  
16 condition and the panels had not been built, and  
17 in that situation there actually was a  
18 transaction that took place.

19 Q. So the answer would be no, correct?

20 A. Well, the appraiser, that was his opinion. So  
21 I saw that appraisal, but physically the panels  
22 had not yet been built but they had been  
23 approved, and they were basically under  
24 development but they weren't stabilized.

1 Q. When multiple residences come on to the market,  
2 for example, the multiple homes that are  
3 surrounded by solar panels, how will that affect  
4 market value when the supply of housing is  
5 ample?

6 A. It's like any other market phenomenon. The  
7 best properties, the most modern, the most  
8 efficient, the best value, the largest home will  
9 generally have the highest price and the  
10 quickest marketing time. If there's an  
11 oversupply of product, that will tend to depress  
12 values. It's simple economics.

13 Q. Generally speaking, does the view from the --  
14 the view outside of the residence from inside  
15 the residence become a selling point for a  
16 property?

17 A. It depends on the entitlement and the control  
18 and what the property owner owns. If they are  
19 sitting next to an open field, they are  
20 always -- that's under agricultural use, they  
21 are always under the vulnerability that zoning  
22 provides that there could be a major  
23 agricultural development, major barn, silos  
24 built, potentially a hog containment farm. So

1 you really don't control the property that you  
2 don't own.

3 If you're sitting on a lake or a forest  
4 preserve that has entitlements for perpetual  
5 open space, absolutely. But if you're next to  
6 an area that you don't have that control and the  
7 land use basically has not made it open lands,  
8 no, you don't.

9 Q. In the matched pairs that were provided here,  
10 what was their proximity to town, or to the  
11 nearest municipal area, I guess you could say?

12 A. It depends on the situation. Most of them  
13 were -- well, the Frankton one in Indiana was  
14 basically in the town. It was outside, but it's  
15 a small, rural town. Streator, I believe, and  
16 again off the top of my head, was several miles.  
17 The North Star basically was in an outlying area  
18 where there really wasn't a town, there was kind  
19 of a strip of service, commercial retail within  
20 probably three-quarters of a mile to a mile and  
21 a half.

22 Q. The North Star example that provides the sale  
23 before and after solar farm development, is this  
24 the only example nationwide that you can find of

1 a sale before and after solar panel development?

2 A. In the Midwest at this time. I didn't -- I  
3 believe I have some sales out in the west, but I  
4 stayed within the Midwest in this situation.

5 Q. Is it standard practice to only have one  
6 comparable sale to make your assessment on  
7 valuation?

8 MR. BARRY: Object to the form of the  
9 question. That's not -- his report includes a  
10 number of different data points.

11 JUDGE SLAVIN: You can answer the  
12 question. Do you understand the question,  
13 Mr. MaRous?

14 THE WITNESS: I believe I do, but it's not  
15 accurate for my report. But, yes, an appraiser  
16 generally will require more than one data point.

17 MR. SHIPPERT: That's all the questions I  
18 have.

19 JUDGE SLAVIN: Thank you.

20 And there was one more person out there.  
21 Does she have any questions?

22 All right. Ms. Johannsen.

23 MS. JOHANNSEN: Martha Johannsen, one and  
24 a half miles from the site.



1 JUDGE SLAVIN: Okay. Thanks. Questions  
2 of Mr. MaRous.

3 EXAMINATION

4 BY MS. JOHANNSEN:

5 Q. What setbacks were in effect in those houses  
6 that were surrounded on four sides that -- you  
7 mentioned that you had evaluated some houses  
8 on -- that were surrounded by panels on four  
9 sides, but the comparison was also considering  
10 the setbacks. What were the setbacks? How  
11 large?

12 A. Well, first of all, I didn't answer yes to the  
13 four-sided question, so I can't give you that  
14 answer.

15 Q. What is the largest solar system that you have  
16 evaluated these houses on?

17 A. Probably a 600-acre solar -- proposed solar  
18 facility in central Indiana, but it is not  
19 built, so I didn't use any comps. The largest  
20 solar facility in my report, I believe, is the  
21 North Star and in Minnesota.

22 Q. And how large is that?

23 A. Approximately a thousand acres, plus or minus a  
24 little over a hundred megawatts.

1 Q. So you have no comparisons then with larger  
2 solar farms than a hundred megawatts?

3 A. There really -- while they have been approved,  
4 they haven't been developed, as I explained  
5 earlier, so that data was not available.

6 Q. Then there is no information available on  
7 property values for large solar systems?

8 JUDGE SLAVIN: Is that a question? He may  
9 not be sure if that's a question.

10 Q. (By Ms. Johannsen:) Okay. Is there any  
11 information available on houses adjacent to 4-  
12 or 5,000-acre solar systems?

13 A. There's some development out west, but -- in  
14 Nevada and some of California, but I didn't  
15 think that was appropriate for this study.

16 In my opinion, the hundred-megawatt is a  
17 very good example and has the same  
18 characteristics of the same height, generally  
19 the same design. That was the best data  
20 available in the Midwest.

21 Q. Most of these paired results that you have  
22 presented, what is the size -- what is the  
23 acreage size of the solar system?

24 A. They vary generally from probably 12 to maybe

1           75 acres, I believe some of the ones in the  
2           Carolinas are that size, and then, again, the  
3           largest is North Star, which is, you know, the  
4           thousand-plus-acre size.

5           MS. JOHANNSEN: No further questions.

6           JUDGE SLAVIN: Thank you.

7           THE WITNESS: Thank you.

8           JUDGE SLAVIN: Well, do you want to put up  
9           the Zoomers?

10          Folks on Zoom, I'm just trying to decide  
11          whether we'll pick this up again tomorrow night  
12          or keep going, and I want to get a feel for how  
13          many people have questions. So if you think you  
14          are going to have a question, would you raise  
15          your hand?

16          MR. HUGHES: There's four of them up  
17          there.

18          JUDGE SLAVIN: Okay. Well, keeping in  
19          mind we'd like to keep this at two and a half  
20          hours, but if there's only four -- and I don't  
21          want anybody to feel I'm truncating your  
22          opportunity to ask questions, but let's just  
23          keep it to questions relevant to Mr. MaRous's  
24          testimony.

1 Mr. -- or Jamie.

2 MS. HENKEL: Just a moment.

3 MR. LAWSON: Okay. I'm here.

4 JUDGE SLAVIN: Very good. And your last  
5 name again.

6 MR. LAWSON: Jamie Lawson. Right in the  
7 middle of the project.

8 JUDGE SLAVIN: Okay.

9 EXAMINATION

10 BY MR. LAWSON:

11 Q. You had stated, Mr. MaRous, at the beginning of  
12 your testimony, that you have done many, many  
13 projects in Illinois, I believe is how you  
14 worded it; is that correct?

15 A. Solar projects, yes.

16 Q. Okay. And your slide show had only shown  
17 three?

18 A. Yes, but I have consulted and working on others  
19 as we speak, including the subject.

20 Q. Okay. So what would "many, many" be for you,  
21 your definition of "many, many"? If it's not  
22 three, what would you consider, or, I guess, a  
23 closer number?

24 A. Well, probably six, and then, total, 15 to 20,

1 including the other states.

2 Q. I'm just asking for Illinois. Just in  
3 Illinois, how many have you consulted that are  
4 3,000 acres or 500 megawatts? Would the answer  
5 be zero, considering there's no other  
6 500-megawatt --

7 JUDGE SLAVIN: Sir, he can only answer one  
8 question at once, and I'm not sure he even heard  
9 the first question, and that's not your fault.  
10 We can only ask one question at a time,  
11 otherwise the witness doesn't know what to  
12 answer.

13 MR. LAWSON: All right. Sorry.

14 MR. BARRY: I don't see him on the screen.  
15 We might have lost him.

16 JUDGE SLAVIN: Mr. MaRous, are you there?

17 THE WITNESS: Yeah. You can't see me?

18 JUDGE SLAVIN: There you are. Okay. Did  
19 you hear the question?

20 THE WITNESS: I heard three questions, so  
21 I'm not sure --

22 JUDGE SLAVIN: Mr. Lawson, do you want to  
23 ask a question again?

24 MR. LAWSON: Yes.

1 Q. (By Mr. Lawson:) I'm -- my question would be  
2 -- I'll try to combine them all in one -- with  
3 the many, many that you have done in Illinois,  
4 how many have been 500 megawatts?

5 A. None.

6 Q. Thank you.

7 I guess my next question would be, would  
8 you buy a house smack dab in the middle of a  
9 3800-acre solar farm with the entire house  
10 having solar panels within a hundred foot from  
11 the property line?

12 A. So four-sided surrounded all within a hundred  
13 feet --

14 Q. Surrounding --

15 A. -- of my property line, and I am in a typical  
16 residential house? I would say those setbacks  
17 are too close, but, first of all, I would -- you  
18 know, the issue would be the location of the  
19 house, the school systems, the size of the  
20 house, the amenities, the function, and, more  
21 importantly, did my wife like it would really  
22 trump all answers. There's so many factors when  
23 making a personal decision, I really can't  
24 answer that question.

1 Q. Okay. You referred several times to the North  
2 Star Project, and would you say that would be  
3 the most comparable property to this project  
4 that you, I guess, researched at the time?

5 A. In the Midwest, yes.

6 Q. Okay. Are you aware -- I believe, if I'm  
7 correct, your slide show showed that it sold on  
8 3/22 for 302,500, the house at 10090 - 367th  
9 Street, North Branch, Minnesota, 55056; would  
10 that be correct?

11 A. What were the numbers again? I'm looking at my  
12 Page 14.

13 Q. The -- for what it sold for.

14 A. Your question?

15 Q. Yeah, did you say the house sold for 3,000 --  
16 302,500?

17 A. In March of '18, yes.

18 Q. Okay. Are you aware that project sold in 2016,  
19 on August 8th, 2016, for \$360,000, so it took a  
20 16.2 percent loss when it sold in 2018?

21 A. That was bought by the developer while the  
22 project was being built, who paid a premium and  
23 then sold it back to the market. I think the  
24 developer bought, like, eight houses. Yes, I'm

1           aware of that.

2   Q.    So it did take a loss when it sold in 2018?

3   A.    It was part of the development cost.  It was  
4           the developer that made that prior purchase, the  
5           middle purchase.

6   Q.    Okay.  So it sold for less when it was  
7           purchased by the prior purchase?  The property  
8           sold for less in 2018 than it did in 2016 --

9   A.    That's correct.

10  Q.    -- that's my question?

11  A.    That's correct.

12           MR. LAWSON:  That's all I have.

13           JUDGE SLAVIN:  Thank you.

14           Mr. Lusz.

15           MR. LUSZ:  Yes, sir.  Can you hear me?

16           JUDGE SLAVIN:  Yes.

17           MR. LUSZ:  Very good.

18                           EXAMINATION

19  BY MR. LUSZ:

20  Q.    "Mike" is all I see you as on the iPad, so I  
21           apologize, I forgot your last name.

22           But if you had -- you were evaluating or  
23           assessing a property with a bright, obtrusive,  
24           purple fence around its perimeter, would that



1 have an impact on its assessed value in a  
2 positive or negative way?

3 A. The answer would be as to the location and the  
4 character of the homes and if it was tastefully  
5 done and the market perception. So I would have  
6 to study it more.

7 There's a certain segment of the market  
8 that like the color purple more than I do. So  
9 I'm not valuing it as to what Mike MaRous would  
10 pay, it's what the market would pay. So I would  
11 have to analyze it.

12 If you're asking, could color be a  
13 negative? That goes to aesthetics, and yes, it  
14 can.

15 Q. So aesthetics can affect the appraised or the  
16 assessed value of the home that you're looking  
17 at, so an obtrusive object can impact the  
18 assessed value; is that correct?

19 A. It depends on the situation and the control and  
20 the knowledge. And, again, it's, I guess, like  
21 a hog farm that gets built next to a residential  
22 farmette is probably not a positive. A 50-foot  
23 silo in proximity that's not maintained could be  
24 a project -- or could be a negative. Every case

1 needs to be evaluated.

2 Q. So a 6-foot chain link fence with two strands  
3 of barbed wire, three strands of barbed wire  
4 across the top of it, would that be recognized  
5 as an agricultural fence that meets the  
6 aesthetic of agriculture? Yes or no, I mean --

7 A. I'm contemplating the various fences I have  
8 seen on millions of acres, and in certain  
9 situations I have seen that, but it also goes to  
10 the prairie grass and the setbacks. It all ties  
11 into the whole aesthetic and the passive use of  
12 the development compared to a very active use.

13 Q. So you have appraised property with 6-foot  
14 chain link fence and three strands of barbed  
15 wire in an agricultural setting?

16 A. I have.

17 Q. And if this type of a fence is surrounding a  
18 property that you were looking to assess on  
19 three and four sides in close proximity to the  
20 property line, you believe there's no impact to  
21 the value of that home?

22 A. I believe the project as planned, with the  
23 prairie grasses and the height of the --

24 Q. Sir, I'm not -- I'm talking about the fence.

1 Answer, if you could --

2 A. I can't answer the question with just the one  
3 component.

4 Q. I -- that's unfortunate.

5 JUDGE SLAVIN: All right. We don't need  
6 editorial comments. Just ask a question.

7 MR. LUSZ: This is a joke.

8 Q. (By Mr. Lusz:) So you don't believe that a  
9 6-foot chain link fence with three strands of  
10 barbed wire impacts a property value? If you're  
11 assessing a farmette in a rural district, you do  
12 not believe that has an impact, or it would?

13 MR. BARRY: Objection. Judge, I think  
14 he's asked this already. Asked and answered. I  
15 mean, he's not going to give a different answer.

16 JUDGE SLAVIN: One more time.

17 A. And the answer is, it depends on the whole  
18 character of the development and the setbacks  
19 and the nature of the immediate area.

20 Q. (By Mr. Lusz:) Are you familiar with Eldena  
21 Solar, LLC?

22 A. I am generally familiar with it but not  
23 specifically.

24 Q. Are you familiar of its proximity to South

1 Dixon Solar, LLC?

2 A. The exact location, I'm not aware. I know it's  
3 in the same general area, but I don't -- I  
4 haven't seen the footprint.

5 MR. LUSZ: I have got no further  
6 questions.

7 JUDGE SLAVIN: Thank you.

8 Jennifer Lawson. I think I see Jennifer.  
9 Can you hear me?

10 MS. LAWSON: Can you hear me?

11 JUDGE SLAVIN: Now I can.

12 Remind us where you live in proximity --  
13 or own a business in proximity to this project.

14 MS. LAWSON: I reside within the  
15 boundaries of the project.

16 JUDGE SLAVIN: Okay. Thank you. Go  
17 ahead, ask your question.

18 EXAMINATION

19 BY MS. LAWSON:

20 Q. Mr. MaRous, to your knowledge has a solar or  
21 wind farm been converted back to farmland?

22 A. I am not aware of any solar farms. I am aware  
23 that there have -- some of the original wind  
24 farms have been decommissioned and gone back to

1 agricultural use or recommissioned.

2 Q. What has the value of that farmland been  
3 assessed at after they have been decommissioned?

4 A. I haven't appraised the property, so I can't  
5 answer that question.

6 Q. Okay. In regards to aesthetics, is there a  
7 certain formula that you use when you're  
8 evaluating the aesthetics of a farmhouse or a  
9 residence?

10 A. It's basically -- there's not a formula.  
11 There's experience and judgment and taking  
12 information from the market and the desires and  
13 demands of the market.

14 Q. So in your opinion, does a chain link fence  
15 with three strands of barbed wire calculate  
16 within that formula as a good or a bad  
17 aesthetic?

18 A. Again, it depends on the entire project, where  
19 you have to look at the project as a whole, the  
20 setbacks as a whole, and the plantings in the  
21 project as a whole.

22 Q. I'm just asking in regards to specifically if  
23 that fence is considered a negative or a  
24 positive as an aspect of that project as a

1 whole.

2 A. In my opinion, certain market participants  
3 would probably prefer something other than chain  
4 links, but that becomes a taste evaluation, as  
5 opposed to a white barn or a red barn or a black  
6 barn.

7 Q. Fair enough.

8 What percentage of your income is --  
9 annual income is based on creating hypothetical  
10 assessments for these renewable energy  
11 companies?

12 MR. BARRY: Object to the form of the  
13 question. I don't know what hypothetical means.  
14 He's got the highest certification available for  
15 real estate appraisers.

16 MR. LAWSON: He had made a statement --

17 JUDGE SLAVIN: Don't. Just a minute. I  
18 have got an objection pending, and I'm going to  
19 help you out.

20 Mr. MaRous, what percentage of your income  
21 every year, in round numbers, is attributable to  
22 work appraising or determining the impact on  
23 property values of a proposed green energy  
24 development?

1           THE WITNESS: I don't look at it annually,  
2 but maybe over the last five years it could be  
3 in the 15 to 20 percent range. That's just a  
4 general response. I have never tracked it.

5           MS. LAWSON: Okay. Thank you. Thank you  
6 for clarifying that question.

7 Q. (By Ms. Lawson:) Did you do the wind -- the  
8 assessments for the local wind farms?

9           JUDGE SLAVIN: You keep saying  
10 assessments, and that's just not a word that is  
11 applicable to his testimony, Ms. Lawson. Do you  
12 mean appraisal or report --

13          MS. LAWSON: Property --

14          JUDGE SLAVIN: -- or valuation -- don't  
15 interrupt me, please. I'm trying to help.

16          Do you mean valuations or appraisals?  
17 Assessments are something done by a tax  
18 assessor.

19          THE WITNESS: I have not done any wind  
20 projects in Lee County.

21          MS. LAWSON: Okay. I have no other  
22 questions. Thank you.

23          JUDGE SLAVIN: Mr. Apple. Mr. Apple, are  
24 you there?

1 MS. HENKEL: Trying to --

2 MR. APPLE: Yes, I am. Can you hear me?

3 JUDGE SLAVIN: Yes, I can.

4 Is -- your name is obviously Brad Apple.

5 Where --

6 EXAMINATION

7 BY MR. APPLE:

8 Q. Okay. You have indicated multiple times that  
9 there are no comparable sites of this size. So  
10 would it be fair to say that this is only your  
11 opinion, with no real data to support that  
12 opinion, on the property values?

13 A. Every appraisal is an opinion. It's not a  
14 guarantee. It's a professional opinion based on  
15 appraising 15 or \$20 billion of property. And  
16 it's a well-supported opinion, but that's what  
17 it is, an opinion.

18 Q. So would it be fair to say that my opinion  
19 would be different than your opinion?

20 A. I have no idea what your opinion is, so I would  
21 say I can't answer that question.

22 Q. Okay. So until there are comparables, we have  
23 no real data to go by; would that be correct?

24 A. That's not correct, because my report provides



1 studies, it provides peer reviews, it provides  
2 analysis of the market, looking at the economic  
3 impact of the market, and it looks like -- it  
4 reviews and analyzes historical data from  
5 assessors throughout the Midwest. So there's  
6 multiple data points that are analyzed.

7 And I appraise unique properties all the  
8 time. That's what I'm paid to do, based on my  
9 experience and judgment.

10 Q. But, again, you just referred to historical  
11 data to solar farms, which there is none to  
12 compare to this site; would that be correct?

13 A. That's not correct.

14 Q. Can you clarify that, please?

15 A. I am not sure what your question is.

16 Q. You said multiple times there's no comparable  
17 data to solar farms of this size; is that  
18 correct?

19 MR. BARRY: Objection to the form of the  
20 question. I don't think that Mr. MaRous  
21 testified about that. He said that there  
22 aren't a sufficient number of sales around solar  
23 projects this size because, frankly, they're not  
24 built yet. I believe that was his testimony.

1 JUDGE SLAVIN: That may be it. He asked  
2 him, "Is that correct," and all Mr. MaRous has  
3 got to say is yes or no.

4 MR. BARRY: Okay. Thank you.

5 A. Is your question correct? No.

6 Q. (By Mr. Apple:) Okay. Is it common for solar  
7 or wind companies to make payments or offer to  
8 buy homes of an adjacent landowner to these  
9 types of projects?

10 A. It's not common, but I have seen it done.  
11 What's more common, in my experience, is to  
12 provide some type of landscaping buffer for  
13 screening purposes. In certain projects,  
14 there's good neighbor agreements and obviously  
15 there's lease payments. A lot of times it  
16 depends on the county and it depends on the  
17 project.

18 Q. Okay. Understood.

19 You indicated on the North Star Project  
20 that they did buy the home that you used as a  
21 comparable; is that correct?

22 A. That's correct.

23 Q. You also indicated earlier that you cannot get  
24 data from some areas due to flat sales markets.

1           Could the fact of this be due to the solar  
2           project, that nothing was being sold?

3   A.       That's speculation. I can't answer the  
4           question.

5           MR. APPLE: Okay. That's it.

6           JUDGE SLAVIN: All right. Thank you.

7           And I see, unless I'm missing -- Alice, I  
8           see no other raised hands.

9           All right. I will recess tonight's  
10          session until tomorrow night, Wednesday, the  
11          9th.

12          MS. HENKEL: Is he excused?

13          JUDGE SLAVIN: I'm sorry?

14          MS. HENKEL: Is Mr. MaRous excused?

15          JUDGE SLAVIN: Oh, yeah, Mr. MaRous, you  
16          can sign off.

17          Tomorrow night, 6 o'clock, here in the Old  
18          Lee County Courthouse courtroom.

19          MR. BARRY: Can I ask to enter  
20          Mr. MaRous's PowerPoint.

21          JUDGE SLAVIN: Done.

22                               (Petitioner's Exhibit Number 5  
23                               admitted into evidence.)

24          JUDGE SLAVIN: Okay. We'll see you all

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then.

(The hearing was recessed at 8:55  
p.m.)

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On this 8th 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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