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 14th day
of October, A.D., 2021,
before the Lee County
Zoning Board of Appeals

Present:

Craig Buhrow
Glen Hughes
Gene Bothe
Bruce Forster, Chairman

Alice Henkel, Secretary/Renewable Energy Coordinator
Dee Duffy, Zoning Enforcement Officer

Honorable Judge Tim Slavin, Facilitator

APPEARANCES:

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JUDGE SLAVIN: All right. Welcome back, ladies and gentlemen.

I call out of recess Lee County Zoning Board of Appeals hearing on Petition Number 21-P-1566, South Dixon Solar, LLC's, request for a Special Use Permit to construct a solar energy system in South Dixon Township here in Lee County.

If you are merely listening to us on YouTube and have forgotten the Zoom meeting ID, it is 951-3234-9154. The password is, as it has been, 209840.

If you want to join us and just view and listen to us on YouTube, on your computer or cell phone use your browser, go to www.youtube.com. In the search bar, type "Lee County IL," I-L, short for Illinois, "Board of Appeals." Don't worry about upper- or lowercase letters. That should bring you to session dates, and assuming you want to view tonight's proceeding, click on October 14th, 2021, and we should frighteningly appear on your screen.

Under the governor's current executive order, all persons two years of age or older,

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except those who have a disability as defined by the American with Disabilities Act, are required to wear a face mask covering their nose and mouth when in an indoor public space such as this, and to wear a face mask covering their nose and mouth when -- excuse me, in an indoor space such as this, regardless of whether they are maintaining a social distance of more than 6 feet apart or not.

At this point, if you are in this courtroom or if you're on -- in other spaces in this building, I ask you to please turn your cell phones off or at least to silent.

And as to role, I note the presence of Chair of the ZBA, Mr. Forster; its Vice Chair, Mr. Buhrow; Mr. Bothe is present; Mr. Hughes is present.

The Honorable Dee Duffy, Zoning Officer, is present. The Renewable Energy Coordinator, Alice Henkel, is present. Representing the Petitioner are Attorneys Barry and Kennedy. There are -- oh, we have an IT specialist with us, Jonathan. The court reporter, himself. And by my count -- I'm going to do it again, 2, 3,

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4, 7, 8, 11, 13 -- 15 Interested Parties, whether they are representatives of the Petitioner or not.

And there are no people in the rear jury room; is that right, Ms. Duffy?

MS. DUFFY: Correct.

JUDGE SLAVIN: Okay. That having been said, we will pick up where we left off, which was the Petitioner was presenting evidence.

And you may, Mr. Barry.

MR. BARRY: Thank you, Judge Slavin.

I'd like to present as a witness first tonight Mr. MaRous.

(Michael MaRous was duly sworn.)

JUDGE SLAVIN: Great. Thank you.

MICHAEL MaROUS,

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BARRY:

Q. Good evening, Mr. MaRous.

A. Good evening, Counsel.

Q. Could you please state your name for the record.

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A. Michael S. MaRous, M-A-R-O-U-S.
Q. And I believe you have a PowerPoint presentation this evening, correct?
A. I do.
MR. BARRY: If we could get that up on the screen. There she is.
THE WITNESS: Great.
(Petitioner's Exhibit Number 3 marked for identification.)
Q. (By Mr. Barry:) Could you tell us a little bit about your background, Mr. MaRous?
A. Sure. I am a real estate appraiser and consultant and have been doing this for over 40 years. I have been awarded the MAI designation, which is the highest form of real estate appraisal valuation, and also invited to membership for the Counselors of Real Estate. I have general certified licensure, which is the highest form of real estate valuation in Illinois, and hold it in about six other states.
I have appraised probably over 15,000 properties, with over $20 billion of value, in my career. Clientele includes a mix of public bodies, individuals, major corporations,

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developers, financial institutions, et cetera.

My office is located at 1550 Northwest Highway in Park Ridge, Illinois. The majority of work that MaRous and Company does is in the state of Illinois.

Next slide.

So in my career, I have been qualified over a hundred times in circuit and federal courts throughout the Midwest. I have testified at well over a hundred zoning-type cases such as this.

I have prepared several hundred value impact studies, as I did for the proposed South Dixon Solar. They include development of industrial facilities, waste transfer facilities, quarries, religious facilities, mixed-use facilities and, as you can see on this slide, solar project throughout the Midwest.

So next --

THE WITNESS: I think we're ahead of ourselves a little bit, Jonathan. A couple back.

MR. BARRY: Yeah, go back to Slide 3, please. Thanks.

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A. So I have done studies for numerous solar proposed facilities, generally over a hundred megawatts in the states of Illinois, Indiana, Wisconsin, Iowa, Maryland.

And if we go to the next page -- it's not the next page. I have also worked at probably 25 different wind projects in about ten different states, generally over a hundred-megawatts of capacity there.

So in this -- I am just going to give my conclusion and then kind of explain what I did.

Q. (By Mr. Barry:) Before you do that, Mr. MaRous, can I ask you if you performed a property value impact study in connection with South Dixon Solar?

A. I have.

Q. And is that study Appendix W to the permit application materials?

A. It is.

Q. And I think you were about to get there, but could you tell us the conclusions you drew from your study, please?

A. Sure. As a result of my experience in market impact analysis done for specifically the

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proposed South Dixon Solar, it is my opinion that there is no market data indicating the solar farm will have a negative impact on either rural, residential or agricultural property values in the surrounding area.

Finally, for agricultural properties that host the panels, the additional income from the solar lease may and probably will significantly increase the value and marketability of those properties.

Q. Could you go to Slide 4, please. I think that shows your conclusion, correct?

A. Right. So my report is plus or minus a hundred pages long, so what I'm going to do here with this PowerPoint is just kind of summarize.

But first of all, if we look at the points, and I'm not going to read them verbatim, but there's significant financial benefits to the local economy and the taxing districts.

MR. BARRY: Next slide, please. Sorry. There we go.

A. An analysis of residential properties proximate to existing solar farms did not support any finding that proximity to panels had a negative

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impact on property values.

Also, analysis of agricultural land values in Illinois and other states did not find any negative impact by the development of these panels. The -- and this is found by looking at leases throughout the Midwest.

A very important aspect of this report is, I contacted all the assessors with major solar in the state of Illinois and also Indiana, Wisconsin, Iowa, part of North Carolina, and Maryland to basically determine, number one, did they have tax appeals filed; and has there been granted relief based on proximity to solar panels; and were they valuing property different?

I'll go into this in a little more detail later. But based on this research and analysis, there have been no successful tax appeals based on the negative impact of solar.

And then the last, that the proposed use will not be detrimental to public health, the safety, comfort or general welfare of the residents, nor will the project substantially diminish or impair the value of other properties

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or improvements in vicinity of the solar farm.

MR. BARRY: Next slide, please.

A. So basically when -- as an appraiser, analysis, what we're doing is looking at what impacts real estate, including positive economic benefits and also negative.

And up here on the slide, and some of you are, you know, a decent distance away, but you can see where you have, you know, a grain mill-type use, you can have grain storage-type use, you can have various agricultural-type uses. And we're kind of looking for appearance; environmental and sustainability; noise and odor, you know, the hog farms is probably the easiest description on the odor issue; traffic, truck -- heavy truck traffic, heavy additional increase in traffic is something to consider; hazardous materials, I guess we could talk about a nuclear power plant as an example and also a waste transfer station.

Then what's the impact on the public services? Is it a heavy use on the roads and the infrastructure on the bridges, or does it improve them? And then what does it do for the

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schools? Does it allow additional economic benefits to the schools to upgrade the physical plant and obviously the quality of the teachers and the materials that the kids have to use?

And then public safety, where you get into a situation, I guess we could say a prison or a very active nightclub, where there might be some concern for public safety.

So these are all issues that I look at every time I look at what is a proposed project.

Q. (By Mr. Barry:) And so those are the factors you considered, but can you next tell us about the scope of work that your study performed?

A. Sure. What I did is, I reviewed the Lee County public documents, including the Zoning Ordinance. I reviewed the project's supportive documents. So there's various engineering plans, there's environmental plans, and, you know, there's soil-type plans and an economic analysis of this, and I reviewed that.

I toured the site, the footprint, on two different occasions to kind of get a feel for the area, to look at properties that had sold, to look at the trend of development as to what

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is going on in the area.

And then I looked at the demographics, which is really income levels, population levels, population density in the area of the proposed solar farm.

And then comparables were researched, both sales of farms but also what I call farmettes, small rural residential properties, to look at that trend of development and look at those sales, price-per-square-foot amenities and overall prices and also absorption times.

And so data on this information was utilized throughout the report.

Interviews of local real estate professionals that have experience in solar. So to go into an area where there's a proposed development, it really isn't fair to interview a local broker because if that's stated who I talked to, and it's public knowledge, it could hurt their business for people that may have a negative aspect. And if they haven't had any experience with solar, they're not necessarily providing any legitimate response.

So what is done is, we talk to brokers

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that have experience with these type of uses where there's existing solar farms.

And then the properties that were used for matched pairs that I'm going to go into later, information was provided and those were inspected.

So there's several key points in our analysis. Obviously looking at the economics, which you have heard, the tax revenue, somewhere between a million to a million, three per year, which is a significant increase with no real strain on services, and we look at that certainty of the lease income to the property owners and also the taxing bodies.

We look at matched pairs, which goes to looking at sales of similar properties that are close to a solar farm and look at similar properties in the area, having similar characteristics, to see if those sales proximate to the panels are negatively impacted.

Q. And when you perform your matched pair analysis, do you look at actual sales data then?

A. Yes. And as an appraiser, anytime you use a sale, you want to make sure it's arm's length.

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So if there's a sale -- a family sale, a liquidation sale, something that may not be arm's length, that's not a sale that fits the definition of market value and is considered -- we're trying to find arm's length sales in order to make our comparable test.

And this, as has been brought out, because there has not been major solar that has had history in Illinois, I went to other areas, Wisconsin, Minnesota, which we'll talk about a little later, Indiana, and also Arizona, where there's some of these larger, a hundred- to 300-megawatt, facilities to look at the impact they had and looking at areas where the property values have some comparability to the South Dixon footprint.

Q. And I know your report, which I think you said is over a hundred pages long, contains several different examples of matched pair analyses, but you have got a few to take us through here tonight in your PowerPoint, correct?

A. As my wife would say, I might think it's exciting but she doesn't, so we're not going to go through all of them tonight. We'll go

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through the highlights, and I'll be able to answer any additional questions.

I think there's probably 30 data points of sales, including matched pair and sale/resales, throughout the report that form part of the basis of my conclusion.

MR. BARRY: Next slide, please.

A. So unfortunately, just because of the size and the volume of the room, it's tough to read, but this is a sale in LaSalle County, Illinois, and it's basically -- there's three pages that I have here. The first is the summary, which we'll stay on, the second page will show a picture, and the third page will show a map.

And the picture on the top of this --

THE WITNESS: Oh, please stay --

A. -- here you can see the solar panels and you can see the house up here. So the house proximate is in Streator. It's 485 feet away. It sold for $186,000 and was built in 1997 on two acres.

The comparable that's not proximate sold for $151,000, also in Streator. Built in 1994, 1770 feet, on three-quarters of an acre.

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So what we show here, they're both one-story framed houses, both three bedrooms. The one proximate to the panels has a full and finished basement; the one not has a crawl space. They both have central air. They both had forced air heat. Both had well and septic. The one proximate to the solar had a three-car garage; the one not had a two-car garage.

So basically go through the factors and ascertain, comping them out, to see when we make adjustments for size, lot size, age of the property, amenities of the property. And based on this example in Streator, there was no indication that there was a negative impact on value.

So we can go to the next page briefly, and this just shows kind of aerial pictures. Again, they're more illustrated in my report.

And then the next page is just showing the location of these properties.

So throughout my report, I go through each comp or comparable matched pair in a similar situation, providing the key data points, and then at the end I provide basically, as an

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appraiser we call it adjustment grid, just as we would do if we were appraising somebody in this room's house.

So the next one -- so we're going to jump to probably the largest solar facility that has had some experience in the Midwest, and this is called North Star Solar in North Branch, Minnesota. So this is a hundred-megawatt solar facility that was developed on about a thousand acres.

THE WITNESS: Jonathan, I'm going to ask you to go two more slides and then I'll back up.

A. So this is fascinating. The comp is right here. And I call this a donut hole, because solar surrounds this property on four sides.

So I went up there, I looked at it, I talked to the assessor. There's actually data, because it was developed in 2017. Prices have gone up consistently and the assessor finds no negative impact. He's not valuing the properties any differently.

But what happened, because they were surrounding this whole little subdivision of, like, six or seven houses, the developer bought

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the houses and then they put their construction workers in there to house them. And then when the solar farm was up and operating, they put them back on the market, and one of the original purchasers came back and repurchased the house.

So I have examples in my report of resales of these properties. So if you go back -- I mean, it -- one more. So this is a picture. So the -- this is the sale here, which you saw on a bigger scale, is right surrounded by the panels. It originally sold in 2001, long before the solar development, for $226,800. And it was built at that point. It's 2150 square feet on ten acres. Two-story frame, vinyl, four bedroom, two and a half bath, central air, three-car garage.

So then it sells -- so this is the first sale. Then it sells in the fall of 2017. The house is pretty much the same. It sells for $333,000. So 226,8, from 2001, when it originally sold, the market was good until 2006, and then about 2008 we went through the real estate recession. And this area, by the way, is about 25 miles north of St. Paul. It's kind of

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a northern suburb of St. Paul, Minnesota, the Twin Cities.

So in 2008 to 2012 there's a dramatic drop in the general real estate market for properties in the subject area and in this area, but then it starts coming back in 2012.

In 2017, this property sells again for $333,000. So it goes from 226- to 333,000. This is after the solar farm has been under construction and open.

Then recently, the end of last year, right around Christmas, it sold for $415,000, almost another 30 percent increase. And, again, this is during the period of three to four years when the solar farm has been existent, has been -- surrounds the property on four sides, there's views on four sides.

THE WITNESS: Jonathan, if you could go two slides up again -- okay, you know what, go to the middle of the picture, just so everybody sees the picture.

A. So it's an attractive house. It's not overwhelming, but, you know, it's an attractive house. It's on a large lot. The farmland, ag

land values up there are not as high as they are in Lee County, but, you know, it's still good farmland.

Okay. So the next slide, again, we're showing the surrounding. Because there's the big question, Well, what happens if I have solar panels on two sides, if I have it on three sides or if I have it on four? This is on four, but visually if you're standing in the backyard of this house and you're looking -- this would be to the east -- you're only going to see solar panels probably the first couple hundred feet. The panels back here you're not going to see. You're not going to notice. Same issue if you look to the south, you're only going to see the front several layers, and also to the north.

So if this was doubled, tripled, quadrupled, the visual from this house would really be the same. So that's why this picture, I think, is a great example.

So the next example -- and this is in Arizona. It's about 25 miles west of Phoenix, basically the dessert area, but it's a suburb, a far suburb of Phoenix. And here we have a panel

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array and here we have a house. And this is a manufactured house.

Maybe we'll go one more picture, just to show this. So this is the one proximate to the panels. This is a similar house that's not proximate to a solar farm.

THE WITNESS: So, Jonathan, if you could go back again.

A. If you look here, the one proximate to a house is -- it's kind of dark in here. I think it's about 900 feet away, but there's nothing -- they don't have trees, they don't have any terrain, they don't have bushes. It's desert all yearlong and basically full visibility.

And this house by the solar panels sold for $300,000, and it -- in 1996, just under 2,000 feet, on 20 acres. Now, the land out there is a lot less valuable than it is here per acre, but it's a 20-acre site. So the land itself, probably 5,000 an acre, is a hundred thousand.

The comparable that I used as a matched pair is -- I guess we'd go to the next page, just to show the picture -- a similar one-story

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house, similar vintage, sells for actually less, $278,000, in a similar market period. A little bit newer, slightly smaller, on five and a half acres or five and a quarter acres.

Again, when making adjustments for the locational issues, the conditional issues, the size issues, there's no indication of a negative impact.

And I think people might say, this isn't the Midwest, but it's similar demographics, similar price points, and it's similarly affected by the views of solar arrays, and it's also across -- and that's a 155-megawatt facility, which is somewhere in the 1500- to 2,000-acre range.

THE WITNESS: So then I'm going to start moving a little quicker, Jonathan. So if you'd go up a couple more slides. So this -- and I -- no, go back.

A. So basically what we did was research sales in the proposed footprint or touching in or around the footprint, and I provided information on six sales here, anywhere from 110,000 to 206,000, that basically sold '18 through the end of '20,

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generally on one-and-a-half- to three-acre sites.

As typical of your community, the ages range, built from 1901 to those built up in the 2000s. These sizes were -- generally they averaged about 16-, 1700 feet, some were smaller, some were bigger, and the price points were generally in the, you know, 80- to $95-per-square-foot range.

So these were the most recent sales in and around the footprint that I found. I'm sure there's others, but these are indicative of the market.

So if we kind of quickly go through --

THE WITNESS: Jonathan, the next slide.

A. And, again, the report just shows the pictures.

You say, Why don't you take a face-on picture here? Well, some of these houses out in the ag country have view shields, we call them, which basically are trees and bushes that are planted around them. Some are set back. So I can't go drive up somebody's driveway, knock on their door and take a picture of their house, but I'm taking the picture from the street.

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When I don't have a good picture, we'll use aerial photography.

So, again, the next page -- next two pages show kind of diversity of the housing stock in the south Dixon market.

THE WITNESS: Jonathan, maybe one more.

A. And then the last page of this group, this just shows the footprint. And it kind of shows -- these are right in the footprint. These are just outside of it. This one is a little further southeast.

So, again, more detail in my report.

The next, which I'm not really going to spend much time on, is just a summary of ag sales or, you know, sales in the community.

And, again, great, great farmland. Depending on the hydrology and the quality of the soil, are you on gravel; do you have buildings, you know, the price points vary. But in my report I talk about ag land value.

The next page, Jonathan, just shows the pictures.

So the next page goes into this Illinois assessor's survey analysis. And I started doing

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this about five years ago for wind because I was trying to find out those people in the trenches, how they were valuing land approximate or in view of turbines. So I brought this forth with solar because it's the same issue that, number one, talks -- you know, and so we -- through public records and other sources, we can find out who has major solar.

So we called the assessors and the counties to see -- talk about their existing solar farm, their experience with it. In Illinois, we don't have a lot of big solar farms, so that's why it's important to also go into some of these other states. And to say, are you looking at values approximate to solar farms to see if there's been any change difference, upward or downward, in value. And the consistent answer is, we don't see any differential.

We have had Board members on the County Board ask us to look into it. We have had citizens ask us to look into it. So we're watching the sales. We don't find any indication of difference in values, and we're

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not assessing these properties any differently.

And then the question is, have you had any appeals? And the answer is no. There's been people that have talked about it. If they make a formal appeal, then the assessor does his study, and then it will go to a local Board, Board of Review, PTAB, Property Tax Appeals Board. None of that has happened. None of that has been granted.

So as I have been doing this over the last few years, that same study -- and I just finished one in Iowa which has, you know, a reasonable amount of solar, Wisconsin that's getting a lot of solar, Indiana that's getting a lot of solar; same answers.

So I ventured into North Carolina, which is probably ahead of the curve as far as time, and I think contacted 13 assessors with the biggest counties that had the most solar. Same issues. You know, they get -- seem to have a consistency where there's concern during the entitlement process, during the construction process. And then once it's up and running, it becomes just part of the fabric of the ag

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community and they're not getting any appeals.
Q. And, Mr. MaRous, would you have expected to see reduced assessments if there was a decrease in property values for homes that were approximate to solar projects from the assessors?
A. That's kind of a lay-up question, because I have done probably over a thousand tax appeal appraisals for both public and private bodies. But clearly if people feel that there's a reason that their values have been negatively impacted and it can be used to reduce the real estate tax burden, they are going to make an appeal.

On a residential appeal, that can be done with a little research, and it can be done by an individual getting comparable data and then going in and meeting with the assessor and providing the factors. Obviously in a major industrial complaint and that, you may have to get an attorney and get an appraiser. But yes, if people think their taxes are too high, uniformly, whether it's Lee County or any other county in the state, which I have probably done tax appeals in 30 counties, people are very sensitive to this. So it's a good -- you know,

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a good barometer of the reality of value impacts.

Q. (By Mr. Barry:) And, again, the assessors you spoke to didn't see any property tax appeals for residences that were next to or near solar projects?

A. No. And, you know, to be fair, they had people that, you know, were not positive about solar and had personal opinions, just like people don't like different colors of cars, colors of houses, you know, having a silo or barn built next to them. But when they looked at it, they found no indication it had a negative impact on value. In fact, what did it for the local economy, for the economics, it was a benefit.

Q. I think you also looked at some literature for purposes of your study as well, correct?

A. Yes.

THE WITNESS: Next page, please.

A. So what's also interesting here is, as an appraiser, you have to be aware of what's going on in the market and look at future trends and look at published data. Having done this for wind for quite a while, there's quite a few what

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we call peer-reviewed studies, which means you have to do a study that's analyzed, that's vetted by other professionals before it gets published. That's called peer review. Something that's on a blog on the interview is not peer-reviewed; that's just personal opinion.

So there's been a lot of wind studies, but there's only been really two solar studies. The first one is a couple years old now, and the first one that came up is University of Texas, up here. And what they basically did is, they went out and sent information and followed up with assessors and people in counties throughout the U.S. to see if, in their opinion, there was a negative impact based on solar. And then, number two, did they have experience with it and did they have any quantifiable conclusions.

What happened is a lot of the assessors that did not have experience in solar in their county had a negative opinion. But then when they got to assessors that had experience with solar, they found that they had no quantifiable analysis empirical support that justified a decrease in value.

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And this study concluded with an opinion that there was nothing substantiating a negative impact on value. They had concerns with setbacks. And, you know, I think that's an important factor, where initially the solar projects could have 50-foot setbacks from houses, and the new norm, in my experience, throughout the Midwest is 200 feet, and with aesthetic landscaping, if necessary, and the proposed project of 400 feet is actually almost double what's the new norm.

So the concern was with setbacks. They did not -- they were doing studies generally of existing solar, and many of them were not, you know, the size of a hundred-plus-megawatt facilities. But the overall conclusion, no negative impact.

Then the next study that comes out the next year -- we need to go back one -- is the Rhode Island study, and it's Rhode Island and Massachusetts. So this was done by professors that looked at empirical data and basically more suburban-type development. Average price points, generally 300- to $350,000 residences.

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Many in the million-dollar-plus range. And they found that in these higher-density areas larger solar had a negative impact, but what they also found is, in areas with under 850 persons per square mile there was no negative impact.

The density in the subject project I think is close to 50. It's definitely less than a hundred people per square mile. So this study, again, for the subject proposed development shows no negative impact on the value.

The next study just goes to some other extremes, because there's concern about size of major projects. So a project that I worked on, called Badger Hollow in western Wisconsin, 3500 acres, 300 megawatts. There was a lot of community concern and there was a lot of negativity. And I prepared a report, I testified before the Wisconsin Public Utilities Commission, and there was negative testimony and there were objectors, and this project was approved. And I have a copy, but this just kind of summarizes, that they found no negative impact to property values.

Along with this, I have got three other

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cases that I was involved with, all 2- -- generally average over 200-acre solar farms. The first one -- and what's very interesting is these are very recent. The first on the top is the Paris Solar Farm, which is just west of Kenosha. If anybody has been up and sees the new Amazon facility, it's about two miles immediately west of there. That was approved in the summer of 2020. I did a report, testified again before the Public Utilities Commission.

The next page was Grant County, and this one was in, also, western Wisconsin. This was a little different because it had rolling terrain, which means solar panels could be visible from a distance. And there were some objectors, but, again, a report was done, and I think the setbacks are actually less in this project. The PUC went through, and they have got a judge that reviews and rules, and there they found there was no negative impact.

And the last one was Darien Solar Energy, which just came out in August. I did a report there. This is just north of Delavan, just northwest of Lake Geneva. So there was a sale

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of a property in the footprint of over a million dollars as this project was going on. You know, it has some areas of high value. Farmland was not as good quality as the subject. But, again, it went through the same PUC process and was approved. And the ruling, again, it's a hot -- you know, to have a ruling that's two months old is very -- very fresh.

So that concludes my PowerPoint.

Q. (By Mr. Barry:) Okay. I have a couple follow-up questions.

MR. BARRY: Jonathan, could you go back to Slide 2? I'm going to come back to that in a second.

Q. (By Mr. Barry:) Just to summarize, those were four decisions by the Public Utilities Commission of the State of Wisconsin, correct?

A. Yes.

Q. And I think you mentioned the Badger Hollow project. That project has been operational now for a certain period?

A. For about six months. And I have been tracking sales because it's a large project, values are somewhat similar to South Dixon, as far as

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improved properties, and there's been no indication, based on sales and market activities, that there's been a negative impact. If anything, it's been positive. But, you know, part of that, it's a strong market.

Q. And the Wisconsin Commission approved a permit for all four of those solar projects, correct?

A. Yes, they did.

Q. And in each case that you just discussed, the Commission found no negative impact on property values from the projects, correct?

A. Correct.

Q. You mentioned setbacks a couple times. Are you familiar with the setback requirements in the new Ordinance? I'm calling it the new Ordinance because it's the most recent Ordinance adopted by Lee County.

A. I am.

Q. And what are those generally, number of feet, please?

A. The most significant is the setback from improved residences, which is 400 feet.

Q. And it's your -- are you aware that this project will apply with those setback rules?

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A. Yes.
Q. And, I mean, I -- is it a good thing, having a larger setback, from your perspective?
A. I mean, with anything, Counsel, there's a balance. I think 200 is fair. 400 just provides additional separation, but I don't -- in my opinion, based on what I have seen, I don't think it necessarily has to be that far, but it provides an additional balance and separation.
Q. Okay. Thank you.

I have one more question, and it relates to the letters on Slide 2. There's a reference to MAI and CRE. You mentioned those earlier, but can you explain to us what those certifications mean?

A. Well, the MAI is Member Appraisal Institute. So there's, like, 6,000 of us in the world and maybe 200 in the state of Illinois out of, what, 12 million people.

So it involves a series of coursework, demonstration reports, passing tests, a comprehensive exam. It's -- I'm not -- there's more attorneys in here than there are

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appraisers, but I'm going to say it's like a CPA or a law degree. But, you know, the Sears Tower, former, Willis Tower in Chicago, probably has 2,000 lawyers in that building alone. So it's hard to get.

And the CRE, Counselors of Real Estate, worldwide there's a thousand of us. It's basically the highest form of counseling, consulting. A lot are appraisers. I was on the board -- national board for nine years and I was the Midwest Chair for two.

MR. BARRY: Thank you.

Judge Slavin, that's all the questions I have for this witness, but before I move on, could I ask to enter Mr. MaRous's PowerPoint into evidence? I believe it's Petitioner's Exhibit 3.

JUDGE SLAVIN: 3, I marked it 3, and I'll reserve ruling until we do cross.

MR. BARRY: Thank you.

JUDGE SLAVIN: Mrs. Duffy, do you have any questions of this witness?

MS. DUFFY: No, thank you, Judge.

JUDGE SLAVIN: How about you, Ms. Henkel?

MS. HENKEL: None, thank you.

JUDGE SLAVIN: Members of the ZBA. Mr. Forster?

MR. FORSTER: No questions.

JUDGE SLAVIN: Mr. Buhrow?

MR. BUHROW: Yes, one or two.

JUDGE SLAVIN: Mr. Buhrow, can you swallow the mic for us? I know, I know.

MR. BUHROW: Couple of questions.

EXAMINATION

BY MR. BUHROW:

Q. Have you dealt with any counties that have roughly -- well, in our case, four solar farms, roughly one-third of the total area of the county would be solar farms? Have you dealt with anything that dense?

A. Yes.

Q. Okay. Where at? Which state?

A. Pulaski County, Indiana, which has close to a thousand megawatts of solar on a thousand -- or 10,000, 12,000 acres. I don't know the exact amount, but, you know, it's 900 megawatts -- 900 to 950 megawatts.

Q. Roughly what part of the state is that? Near

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what cities in Indiana?
A. It's northeast, maybe 50 to 70 miles, maybe 80 miles of Indianapolis. It's probably 50 miles east of Indianap- -- or of Lafayette. It's maybe 60, 70 miles south of South Bend. You know, it's -- there's smaller cities, you know, towns of 500 to 5,000, around it, but that's kind of the area of it.

And it's in an area of ag. And it's also an interesting area, it's not too far south of Elkhart, which is known for -- its a major manufacturer of trailers and motor homes.
Q. Thank you.

In our situation here locally --
A. Can I -- just to clear the record. Out on the west coast, which I don't -- I think in Vegas, I mean, in Nevada and California there are some, but I'm not including those because that's a whole different situation.
Q. Yeah, I understand.

Have you dealt with anybody that has done the landscaping that we have talked about on this project around residences?
A. As far as the developers, yes. It's kind of a

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new hot topic. Invenergy has had to do some. They did some in Badger Hollow. They have a proposed one that's in Anderson, Indiana, that they are going to have to do it. This Pulaski County, they're going to have to do it. I think that also is becoming the new norm on a case-by-case basis.

MR. BUHROW: Okay. That's all. Thank you.

JUDGE SLAVIN: Thank you.

Mr. Bothe?

MR. BOTHE: No questions.

JUDGE SLAVIN: Mr. Hughes?

MR. HUGHES: No questions.

JUDGE SLAVIN: All right. Let's see, last time I -- last time Zoomers were second. So folks on Zoom --

And how many have we got, Jonathan? Let me count real quick.

MR. HENRIKSON: 14, 15.

JUDGE SLAVIN: Okay. You folks on Zoom, if you have a question of Mr. MaRous, I would like you -- if you're videoconferencing, click on the tab down at the bottom about in the

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middle on your screen that should say "Participant." If you click on that, there should be a list, and on that list is another sort of tab, link, that says "Raise Hand." So if you have a question, please do that.

If you're teleconferencing, stay with us on Zoom but go to your keypad on your smartphone and type in star or asterisk and then the number nine, and that will perform the same function. It will raise your hand so we can see it on the screen.

All right. I'm looking to see if there are any people. Tell me if I see any. I'm sort of craning my old neck.

MR. HENRIKSON: I don't see any.

JUDGE SLAVIN: All right. I don't see any.

Okay. Folks in the courtroom, by raise of hand. I saw Jamie Lawson's hand first.

You sit right in the line of sight.

MR. LAWSON: Her?

JUDGE SLAVIN: No, you.

MR. LAWSON: Oh, okay. Jamie Lawson, adjacent landowner.

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EXAMINATION

BY MR. LAWSON:

Q. Mr. MaRous, are you being paid by Duke Energy Renewables to be here?

A. This is my job, this is my profession; I charge a professional fee.

Q. So you are getting paid?

A. That's correct.

Q. Are you aware that -- are you aware that you were investigated by the Lee County Sheriff's Department for comments that you made during our last presentation for South Dixon Solar, LLC, and Duke Energy Renewables?

A. I have heard nothing. I have had no contact. I don't know what you're talking about.

Q. What percentage of your income is from solar and wind projects?

A. Over the last five years, I would estimate plus or minus 20 percent.

Q. Have you ever provided a property value impact analysis for any Lee County wind projects?

A. I don't believe so. It's possible, but I don't recall doing any.

Q. How many property value impact analyses have

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you done for solar and wind?
A. Total, I would estimate, over a dozen states, probably 40-ish.
Q. Thank you.
Out of all the property value impact analyses you have done for wind and solar, has any ever showed that the project would reduce property values?
A. No.
Q. How many properties in your studies have been sold after a project this size was built around it?
A. How many projects or properties?
Q. Properties. Sorry.
A. With 40 projects, things change daily. I would not have that count --
Q. Okay.
A. -- and do not follow it.
Q. Other than solar and wind projects, have you ever completed any other property value impact analysis that has shown a reduction in property values?
A. Yes.
Q. What caused the reductions?

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A. Traffic, noise, smell, height, strain on services, public safety. I would say -- I don't know if I said noise; that too.
Q. Okay. Thank you.
So you have had -- so you have had property value analyses that show a reduction in property value, just not for wind or solar?
A. That's correct.
Q. Why is that?
A. Because all the projects that I have studied have been properly done, properly sited, and done so they are a positive impact to the community.
Q. If your property value impact analysis showed that it would reduce the surrounding property values, would you be here right now?
A. Would I be here right now? That's my job, to give my report. Yes, I would.
Q. So if you're -- in your opinion, if your studies show a negative impact on property values, Duke Renewables would continue your fee and have you here for a witness?
A. That's their decision, not mine.
Q. Thank you.

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Will the names of the multiple assessors in multiple states that you talked to be in your report, in your hundred-page report?

A. I believe so. I'm looking right now, just to --

Q. And last question --

A. Well, can I --

JUDGE SLAVIN: Let him -- if you ask him a question, you have to give him a chance to answer.

MR. LAWSON: I didn't know he had the hundred-page report with him. I thought he had a synopsis.

JUDGE SLAVIN: He says he's looking right now.

A. In my report, I just have the list, names and phone numbers and project and capacities for Illinois, but I actually have that information for the other states, too, but I didn't put it in there. But I do have it in my addendum for Illinois, yes.

Q. (By Mr. Lawson:) So they're not in your hundred-page report, the multiple people that -- assessors you talked to for this project are not

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in your report?
A. For the state of Illinois, they are in there, yes.
Q. No, the multiple -- you had mentioned multiple states. I'm asking, the names for the multiple states that you talked to are in your report?
A. For states outside of Illinois, no.
Q. Thank you.
A. But they are available.
Q. Thank you.

Do you live next to a solar farm?

A. No.
Q. Thank you.

Are you aware that if the project is built, Duke Energy Renewables will pay some elected Lee County Board members and their families millions of dollars and at least one will become a multimillionaire?

A. Could you repeat that? I didn't hear the beginning of the question.
Q. Are you aware that if the project is built, Duke Energy Renewables will pay some elected Lee County Board members millions -- and their families millions of dollars and at least one

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will become a multimillionaire?
A. I have to answer it no, because I don't know who's on the board and I don't know the names of the people getting a lease. So that really isn't a question I could answer.
Q. Thank you.
Are you aware that Duke Energy Renewables hired the Lee County Board Chairman's daughter, Courtney Kennedy, to represent them?
A. I'm aware that Ms. Kennedy was hired as Counsel to represent them. Her family's relationships are none of my business.
Q. Are you aware that Lee County Renewables Coordinator, Alice Henkel's father, Chris Henkel, is a hired employee by Duke Energy Renewables?
A. Again, I'm not aware of the relationships, and that's not something that is part of my study.
Q. Are you aware that Duke Energy Renewables is offering surrounding landowners $2,000 a year not to oppose the project through the good neighbor program?
A. I'm aware that there's a good neighbor program. The exact specifics, I'm not -- I do not know

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the exact numbers.
Q. Thank you.
Are you aware that the Lee County generating facility used to be owned by Duke Energy?
A. Duke Energy --
MR. BARRY: He first would have to establish if he's aware of something called a Lee County generating facility.
JUDGE SLAVIN: Well, he can answer the question. If you can.
A. I'm aware that Duke Energy has ownership of a lot of energy-type products. What they have owned in this county, I do not know.
Q. (By Mr. Lawson:) Are you aware that Tyler Coon used to be employed by Duke Energy?
A. Yes.
Q. Are you aware that Jeff Neves, Duke Energy's business development director, was not willing to sign an agreement that Duke Energy Renewables would not sell or walk away from this project before the 40-year lifespan is up, like they did with Lee County generating station and Tyler Coon?

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A. I have no idea.
Q. Do these actions sound like actions of a good neighbor or does it sound more like a Fortune 150 company stacking the deck and trying to take advantage of a county and its --
JUDGE SLAVIN: That's argumentative. Don't answer that question.
MR. LAWSON: That's all. Thank you.
JUDGE SLAVIN: Other folks in the room, by raise of your hand.
Ms. Johannsen.
MS. JOHANNSEN: Martha Johannsen.

EXAMINATION

BY MS. JOHANNSEN:
Q. On Page 9 of your presentation, what was the megawatt of that solar system?
A. LaSalle County?
Q. Yes.
A. It's approximately 20 megawatts.
Q. Over how many acres?
A. I could go through my report, but I believe it's in the 150- to 175-acre range.
Q. What does agricultural land sell for in Lee County?

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A. Depends on the quality, but generally in the 8- to $12,000-per-acre range. I'm talking about good quality agricultural land. Obviously if it's got poor shape, got poor drainage, if it's got hydrology issues, it's going to be less. Something with some additional amenities, it could be higher.
Q. What is the amount of taxes per year per prime acre in northern Illinois on farmland?
A. It varies. I don't -- I think you need to be more -- help me be more definitive.
Q. Could it be in the amount of $250 per acre?
A. Taxes? No.
Q. Pardon?
A. No. $250 per acre for taxes, no.
Q. Higher or lower?
A. Lower.
Q. Will the assessed value increase when this solar system becomes online?
A. For what properties?
Q. For the South Dixon Solar system. Will that assessed value increase?
A. So there's two levels; there's taxes on the land and then there's a State statute where

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taxes are assessed based on the megawatt production. And that amount is going to dramatically increase. So the effective tax is going to be dramatically increased over what it is now.

Q. About how much?

THE WITNESS: I'm using my phone for a calculator, Your Honor, if that's okay.

JUDGE SLAVIN: For a calculator, that's fine.

THE WITNESS: Thank you.

A. Probably going to increase over $300 per acre for the properties under solar, generating the energy. Not -- the normal -- the other agricultural properties will probably go down. Because it's basically like a balloon, and if there's more money in it, it's going to shrink the remaining pieces.

Q. This $300 per acre increase, is that just where the panels are or the whole 3,838 acres?

A. I did it over the -- whether it's 3600 or 3800 acres, that was the number I was using.

Q. Okay.

A. And that's just for the increase because of the

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energy, and then the real estate taxes themselves for the area outside of that will probably diminish.

MS. JOHANNSEN: Thank you.

THE WITNESS: Yes.

JUDGE SLAVIN: Thank you.

Other folks in the room?

Mrs. Lawson.

MS. LAWSON: Good evening. Jennifer Lawson. Adjacent landowner.

EXAMINATION

BY MS. LAWSON:

Q. So, Mr. MaRous, per the statement that you just made and the testimony given by Ryerson yesterday that taxes will dramatically increase; therefore, due to that testimony and the seesaw effect that she testified on, nonparticipating landowners can see a decrease in their property taxes?

JUDGE SLAVIN: If that's a question -- I'm not clear if it's a question.

Q. (By Ms. Lawson:) Will landowners see a decrease -- will nonparticipating landowners see a decrease in their property taxes?

A. So the simple answer is yes, but if the governmental bodies change the levy on some of the other areas, let's say on the schools or that, where they want to use that money to upgrade the school system, then the money will go towards those areas, which, for the same comparable improvement, would have actually raised the property taxes of those adjoining property owners.

So I can't make a governmental -- or decision because I'm not an elected official. So if they get this extra million, three in, they may decide that the schools, the roads, the bridges need it or they may allocate it as a reduction for the area affected.

Q. Okay. Thank you.

On Page 9, for the LaSalle County Matched Pair Number 1, did the sale occur for the 1A before or after the solar was built?

MR. BARRY: It's up on the screen, Mike.

THE WITNESS: Yeah.

MS. LAWSON: He can't see the screen.

A. The solar was either under construction or built or had just been approved.

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Q. (By Ms. Lawson:) On Page 12, for the same house that you had the pre-comparisons on --
A. Yes.
Q. -- you just stated that it is a strong market. You don't feel that the December 3rd, 2020, sale is from a strong market and has a factor in that 19 percent increase in sale?
A. I do.
Q. Okay. Then on Page 17, is this the same presentation that you utilized from the first round?
A. No, it's -- there's some similar characteristics but it's a new presentation.
Q. Where is the Property Number 6 located?
A. Southeast of the footprint, and I --
THE WITNESS: If you go several more pages, Jonathan. One more.
A. You see this map of the footprint, and Number 6 is the bottom right. That's the location.
Q. (By Ms. Lawson:) That doesn't match your Number 6 on this. That's Number 1.
JUDGE SLAVIN: You're telling him things. You have got to ask him a question. You can't testify. You're not under oath.

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Q. (By Ms. Lawson:) So Number 6, does it or does it not match Number 1?
A. You are correct. I apologize.
Q. So if there are no negative impacts on property values and this area has a higher land value than others, do you feel that the lease terms for the participating landowners and the good neighbor payment made to nonparticipating landowners by Duke Energy is fair?
A. That --
JUDGE SLAVIN: I'm sorry, I -- what he thinks is fair or not fair has nothing to do with anything. It's -- these gentlemen make the decision. We can all have an opinion, but that's not relevant to this. Sorry.
MS. LAWSON: That's all I have. Thank you.
JUDGE SLAVIN: Okay. Any other folks in the room?
(No verbal response.)
JUDGE SLAVIN: Okay. Any follow-up, Mr. Barry?
AUDIENCE MEMBER: Your Honor.
JUDGE SLAVIN: Yes, sir.

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AUDIENCE MEMBER: There's a young lady.

JUDGE SLAVIN: I didn't see you. I'm sorry. I'm so sorry.

If it's easier for you to sit, we can turn on one of the microphones.

AUDIENCE MEMBER: No, that's fine. I just have some questions.

JUDGE SLAVIN: Would you give us your name and where you live in relation -- or work or own a business in relation to the boundary of this proposed project?

MS. BRECHON: I'm sorry, I can't understand you.

JUDGE SLAVIN: Fair enough.

Would you tell us your name, please, and where you either live, work or own a business in relation to the boundary of this proposed project?

MS. BRECHON: My name is Margaret Brechon, and I live at -- in Dixon, 802 South Galena. I'm not that close to the project.

JUDGE SLAVIN: How far away would you just estimate?

MS. BRECHON: A couple miles maybe.

JUDGE SLAVIN: Okay. Thanks. Go ahead, your questions of Mr. MaRous.

EXAMINATION

BY MS. BRECHON:

Q. I just wanted to know if -- in surveying these projects, are any of the projects -- have they been in operation for ten years or more, that you know of?

A. I don't believe so.

Q. Okay. Thank you.

And the second question is, how many of these projects approximately, percentage-wise, have a backup with batteries so that they operate 24 hours a day rather than just during the daylight?

A. Of the projects that I have discussed, I believe two of the larger Wisconsin projects plan on having batteries. But, again, that may not happen in the initial phase. That is the trend under consideration for these new projects, but it's, you know, generally part of the approval process. But the original ones, very few, if any, had battery backups.

Q. Do you know any of the more recent ones that

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have batteries?
A. Well, again, I think in Wisconsin two of the larger ones are planning to have batteries.
Q. Okay.
A. You know, I think it's a decision, do they do it on the initial development or do they wait a year or two?
MS. BRECHON: Okay. Thank you.
THE WITNESS: You're welcome.
JUDGE SLAVIN: Thank you.
Any other folks in the room that I missed? My fault.
(No verbal response.)
JUDGE SLAVIN: Okay. Any follow-up, Mr. Barry?
MR. BARRY: No. I would just renew my request to admit.
JUDGE SLAVIN: Done. Now admitted. So we're at 1, 2, and 3.
(Petitioner's Exhibit Number 3 admitted into evidence.)
JUDGE SLAVIN: And you may step down, Mr. MaRous.
THE WITNESS: Thank you.

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JUDGE SLAVIN: Perfect timing. It's quarter after. Let's take ten.

(A recess was taken at 7:17 p.m. and proceedings resumed at 7:27 p.m.)

(Whereupon, State's Attorney Boonstra entered the hearing.)

JUDGE SLAVIN: All righty. Let's pick up again, if everybody can find their places.

Ms. Kennedy, I see you're sitting at counsel table, so you may proceed.

MS. KENNEDY: Thank you, Judge. I would like to call Tom Huddleston as our next witness.

(Tom Huddleston was duly sworn.)

JUDGE SLAVIN: You may inquire.

MS. KENNEDY: Thank you.

TOM HUDDLESTON,

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. KENNEDY:

Q. Can you please state your name and spell it for the record.

A. Yes. Tom Huddleston. Last name is spelled

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H-U-D-D-L-E-S-T-O-N.
Q. And, Mr. Huddleston, can you tell us a little bit about your background?
A. Yes. I am a drainage contractor. I am third generation. I've actually laid drain tile for over 50 years. I own a group of drainage companies. My partner and I, Fred McBride, have owned Huddleston & McBride for over 45 years.
Q. And do you have any experience with solar farms or solar energy systems?
A. Yes, I do.
Q. And what, if anything, can you tell us about that experience?
A. Well, we started about three years ago with community solar and we did a hundred, plus or minus, projects where we actually located the drain tiles, evaluated the drain tiles, surveyed them, and then rebuilt the drain tile systems themselves.

And then recently, within the last year and a half, we have been involved with utility solar, which are larger projects.
Q. And is this the same experience with wind farms as well?

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A. Yes.
Q. Are you familiar with South Dixon Solar, LLC?
A. Yes, ma'am.
Q. And are you familiar with the proposed project area?
A. Yes, ma'am.
Q. And what, if anything, can you tell about the land included in the proposed project?
A. The projects all encounter what I would consider prime farmland. It's all row crop. It's basically beans and corn, most of it, some pastureland, some wheat, but mostly beans and corn.
Q. And the South Dixon Solar Project is required to do a drain tile survey. Can you describe how a drain tile survey is conducted?
A. Yes. There's several different types of surveys. Normally on large sites we do what's called a perimeter survey, where we trench around the edges of the property and we locate the drain tiles that are beneficial to the lands of others, the upland, nonparticipating, tributary landowners, and then we trace those drain tiles through the project to where they

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either egress the project itself or they discharge into a ditch, and then we further make recommendations on how to modify those drain tiles.

Q. And so how can a solar energy system be constructed to protect the integrity of the existing drain tile system?

A. Well, in some cases you can avoid the drain tiles. Once we locate them, when we do locate them, we survey them on very tight intervals, and then we lay those over the civil plans that shows exactly where all the piles and the cables are to be installed.

If we can't -- if we can't protect the drain tiles, then we install new drain tiles in several different methods. One is, take the old tile out and put a new tile in. The other is just to plow in new tile lines.

Q. So in the instance where you remove the drain tile and you put new in, would you replace it with similar quality or would it be better quality?

A. We always restore them with better materials. We actually use a polyethylene pipe called dual

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wall. It's smooth wall on the inside, corrugated on the outside. It's a rigid pipe, comes in 14-or 20-foot sections. It is still perforated, but it's a much higher grade pipe than the existing pipe that we remove.

Q. And when you testified earlier that you locate the drain tiles, how do you do that?

A. We have several methods. We always need to encounter the drain tile with slit trenching. Once we find the drain tile, we excavate it, we run locators down the drain tiles or we hand probe the drain tiles. We then stake them, and then we excavate them in certain intervals to gather information and data on them. Then we survey them with a survey system on state prime coordinates.

Q. And are you familiar with what's known as the Agricultural Impact Mitigation Agreement for solar projects?

A. Yes, ma'am.

Q. And is this also commonly referred to as the AIMA?

A. Yes, it does.

Q. And does the AIMA include any requirements for

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the repair of drain tiles if they're damaged during the construction of a solar farm project?

A. Yes, ma'am, it does. The AIMA agreement basically states that all drain tiles should be protected, reinstalled or modified. The basis of the AIMA agreement is to maintain the prime farmland resource of the agricultural land itself, which includes modifying and maintaining the agricultural drainage system.

Q. And so are there certain techniques that are covered in the AIMA for the actual repair of that drain tile?

A. Yes, and the industry has standards within its own.

Q. Okay. Can you describe some of those techniques for me?

A. Sure. In some cases we actually remove the drain tiles with excavators and install the new drain tile in the same trench. In other methods, we'll plow new drain tiles in or we'll open-cut them with trenchers. In other cases, we'll section repair those drain tiles with adapters and new pipes to bring the drain tiles out of conflict from the solar apparatus.

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Q. And can you tell us a little bit, generally speaking, about your role in the construction of a solar project?
A. Well, we're actually drain tile contractors. So we actually put the drain tile in. We do the investigations, because we do a lot of design work to put new systems in, and we have an awareness of where tiles are and we understand how to locate them. And so we locate them, we map them, we give that information to the civil engineer, the design engineer, and then we make recommendations to the engineer on how to modify the drain tiles. And then we'll actually reinstall the drain tiles in some cases with some other local contractors.
Q. And during this process do you perform any outreach to adjacent nonparticipating landowners?
A. We do. Part of our program is that -- it's very important with a solar farm or a wind farm, it's very important to protect other's rights to drain. We call those drains legal mutual drains. Those are large drain tiles that run through the participating project and reach up

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into the lands of others and actually benefit the nonparticipating landowners. So it's very important that we rebuild those drain tiles and reestablish them.

So once we locate the drain tile and we map it out, we then meet with the upland landowners and invite them to be stakeholders in the design process so that they are sure that they'll maintain the benefit of free-flow drainage that they had prior to the project.

Q. And do you do any outreach to the participating landowners within the project?

A. Yes, and then after we take care of the adjoining, the nonparticipating landowners, we usually meet with the developer and the individual landowners on the project to assess exactly what their needs are and issues they have had or what improvements they would like to put in.

Q. And is it a fair statement that one of the primary goals or drainage goals for the solar energy project is really to have an obligation to the landowners to maintain the stability of the drainage tile?

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A. It is the AIMA agreement, and the landowner's required in most of the solar contracts that I have seen, requires the developer to leave the land once it's -- the project is over, leave it in equal or better condition than when they first took on the land.

Q. And so is it safe to say that drainage overall would be improved after the solar farm has been built and the drainage has been rerouted or reconfigured?

A. Yes. Many of these drain tiles are well over a hundred years old. So by putting new drain tiles in now would keep us from having to replace them at a later date.

Q. And how will the operator of the solar farm know when a drain tile has been damaged?

A. Well, it's rather obvious. Water bores to the surface and causes saturation to flume within a particular area. And in some cases it will actually erupt to the surface and start overland riplets. So it's obvious from the aggregated hydrology within a certain area.

Q. And do you have an opinion on what the long-term impacts on agricultural land and soils

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would have in a solar farm sited in an area that's been primarily used for agriculture?

A. We actually think that allowing the agricultural land to rest for 30-plus years, allowing grasses to be planted where there will be no erosion, to allow deep-rooted grasses that actually regenerate the organics within the soil structure, and to rebuild old and antiquated drain tile systems is actually a benefit. And when it comes out, the land will be ready to be farmed.

Q. And with your experience in the drainage system and in the ag industry, do you have any concerns about taking acres out of row crop production for a solar farm?

A. No, I do not.

MS. KENNEDY: I have nothing further.

JUDGE SLAVIN: Okay. How about you, Mr. Boonstra?

STATE'S ATTORNEY BOONSTRA: No, sir. Thank you.

JUDGE SLAVIN: How about you, Ms. Duffy?

MS. DUFFY: No, thank you.

JUDGE SLAVIN: Ms. Henkel?

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MS. HENKEL: No, thank you.

JUDGE SLAVIN: Board members.

Mr. Forster?

MR. FORSTER: No questions.

JUDGE SLAVIN: How about you, Mr. Buhrow?

MR. BUHROW: No.

JUDGE SLAVIN: Mr. Bothe?

MR. BOTHE: No.

JUDGE SLAVIN: Mr. Hughes?

MR. HUGHES: No questions.

JUDGE SLAVIN: Okay. To folks in the hearing room, here in the courtroom.

Mr. Lawson.

MR. LAWSON: Jamie Lawson.

EXAMINATION

BY MR. LAWSON:

Q. If you had to put electric -- if you had to bore underneath a creek or a roadbed and put a conduit in there to run something through that conduit for anything that you do, and then the wire's removed but the conduit is not, is that leaving the property like you found it or better?

A. I can't answer that. I'm a drainage

contractor. I'm not sure about the electrical components.

Q. Thank you.

Have you ever performed work on a solar farm with this -- have you ever performed work on a solar farm covering this many acres of prime farmland?

A. No, I have not. I have done several -- I have done many solar farms. I haven't done one yet of this size.

Q. This size, with this much prime farm ground, you never have?

A. No.

MR. LAWSON: Thank you.

JUDGE SLAVIN: Other folks in the room, by raise of your hand.

Mrs. Johannsen, I saw you first.

MS. JOHANNSEN: Martha Johannsen.

EXAMINATION

BY MS. JOHANNSEN:

Q. How deep are the drain tiles located?

A. Excuse me?

Q. How deep, how far down, are the drain tiles located generally?

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A. Most drain tiles are a minimum of 24 inches and they can go all the way to 7 or 8 feet, depending on the grade of the land. I would say an average is probably 36 to 40 inches.
Q. How deep will the solar system wires be buried?
A. I don't have an answer to that.
Q. Okay. Since we haven't had any decommissioning yet, I was wondering -- okay. Since we haven't had any decommissioning of solar systems yet, how can we be absolutely sure that the land will be as good as or even better than it was before the solar system was built?
A. Well, that's my opinion based on the fact that land always is more productive when we put new drain tile systems in place. The land also produces better when grasses are planted or organics are back in the soils, as proven back when we had several years of set-aside programming.
MS. JOHANNSEN: Thank you.
THE WITNESS: Yes ma'am. Ma'am.
JUDGE SLAVIN: Anybody else?
Ms. Lawson.
MS. LAWSON: Jennifer Lawson.

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EXAMINATION

BY MS. LAWSON:

Q. So it was actually previously testified on October 12th, 2021, that there is a potential for them to leave the hulls of the conduit when they do decommission this.

So will leaving those hulls during -- at decommissioning adversely affect drain tiles?

A. No.

Q. Okay. Do you feel that is returning it to the previous state, leaving those?

A. Obviously it's not returning it to its previous condition, but I can't identify a reason why it would be detrimental to the -- to raising agricultural crops.

Q. You mentioned inviting stakeholders and adjoining landowners to review designs?

A. Yes, ma'am.

Q. What's your typical timeframe for that? Is it after the approval of -- if this proceeds?

A. The drain tile investigation would take place probably after the approval. And so when we locate the drain tiles, I would meet with the individual landowners who benefit from the drain

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tiles I need to replace. And the reason I do that is, we just want to generally be sure that we have the proper drainage in place that that individual had benefitted from.

Q. So if there are drain tiles that need to be replaced on nonparticipating landowners, is that paid by Duke Energy or is that a recommendation made by your company then?

A. It's a recommendation, but it's an agreement between Duke Energy and the landowner.

Q. Okay. Nonparticipating landowners?

A. Correct, the nonparticipating landowners would not pay for --

Q. Okay.

A. It's Illinois Drainage Code, it's actually the law, that we continue to allow that individual to benefit. So we have to be absolutely sure that that drain is out of conflict and it won't fail.

Q. Are you being paid by Duke Energy?

A. Yes, ma'am.

MS. LAWSON: That is all I have. Thank you.

JUDGE SLAVIN: Thank you.

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Anybody else in the room? Yes, sir.

MR. MIX: Good evening. Jonathan Mix, M-I-X. I work in the area. I actually work all over Illinois. I'm a Millwright, Local 2158 representative.

EXAMINATION

BY MR. MIX:

Q. My question is, how many years have you been installing and servicing and repairing drain tiles?

A. I'm third generation. So my family has done it. So I mean, I have installed drain tiles since I was -- for over 50 years, in my teens, but I have owned these companies for over 45 years.

Q. Okay. And then approximately, if you could put a number on it, how many acres of tiling have you done in your course load?

A. Oh, my gosh. I do a lot of large -- I actually work in Huddleston & McBride. The other companies we own and oversee. And Huddleston & McBride, we do many, many commercial and residential projects of many thousands of acres, the investigations, and then the drain tile

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abandonment and then, of course, we install the drain tile as well. So I think I do well over -- well over a hundred thousand acres a year.

MR. MIX: Okay. Thank you very much.

THE WITNESS: Yes, sir.

JUDGE SLAVIN: Thank you.

Any other folks in the room?

(No verbal response.)

JUDGE SLAVIN: All right. Turning to Zoomers.

MR. FITTS: I have got a question.

JUDGE SLAVIN: I'm sorry, Charlie. Yeah, go ahead. Careful. You can go ahead and ask him from right there.

THE WITNESS: That's fine, I can hear you.

MR. HUGHES: Zoomers have got to be able to hear him too.

JUDGE SLAVIN: You're right.

EXAMINATION

BY MR. FITTS:

Q. Are you going -- you're talking about drain tiles. Before you put the solar farm in, are you taking out all the old ones and replacing

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them with new ones or is -- or -- or are you here so they don't hit -- I mean, you check -- you mark the drain tiles so they don't hit it when they drill the posts for the panels? Or are you replacing all the tiles in this --

JUDGE SLAVIN: Charlie --

Q. (By Mr. Fitts:) -- solar farm?

JUDGE SLAVIN: Charlie, that's a long question for anybody to answer. Let's start with this, I'll ask it for you: when you -- if the solar farm is approved, Mr. Huddleston, and you start to work on the tiles, do you replace them all or just broken ones?

THE WITNESS: We protect the drain tiles that we can -- we protect the drain tiles that we can, and then we install new drain tiles in place of older drain tiles which have either failed or will be hit by the solar.

So the end result is that we put enough -- we maintain enough drainage, install enough drainage so the farm can continue to drain as it did in pre-solar conditions.

MR. FITTS: Okay. Thank you.

JUDGE SLAVIN: Is that all?

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Okay. Turning to Zoomers. I'll remind you, if you want to ask Mr. Huddleston a question, on the bottom hit "Participant" and then on the list, click on "Raise Hand."

If you're on your cell phone, stay with us, but asterisk number -- and then the number nine.

We'll wait a few seconds here for folks. Everybody help me, if you can. Looking for raised hands. Looking, looking.

All right. Seeing none, you may -- unless you have any follow-up, Ms. Kennedy?

MS. KENNEDY: I do not.

JUDGE SLAVIN: You may step down. Thank you.

Any further evidence for this evening, Ms. Kennedy?

MS. KENNEDY: Not for this evening, judge.

JUDGE SLAVIN: Okay. Very good. We will recess until -- let me check something -- just bear with me a minute, please. All right. The evening of October 27th, that's a Wednesday, is that -- we okayed that previously, but if it's changed, please let me know, any of the

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necessaries. 6 o'clock, here at the Old Lee County Courthouse. 6 o'clock, October 27th, a Wednesday. Okay. Everybody have a good week --

MS. DUFFY: Judge, have we talked about the 19th, next Tuesday?

MR. BOTHE: The 19th.

JUDGE SLAVIN: Oh, my God. I'm sorry. Thank you. I thought I was -- getting ahead of myself. Never mind. Thank you, Dee.

The 19th, which is one, two, three, four, five days from now. I apologize. October 19th, 6 o'clock, here at the Old Lee County Courthouse. I apologize. Somehow I looked at my calendar and thought today was the 19th but it's not.

I have confused you now, haven't I, Mr. Bothe?

MR. BOTHE: Yeah.

JUDGE SLAVIN: Okay. 19th, 6 o'clock.

(The hearing was recessed at 7:49 p.m.)

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On this 14th day of October, A.D., 2021, 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

Callie S. Bodmer
Certified Shorthand Reporter
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