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EXHIBITS

Exhibit	Marked	Admitted
Petitioner's Exhibit Number 4. . . . .	23	100
Petitioner's Exhibit Number 5. . . . .	21	100
IP Exhibit A . . . . .	43	100
IP Exhibit B . . . . .	43	100
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1 JUDGE SLAVIN: All righty, ladies and  
2 gentlemen. Everybody, welcome back.

3 I will call out of recess Lee County  
4 Zoning Board of Appeals hearing on Petition --  
5 sorry about that -- 21-P-1556, South Dixon  
6 Solar, LLC's, request for a Special Use Permit  
7 to construct a solar energy system in South  
8 Dixon Township.

9 In case you have lost your information and  
10 you are listening to us maybe on YouTube or  
11 maybe on a phone but want to know the full Zoom  
12 meeting information, the ID is 915-3923-9154.  
13 The password for this has been, and continues to  
14 be -- the Zoom password, I'm sorry, 209840.

15 If you want to watch on YouTube but not  
16 participate, use your browser and your internet-  
17 capable computer and go to [www.youtube.com](http://www.youtube.com).  
18 Once you get there, in the search bar type "Lee  
19 County IL," I-L, short for Illinois, "Zoning  
20 Board of Appeals." Don't need to be concerned  
21 with upper- or lower-case letters. Find the  
22 session date, which should pop down -- which  
23 should be a pop-down menu, and click on it and  
24 you should be viewing us momentarily.

In Totidem Verbis, LLC (ITV)  
815.453.2260

In Totidem Verbis, LLC (ITV)

1           If you have any questions about all these  
2 things, Ms. Duffy's technical assistance number  
3 is 815.973.3449.

4           And to make a record of appearances, I  
5 note the presence of the Chair of the ZBA,  
6 Mr. Forster; its Vice Chair, Mr. Buhrow;  
7 Mr. Bothe is present; and so is Mr. Meyer.

8           Zoning Officer Duffy is present.  
9 Renewable Energy Coordinator Alice Henkel is  
10 present. Mr. Boonstra, the State's Attorney, is  
11 present. Courtney Kennedy, attorney for the  
12 Petitioner, is present. Our expert IT person,  
13 Jonathan, is present. So is our court reporter  
14 and himself.

15           I have counted informally 15 bodies as  
16 interested in-person people in the court -- in  
17 the Old Lee County Courthouse Third Floor  
18 Courtroom.

19           Jonathan, can you tell me how many people  
20 are on -- appear to be on Zoom?

21           MR. HENRIKSON: Looks like eight.

22           JUDGE SLAVIN: And Jonathan reports eight  
23 on Zoom.

24           MR. HENRIKSON: Actually, we have seven.

1 JUDGE SLAVIN: Oop, seven.

2 Nobody in the back room jury -- former  
3 jury deliberation room; is that right?

4 MS. DUFFY: Correct.

5 JUDGE SLAVIN: All right. Making the  
6 total attendance a big drop from the previous,  
7 down to 33.

8 Okay. When we last left off, Ms. Kennedy,  
9 you were producing evidence, and you may  
10 continue -- oh, excuse me. Sorry.

11 Under the governor's current executive  
12 order, all persons two years of age or older,  
13 except those who have a disability as defined by  
14 the Americans with Disabilities Act, are  
15 required to wear a facemask covering their nose  
16 and mouth when in an indoor, public space such  
17 as this, regardless of whether they are  
18 maintaining a social distance of more than  
19 6 feet or not. Thank you for your cooperation  
20 in that regard.

21 At this point, if you are in this  
22 courtroom or -- in this courtroom, I ask you,  
23 please, to turn your cellphones off or at least  
24 to silent. Thank you.

1 All right. Sorry about that. You may  
2 proceed, Ms. Kennedy.

3 MS. KENNEDY: Thank you, Judge. I would  
4 like to call Jennifer Klingshirn to the stand.

5 JUDGE SLAVIN: Ms. Klingshirn, would you  
6 step up and raise your right hand, please.

7 (Jennifer Klingshirn was duly  
8 sworn.)

9 JUDGE SLAVIN: Have a seat.

10 MS. KENNEDY: May I proceed, Judge?

11 JUDGE SLAVIN: You may.

12 JENNIFER KLINGSHIRN,  
13 having been duly sworn, was examined and  
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MS. KENNEDY:

17 Q. Could you please state your name and spell it  
18 for the record.

19 A. Yes. My name is Jennifer Klingshirn,  
20 K-L-I-N-G-S-H-I-R-N.

21 Q. And can you tell us a little bit about your  
22 background?

23 A. Yes. My background and education are in  
24 environmental science. I'm also a certified

1 wetland delineation specialist.

2 Q. And how are you currently employed?

3 A. I am the senior project manager at Energy  
4 Renewal Partners, I am also an environmental  
5 scientist there, and I have worked with the  
6 company for over seven years.

7 I have been in the energy industry though  
8 for approximately nine years, focusing the last  
9 seven to eight specifically in renewable energy  
10 and solar and wind development.

11 Q. And as the senior project manager, what are  
12 your job responsibilities?

13 A. My primary responsibilities are permitting  
14 specialization. So I support solar and wind  
15 clients, in this case the solar client, in  
16 identifying the local, federal, State  
17 requirements that would be necessary to develop  
18 a solar energy system, in this case.

19 I have eight years of experience in  
20 consulting with federal agencies, such as the  
21 U.S. Fish and Wildlife Service; State agencies,  
22 such as the IDNR, the Illinois Department of  
23 Natural Resources; as well as local entities and  
24 other State and federal entities as well.



1 Q. And are you familiar with the Applicant or  
2 Petitioner in this case, South Dixon Solar?

3 A. Yes, I am.

4 Q. And how so?

5 A. Duke Energy retained our firm to identify  
6 federal, State and local requirements that would  
7 be necessary to build and construct the solar  
8 farm, and in this case we were retained to put  
9 together the Special Use application,  
10 consolidate the materials for the application,  
11 and to provide testimony here at this hearing.

12 Q. So is it a fair statement that you're being  
13 paid to be here tonight?

14 A. That is correct. Our firm is at the forefront  
15 of renewable energy permitting specialties, and,  
16 yes, Duke has retained our services to ensure  
17 that they are in conformance with local laws.

18 Q. And are you familiar with the proposed project  
19 area?

20 A. Yes.

21 Q. And what, if anything, can you tell me about  
22 the character of the land within the project?

23 A. The project itself is primarily characterized  
24 as agricultural land, primarily row crop

1 agriculture.

2 Q. And what can you tell me about  
3 adjacent properties to the project?

4 A. For adjacent properties to the project, the  
5 land use is also primarily agriculture and  
6 primarily row crop.

7 Q. Does the project require any new infrastructure  
8 for the county?

9 A. Not -- that is not anticipated at this time.

10 Q. And what about public utility facilities, will  
11 the project utilize any of those?

12 A. No.

13 Q. Ms. Klingshirn, are you familiar with the  
14 original Ordinance governing solar energy  
15 systems in Lee County?

16 A. Yes.

17 Q. And are you aware that Lee County recently  
18 passed a new or revised Ordinance in Lee County?

19 A. Yes, I am.

20 Q. And if I refer to the most recent Ordinance as  
21 the "new Ordinance," you will understand that  
22 I'm referring to the newly-passed Ordinance in  
23 Lee County?

24 A. Yes.

1 Q. And the same goes if I refer to the "original  
2 Ordinance," you'll understand that I'm referring  
3 to the first Ordinance in Lee County governing  
4 solar energy systems?

5 A. Yes.

6 Q. Are you familiar with the terms of the original  
7 Ordinance?

8 A. Yes, I am.

9 Q. And are you familiar with the terms of the new  
10 Ordinance?

11 A. Yes.

12 Q. Under the terms of the original Ordinance, is  
13 the siting of a solar energy system allowed as a  
14 Special Use in agriculturally-zoned land?

15 A. Yes, a solar energy system is allowed and  
16 permitted in the AG-1 district, agricultural  
17 district, as a Special Use.

18 Q. Is the same true under the terms of the new  
19 Ordinance?

20 A. Yes.

21 Q. Are you familiar with what's known as the Lee  
22 County Comprehensive Plan?

23 A. Yes, I am.

24 Q. And do you know roughly when the Comprehensive

1 Plan was passed by Lee County?

2 A. Approximately 2009 or 2010.

3 Q. And was the new -- to the best of your  
4 knowledge, was the new Ordinance passed after  
5 the Lee County Comprehensive Plan in Lee County  
6 was passed?

7 A. Yes. To the best of my knowledge, yes, it was.

8 Q. Are you familiar with some of the goals of the  
9 Comprehensive Plan?

10 A. I am.

11 Q. So one of the goals is to maintain the  
12 agricultural economy in the county by limiting  
13 nonagricultural development on prime farm  
14 ground.

15 What, if anything, can you speak to this  
16 first goal with respect to the project?

17 A. With respect to the Comprehensive Plan and this  
18 goal, a solar energy system such as this is a  
19 temporary use of the land. The land now,  
20 currently under agricultural row crop  
21 production, is proposed in this case to  
22 temporarily be used for another form of  
23 production, that of sunlight into electricity.  
24 The land itself will be allowed to rest,

1 essentially saving this area, temporarily -- you  
2 know, shifting temporarily to another form of  
3 production, electrical production, as opposed to  
4 agricultural row crop production. That allows  
5 it to return to that agricultural row crop  
6 production, should the owners of the property  
7 elect to return that property at that time.

8 So yes, the SES, the solar energy system,  
9 is a compatible agricultural use.

10 Q. Is the project taking participating parcels out  
11 of agricultural production?

12 A. No, it is not. It is taking it -- I'm sorry.  
13 It is taking it out of agricultural row  
14 production, but overall the use is still an  
15 agricultural use in utilizing additional and  
16 natural resources. In this case, the renewable  
17 resource is sunlight to produce electricity.  
18 And, again, this use is compatible and is  
19 allowed under both the new and the original  
20 Ordinance.

21 Q. Are you familiar with what's known as the  
22 productivity index, or PI, of soils?

23 A. Yes, I am.

24 Q. And can you tell us roughly what that is?

1 A. The PI is a -- productivity index is a value  
2 that is assigned to a specific soil type. It is  
3 the -- in a way, the measure of the soil's  
4 productivity. It takes into account crop yields  
5 and other factors, but ultimately it is a value  
6 assigned as the productivity index.

7 Soils with prime farmland soils are  
8 generally classified as Class A, Class B and  
9 Class C soils. Class A soils generally have a  
10 PI value of 143 to 147, Class B have a value of  
11 117 to 132, and Class C values are from 100 to  
12 116.

13 Q. And did you personally calculate the PI of the  
14 soils within this project area?

15 A. I utilized an online program called AgriData,  
16 Incorporated, Surety Pro, to determine this  
17 number.

18 Q. And so how did you use that program? Did you  
19 input the project parcels? Or walk us through  
20 that, please.

21 A. Yes, so the project area is input into, again,  
22 the AgriData, Incorporated, Surety Pro system.  
23 In that, a map and data are exported from that  
24 system. Each of the soil types that are

1 identified within the project area have that  
2 assigned PI value. And based on the acreages of  
3 those soils within the project, a final weighted  
4 average productivity index was provided. And,  
5 again, that is an export of the AgriData  
6 programming system.

7 Q. So using the AgriData Surety Pro, what were the  
8 PI's of the soils within the project area?

9 A. The PI, as determined by the AgriData Surety  
10 Pro system is 123.5.

11 Q. And was that a weighted average?

12 A. That is correct. The weighted average -- so  
13 the PI itself is a single number, and the  
14 weighted average is the average over the  
15 different soil types weighted -- given a certain  
16 weight based on that value.

17 Q. And so is it a fair statement that according to  
18 the Surety maps, the weighted PI of the project  
19 is within Class B?

20 A. Yes. 123.5, the Class B soils are determined  
21 to be 117 to 132. So, yes, Class B.

22 Q. And to the best of your knowledge, did the Lee  
23 County Soil and Water Conservation District  
24 calculate the PI of the soils within the

1 project?

2 A. Yes, they did.

3 Q. And what was the PI, according to the Soil and  
4 Water District?

5 A. The information received from the Soil and  
6 Water Conservation District was that the  
7 weighted PI, productivity index, for the project  
8 area was 113.

9 Q. And are you familiar with how they calculated  
10 that number?

11 A. The number is included as a result of the  
12 Natural Resources Inventory Report. That report  
13 was commissioned, as required by both the  
14 original and new Ordinance, to be paid for by  
15 the Applicant and to be included in the  
16 application that was completed.

17 The Soil and Water Conservation District  
18 staff completed that Natural Resources Inventory  
19 Report, and that report did result in a weighted  
20 PI of 113. I do not have the original data to  
21 compare that to; however, that was the  
22 information that we were provided.

23 Q. And so what class is the PI that Soil and Water  
24 calculated?



1 A. 113. That is a Class C soil.

2 Q. So taking into account the weighted PI that you  
3 calculated and the weighted PI that Soil and  
4 Water calculated, would the project be removing  
5 optimum soil out of agricultural production?

6 A. No. Class A soils were -- the weighted PI did  
7 not indicate an average PI of Class A soils.  
8 Again, the weighted PI indicated Class B and  
9 Class C soils. Although they are considered  
10 prime farmland in much of the county, they were  
11 not optimum Class A soils, although they are  
12 prime farmland soils.

13 Q. The next goal of the Comprehensive Plan is to  
14 preserve and enhance the rural character of the  
15 county.

16 What, if anything, can you speak to this  
17 goal with respect to the project?

18 A. Yes. The project is a temporary use of this  
19 land; thereby, preserving and enhancing -- as  
20 the Comprehensive Plan states, preserving and  
21 enhancing the health of the soils over the  
22 course of the temporary use.

23 And speaking to the rural character, the  
24 use of the site as a solar energy system, in

1 this case, conforms to the rural character of  
2 the land, as it is a quiet neighbor that does  
3 not produce sound at night at all. Any sound  
4 that is produced is below the Illinois Pollution  
5 Control Board levels. Minimal lighting will be  
6 utilized for safety purposes, and the project  
7 itself does not generate odors or other off-  
8 property impacts.

9 Q. The next goal is to preserve and enhance a  
10 farming lifestyle of the county.

11 Will the project preserve and enhance the  
12 farming lifestyle of the county?

13 A. Yes. It allows families to keep farms -- to  
14 keep farms within the family for future  
15 generations. And, again, as a temporary use,  
16 the land can be returned at the end of the life  
17 of the project to future farming practices.

18 It does provide an additional source of  
19 revenue for those farm families who have chosen  
20 and elected to enter into agreements with Duke  
21 Energy for a specific period of time to use  
22 their land for another form of production. And,  
23 again, the project area -- the properties within  
24 the project will be allowed to return to an

1 agricultural row crop use, as is primarily the  
2 case at this point.

3 Q. How will the project support the other goals of  
4 the Comprehensive Plan?

5 A. Yes, so the Comprehensive Plan, the project is  
6 consistent with many other portions of the  
7 Comprehensive Plan. It will help to implement  
8 this plan by, as an example, improving air  
9 quality, and this is a renewable resource that  
10 does not produce air impacts and is an odorless  
11 use of the site. The project itself will be  
12 preserving and improving long-term productivity  
13 of soils -- I'll go into that a little bit  
14 later -- by planting native grasses and forbs  
15 and maintaining that throughout the life of the  
16 project and in place -- for a short time in  
17 place of row crops.

18 The project will also follow the County  
19 sustainability goals. It will enhance and  
20 improve the local electric grid and utility  
21 infrastructure, as has been testified to  
22 beforehand. It will be creating good-paying  
23 locally-based jobs where available, and it will  
24 also be increasing the property tax base.

1 Q. And I believe you testified earlier that you  
2 helped compile the application materials for  
3 this project; is that correct?

4 A. Yes, that's correct.

5 Q. I'm going to hold up to you this, what I call,  
6 application binder. It's a white three-ring  
7 binder. Are you familiar with this?

8 A. Yes.

9 Q. And it's titled, Special Use Application  
10 Submitted by South Dixon Solar, LLC, for the  
11 South Dixon Solar Project; is that correct?

12 A. Yes, that's correct.

13 Q. Okay. And what is this?

14 A. This is the application materials that were put  
15 together that go with the Special Use Petition.

16 Q. And did you prepare the application binder in  
17 preparation for the Zoning Board of Appeals  
18 hearing process?

19 A. Yes, I did. I compiled, consolidated and  
20 organized materials into this application for  
21 Special Use and provided the hard copy binders  
22 to the Lee County Zoning Administrator.

23 MS. KENNEDY: Judge, I would like to mark  
24 this Petitioner's Exhibit 4.

1 JUDGE SLAVIN: Done -- well, no, you can  
2 mark it but I got it would be marked 5.

3 MS. KENNEDY: Okay.

4 JUDGE SLAVIN: Unless I lost count. No,  
5 that's right.

6 (Petitioner's Exhibit Number 5  
7 marked for identification.)

8 Q. (By Ms. Kennedy:) Have you previously  
9 identified wildlife, environmental, soils,  
10 vegetative and wetland issues for other solar  
11 energy projects?

12 A. Yes, I have. I have been -- in my current  
13 position, I have evaluated pre-developments,  
14 developments, operations and construction for  
15 over 200 solar projects, many have been in the  
16 state of Illinois. Approximately ten of those  
17 solar projects we have evaluated are in the  
18 permitting process or have gone through the  
19 permitting process.

20 We have evaluated further projects here in  
21 the state of Illinois; however, it was  
22 determined earlier on in the process than this  
23 that those projects would not be -- would not be  
24 viable for specific reasons. One of the other

1 things that our firm assists developers in is  
2 identifying early on characteristics of the site  
3 from a natural resource perspective, from the  
4 wildlife and wetlands perspective, floodplains,  
5 which sites, although have specific  
6 characteristics that would be good for a solar  
7 project, have characteristics that would not  
8 make them -- or it would not make them a viable  
9 project, whether it be -- you know, there would  
10 be impacts to species, impacts to the floodplain  
11 necessary.

12 So, again, this project has been vetted,  
13 has gone through that process, and we're at this  
14 point because of the constraints that we have  
15 evaluated at this point and believe it is a  
16 viable project.

17 Q. And are you familiar with the wildlife and  
18 environmental studies prepared for the South  
19 Dixon Solar project?

20 A. Yes, I am.

21 Q. And I believe you have a PowerPoint  
22 presentation for tonight; is that right?

23 A. I do.

24 MS. KENNEDY: If we can pull it up on the

1 screen, please.

2 Judge, may I mark this as an exhibit?

3 Would that be Number 4 then?

4 JUDGE SLAVIN: Yes.

5 MS. KENNEDY: Thank you.

6 JUDGE SLAVIN: Because I already marked  
7 that when I got handed to it -- it handed to me.

8 (Petitioner's Exhibit Number 4  
9 marked for identification.)

10 Q. (By Ms. Kennedy:) And, Ms. Klingshirn, did you  
11 personally prepare this PowerPoint presentation?

12 A. Yes, I did.

13 Q. And did you prepare it in anticipation of  
14 tonight's hearing?

15 A. Yes.

16 Q. Please proceed.

17 THE WITNESS: Could you please go to  
18 Slide 2.

19 A. So this slide runs through, again, a little bit  
20 of the support that we have given to this  
21 project, again reiterating that this project is  
22 at the point that it is at because it has been  
23 evaluated for specific site constraints that  
24 this project is moving forward into the

1        permitting -- the zoning and then permitting  
2        process as a viable project in that several  
3        studies have been completed to evaluate, in my  
4        expertise, wetlands, wildlife and cultural  
5        resources, soils, and those will be what I will  
6        be going through in this presentation.

7                THE WITNESS:    So if you could please go to  
8        Slide 3.

9    Q.    (By Ms. Kennedy:)    And what wetland studies  
10        have been prepared to date?

11    A.    To date, a preliminary wetland and habitat  
12        evaluation report was prepared specifically for  
13        the project.    The results of that study have  
14        been incorporated into the site plans, which  
15        have been testified earlier in this process.  
16        And the results of the wetland -- I'm sorry, the  
17        wetland evaluation were taken into account when  
18        Kimley-Horn's engineers were preparing the site  
19        layout.

20                Further studies will likely be required  
21        further down the permitting process.    If permits  
22        would be required for minimal impacts to stream  
23        crossings or roads, that would be determined  
24        later down the line, and those permits would



1 need to be obtained. Federal law with regard to  
2 the Clean Water Act would need to be adhered to  
3 and will be adhered to.

4 Q. What wildlife studies have been prepared to  
5 date for this project?

6 A. The Preliminary Wetland and Habitat Evaluation  
7 Report, again, was completed here at the early  
8 outset of the project. The habitat and species  
9 that were evaluated are twofold, at the federal  
10 level and at the State level. At the federal  
11 level, the evaluation determined, you know,  
12 again that further studies would be required.  
13 Further studies are anticipated moving into  
14 2022. Again, with the longer the time --  
15 development time for those projects, these  
16 studies are in the appropriate time of  
17 development. So following the zone processes,  
18 moving into the more targeted permitting  
19 process, additional studies will be required and  
20 they will be completed per federal and State  
21 regulations.

22 MS. KENNEDY: Can we move to the next  
23 slide real quick, please.

24 Q. (By Ms. Kennedy:) I'm sorry. Please proceed.

1 A. Thank you.

2 Moving into the consultation part of the  
3 wildlife studies. So consultation with the U.S.  
4 Fish and Wildlife at the federal level is  
5 ongoing, and the project will be designed so  
6 that no federally-protected species will be  
7 impacted -- negatively impacted.

8 Q. Did the Applicant initiate a consultation with  
9 the Illinois Department of Natural Resources for  
10 any endangered species and wetlands?

11 A. Yes. As required by both the original and new  
12 Ordinance, the Applicant completed consultation  
13 with the Illinois Department of Natural  
14 Resources through the Ecological Compliance  
15 Assessment Tool.

16 Q. Is that known as the EcoCAT?

17 A. Yes, the EcoCAT.

18 THE WITNESS: If you can please move to  
19 Slide 5.

20 Q. (By Ms. Kennedy:) And would you tell us  
21 generally what the EcoCAT is?

22 A. Yes. So the EcoCAT is an online process by  
23 which any development project -- and other  
24 projects as well, if there's a trigger -- would

1 be required to initiate consultation with the  
2 Illinois Department of Natural Resources. That  
3 is completed through the EcoCAT online tool.  
4 The Applicant is required to provide specific  
5 site information -- the location of the project,  
6 anticipated actions, site disturbance to be  
7 taken, what components are anticipated that will  
8 be put on the site. The system and the IDNR  
9 take everything into account and they provide  
10 back a consultation response.

11 Q. And what was that response?

12 A. The response was that no further consultation  
13 was necessary and that consultation per State  
14 statute was terminated.

15 Q. And so just to make it clear, the IDNR found no  
16 expected impact on threatened or endangered  
17 species; is that correct?

18 A. That's correct.

19 Q. And is that why it was terminated?

20 A. That's correct.

21 Q. The consultation was terminated? I'm sorry.

22 A. Yes. It was determined that there would not be  
23 an anticipated impact to State-protected  
24 species. And additional resources, as well as

1 the EcoCAT, does take into account additional  
2 natural resources, and in their database and in  
3 their State surveys, again, yes, they determined  
4 there would be no negative impact and they  
5 determined that consultation with them was  
6 terminated at this time.

7 Q. Was there a preliminary cultural resource study  
8 performed for the project?

9 A. Yes, there was.

10 THE WITNESS: Please go to the next slide.

11 Q. (By Ms. Kennedy:) And are you familiar with  
12 that study?

13 A. Yes, I am.

14 Q. Can you tell us a little bit about the study  
15 and its results?

16 A. Yes. So this is a preliminary cultural  
17 resource study that was commissioned by Duke  
18 Energy, the result of which indicated that  
19 further study would be recommended should  
20 certain actions be taken. Beyond this zoning  
21 process, the project is required to adhere to  
22 State and federal law, both the Section 106 of  
23 the Natural Historic Preservation Act, as well  
24 as the Illinois Historic Preservation Act for

1 specific State actions. Thereby, requiring the  
2 project to adhere to additional federal and  
3 State laws with regard to potential impacts to  
4 agricultural or archaeological resources and  
5 provides for mitigation and avoidance measures,  
6 which would be adhered to.

7 Q. And did you perform a Natural Resources  
8 Information screening for this project?

9 A. The screening was provided and was performed by  
10 the Lee County Soil and Water Conservation  
11 District staff.

12 Q. And to the best of your knowledge, was a report  
13 generated?

14 A. Yes, a Natural Resources Inventory Report was  
15 provided to the Applicant and was provided to  
16 Lee County staff and is included in the  
17 application as Appendix B.

18 Q. Do you know roughly how large that report is?

19 A. I believe Ms. Duffy, before this meeting, said  
20 it was about 1400 pages. So that document was  
21 provided electronically, and therefore it's not  
22 in the binders. However, it is available  
23 electronically.

24 Q. Thank you.

1           Can you describe that screening and tell  
2           us who did it specifically?

3   A.    Yes.  So the Lee County Soil and Water  
4           Conservation District's staff completed that  
5           report.  Per the original Ordinance and the new  
6           Ordinance, that is a requirement, that Duke  
7           commission that study and present that study  
8           before the ZBA.

9   Q.    Are you familiar with the Lee County Solar  
10           Ordinance's requirements with respect to weed  
11           and grass control and the vegetation plan?

12   A.    Yes, I am.

13   Q.    Can you tell us a little bit about that plan?

14   A.    Yes.

15           THE WITNESS:  If you could go to the next  
16           slide, please.  Great, thank you.

17   A.    Yes.  So the weed/grass control and landscape  
18           plan are portions of the -- both, again, the  
19           original Ordinance and the new Ordinance to be  
20           provided with the application.

21           The weed/grass control and landscape plan  
22           that Duke Energy has put together is included as  
23           Appendix L of the application.  That weed/grass  
24           control and landscape plan goes through the fact

1       that the project will be implementing and will  
2       be planting a native grass cover across the  
3       project that will be maintained throughout the  
4       life of the project and remain in place.

5               It also provides for invasive species  
6       control, as well as stipulations for including  
7       pollinator habitat, grasses and forbs, flowers,  
8       within that native grass cover on the site,  
9       thereby providing habitat for pollinator species  
10      such as butterflies, bees, et cetera.

11   Q.    (By Ms. Kennedy:) Are you familiar with what's  
12       known as the Agricultural Impact Mitigation  
13       Agreement, or what's referred to as the AIMA?

14   A.    Yes.

15   Q.    And what is it?

16   A.    The AIMA has been talked about in this  
17       testimony previously with regard to drain tile  
18       requirements, survey mapping, et cetera. As  
19       Mr. Huddleston testified to, it also has  
20       decommissioning requirements, as testified by  
21       Duke personnel previously as well. But it also  
22       stipulates for several other environmental  
23       factors, such as topsoil and maintaining topsoil  
24       in place, not removing topsoil from the site.

1           Again, the AIMA itself was put together  
2           and is implemented by the Illinois Department of  
3           Agriculture, and it was put together with  
4           farmers in mind and with input from many  
5           different stakeholders, and one of the  
6           stakeholders being developers in this case.

7           So the intent of the AIMA, and I believe  
8           the goal of the AIMA as well from all these  
9           different stakeholders, is to put together a  
10          binding agreement document. In this case, a  
11          fully-executed version has been provided by Duke  
12          in its application. And the intent of the AIMA  
13          itself is to preserve and, in some likelihood,  
14          restore the integrity of the agricultural land  
15          that was for some time removed from row crop  
16          production and placed into another type of  
17          production.

18 Q.       Will the project be required to prepare a  
19           stormwater pollution prevention plan?

20 A.       Yes, it will.

21 Q.       And is this plan required by an agency?

22 A.       Yes. This plan is required as part of a permit  
23           that is required by the Illinois Environmental  
24           Protection Agency. The stormwater pollution



1 prevention plan will have to be created as part  
2 of that State permit. The State permit is  
3 required for the disturbance of -- for  
4 development that disturbs over one acre of land  
5 or more.

6 So prior to construction, the -- Duke will  
7 be required to commission a professional  
8 engineer to create a stormwater pollution  
9 prevention plan that takes into account all  
10 aspects of the project, location of the project,  
11 the grade of the project, the exact location,  
12 the final design of the project, and determine  
13 that -- and prove that and ensure that Duke will  
14 be required to comply with certain erosion  
15 control and stormwater measures to ensure that  
16 erosion does not leave this -- you know, leave  
17 the site, as specific stormwater erosion  
18 sediment control measures are in place. Again,  
19 this is completed by a professional engineer and  
20 is required at the State level.

21 Q. So is it a fair statement that the stormwater  
22 pollution prevention plan is aimed at  
23 controlling sediment and erosion pollution,  
24 while also maintaining a stabilized site during

1 construction?

2 A. Yes, that's correct.

3 Q. Does this plan need to be approved by any  
4 entity?

5 A. Yes, it is approved by the IEPA, the Illinois  
6 Environmental Protection Agency.

7 Q. And must it be approved prior to construction  
8 of the project?

9 A. Yes, it must be approved prior to any  
10 disturbance of the ground for construction  
11 activities.

12 MS. KENNEDY: Judge, I have nothing  
13 further.

14 JUDGE SLAVIN: Okay. How about you,  
15 Mrs. Duffy, any questions of this witness?

16 MS. DUFFY: No questions, Judge.

17 JUDGE SLAVIN: Renewable Energy  
18 Coordinator Henkel?

19 MS. HENKEL: None, thank you.

20 JUDGE SLAVIN: Mr. Boonstra?

21 STATE'S ATTORNEY BOONSTRA: No questions,  
22 thank you.

23 JUDGE SLAVIN: Okay. Turning to the ZBA.  
24 Mr. Forster, any questions of this witness?

1 MR. FORSTER: No questions.

2 JUDGE SLAVIN: I'm sorry. Mr. Forster,  
3 any questions of this witness? No?

4 MR. FORSTER: No questions.

5 JUDGE SLAVIN: Mr. Buhrow?

6 MR. BUHROW: No questions.

7 JUDGE SLAVIN: Mr. Bothe?

8 MR. BOTHE: No questions.

9 JUDGE SLAVIN: And how about you,  
10 Mr. Meyer?

11 MR. MEYER: No questions.

12 JUDGE SLAVIN: Okay. I forgot who I  
13 started with last. I think I started with  
14 people in the room.

15 So addressing Zoomers, if you have a  
16 question of Ms. Klingshirn, now is the time. If  
17 you do have a question, please, if you're  
18 videoconferencing, down at the bottom of the  
19 screen where the tab thing -- where the tab says  
20 "Participants," click on that.

21 MR. HENRIKSON: We have a question from --

22 JUDGE SLAVIN: We should have -- well,  
23 don't interrupt, please.

24 If -- I forgot what I said.



1 Q. How many acres of Class A soils are in the  
2 project's scope?

3 A. I would have to do some calculations, but -- so  
4 I can't answer that right now.

5 Q. How many acres of Class B are in the project's  
6 scope?

7 A. I have the document with me; I don't have the  
8 numbers added up. So we can provide that at a  
9 later date, but I can't answer that question.

10 Q. And the same question would be for Class C.

11 But don't you think those are important  
12 numbers to share?

13 A. Those numbers are at my disposal and I'm happy  
14 to do those calculations. I have not done them  
15 in preparation for this hearing. That was not  
16 in question.

17 MR. TOURTILLOTT: And that's the only  
18 questions I had.

19 JUDGE SLAVIN: Thank you.

20 MR. TOURTILLOTT: Thank you.

21 JUDGE SLAVIN: Any other Zoomers with  
22 questions, raise your hand. I'll give you a few  
23 seconds to figure out the technology.

24 I don't see any. I have got my neck

1 craned pretty well, but does anybody see any?

2 (No verbal response.)

3 JUDGE SLAVIN: Okay. Moving from the  
4 Zoomers to in person. I see Mr. Lawson's hand  
5 raised first.

6 Mr. Boonstra, do you mind turning on the  
7 light --

8 STATE'S ATTORNEY BOONSTRA: Sure.

9 JUDGE SLAVIN: -- please?

10 MR. LAWSON: Jamie Lawson, adjacent  
11 landowner.

12 EXAMINATION

13 BY MR. LAWSON:

14 Q. Is this the same presentation -- is this the  
15 exact same presentation that you gave last time  
16 except for a few minor alterations, additions or  
17 subtractions?

18 A. The presentation was updated based on what has  
19 changed with the studies that have been  
20 completed on the site and the status of the  
21 studies.

22 Q. So not much has changed, based on --

23 A. It was updated in this presentation, but yes,  
24 it is a similar presentation.

1 Q. Has the land changed since your last  
2 presentation, the PI of the land?

3 A. The PI index provided by the Soil and Water  
4 Conservation District in December was updated  
5 internally by their staff. That update was  
6 provided to Ms. Duffy. The PI itself for this  
7 hearing, I ran through the AgriData Surety Pro  
8 system. Again, as testified, these are the  
9 numbers that are produced by two well-informed,  
10 you know, projects or personnel and that's --

11 Q. Okay. Thank you.

12 And what was the cutoff for A soils,  
13 score-wise?

14 A. The cutoff for A soils, I believe -- one  
15 second. Apologies.

16 The cutoff for A soils is 133.

17 Q. How did you on your last presentation come up  
18 with a -- the weighted average productivity  
19 index for this area is 137 and this presentation  
20 is omitted?

21 A. So it would change based on updated information  
22 that we got. So initially that 137 number,  
23 again, that's run by the Soil and Water  
24 Conservation District, that was the --

1 JUDGE SLAVIN: Could you slow down,  
2 please.

3 THE WITNESS: Yes.

4 A. -- that was the number provided by staff with  
5 the Soil and Water Conservation District.  
6 Again, there was some questions on the number  
7 that was --

8 JUDGE SLAVIN: Whoop, whoop, you're  
9 doing -- it's hard for the court reporter to  
10 keep up with you.

11 THE WITNESS: Apologies.

12 JUDGE SLAVIN: It's okay.

13 A. So the number itself was revisited, as there  
14 were questions as to her methodologies. That  
15 was updated and provided at the time to be that  
16 number of 113. So it was entered in previously  
17 as 137, was the information that we had at the  
18 time.

19 Q. Approximately how long ago, in months, would  
20 you say that this number was achieved or derived  
21 or arrived at, whatever the proper term is?  
22 That 137, how long? Six months?

23 A. The original NRI report produced by County  
24 staff was provided to us in December of 2020.



1 Q. And the original one was 137, which would fall  
2 under A soils?

3 A. Yes, it falls within the range of the Class A  
4 soils.

5 Q. Thank you.

6 Are you being paid by Duke Energy to be  
7 here?

8 A. Yes. As testified, our firm is at the  
9 forefront of permitting and environmental  
10 compliance, and they have paid us to be here to  
11 ensure they are complying with, at this point,  
12 the Special Use process.

13 Q. Thank you.

14 Are you familiar with Lee County's  
15 Title 10 Zoning Regulations, 10-1-4, Rules of  
16 Definitions, which reads: Agriculture,  
17 agricultural use, land or buildings and  
18 machinery, the principal of which includes on or  
19 more -- or, I'm sorry, one or more of the  
20 following:

21 The commercial production of farm  
22 products, feeding, breeding, and management of  
23 livestock or poultry, including exotic and farm  
24 animals, dairy, fur, bees and fish farming,

1 accessories, use -- accessory uses customarily  
2 incidental to agricultural activities, including  
3 but not limited to, farm residences, growing,  
4 developing, processing, conditioning or selling  
5 of hybrid seed corn, seed beans, seed oats, or  
6 other farm seeds. Agriculture does not include  
7 the extraction of sand, gravel or limestone,  
8 even when such extraction is related to an  
9 agricultural activity.

10 Were you familiar with that definition  
11 from Lee County?

12 A. Yes.

13 Q. Does the Lee County rules and definitions of  
14 agriculture just read include industrial solar  
15 power plants?

16 A. No, but --

17 Q. Thank you.

18 A. -- by Special Use, the solar energy system is  
19 an allowed use in an agricultural district.

20 MR. LAWSON: I have two pictures here.  
21 Could you -- I want her to see them and I don't  
22 know if she can see them from here. Could you  
23 take those up to her and maybe hold them in  
24 front of the camera so the Zoomers can see them

1 as well?

2 JUDGE SLAVIN: Only if you have got --

3 MR. LAWSON: Yeah, it's a question.

4 JUDGE SLAVIN: You're supposed to have  
5 eight copies of something you would submit as a  
6 picture. I know I said it at the beginning.

7 Can you make copies of that?

8 Unless it's already in evidence. I just  
9 looked over Dee's shoulder and I see it's --

10 MR. LAWSON: I don't believe it's included  
11 in any other evidence.

12 JUDGE SLAVIN: We'll take a break  
13 while she makes copies.

14 MR. LAWSON: Okay. Thank you.

15 JUDGE SLAVIN: Five minutes, or ten of.  
16 Take a break.

17 (A recess was taken at 6:47 p.m.  
18 and proceedings resumed at  
19 6:55 p.m.)

20 JUDGE SLAVIN: All right. Back on the  
21 record.

22 (IP Exhibits A and B marked for  
23 identification.)

24 JUDGE SLAVIN: Ms. Klingshirn, do you have

1 in front of you what's been marked IP A and  
2 IP B?

3 THE WITNESS: I do not.

4 JUDGE SLAVIN: Okay. You may inquire,  
5 Mr. Lawson.

6 MR. LAWSON: Your Honor, I have to  
7 apologize. I was not here, I came in late the  
8 first night, so I wasn't aware of the copy  
9 procedure.

10 Q. (By Mr. Lawson:) In your professional opinion,  
11 could you tell me which picture more accurately  
12 depicts 3838-acre solar South Dixon Solar, LLC,  
13 project once built, Picture A, as provided by  
14 Duke Energy, or Picture B, as provided by me?

15 A. I do not --

16 JUDGE SLAVIN: He's not referring to A and  
17 B; he's referring to IP A and IP B.

18 Is that correct, Mr. Lawson?

19 MR. LAWSON: That's correct.

20 Q. (By Mr. Lawson:) IP A or IP B.

21 JUDGE SLAVIN: Oh, I thought you had them  
22 in front of you.

23 THE WITNESS: No. I was just handed the  
24 document.

1 A. Could you repeat your question?

2 Q. (By Mr. Lawson:) In your professional opinion,  
3 would you please tell me which picture more  
4 accurately depicts the 3838-acre solar -- South  
5 Dixon Solar, LLC, project once built,  
6 Picture IP A, provided by Duke Energy, or  
7 Picture IP B, produced by myself -- provided by  
8 myself?

9 A. IP A, as provided by Duke Energy.  
10 Additionally, photos looking very similar to, if  
11 not from the same project, IP A were included in  
12 Patrick Smith's testimony. IP A depicts a much  
13 more -- depicts what the project will look like.  
14 The project will be solar panels throughout  
15 approximately one-third of the leased area,  
16 while the remaining two-thirds will be  
17 maintained native grassland.

18 Q. So does the photo provided by Duke Energy show  
19 the 3838 acres that will be the total property  
20 involved in this project or does it merely show  
21 a ground view of a few solar panels?

22 A. It shows the ground view as would be typical of  
23 those within a closer vicinity of the project as  
24 opposed to an aerial view, which, again, was a

1 conceptual, you know, preliminary site plan  
2 showing where these panels would be included  
3 within the site plan; however, this view is what  
4 would be more typically seen, although not  
5 exactly.

6 Q. In your professional opinion, could you tell me  
7 which picture most accurately depicts the 3838  
8 acres of solar that was provided?

9 A. I don't know how many acres IP B depicts, so I  
10 couldn't say.

11 Q. Which picture is closer to 3838 acres, Picture  
12 IP A or Picture IP B?

13 A. I don't know the acreage depicted in IP B, I  
14 don't know the height or scale, so I can't give  
15 an accurate answer.

16 Q. Have you ever set foot on this project site?

17 A. I have.

18 Q. Thank you.

19 Are you aware that when Duke Energy  
20 Renewables' paid-for expert witness Tom  
21 Huddleston was asked by Duke Energy Renewables'  
22 attorney to describe the current state of the  
23 proposed properties that he stated it was prime  
24 farmland consisting of row crops and corn and

1 beans -- of corn and beans?

2 A. Yes, I'm aware that was his testimony.

3 Q. So if in further questioning from me refers to  
4 prime farmland, you will know that I am  
5 referring to the 3838 acres proposed for the  
6 industrious solar plant known as South Dixon  
7 Solar?

8 A. The acreage of the project is 88 percent  
9 farmland by the Natural Resources Conservation  
10 Service.

11 Q. What is the total acreage of the project?

12 A. 3,838 acres.

13 Q. Thank you.

14 Are you aware that all of Duke Energy  
15 Renewables' paid-for expert witnesses are the  
16 same as the first petition for South Dixon  
17 Solar?

18 A. I believe additional Duke staff provided expert  
19 witness testimony, but the remainder of  
20 witnesses are the same for this project.

21 Q. Thank you.

22 In your professional opinion, would you  
23 say that all provided slide shows are basically  
24 the same as the first petition for South Dixon

1 Solar with the exception of some very minor  
2 additions or subtractions?

3 MS. KENNEDY: Judge, I'm going to make an  
4 objection. She can't speak to other  
5 presentations prepared by other people or expert  
6 witnesses.

7 JUDGE SLAVIN: You can rephrase the  
8 question, Mr. Lawson, in terms of, of the ones  
9 you have seen.

10 Q. (By Mr. Lawson:) Have you participated in  
11 these complete hearings for this project's  
12 petitions?

13 A. Yes, I have.

14 Q. Have you seen all of the presentations that  
15 were presented by the expert, paid-for  
16 witnesses?

17 A. I have.

18 Q. Would -- in your professional opinion, are they  
19 very similar to the ones that were provided last  
20 petition, which you also participated in?

21 A. Any updates that would have been made would be  
22 pertinent to the updated petition and the  
23 updated application.

24 Q. In your professional opinion, would you say the



1           only significant changes from the first petition  
2           and second petition is that Duke Energy  
3           Renewables hired the Lee County Board Chairman's  
4           daughter, Courtney Kennedy, to represent them;  
5           that Duke Energy Renewables is offering  
6           residents \$2,000 per year through the good  
7           neighbor program not to oppose the project; and  
8           the addition of the Lee County tax assessor's  
9           testimony?

10   A.    I am aware that there have been changes in  
11           counsel. I am aware that the Ordinance has been  
12           updated. However, I am aware of what's gone  
13           into the application, and the application is  
14           complete.

15   Q.    Thank you.

16                 Would it be a fair statement to say that  
17           when the paid-for expert witnesses were asked  
18           questions by Duke Energy Renewables' attorneys,  
19           they were able to answer all the questions;  
20           however, the paid expert witnesses were not able  
21           to answer all the questions asked by Interested  
22           Parties?

23   A.    I'm sorry, what was the question?

24   Q.    Were all questions answered that were asked of

1 the witnesses by Interested Parties?

2 A. Witness -- I'm sorry, expert witnesses answered  
3 questions to the best of their ability by the  
4 public.

5 Q. With a simple yes or no answer, were all  
6 questions answered that were asked of expert  
7 witnesses by Interested Parties?

8 A. I can't speak to other expert witnesses may  
9 have not answered sufficiently in the eyes of  
10 the public.

11 Q. I didn't ask what they answered. I just asked  
12 how they answered, if they answered; yes or no.

13 A. I believe there are other details that could  
14 have been provided; however --

15 Q. I'm not asking about details. I am just asking  
16 for a yes or no. Were they able to answer all  
17 questions, either a yes or a no?

18 A. No.

19 Q. Thank you.

20 Are you aware that when asked questions  
21 about Duke Energy Renewables' slide show  
22 presentation, paid-for expert witness Patrick  
23 Smith stated that the Duke Energy Renewables'  
24 slide show presentation was outdated and not

1 accurate?

2 A. I'm aware of his testimony. I'm not -- there  
3 are no specific components that have been chosen  
4 for the project. Again, they will be at a  
5 specific tier of either inverters or panels, but  
6 at this time it's unknown what will be put into  
7 the project, and therefore there are multiple  
8 different panel types, inverters that could be  
9 shown.

10 Q. Again, I am not asking for components. I'm  
11 just asking if you were aware that Patrick Smith  
12 stated that Duke Energy Renewables' presentation  
13 was outdated and not accurate?

14 A. I'm aware.

15 Q. Thank you.

16 Are you aware that paid-for expert witness  
17 Mike MaRous was investigated by the Lee County  
18 Sheriff's Office?

19 A. I'm not aware.

20 Q. Are you aware that Mike MaRous provided the  
21 property value impact analysis for Shady Oaks II  
22 Wind Farm located in Lee County in June of 2020,  
23 and when asked by me during the first petition  
24 and while under oath if he had ever performed a

1 property value study for any wind farms in Lee  
2 County he said no?

3 A. That's not my area of expertise, so I can't  
4 speak to the details of his report.

5 Q. Are you aware that the details of his report  
6 are public knowledge and are available online?

7 A. Yes.

8 Q. Thank you.

9 Are you also aware that Mike MaRous, with  
10 all of his years of expertise and history of at  
11 least -- and a history of at least once not  
12 telling the truth while under oath only provided  
13 us with three matched pairs and that the six  
14 houses that he included in his presentation  
15 titled "Residential sales nearest to South Dixon  
16 Solar" were sold well before the first petition  
17 for South Dixon Solar was ever filed?

18 A. Again, he is the expert witness, I am not, and  
19 his report is much longer than what was included  
20 in his testimony, as I put that report into the  
21 application.

22 Q. I'm just -- all I'm referring to is the report  
23 that was presented.

24 A. I'm sorry, what was the question?

1 Q. Are you aware, with all his years of expertise  
2 and history, of at least one -- history of at  
3 least once not telling the truth while under  
4 oath, and only providing us with three matched  
5 pairs, and that with the six houses that he  
6 included in his presentation titled "Residential  
7 sales nearest to South Dixon Solar" were sold  
8 before -- well before the first petition for  
9 South Dixon Solar was filed?

10 A. I'm not aware.

11 Q. Would it not be a more accurate statement  
12 with -- that those six houses should have been  
13 stated residential sales nearest to prime  
14 farmland in Lee County, rather than South Dixon  
15 Solar, as it did not exist at the time?

16 A. It was not my expert witness testimony. I  
17 can't answer that question.

18 Q. Thank you.

19 Are you aware that Duke Energy Renewables,  
20 Inc., has a less-than-favorable credit report  
21 from Dun & Bradstreet Corporation? According to  
22 Dun & Bradstreet, Duke Energy Renewables, Inc.,  
23 has payment -- has payment behavior concerns, as  
24 well as a very high tendency for severely

1 delinquent payments?

2 A. I'm not aware. We have worked with Duke Energy  
3 for over ten years on successful projects.  
4 That's the extent of my awareness.

5 Q. Are you aware that Duke Energy Renewables,  
6 Inc., stated during testimony for their first  
7 petition that all Interested Parties have been  
8 notified by certified mail, and that, in  
9 reality, all Interested Parties were not  
10 notified, and the ones that were notified were  
11 not notified by certified mail?

12 A. I'm aware.

13 Q. Would you personally enter into a 40-year  
14 agreement with a company that provides a  
15 presentation that is not accurate and is  
16 outdated, has a history with Lee County of not  
17 sticking with a project for its lifespan, has  
18 lied at least twice under oath, allows a person  
19 who has lied at least once while under oath and  
20 has been investigated by the Lee County Sheriff  
21 for comments made while under oath be an expert  
22 witness?

23 JUDGE SLAVIN: I'm sorry, but that's  
24 argumentative and it's not relevant what she

1 would do.

2 MR. LAWSON: Your Honor, I am simply  
3 asking her opinion.

4 JUDGE SLAVIN: I'm not allowing the  
5 question.

6 MR. LAWSON: Thank you. I wouldn't  
7 either.

8 Q. (By Mr. Lawson:) Does the current character  
9 and aesthetics of the prime farmland contain  
10 massive amounts of PV modules?

11 A. It does not.

12 Q. Does the current character and aesthetics of  
13 the prime farmland contain massive amounts of  
14 polymers?

15 A. It does not.

16 Q. Does the current character and aesthetics of  
17 the prime farmland contain massive amounts of  
18 aluminum?

19 A. It does not.

20 Q. Does the current character and aesthetics of  
21 the prime farmland contain massive amounts of  
22 copper?

23 A. No.

24 Q. Does the current character and aesthetics of

1 the prime farmland contain solar?

2 A. No.

3 Q. Does the current character and aesthetics of  
4 the prime farmland contain lead?

5 A. No.

6 Q. Does the current character and aesthetics of  
7 the prime farmland have an electromagnetic field  
8 across all 3838 acres?

9 A. No, except for the --

10 Q. Does the current character -- I'm sorry.

11 A. -- in-place other components that presumably  
12 create EMF, such as transmission lines.

13 Q. I am aware of that. My question would be --

14 JUDGE SLAVIN: We're not asking if you're  
15 aware. You don't add things. Just ask your  
16 questions.

17 Q. (By Mr. Lawson:) Does the current character  
18 and aesthetics of the prime farmland have an  
19 electromagnetic field across all 3838 acres?

20 A. I can't answer that question.

21 Q. Thank you.

22 Does the current character and aesthetics  
23 of the prime farmland contain massive amounts of  
24 dual-paned tempered glass?



1 A. No.

2 Q. Does the current character and aesthetics of  
3 the prime farmland contain an 8-foot-high wire  
4 fence?

5 A. No.

6 Q. Did you see an 8-foot-high wire fence while  
7 visiting the project?

8 A. Not in my -- not in my experience.

9 Q. Thank you.

10 If this project did not exist and the  
11 prime farmland would continue to be used today,  
12 would the current character and aesthetics of  
13 the prime farmland require an international  
14 feasibility study?

15 A. Not to my knowledge.

16 Q. A preliminary wetland delineation and habitat  
17 evaluation?

18 A. That would be required, yes.

19 Q. Okay. An Illinois Department of Natural  
20 Resources Ecological Compliance Assessment Test?

21 A. That's been completed for the project.

22 Q. I'm asking if the project did not exist and it  
23 just remained farmland as it is today, would any  
24 of these be required?

1 A. I can't answer that question. There are a lot  
2 of different triggers that would require the  
3 IDNR to assess a project area.

4 Q. Would it require a Natural Resource  
5 Information, NRI, and a Land Evaluation Site  
6 Assessment, LESA, to remain farm ground?

7 A. Again, there are other triggers that would  
8 require that on the project site.

9 Q. An Agricultural Impact Mitigation Agreement?

10 A. The agreement is specific to solar development,  
11 so no.

12 Q. So it would not?

13 A. No.

14 Q. A drain tile survey?

15 A. Yes, I believe throughout the routine life of  
16 the project as agricultural land, a drain tile  
17 -- specific drain tile studies would need to be  
18 required. In this case, it is going to be  
19 required and will be completed over the project  
20 area.

21 Q. Thank you.

22 A driveway exit permit?

23 A. Depending on the needs of the property.

24 Q. A well and septic permit?

1 A. I can't answer that question.

2 Q. A floodplain development permit?

3 A. The project will not be developing solar panels  
4 in the floodplain; therefore, the floodplain  
5 development permit will not be required at this  
6 time, and I can't speak to what other  
7 development would be proposed to be developed in  
8 a floodplain.

9 Q. Thank you.

10 Downcast lighting?

11 A. The downcast lighting and any lighting  
12 requirements are to the Ordinance specifications  
13 and the Lee County Ordinance, so I can't speak  
14 to other uses or proposed uses of the project.

15 Q. Thank you.

16 Did you view any downcast lighting when  
17 you visited the site?

18 A. I did not personally, no.

19 Q. Thank you.

20 A site plan design?

21 A. Again, dependent on the proposed -- any future  
22 proposed development for any of these  
23 properties.

24 Q. I -- to clarify, I'm only asking if this is to

1 remain farm ground, as it is today. If there  
2 were no changes, my question would be, would we  
3 be here or would it require any of these if no  
4 development was made onto the property, it would  
5 remain row crops of corn and beans?

6 A. With no development, no permits would be  
7 required.

8 Q. Thank you.

9 Decommissioning?

10 A. No. That's specific to a solar energy  
11 facility.

12 Q. A noise study?

13 A. There are State requirements to maintain the  
14 Illinois Pollution Control Board levels. Again,  
15 many forms of -- sources of noise would comply  
16 with that.

17 Q. A glint study?

18 A. I'm sorry?

19 Q. A glint study. Is a glint study required to  
20 farm the property as it currently is?

21 A. It is not.

22 Q. Is a glare study required to farm the property  
23 as it currently is?

24 A. It is not.

1 Q. A drainage study to farm the property  
2 currently -- or to remain farming the property?

3 A. No.

4 Q. A vegetation study? If you were to remain  
5 farming the project, would it require a  
6 vegetation study?

7 A. Could you define vegetation study?

8 Q. I cannot. I just pulled this out of the  
9 reports that it was titled. Underneath the  
10 inaccurate and outdated reports is where I  
11 pulled it from. So no, I cannot.

12 A. A wildlife study?

13 A. I can't speak to that. Potentially.

14 Q. An environmental -- I'm sorry, an environmental  
15 study?

16 A. An environmental study is very general. I  
17 can't answer that question.

18 Q. Okay. To farm -- okay.

19 A. A soil study?

20 A. I believe there would be instances where  
21 agricultural land would want to assess the soils  
22 on the property, so yes.

23 Q. There would be instances but not at all points,  
24 as required as there is for a solar farm?

1 A. With no development, there would not be a  
2 trigger to, but I can't say what a private  
3 property owner would elect to study on a  
4 property.

5 Q. Thank you.

6 Again, I'm not asking at what point it was  
7 elected. I'm asking if one was required.

8 A. It would not be required to --

9 JUDGE SLAVIN: That's not a question.  
10 Don't tell her what you're asking. Ask the  
11 question --

12 Q. (By Mr. Lawson:) Okay. Would --

13 JUDGE SLAVIN: -- please.

14 Q. (By Mr. Lawson:) Would an environmental study  
15 be required to continue to farm the project?

16 A. Environmental study is too vague. I can't  
17 answer that question.

18 MR. LAWSON: Your Honor, I started out  
19 with -- I did specifically say, if this project  
20 would not exist and the prime farmland would  
21 continue to be used today, would the current  
22 character and aesthetics of the farmland  
23 require.

24 JUDGE SLAVIN: That was a long time ago.

1 You can ask the question.

2 MR. LAWSON: Okay.

3 Q. (By Mr. Lawson:) Would -- if the project would  
4 remain in farmland, would it require a health  
5 study?

6 A. I can't speak to that.

7 Q. If the project was to remain in farmland, would  
8 it require a safety study?

9 A. I can't speak to that.

10 Q. If the property were to remain in farmland,  
11 would it require a property value impact  
12 analysis?

13 A. I can't speak to what the private property  
14 owner would pay to assess for the property.

15 Q. If the project were to remain farmland, would  
16 the huge 4-inch white binder that Courtney  
17 Kennedy displayed be needed?

18 A. Again, I can't speak to other petitions,  
19 other --

20 Q. Okay.

21 A. -- forms, other permits necessary.

22 Q. Would there be other permits necessary that  
23 would require a 4-inch white binder to continue  
24 to farm the land as it exists?

1 A. I can't speak to that.

2 Q. Thank you.

3 Are you aware that this project contains  
4 evergreen shrubs as a visual buffer?

5 A. I'm aware.

6 Q. Would there be a need for this visual buffer if  
7 the current character and aesthetics of the land  
8 were not changed by this project?

9 A. The vegetation buffer was not a part of the  
10 original Ordinance. It was elected to be  
11 completed by the Applicant. Since the  
12 installation of the new Ordinance, it is a  
13 requirement, and that is a -- it is something  
14 that Duke will do.

15 Q. I lost the question again.

16 Would there be a need for this visual  
17 buffer if the current character and aesthetics  
18 of the land were not changed by this project?

19 A. I can't speak to other developments within the  
20 county that may or may not require a vegetation  
21 buffer based on visualness from an adjoining  
22 property.

23 Q. So you stated that the visual buffers are  
24 required under the Ordinance?



1 A. Yes.

2 Q. What are they buffering? What is the purpose  
3 of the visual buffers?

4 A. They are buffering within proximity to adjacent  
5 nonparticipating residences.

6 Q. But what are they buffering?

7 A. They are providing a visual buffer for those  
8 property owners.

9 Q. A visual buffer because of the visual -- the  
10 aesthetics of the visual property has changed?

11 A. The aesthetics are a part of what the new  
12 Ordinance was taking into account would be back  
13 from adjacent landowners, and it is very typical  
14 for most, if not all, solar development that  
15 I've worked on. So it made sense to include it  
16 in the Ordinance.

17 Q. So do you typically try to hide -- what --  
18 would it be safe to -- would it be a fair  
19 statement to ask if the visual buffer is hiding  
20 something?

21 A. I don't think that's a fair characterization.

22 Q. Would you need to put a visual buffer up for  
23 something that is attractive to look at?

24 A. I think that the visual buffer is in place for

1 several reasons, not simply aesthetics.

2 Q. Is the visual buffer required by this  
3 Ordinance?

4 A. It is required by the new Ordinance.

5 Q. Is a visual buffer required to farm the  
6 project?

7 A. It is not required to farm the project.

8 Q. Thank you.

9 Are you aware that a Lee County Board  
10 member will be paid around \$18,000,892 -- I'm  
11 sorry, \$18,892,400 by Duke Energy Renewables if  
12 the project is built?

13 A. I'm not aware of the exact terms of the  
14 agreement; however, I am aware that landowners  
15 have elected to sign agreements to enter their  
16 private property into an agreement with Duke  
17 Energy to build a solar energy facility for the  
18 life of the project.

19 Q. Thank you.

20 Are you aware that the very same Board  
21 member has made a comment during a public  
22 meeting that he wasn't here to provide rest or  
23 comfort to a neighbor, he was a business and he  
24 needs to be able to make a profit?

1 A. Again, private property owners have elected to  
2 join this project. I don't have any other  
3 information aside from that.

4 Q. Thank you.

5 Are you aware that if this project is  
6 built that some Lee County Zoning Board and Lee  
7 County Board members will be paid \$766,410 per  
8 year, which is 64 to 68 percent of what the  
9 entire County of Lee will be paid in taxes per  
10 year?

11 A. I can't speak to those numbers, but there are  
12 other private property owners within the project  
13 as well that have elected to join the project.

14 Q. Have -- are you -- I am sorry, could you repeat  
15 that last statement?

16 A. There are dozens of property owners that have  
17 elected to sign agreements to enter into the  
18 Special Use Permit -- I'm sorry, into the solar  
19 energy system property for the project.

20 Q. Of those dozens that have signed an agreement,  
21 are they being paid or are they volunteering  
22 their land?

23 A. They have -- they entered into agreements and  
24 are being paid for their land, yes.

1 Q. Thank you.

2 Are you aware that Duke Energy Renewables  
3 hired the Lee County Board Chairman's daughter,  
4 Courtney Kennedy?

5 A. I don't work for Duke Energy. I'm not a part  
6 of those decisions.

7 Q. Do you know that Courtney Kennedy is the Lee  
8 County Board Chairman's daughter?

9 A. I am aware.

10 Q. Thank you.

11 Are you aware that Chris Henkel, the  
12 father of Lee County Renewables Coordinator,  
13 Alice Henkel, is being paid by Duke Energy  
14 Renewables?

15 A. Again, I'm not aware of the specifics of the  
16 agreements that Duke has made with the  
17 professionals and Counsel with the project.

18 Q. Are you aware that Alice Henkel is Chris  
19 Henkel's daughter?

20 A. I am aware.

21 Q. Thank you.

22 Are you aware that Duke Energy Renewables  
23 is offering surrounding landowners 2,000 a year  
24 if they don't oppose this project through the

1 good neighbor program?

2 A. Yes, I am aware of the participation agreement  
3 that Duke has offered to neighboring landowners  
4 to enter into, again, a participation agreement  
5 with the project as to receive a certain amount  
6 of money through the life of the project.

7 Q. If they so choose to sign that agreement, are  
8 they bound by a confidentiality agreement and  
9 not allowed to -- are they not allowed to oppose  
10 the project if the money is taken?

11 A. I don't know the specifics of the agreement,  
12 but, again, they are being paid to be good  
13 neighbors, participation -- participants in the  
14 project, and I -- my opinion is, they would not  
15 elect to speak ill of the project or against the  
16 project.

17 Q. Thank you.

18 Are you familiar with the term Fortune 500  
19 company?

20 A. Yes.

21 Q. Are you familiar with the term stacking the  
22 pack?

23 A. Yes.

24 Q. Are you familiar with the term conflict of

1 interest?

2 A. Yes.

3 Q. Are you familiar with the term possible ethics  
4 violations?

5 A. Yes.

6 MR. LAWSON: Thank you. That's all I  
7 have.

8 JUDGE SLAVIN: Other folks in the Zoom --  
9 or, I'm sorry, not the Zoom room, but the  
10 in-person room?

11 Okay. Ms. Lawson.

12 MS. LAWSON: Jennifer Lawson. Adjacent to  
13 the project.

14 EXAMINATION

15 BY MS. LAWSON:

16 Q. First of all, from one environmentalist to  
17 another, I appreciate your work. Thank you.

18 A. Thank you.

19 Q. So in your professional opinion, you had said  
20 that this was a temporary use of the land. So  
21 you can classify 40 years as a temporary use?

22 A. Yes. Over the course of -- it isn't a seasonal  
23 change, it is a yearly change. And, again, I  
24 would classify 40 or even 80 years as a

1 temporary use of a site.

2 Q. You had said that this was a quiet neighbor?

3 A. Yes.

4 Q. Are you aware Jason Cooper stated that the  
5 inverters themselves were 79 decibels?

6 A. I would have to refer back to his expert  
7 witness testimony.

8 Q. Do you consider 79 decibels as quiet?

9 A. Again, that's not my area of expertise. The  
10 Illinois Pollution Control Board has standards  
11 by which the sound itself cannot go across into  
12 a neighboring property. So therefore, the  
13 inverters themselves, at the decibel level they  
14 are, are set to a specific setback from the  
15 property and modeled that way to ensure those  
16 pollution control measures are met.

17 Q. Thank you.

18 So you stated that this land would still  
19 be as a Special Use Permit for agricultural, so  
20 -- and an SES is still classified as  
21 agricultural.

22 The IEMA says that the stormwater  
23 pollution control plan requires an NPDES which  
24 is specifically for industrial discharge.

1           Why would agricultural require an  
2           industrial discharge permit?

3   A.   That's just the federal EPA regulations.  The  
4       State mirrors those for different types of  
5       developments that the IEPA has in place, and all  
6       states have in place a construction general  
7       permit for specific types of development.  In  
8       this case, the project would be in compliance  
9       with that construction general permit, and  
10      that's very typical across the 40-ish states  
11      that I have worked in.

12   Q.   You had stated that -- previously and on this  
13       occasion that the IDNR had -- I have to find the  
14       right terminology -- they had terminated the  
15       consultation?

16   A.   Yes.

17   Q.   In your professional opinion, do you feel that  
18       the 55 threatened and endangered species within  
19       Lee County is a fair assessment for them to  
20       terminate the consultation?

21   A.   The IDNR produces its determination of  
22       consultation based on numerous factors and,  
23       again, specifics that they are told that are  
24       going to be in place for the project and the



1 location of the project, et cetera. That is  
2 sort of step one. There are State regulations  
3 that go a step further than that.

4 So although the IDNR has come up with a  
5 termination of consultations, they see no issue,  
6 the project itself would also still have to  
7 adhere, no matter what, to State regulations  
8 with regards to take of State-listed species.

9 So there are State regulations in place that the  
10 project could not take -- so kill, harm, harass,  
11 et cetera -- a State-listed species, or else  
12 risk violating State law. So those additional  
13 State laws would still need to be adhered to for  
14 the species that are in Lee County.

15 Q. Okay. So Patrick Smith on 10/12/2021 stated  
16 that the fiber cable that would be used for  
17 communication and monitoring of panels would be  
18 a buried panel.

19 Do you think there's an environmental  
20 impact?

21 A. I do not, in my expert opinion.

22 Q. On 10/12/2021, I personally asked Patrick  
23 Smith, and now I'm asking you, would you say  
24 there's at least 14 different sections of

1 industrial solar panels? Which I mean  
2 noncontinuing sections, there's either a road or  
3 a creek.

4 A. I have not counted them, but that sounds  
5 accurate.

6 Q. Patrick Smith stated that they would bore under  
7 the roads and creeks or remove the road.

8 What environmental impacts will boring  
9 have to either the local wildlife or  
10 tributaries?

11 A. The permits themselves for these impacts --  
12 proposed impacts are going to be valued at a  
13 later date in the permitting process. So beyond  
14 the zoning process, dependent upon where the  
15 project will ultimately cross a creek, need to  
16 cross, those permits would be required from the  
17 U.S. Army Corps of Engineers, State and local  
18 permit, et cetera.

19 There are dozens of stipulations with  
20 regard to protected wildlife and protected  
21 waters, cultural resources that go along with  
22 those permits. So although we're talking  
23 preliminarily at this point, there are extensive  
24 State and federal guidelines and regulation

1 requirements that will need to be evaluated  
2 dependent upon the impact or the location of the  
3 crossing, et cetera, you know, all these  
4 different components that are still going to  
5 be -- need to go into the permitting process.

6 Q. So it is possible that this project could be  
7 discontinued because of the historical,  
8 agricultural and wildlife protection agencies?

9 A. No. Any of the -- any of the actions that they  
10 would take would fall within a permit. It would  
11 just be which permit they would need to adhere  
12 to at this point. So, no, I don't believe there  
13 is, at this point, any item that would not allow  
14 the project move forward.

15 Q. Are you aware that this project -- are you  
16 aware where this project is proposed?

17 A. Yes.

18 Q. Do you -- are you aware that this is actually  
19 located in the historic Galena Trail Corridor,  
20 specifically what was known as the 1830 and  
21 Kellogg Trail?

22 A. I'm aware.

23 Q. Are you aware of Section 1 of the Illinois  
24 State Agency Historic Restorations Preservation

1 Act?

2 A. Yes, I am.

3 Q. What impact does that have on this project?

4 A. So at the institution of the project, the  
5 Galena Trail itself is -- would not require any  
6 consultation with either the SHPO office, or the  
7 State Historic Preservation Office, at the  
8 federal level or at the Illinois equivalent at  
9 this time.

10 Again, further studies will need to be  
11 completed dependent on certain activities, and  
12 there are certain State -- I'm sorry, State  
13 actions that the project will likely trigger,  
14 and if they trigger those things, the stormwater  
15 permit, for one, there are certain stipulations.  
16 Again, it's kind of a web of who reviews what.

17 But the SHPO office, the State Historic  
18 Preservation Office, would need to sign off on  
19 any of those actions as kind of an oversight on  
20 that too.

21 So it is not anticipated to impact the  
22 project.

23 Q. Are you aware of the Emmanuel Cemetery, also  
24 known as Heckman Cemetery, located at 1428 Pump

1 Factory Road?

2 A. Yes, generally.

3 Q. Are you aware of the Human Skeletal Remains  
4 Protection Act that protects human remains that  
5 are over a hundred years old?

6 A. Yes, I am.

7 Q. So you're aware that, for example, one of the  
8 graves there is from 1851?

9 A. I am not aware of the specific dates of that  
10 cemetery.

11 Q. How will this project impact that cemetery?

12 A. The project itself is not going to be impacting  
13 the cemetery itself.

14 Again, there are State regulations that  
15 protect for the unanticipated discovery of human  
16 remains. So, again, that's very common. There  
17 is a State equivalent of that law throughout  
18 every state. So if -- and it provides for if --  
19 you know, if a body is found, if bones are  
20 found, if there is evidence of a burial found,  
21 there are other State regulations that require  
22 to stop work, inform the local law enforcement,  
23 et cetera, and there are steps forward, there's  
24 a stop-work policy, required by the State before

1 any additional action or any additional earth  
2 removal could happen in that area.

3 Q. Courtney already asked my Comprehensive Plan  
4 questions.

5 In your expert opinion, does 3838 acres of  
6 flat glass structures and woven wire fences  
7 preserve and enhance the aesthetic quality of  
8 the county?

9 A. As the project itself is a temporary use by the  
10 industry standards, by the -- it's typically --  
11 it's determined to be a temporary use, and yes,  
12 I do believe it is preserving and enhancing the  
13 agricultural land for future generations.

14 Q. Are you aware during multiple testimonies  
15 during this trial that it has been said that  
16 this project will allow the land to rest?

17 A. I'm aware.

18 Q. Are you aware that typically that is one to  
19 five years, not 40?

20 A. Rest is relative.

21 Q. Okay. Sorry.

22 What effects would an earthquake have on  
23 industrial solar plant?

24 A. I cannot speak to the specifics of that, except

1 for that there are -- you know, there's an  
2 emergency action plan in place, that Duke has  
3 built construction and is operating projects  
4 that are in these areas that are earthquake  
5 prone or tornado prone, and that, you know,  
6 they're designed to be -- any impact, should  
7 there be damage to the panel -- and, again,  
8 Duke, and any developer, wouldn't want there to  
9 be damaged panels in the area, and therefore  
10 there is a system to let them know, a specific  
11 service, so they can immediately fix the  
12 problem, should there be one.

13 Q. Are you aware that in September of 1999 there  
14 was a 3.5 magnitude earthquake centered near  
15 Dixon?

16 A. I'm not aware.

17 Q. Are you aware that in October of 2019 the IEMA  
18 and FEMA made the estimate that there's a  
19 40 percent chance for a major earthquake in  
20 Illinois?

21 A. I am not aware of the specific locations and  
22 expected magnitudes of the earthquakes across  
23 the United States.

24 MS. LAWSON: Thank you.

1 THE WITNESS: Thank you.

2 JUDGE SLAVIN: Thank you.

3 Other folks with questions in the room?

4 Yes, the lady in red.

5 Oh, different lady in red but that's okay.

6 I'll take all ladies in red.

7 MS. JOHANNSEN: Martha Johannsen. I live  
8 within between a half mile and a mile of the  
9 border of the site.

10 EXAMINATION

11 BY MS. JOHANNSEN:

12 Q. As shown on your Slide 6, was this  
13 archaeological survey completed yet?

14 A. The -- could you clarify that? The Phase 1  
15 archaeological study that's referred to on the  
16 site?

17 Q. Yes. It says, this archaeological survey is  
18 expected to be completed. Has that been  
19 completed yet?

20 A. No. No, it has not. So far a preliminary  
21 study has been completed, and, again, there will  
22 be State and potentially federal triggers  
23 beyond, you know, that permitting process that  
24 will likely require that archaeological study.



1 Q. The CPI of -- can it change yearly?

2 A. Could you elaborate, CPI?

3 Q. The CPI that you said is 133 this year and was  
4 137 last year, does this change yearly?

5 A. I am not aware. I do not produce the number.  
6 That is produced by County and its staff, Soil  
7 and Water Conservation District staff. And,  
8 again, the number that I determined was produced  
9 by a third-party, AgriData Surety Pro, process.  
10 So I cannot answer your question.

11 Q. Can an adult deer jump over the surrounding  
12 fence?

13 A. Not in my -- not anything that I have seen.  
14 Again, anything is possible; however, the  
15 fencing is put in place to secure the project  
16 but also, you know, understanding that this may  
17 delay certain larger animals.

18 Based on the site plan, the Three Mile  
19 Branch and Five Mile Branch that go either  
20 through the project or in close proximity, those  
21 will not be fenced off. So those thoroughfares,  
22 those natural thoroughfares, are already in  
23 place. And those larger animals will see the  
24 smaller species as well and will be able to

1 travel east/west -- generally east/west through  
2 the region, through the vicinity. So it would  
3 not be, in my opinion, impeding any larger  
4 animal movement.

5 Q. How often will mowing occur on this site if it  
6 is installed?

7 A. There is a -- the plan in place that Duke put  
8 together puts forth a routine maintenance. And,  
9 again, staff will be on site in a routine manner  
10 for general maintenance.

11 Anyway, I can't answer that question on  
12 how often. It would be dependent on timing of  
13 the year, et cetera, that I would need to know  
14 to answer that question thoroughly.

15 Q. Approximately how tall will the grass grow  
16 before it is mowed?

17 A. So it will be maintained. Again, the plant mix  
18 that's chosen, the grass mix and the forb mix,  
19 is chosen specifically. It's based on local  
20 input, as well as Illinois -- I don't know the  
21 exact source, but it is in the Weed/Grass  
22 Control Plan. It will account for a specific  
23 chosen mix, keeping in mind the height of the  
24 forbs and grasses that would be ideal for the

1 site. So it's chosen.

2 Q. Who will do the annual inspection of this site?

3 A. The annual vegetation, weed and grass control  
4 inspections?

5 Q. How will the weeds be controlled?

6 A. The weeds will be controlled, there's a method  
7 for spot mowing, for spot treatment, and it will  
8 be kind of a case-by-case, seasonal basis, but  
9 it is evaluated multiple times through the  
10 season. Staff are on site for other routine  
11 maintenance items. That is something that's on  
12 a routine checklist for construction, for  
13 operations that I'm aware of on other projects,  
14 including other projects in construction that  
15 we're working on for Duke Energy.

16 Q. How much topsoil will be moved?

17 A. No topsoil will be removed from this site. It  
18 will be placed -- remain in place to the  
19 greatest extent practicable, and all of the  
20 topsoil stipulations and conditions of the AIMA  
21 will be adhered to, as Duke has executed that  
22 agreement with the State.

23 Q. Will topsoil be removed from the property even  
24 though it is stockpiled somewhere?

1 A. No. The stipulations of the AIMA are that  
2 topsoil remain in place, again, to the greatest  
3 extent practicable.

4 The flat nature of the site indicates to  
5 us that minimal grading would need to be  
6 anticipated anyway, and, therefore, minimal  
7 movement of any topsoil is anticipated. No, it  
8 would not be moved from properties.

9 Q. How will the organic matter be stripped and  
10 separated from the subsoil?

11 A. That would be completed in accordance with the  
12 AIMA conditions.

13 Q. Since no decommissioning has been -- has  
14 occurred in the United States, how can Duke  
15 Energy assure that the productivity of the land  
16 will be as good at the end of 40 or 80 years as  
17 it is now?

18 A. We can compare it to other types of development  
19 and what we know about the components going on  
20 in the project. It's been testified previously  
21 that the AIMA and County decommissioning  
22 processes will need to be followed. Therefore,  
23 the AIMA, as put forth by multiple farming and  
24 agricultural entities, you know, this process by

1           which there will be -- the goal is that there  
2           will not be an impact to the agricultural land.  
3           So in my expert opinion, we can compare other  
4           types of development, other types of impacts and  
5           temporary impacts to this type of development.

6   Q.   How did you say that this will be -- this  
7       proposed site would enhance life in the county?

8   A.   The project itself will generate, as previously  
9       testified to, property taxes.  It will also  
10      enhance -- again, resting the soils on the  
11      property to then return to the agricultural use,  
12      I see a benefit for the agricultural families  
13      that will bring additional moneys into the  
14      community.  And that's what I can speak to in my  
15      expert opinion.

16  Q.   How many inches of topsoil are there on this  
17      proposed site?

18  A.   I don't have that number in front of me, and it  
19      would depend on the soil.

20           MS. JOHANNSEN:  Thank you.

21           THE WITNESS:  Thank you.

22           JUDGE SLAVIN:  Thank you.

23           Other folks in the room?

24           The other lady in red.

1 MS. REESE: Kristi Reese. Adjacent  
2 landowner.

3 JUDGE SLAVIN: Go ahead.

4 EXAMINATION

5 BY MS. REESE:

6 Q. Do you know whether the fence that they are  
7 going to erect is 6 feet or 8 feet tall?

8 A. I believe that it was testified that it would  
9 be an 8-foot-tall woven wire fence.

10 Q. Do you agree that there are a lot of wildlife  
11 that rely on this 3800 acres of land for food  
12 and shelter and they are not just protected  
13 species?

14 A. There -- I agree, there are other species that  
15 are within Lee County. The change in land use  
16 and the change from a crop cover which is  
17 yearly, seasonally disturbed and removed and  
18 replanted will be, in fact, replaced by a  
19 maintained grass and forb cover which will still  
20 provide habitat for those species.

21 Q. But how will they get inside the fence?

22 A. They find a way. It's -- I mean, again, the  
23 fence is a security measure and small animals  
24 will find their way in, as I'm sure everybody is

1       aware of, but usually they can find their way  
2       out. And the components of the projects  
3       themselves are not any detriment and would not  
4       be harmful to those species, even if they were  
5       to -- even if they were a bird to land on the  
6       solar panel.

7   Q.    In many areas will the fences be erected along  
8       both sides of a roadway?

9   A.    I believe there are instances, yes, where there  
10       are properties on both sides of the road that  
11       have entered into the project and, therefore, a  
12       fence would be along both sides of a roadway.

13   Q.    So do you anticipate that the displaced  
14       wildlife will start to look for food and shelter  
15       within the city of Dixon and surrounding  
16       subdivisions?

17   A.    No, I don't think that's a characterization --  
18       an accurate characterization. The species  
19       themselves will find comparable habitat, food  
20       sources, you know, again, along Three Mile  
21       Creek -- Three Mile Branch, excuse me, Five Mile  
22       Branch but also just generally through the  
23       facility. The 3,800 acres, species are  
24       transient, moving through constantly.

1 Duke is maintaining these highways, if you  
2 will, of better-suited habitat and movement  
3 throughout the vicinity, such as the creeks  
4 themselves, which, again, will not be fenced.  
5 The fence will be along the panels themselves or  
6 right along the rights of way.

7 Q. So when the animals are moving, as you said,  
8 along the highway that's erected by the two  
9 fences along our roadways, you don't anticipate  
10 hazards for vehicles or any vehicle-wildlife  
11 accidents?

12 A. I have no data to support either way. It's --  
13 I don't think it's a fair characterization.  
14 There's not currently any impacts that these  
15 species have along rights of way. So I can't  
16 speak to if any changes would be seen.

17 Q. Are you familiar with the practice of growing  
18 vegetables under the solar panels?

19 A. I am familiar. That is -- yeah, it's not a  
20 common practice but it is -- I think it's called  
21 agri solar voltaics, and it's kind of a newer  
22 idea that developers are looking into, kind of a  
23 -- beyond, sort of a dual use of the site, to  
24 include that. So I am aware, yes.



1 Q. Has Duke Energy promoted this practice on any  
2 of their other projects?

3 A. Not that I am aware of. Again, it's a pretty  
4 new idea. The industry is kind of taking a look  
5 at it from the stance of is it a good economic  
6 decision, on top of just planting native grasses  
7 and forbs? So I'm not aware if they have  
8 assessed that, but not to my knowledge for this  
9 project.

10 Q. Do you feel they may implement that on this 300  
11 and -- or 3,800 acres?

12 A. No. There are requirements to specifically  
13 native grasses and forbs, so I -- yeah, it would  
14 not be something that would be implemented for  
15 the project.

16 MS. REESE: Thank you.

17 THE WITNESS: Thank you.

18 JUDGE SLAVIN: Other folks in the room?

19 (No verbal response.)

20 JUDGE SLAVIN: Okay. You may step down.

21 THE WITNESS: Thank you, Judge.

22 JUDGE SLAVIN: The last break we took was  
23 quick. So let's take another one. Five of.  
24 And we'll --

1 Ms. Duffy, you will be next in the box.

2 (A recess was taken at 7:47 p.m.  
3 and proceedings resumed at  
4 7:59 p.m.)

5 JUDGE SLAVIN: All righty. Young lady, do  
6 you want to raise your right hand for me,  
7 please.

8 DEE DUFFY,  
9 being first duly sworn, was examined and  
10 testified as follows:

11 JUDGE SLAVIN: All right. Would you state  
12 your name, please.

13 MS. DUFFY: Duffy.

14 JUDGE SLAVIN: What's your business or  
15 occupation, Ms. Duffy?

16 MS. DUFFY: I'm the zoning administrator  
17 for Lee County.

18 JUDGE SLAVIN: And among your duties as  
19 zoning administrator, do you receive and catalog  
20 in any correspondence relating to particular  
21 petitions for whatever zoning classification  
22 change or Special Use?

23 MS. DUFFY: As part of my duties, to  
24 receive and maintain documents sent to the

1 zoning office for any particular Zoning Board  
2 matter.

3 JUDGE SLAVIN: With regard to South Dixon  
4 Solar, LLC's, petition pending, 21-P-1556, have  
5 you received any such communications?

6 MS. DUFFY: Yes, I have.

7 JUDGE SLAVIN: Okay. Have you -- how  
8 many?

9 MS. DUFFY: I'd like to submit to the  
10 Board two letters of support for the project.

11 JUDGE SLAVIN: And have you marked them?

12 MS. DUFFY: I have. ZO Number 1 and  
13 ZO Number 2.

14 (ZO Exhibits Number 1 and 2  
15 marked for identification.)

16 JUDGE SLAVIN: Okay. And do you have  
17 copies for the assembled?

18 MS. DUFFY: Yes. Everyone should have  
19 copies.

20 JUDGE SLAVIN: And these were received in  
21 the ordinary course of your business?

22 MS. DUFFY: Yes, they were.

23 JUDGE SLAVIN: Any other exhibits you want  
24 admitted?

1 MS. DUFFY: I would like to also present  
2 to the Board the certified mailing receipts that  
3 were received by the Petitioner as ZO Number 3.

4 JUDGE SLAVIN: That's a compendium of them  
5 all?

6 MS. DUFFY: Yes, it is.

7 (ZO Exhibit Number 3 marked for  
8 identification.)

9 JUDGE SLAVIN: All right. ZO 3. And does  
10 the Board have copies of that?

11 MS. DUFFY: No, they do not, but they can  
12 come to my office anytime to view them.

13 JUDGE SLAVIN: Okay. Is this marked --  
14 there it is. Never mind.

15 Anything else?

16 MS. DUFFY: I would also like to submit  
17 the Lee County Soil and Water Conservation  
18 District Natural Resource Report.

19 JUDGE SLAVIN: And that consists of what?

20 MS. DUFFY: That consists of a rather  
21 lengthy report of approximately 1400 pages. I  
22 did not make copies of this report, but it is --

23 JUDGE SLAVIN: Nor do you have it in front  
24 of you, right?

1 MS. DUFFY: It's over there by my desk.

2 JUDGE SLAVIN: All right. And you have  
3 marked that what? ZO?

4 MS. DUFFY: ZO Number 4.

5 JUDGE SLAVIN: Okay.

6 (ZO Exhibit Number 4 marked for  
7 identification.)

8 MS. DUFFY: And that can be viewed at my  
9 office and on the website.

10 JUDGE SLAVIN: And how did you come into  
11 possession of that particular thing?

12 MS. DUFFY: That was emailed to me by the  
13 Soil and Water Conservation District Office.

14 JUDGE SLAVIN: Okay. All right. Anything  
15 else?

16 MS. DUFFY: I have nothing else.

17 JUDGE SLAVIN: All right.

18 Cross-examination of Ms. Duffy.

19 First, Ms. Kennedy?

20 MS. KENNEDY: Nothing, Judge.

21 JUDGE SLAVIN: Mr. Boonstra?

22 STATE'S ATTORNEY BOONSTRA: No, thank you.

23 JUDGE SLAVIN: Renewable Energy

24 Coordinator Henkel?

1 MS. HENKEL: No, thank you.

2 JUDGE SLAVIN: ZBA members. Mr. Forster?

3 MR. FORSTER: No questions.

4 JUDGE SLAVIN: Mr. Buhrow?

5 MR. BUHROW: No questions.

6 JUDGE SLAVIN: Mr. Bothe?

7 MR. BOTHE: No questions.

8 JUDGE SLAVIN: Mr. Meyer?

9 MR. MEYER: No questions.

10 JUDGE SLAVIN: Assembled folks in the  
11 courtroom in person, questions?

12 Mr. Lawson. Mister. I saw your hand  
13 first. I have got to be -- otherwise I'll lose  
14 track.

15 EXAMINATION

16 BY MR. LAWSON:

17 Q. Are you aware that of the many realtors that I  
18 contacted through multiple states, that none  
19 have had potential homeowners looking to buy a  
20 house that was surrounded by a 3838-acre house  
21 (sic)?

22 A. No, I am not.

23 Q. That would not surprise you?

24 A. I'm not aware of it.

1 Q. Or you're not aware of it.

2 Would that surprise you?

3 A. I'm -- no.

4 Q. Why would that not surprise you?

5 A. That I'm not aware of what you asked? I'm  
6 sorry.

7 Q. No. Why would it not surprise you that no one  
8 is going to buy a house near a 3838-acre solar  
9 farm?

10 A. I'm sorry, I was just answering the first  
11 question.

12 Q. Okay.

13 A. I didn't get that, the second one.

14 Q. How many letters of support were from  
15 participating landowners this time?

16 A. There was none.

17 Q. None from participating landowners. Thank you.  
18 How many letters of support were there for  
19 the first petition?

20 A. I can't recall.

21 Q. Would it be a fair statement to say there was  
22 more than two letters of support last time as  
23 opposed --

24 A. I can't recall.

1 Q. Do you have access to that information?

2 A. Yes, I do.

3 Q. Would it be --

4 A. In my office.

5 Q. Would you be able to reference that?

6 A. It would take some time.

7 Q. So you are not able to answer my question in  
8 regards to how many --

9 A. I can't --

10 Q. -- letters of support --

11 A. I can't recall.

12 Q. -- in the first petition?

13 A. I can't recall.

14 MR. LAWSON: Thank you.

15 JUDGE SLAVIN: Yes, Ms. Lawson.

16 MS. LAWSON: Jennifer Lawson.

17 EXAMINATION

18 BY MS. LAWSON:

19 Q. How are letters for support or unsupport  
20 presented and received?

21 A. I received these two by email.

22 Q. How is the public notified to be able to submit  
23 these?

24 A. I believe there's something on my website that



1 states you can submit this, submit letters.

2 Q. What is the purpose of the Lee County Soil and  
3 Water Natural Resource Report?

4 A. I can't answer that.

5 Q. It's not a requirement of this project?

6 A. It is a requirement.

7 Q. It is a requirement.

8 Does it support this project?

9 A. I don't think it's a report that should be  
10 showing either way, it supports or not. It's  
11 just --

12 Q. Can you provide me a summary of what this  
13 report entails? What is the purpose of this  
14 report?

15 A. There's many aspects to it. I can't.

16 MS. LAWSON: I had another question and I  
17 lost it. Thank you.

18 JUDGE SLAVIN: Thank you.

19 Any other folks in the room? Seeing none,  
20 I'll turn to the Zoomers.

21 AUDIENCE MEMBER: There's --

22 MR. BOTHE: Red. Got a red.

23 JUDGE SLAVIN: I'm sorry. Lady in red.

24 MS. REESE: Kristi Reese. Adjacent

1 landowner.

2 EXAMINATION

3 BY MS. REESE:

4 Q. Were you aware that there are 187 acres  
5 advertised for sale that are adjacent to the  
6 southern boundary of the Lee County Industrial  
7 Park?

8 A. No, I wasn't aware of that.

9 Q. Are you aware that since Duke Energy came into  
10 our community, they signed a lease with the  
11 landowners, and at this time the landowners are  
12 not taking any offers on their land?

13 A. Can you say that again?

14 Q. Since Duke Energy came into the community with  
15 this proposed solar project, they approached the  
16 landowner to sign a lease, so the landowners are  
17 not taking offers on the sale of the property  
18 any longer, or at this time.

19 A. I'm not aware of that.

20 JUDGE SLAVIN: That's not a question.

21 MS. REES: Okay. I asked her, okay, if  
22 she was aware at first.

23 JUDGE SLAVIN: You did not say that. You  
24 just told her something.

1 MS. REESE: Oh, okay.

2 JUDGE SLAVIN: You can say, Are you aware  
3 of the fact that.

4 Q. (By Ms. Reese:) Okay. And are you aware that  
5 this particular piece of property could have  
6 been annexed into the city of Dixon for future  
7 property and real estate and sales taxes?

8 A. I wasn't aware of that, no.

9 MS. REESE: Thank you.

10 JUDGE SLAVIN: Okay. Thank you.

11 Any other folks in the room? Sorry I  
12 missed a hand before.

13 (No response.)

14 JUDGE SLAVIN: All right. Turning to the  
15 Zoomers, if any Zoomers have a question, hit  
16 "Participants," "Raise Hand," or if you're  
17 teleconferencing, asterisk, star nine.

18 I'll wait a few seconds here.

19 Jonathan, if you see somebody's hand pop  
20 up, let me know. We'll wait some time, a little  
21 time.

22 Okay. Seeing none, you may step down --  
23 oh -- yes, that's right, you may step down.

24 Those witnesses having been concluded, I'm

1 going to admit previously, from tonight, into  
2 evidence Petitioner's Number 4, Petitioner's  
3 Number 5, Interested Party A, Interested Party  
4 B, Zoning Number 1, Zoning Number 2, Zoning  
5 Number 3 and Zoning Number 4.

6 (Petitioner's Exhibits Number 4  
7 and 5; Interested Party Exhibits  
8 A and B, ZO Exhibits Number 1  
9 through 4 admitted into  
10 evidence.)

11 JUDGE SLAVIN: All right. Some  
12 housekeeping for just a minute before we run out  
13 of time.

14 Board members, I'm going to work on some  
15 available dates here in a moment. So if you'll  
16 put on your calendar heads.

17 I'm informed by the Zoning Office that now  
18 November 1st and November 4th are no longer  
19 available. I think, at least that's what Callie  
20 tells me, and she remembers my memory better  
21 than I remember my memory, but she tells me  
22 that's where I ended.

23 So available so far, in the future --  
24 foreseeable future, we have October 27th and

1 November 3rd. I want to grab on to a couple  
2 more.

3 (A discussion was held off the  
4 record.)

5 JUDGE SLAVIN: So that makes in-the-  
6 future, available dates: October 27th,  
7 November 3rd, November 9th, November 16th and  
8 November 17th.

9 All right. That having been said, I'm  
10 sorry, we have had enough tonight. I don't  
11 think it's a good idea to start Interested  
12 Parties' testimony at this point. So I'll  
13 recess until November 27th. This time I'll try  
14 and get it right.

15 MR. BOTHE: October.

16 JUDGE SLAVIN: October. See.

17 October 27th, Wednesday. That's about  
18 eight days from now. Here, Old Lee County  
19 Courthouse, Third Floor, 6 o'clock. 6 o'clock,  
20 October 27th.

21 Everybody have a good one in the next  
22 eight days.

23 MR. BUHROW: So, Judge, it will be we're  
24 doing Interested Parties next?

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JUDGE SLAVIN: Interested Parties who want to testify, correct. Not make public comments, but testify. I think that's the next thing on the process.

Okay. Very good. See you all.

(The hearing was recessed at 8:14 p.m.)

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On this 19th 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

-----  
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