

BEDMINSTER TOWNSHIP
LAND USE BOARD

IN THE MATTER OF: : TRANSCRIPT
: :
CASE: LUB# 12-015 (BOA) : :
KDC Solar SA55 LLC : OF
Solar Project : :
Country Club Road : :
Block 71.02, Lot 1 : PROCEEDINGS
Block 62, Lot 10 : :
Block 69, Lot 4 : :
_____X

Thursday, November 14, 2013
Bedminster Township School
234 Somerville Road
Bedminster, New Jersey
Commencing at 7:14 p.m.

BOARD MEMBERS PRESENT:

LANCE BOXER, Chairman
NICK STRAKHOV
CAROL GUTTSCHALL
GEORGE RODELIUS
KENNETH OLSEN
DORN STEWART
LOUIS DiGIOVINE

ALSO PRESENT:

TRINA LINDSEY, Board Secretary
FRANK BANISCH, Board Planner
PAUL W. FERRIERO, Board Engineer

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1 MS. DONATO: Certainly. Thank you, Mr.
 2 Collins. Thank you, Mr. Boxer and members of the
 3 Board. Stop Somerset Hills Power Plant is what we call
 4 an unincorporated association. And generally speaking,
 5 there are no members. And I may have misspoken on the
 6 request regarding the notice question calling residents
 7 or people who might support the goals and objectives of
 8 the unincorporated association by calling them members.
 9 I have had the opportunity to confer at
 10 length with Paul Matinho, who is really the individual
 11 with whom I deal exclusively, and he has confirmed that
 12 they do not have any members. That they do not have
 13 any contributions that come to that organization. And
 14 so I'd also understand that the Board has a lot on its
 15 plate with this application. So we don't -- I'd like
 16 to really defer to the Board.
 17 In many respects an unincorporated
 18 association is an entity separate from the individuals
 19 who might support it. And I think in many respects if
 20 a citizen in a community has a concern they may be
 21 reluctant to join an organization, or give money to an
 22 organization, or give money to a cause if they
 23 understood that if they did so they would not be able
 24 to cross-examine. And I note that at the last meeting
 25 members of the public questioned the witnesses, and I

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1 thought they did a superb job raising questions that
 2 are very specific to -- I think it's from there. I was
 3 thinking it was me but I don't think it is.
 4 (Microphones are producing loud sound.)
 5 CHAIRMAN BOXER: No, I don't think it's
 6 you. We're trying to -- we apologize. We'll try to
 7 make this work.
 8 MS. DONATO: So, you know, they had a very,
 9 I think, critical local perspective that, you know, I
 10 could not necessarily gain, and I know the community
 11 only slightly. So I really would defer to the Board in
 12 terms of what your preference would be. If the Board
 13 does not want Mr. Matinho to cross-examine he's willing
 14 to step back from that position. However, having
 15 anticipated that he would cross-examine on certain
 16 issues I deferred to his questions and I did not raise
 17 them at the last meeting. So if the Board wants Mr.
 18 Matinho, who is really the spokesperson, if you
 19 identified who this organization is he's the person who
 20 is in charge of everything, that he will defer, but I
 21 would like to have the opportunity to raise the
 22 questions that he would have asked.
 23 CHAIRMAN BOXER: Thank you, Ms. Donato.
 24 Mr. Collins, I know that in New Jersey it's very --
 25 it's expected that we get names when we deal with the

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1 associations. I'm going to ask Mr. Collins to help us
 2 through this a little bit, because I'm not exactly sure
 3 how we proceed from here. And Mr. Hall, of course, I'm
 4 sure you're going to have your own points of view.
 5 MR. HALL: Yes.
 6 MR. COLLINS: Why don't we hear the
 7 arguments of the applicant's attorney or attorneys, if
 8 you would like to address any of the arguments.
 9 MR. HALL: I'd like to defer to Ms.
 10 Bonsall. She actually signed the letter.
 11 CHAIRMAN BOXER: Nice to have you here.
 12 MS. BONSALL: Thank you.
 13 BOARD MEMBER RODELIUS: Can you spell your
 14 last name, please?
 15 MS. BONSALL: It's B-o-n-s-a-l-l.
 16 And thank you to Ms. Donato for clarifying
 17 a few things. There were some inconsistent statements
 18 made previously as to whether or not this organization
 19 had any members or not. And I'm glad that was
 20 clarified, except I'm not clear whether it does or it
 21 doesn't.
 22 The issue really is one, under the statute
 23 40:55D, that under (d), as to whether or not if you're
 24 represented by counsel you can cross-examine witnesses,
 25 and the statute says that you can't. And that just

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1 seems to me to be pretty simple. So I'm not clear as
 2 to whether or not she's saying that the organization
 3 has members or not. If it has members the statute says
 4 that they are entitled to be represented by counsel,
 5 and what goes with that is counsel is the party that
 6 examines the witnesses. And that's really for purposes
 7 of streamlining the proceedings.
 8 In addition to that, the case law says that
 9 the Board and the applicant are both entitled to know
 10 who exactly is opposing the application. So on some
 11 level it's also a matter of fairness that an attorney
 12 can't stand up before a tribunal, any tribunal, and of
 13 course that includes you, and not identify who their
 14 client is. So it's a matter of both of statute,
 15 procedure, and frankly fundamental fairness.
 16 So, I think that if she's going to
 17 represent an organization before this tribunal she
 18 ought to be required to disclose the people, whether
 19 they're members or just, you know, residents, that she
 20 represents, so that we can know and have a streamlined
 21 and efficient proceeding.
 22 MR. COLLINS: Mr. Chairman, the statute
 23 says that in Section 10(d) in pertinent part, "The
 24 right of cross-examination shall be permitted to all
 25 interested parties through their attorneys, if

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1 represented, or directly, if not represented, subject
2 to the discretion of the presiding officer and to
3 reasonable limitations as to time and number of
4 witnesses."
5 I had asked Ms. Donato to provide a list of
6 the clients she represents. I think that's probably
7 what she is doing by this statement tonight. It sounds
8 like she represents an association. And the
9 association means at least two, by nature of the beast,
10 but at least she's identified one spokesperson, Mr.
11 Matinho.
12 So I would recommend that the Board only
13 hear cross-examination by Ms. Donato and not Mr.
14 Matinho, and not a second person of the association.
15 And if there are any other members of the association
16 they ought to list themselves if they are going to be
17 represented by Ms. Donato.
18 That is the standard practice throughout
19 New Jersey on cases of this nature to list your clients
20 and speak on behalf of them and to ask questions on
21 behalf of your clients. It should be done here, but if
22 they are not represented by Ms. Donato then people may
23 decide that they want to ask questions individually,
24 but they should state that at the beginning of their
25 statements that they're not represented by Ms. Donato.

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1 And they should state their name and their address so
2 that we know their names and addresses pursuant to the
3 case law, which does say that parties shall identify
4 themselves before the Board.
5 CHAIRMAN BOXER: Thanks, Mr. Collins.
6 Ms. Donato, can I just ask a question? I
7 just want to make sure we clarify. Mr. Matinho, are
8 you saying that he is part of the association or not.
9 MS. DONATO: Mr. Matinho is the gentleman
10 who first contacted me. He has been my liaison, the
11 person that I deal with. I have all of my
12 correspondence and telephone calls with him. That is
13 how my agreement is set up with this organization, but
14 it is an unincorporated association, so it's a separate
15 entity. So as an interested party it's a separate
16 entity that may, you know, have a representative
17 capacity in some sense, but if you would like Mr.
18 Matinho to explain what I have stated, that is, that
19 they don't have any members, they don't have a list,
20 and they just -- there's just kind of a lot of support
21 for the organization but he's my client, if there's any
22 client other than the unincorporated association.
23 CHAIRMAN BOXER: Thank you. I appreciate
24 it. When you use words like "client," "liaison," "my
25 only voice," "the person I talk to," it feels to me

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1 like he's a client and he's currently being represented
2 by you as part of this association.
3 MS. DONATO: That's why we offered that,
4 you know, in fairness that he would be the one
5 individual, although, quite honestly, the one
6 individual I would really like to be able to ask
7 questions it would be the one individual, I think,
8 who might be disqualified if you took the position that
9 the unincorporated association is not a separate
10 entity. So I just want to be in full disclosure, and
11 if you have any questions about the nature of this, you
12 know, kind of loosely knit --
13 CHAIRMAN BOXER: I think it's a bit of a
14 slippery slope. I think if we ask Mr. Matinho to
15 explain himself I'm sure that he has a very good
16 reason, but unfortunately when we hear you talk about
17 clients, contacts, liaison, my only voice, the person I
18 talk to, it feels to me like he's a client. And unless
19 he's here to declare himself not a client, in some way
20 completely exhaust himself of any relationship with
21 you, which I suspect he's not willing to do, it feels
22 to me like you have to represent him unless something
23 changes. Mr. Collins does that --
24 MR. COLLINS: That makes sense, Mr.
25 Chairman.

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1 MS. DONATO: And we have no problem
2 whatsoever. I think that's a very fair position and we
3 certainly don't oppose it. The only proviso is that we
4 did expect that he would be asking questions if the
5 Board were to conclude that there was a separate
6 entity. So I do have some questions that he generated
7 in anticipation of questioning.
8 CHAIRMAN BOXER: And would you ask those
9 questions?
10 MS. DONATO: If the Board would so allow,
11 yes.
12 CHAIRMAN BOXER: I mean, I think you'd have
13 to do that. I think that's a bit of a -- the questions
14 are going to be coming from lots of different sources.
15 As long as they're fair and they're relevant then we're
16 fine with it, but I think for this particular hearing I
17 think Mr. Matinho is probably going to be disqualified.
18 MS. DONATO: Thank you so much. We
19 understand.
20 CHAIRMAN BOXER: I appreciate your
21 directness.
22 MS. BONSALL: Mr. Chairman, we of course
23 want the public to be able to ask whatever questions
24 they want to ask. So the idea, of course, is not that
25 the people don't ask questions, just that they ask them

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1 through their counsel.

2 CHAIRMAN BOXER: I agree with you.

3 MS. BONSALL: I just wanted to make that

4 clear.

5 CHAIRMAN BOXER: No. Thank you. What the

6 attorney was saying is that we want the citizens of

7 this town to have a voice. And, in fact, we've told

8 everybody the very best way that you could represent

9 your opinions is through study, follow the case, and

10 ask questions. There's going to be plenty of

11 opportunities.

12 MS. BONSALL: Along those lines, though,

13 there is communications that have identified members of

14 this organization, and in fact Stop Somerset Hills

15 Power Plant, whatever that organization has, has

16 submitted communications in other forms where they do

17 identify members. So, for example, Mr. Bolash, who

18 spoke last month identified himself in communications

19 as a member of Preserve Bedminster, which according to

20 the last communication we saw from Ms. Donato is the

21 same as Stop Somerset Hills Power Plant.

22 Now, of course, she was here last time when

23 Mr. Bolash did ask questions. And I guess given that

24 she represented that there were many members of the

25 organization at various points in time, I think I would

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1 request that the Board inquire as to people who want to

2 come up and speak as to whether or not they are, in

3 fact, a member, just so that we know.

4 CHAIRMAN BOXER: Sure.

5 MS. BONSALL: And if they are, then, Ms.

6 Donato should simply be the one who asks their

7 questions, but it should happen once. I mean, the idea

8 is to have a streamlined proceeding.

9 BOARD MEMBER RODELIUS: Well, I disagree

10 with you. I'm sorry, but you know, I don't think we're

11 here to streamline any procedure. I think we're here

12 to get everybody's voice and you just said that you

13 welcome the public to speak. So I disagree with you.

14 MS. BONSALL: Wouldn't be the first time.

15 CHAIRMAN BOXER: So Mr. Rodelius, your

16 concern is what, specifically?

17 BOARD MEMBER RODELIUS: Well, I mean, Ms.

18 Donato mentioned that there are certain folks that may

19 support the organization but may not be a member of it,

20 and I don't think we should disqualify folks from the

21 public if they want to come up and speak. That's all

22 I'm saying.

23 CHAIRMAN BOXER: Sure. I mean, it's a

24 difficult situation because there's ways to -- you

25 know, let's be candid. There's going to be ways to

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1 invite participation, so we're going to have to hold

2 it. As Mr. Collins said, that when they come up

3 they're going to have to give us their names and

4 address and we're going to have to find a way to filter

5 representations as best we can.

6 Ms. Donato, we hope that you will be, I'm

7 sure, as honest as you possibly can with the

8 information you have and we'll try to work within those

9 boundaries.

10 MS. DONATO: Yes, absolutely. We have no

11 intention to try to pull the wool over anyone's eyes.

12 We have a very interested citizenry about an issue of

13 considerable import, and they might support the goals

14 of the organization, but as I stated, I don't run the

15 organization, I deal with Paul Matinho, and he doesn't

16 have a membership list. And that's all I can tell you

17 and that's the truth. So --

18 CHAIRMAN BOXER: Okay. We appreciate that,

19 and we know that there's no other agenda behind it. We

20 will do what we can to manage, Ms. Bonsall, the

21 representation issue. I think it's a fair concern and

22 we'll do everything we can to find out who everyone is.

23 MS. DONATO: And Mr. Boxer, in addition, I

24 did inquire of Mr. Matinho whether or not there were

25 supporters that might have an economic interest that,

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1 you know, might, although it's not dispositive of their

2 ability to participate it is something that can be

3 considered. And as far as he knows every citizen,

4 they're just people who live here.

5 CHAIRMAN BOXER: I understand. Let me just

6 ask Mr. Collins a question, and I don't want to split

7 hairs legally, but if a citizen provides financial

8 support, Mr. Collins, but chooses not to be a member

9 how would that be defined in your mind?

10 The reason I'm asking is, I think it might

11 help citizens clarify who they are in this. I think if

12 people give money is that a form of membership or is

13 that simply a sign of support?

14 MR. COLLINS: There's no clear rule on the

15 subject. There are ways to do things --

16 UNIDENTIFIED PUBLIC VOICE: We can't hear

17 you.

18 MR. COLLINS: There are no clear rules on

19 this subject. I don't think it's on -- testing,

20 testing. The mic is on, but the mic doesn't pick

21 anything up.

22 There are many different arguments on the

23 subject, Mr. Chairman. I don't know that's the

24 important issue. The important issue is, are they

25 represented by Ms. Donato? And if they are, can she

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1 ask the questions for him? I said that before, that's
 2 what I stand behind. I stand behind that an
 3 association by its definition is more than one person.
 4 So there must be a second person for there to be an
 5 association, but we'll ask each person if they're a
 6 member of the association, and if they say they're not
 7 a member of the association --
 8 UNIDENTIFIED PUBLIC VOICE: We can't hear
 9 anything. Cannot hear a word.
 10 MR. COLLINS: As I said before, there
 11 probably are at least two people for there to be an
 12 association, and there are some arguments that there
 13 are more than two when you have an association. So as
 14 each person comes up and they are stating their names
 15 if they get asked whether they represent -- whether
 16 they're represented by Ms. Donato then they should not
 17 individually ask questions, they should have Ms. Donato
 18 ask the questions. If they are not represented by Ms.
 19 Donato, regardless of whether they pay money, they
 20 should -- if they're not represented by Ms. Donato they
 21 may ask their own questions.
 22 CHAIRMAN BOXER: I think that's fair
 23 enough.
 24 MR. COLLINS: Anyone can be presented by
 25 Ms. Donato as a witness, that's a different part of the

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1 case. But when the case is presented anyone can
 2 testify, if they're represented by Ms. Donato through
 3 Ms. Donato. If they're not represented by Ms. Donato,
 4 by themselves testifying as to relevant and material
 5 information for this proceeding.
 6 CHAIRMAN BOXER: Thank you, Mr. Collins.
 7 So, look, we're going to proceed, Ms. Donato, with Mr.
 8 Matinho will be disqualified. And if members of the --
 9 if our citizens ask questions we'll simply allow them
 10 to come up. They're going to state their name, they'll
 11 get sworn in, and we will see how this proceeds and
 12 we'll do the best we can to filter it out.
 13 MS. DONATO: And to the extent that it's of
 14 any assistance, if there are any people who are not
 15 sure of what, you know, what their relationship is or
 16 how they commit, I mean, I do know there are some other
 17 aspects to this, but, you know, I would be glad to
 18 present any questions of anybody if you want me to ask
 19 them, if it makes it any easier for anybody.
 20 CHAIRMAN BOXER: No, I understand. Okay.
 21 Ms. Bonsall, I don't know what else we can do rather
 22 than -- we'll try to do our best to filter it and we'll
 23 see where this takes us.
 24 MS. BONSTALL: And Mr. Chairman, we
 25 appreciate it. Thank you.

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1 MR. HALL: I'll have Mr. Lynch come back up
 2 now. But we finished -- where we stopped last time Mr.
 3 Sasso, Ms. Donato asked their questions. Some members
 4 of the public had, and some members of the public
 5 hadn't.
 6 One quick thing I want to say before we
 7 start, I said last time, I think Mr. Lynch said also,
 8 that we have various experts that will be presented who
 9 will be able to explain the details of the proposal.
 10 Mr. Lynch was not presented for that purpose, he is
 11 presented as an overview witness. Now, he's certainly
 12 -- I think he tried to the answer questions, probably
 13 more than he should have, but hopefully we cannot waste
 14 a whole lot of time on things that experts -- other
 15 witnesses can answer, and that witness is Mr. Kennedy,
 16 the engineer. And I think he can answer many
 17 questions. I just --
 18 CHAIRMAN BOXER: Fair enough.
 19 MR. HALL: So, Mr. Lynch is here. And the
 20 last thing also on that, I mean, it's not just how I
 21 presented him, but he's the executive vice president.
 22 He's in lay terms the boss. He supervises and he
 23 delegates. So he shouldn't be expected to know all the
 24 details, that's why you hire other professionals. So
 25 to the extent there's some -- it might be perceived

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1 that he should know things, he's the boss. He's got
 2 the big picture and that's what he's presented and you
 3 have other people for the details. With that, he's
 4 back for public questions.
 5 CHAIRMAN BOXER: Understand. Thank you.
 6 Well, let me ask the public and maybe I can
 7 get a sense of how many people have intentions of
 8 questioning Mr. Lynch.
 9 (Whereupon, several hands are raised from
 10 the audience members.)
 11 CHAIRMAN BOXER: Okay. Fair enough. So
 12 let me do a few things to try to provide a primer for
 13 people. I think it's important that we try and stay on
 14 point with Mr. Lynch. I don't want to -- I don't want
 15 to guide questioning. I don't think that's really my
 16 course. But we are going to try and guide questioning
 17 to relevant matters. So, as we think about this
 18 witness we'll certainly invite everybody up that has
 19 questions. We'll try and filter out the questions that
 20 are either repetitive, redundant, or probably not
 21 within this purview of expertise.
 22 For those who were here last week I'm sure
 23 you heard some of the questions. If you weren't we
 24 will -- we'll just have to work through it. So these
 25 are always difficult situations when we have lapses or

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1 voids in meetings where we have people come in and they
 2 don't hear the previous night's questions. It wouldn't
 3 be fair to any witness if they're asked the same
 4 question by four different people. So if you can bear
 5 with us, if we ask you to move on it's not personal,
 6 it's just that we heard the question. Mr. Lynch has
 7 probably answered it in multiple ways, and there will
 8 be more time to get clarification. This is not going
 9 to be dealt with in a -- there's no decisions tonight.
 10 There's going to be many witnesses, and there will be
 11 many nights of hearings. And we're going to try and
 12 give everybody a chance to build the very best case
 13 they can.

14 So if you can bear with me in the following
 15 manner: If you have a question for Mr. Lynch maybe we
 16 can just ask you come up to the microphone. I don't
 17 think you have to line up, just prepare yourself. Come
 18 up to the microphone, you'll have to state your name,
 19 address, get sworn in, and then we'll allow you to
 20 start the question with Mr. Lynch.

21 We do have an audio log tonight -- I guess
 22 we don't, actually. So tonight we do not have audio
 23 being logged, so that's what's different tonight about
 24 our meeting. We have a court stenographer that's
 25 creating a court record for us, but we do not have a

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1 tape of this meeting because of the venue that we're
 2 in. So I just want to make sure that everybody
 3 understands that. So let me invite the first -- sir,
 4 nice to have you again, Mr. Sasso.

5 MR. SASSO: Thank you, Mr. Chairman. Just
 6 by way of housekeeping, I'm just making a suggestion
 7 that perhaps some of the questions that Ms. Donato
 8 would be asking based on your ruling on behalf of Mr.
 9 Matinho may actually clear up and take care of some of
 10 the questions of the public.

11 CHAIRMAN BOXER: I would be okay with that.
 12 Let me ask Mr. Collins and Mr. Hall, would you guys be
 13 okay with that?

14 MR. HALL: Well, my concern is that Ms.
 15 Donato was here last time, and she at the beginning of
 16 the meeting we had a conversation and Mr. Collins said,
 17 well, I assume if someone comes up and he's your client
 18 that person will testify. Mr. Matinho was here, I
 19 mean, I don't know why she could reasonably think that
 20 he's not her client when she was sitting here last
 21 meeting. I think she had her chance. She asked her
 22 questions, and I think that's wasteful, and I would
 23 object to any questioning again by her.

24 CHAIRMAN BOXER: Thank you, Mr. Hall. I
 25 understand. Mr. Collins, can I ask you --

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1 MR. COLLINS: Yes, I think you should allow
 2 Ms. Donato to ask questions for Mr. Matinho that are
 3 not duplicative of the questions she asked at the last
 4 meeting. I recommend that you do that.

5 CHAIRMAN BOXER: Okay. Why don't we then
 6 do this, Mr. Sasso. I agree with you. Why don't we
 7 just at least try to get the more pertinent questions
 8 out of the way and we'll see, after she's done, if
 9 there are still questions that are going to need to be
 10 followed up by the citizens. So Ms. Donato, why don't
 11 you come up as a representative of Mr. Matinho.

12 MS. DONATO: Thank you very much.
 13 Appreciate it.

14 T H O M A S L Y N C H, having been previously sworn,
 15 testifies as follows:
 16 CROSS-EXAMINATION BY MS. DONATO:
 17 Q. Okay. Mr. Lynch, at last month's hearing
 18 it was brought to your attention that Meadow and
 19 Country Club Roads are designated as scenic corridors;
 20 isn't that correct?
 21 A. Yes.
 22 Q. Okay. And you are proposing, KDC Solar
 23 meaning you, are proposing to build a berm along those
 24 roads to shield the facility from site; is that
 25 correct?

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1 A. We're -- again, I think Mr. Kennedy, our
 2 engineer, will go through the detail of what's going to
 3 get built to shield the facility from the site at that
 4 intersection.

5 Q. Okay. So is it the intention of KDC that
 6 that berm will somehow function to replicate the rural
 7 farming characteristics of that area?

8 MR. HALL: I would object. We have other
 9 experts who would talk about this. He's not presented
 10 to provide expert opinion on anything.

11 MS. DONATO: I'm asking him as a layperson,
 12 because he testified to it in his direct. It's page 56
 13 of the transcript.

14 CHAIRMAN BOXER: Mr. Collins, do you have
 15 an issue with the question?

16 MR. COLLINS: No. I recommend that the
 17 question be answered.

18 MR. HALL: Can you repeat the transcript
 19 reference?

20 MS. DONATO: We're at page 56. Do you need
 21 the question repeated?

22 A. What I said was, "It is our intention," and
 23 I think as I just previously stated, Mr. Kennedy will
 24 go through it in the detail, but that the solar
 25 facility will not be visible from either Country Club

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1 **Road or from Meadow. I don't -- I'm sorry, but I don't**
 2 **see here where I used the word "berm."**
 3 Q. Didn't you say, "It is our design that the
 4 rural farming characteristics of the property will be
 5 maintained"?"
 6 **A. Yeah. You used the word "berm," though.**
 7 Q. My question to you was: Is the berm a
 8 rural farming characteristic?
 9 **A. And I guess I'm -- I'm not trying to be**
 10 **difficult, but I didn't use the word "berm." Berm, in**
 11 **my mind, connotes a certain kind of movement of the**
 12 **dirt, and I very specifically in my comments at the**
 13 **last meeting did not use the word "berm" as it regards**
 14 **what we're planning to do at that intersection of the**
 15 **two roads.**
 16 Q. Well, it was actually along both Meadow and
 17 Country. What do you want to call it, Mr. Lynch?
 18 **A. Call what, Ma'am?**
 19 Q. The pile of soil with vegetation that
 20 you're proposing to construct along Meadow and Country
 21 Club Road?
 22 CHAIRMAN BOXER: I apologize, we have to
 23 have some decorum, okay. This is a very serious matter
 24 and Mr. Lynch is trying to answer questions. So I know
 25 that there's some emotion here, but I would ask you

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1 guys just to refrain from the laughing and the snide
 2 remarks. Thank you.
 3 **A. What I believe I stated is that we're going**
 4 **to grade the property in such a manner to maintain the**
 5 **rural characteristic of that area and of Bedminster,**
 6 **such that when and where the solar panels are**
 7 **ultimately placed on the property they will not be**
 8 **visible. If there is a technical --**
 9 Q. So -- I'm sorry. I didn't realize you were
 10 not finished.
 11 **A. If there is a technical term for that I'm**
 12 **unaware of it.**
 13 Q. So you've never heard of the word "berm"?"
 14 **A. Oh, I've heard of the word "berm."**
 15 Q. Okay. So how high will this soil or this
 16 grading be in order to shield views from those two
 17 roads so that you don't see the solar packages?
 18 MR. HALL: Our expert will testify --
 19 CHAIRMAN BOXER: I assume your engineer
 20 will testify to the heights. Again. I just want to
 21 make sure that we don't overload the questions to Mr.
 22 Lynch.
 23 MS. DONATO: Okay. I'll defer.
 24 BY MS. DONATO:
 25 Q. And do you recall hearing at the last

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1 meeting your attorney stating that, "This grading would
 2 be designed so that you won't even see the solar
 3 panels, so it's not going to stick out like a sore
 4 thumb"?"
 5 **A. I honestly don't. I mean, the meeting was**
 6 **long. I do not recall hearing my attorney make that**
 7 **comment, but if you want to point me to where it is on**
 8 **the transcript I'll review it.**
 9 CHAIRMAN BOXER: Ms. Donato, maybe I can
 10 just suggest something, because I'm not sure how far
 11 we're going to go with berms and heights. I think this
 12 Board's going to all want to hear from Mr. Kennedy.
 13 There's going to be a lot of detail that we haven't
 14 really gotten to yet that we all have questions on. I
 15 know that Mr. Lynch is being placed in an awkward
 16 position here. I'm not sure it's wrong, your
 17 questions, I just think that for us to get the
 18 specificity that we need I think we're going to have to
 19 wait for the engineers to testify.
 20 MS. DONATO: Right. As long as the Board
 21 understands that he did render certain opinions about
 22 shielding it, and if he doesn't have the basis to
 23 support it it's really a negative.
 24 CHAIRMAN BOXER: I understand. Look, I'm
 25 not suggesting you don't ask the question. I think

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1 that Mr. Kennedy is probably going to be on task to
 2 answer those questions.
 3 MS. DONATO: I have a number of questions
 4 that Mr. Matinho did here and I'm just going to glance
 5 over those. I'm just going to wait. I'll defer to the
 6 time that the design expert is here.
 7 CHAIRMAN BOXER: Thank you, Ma'am.
 8 Appreciate it.
 9 BY MS. DONATO:
 10 Q. Now, Mr. Lynch how long is your contract
 11 with Sanofi? I mean, how long will these panels be
 12 producing power for Sanofi if this is approved?
 13 MR. HALL: If you know.
 14 **A. I'm not certain that under the**
 15 **confidentiality agreement with our power sales**
 16 **agreement with Sanofi or Sanofi that I can disclose**
 17 **that.**
 18 Q. Well, let me ask you this, then: Do solar
 19 panels have a certain life, a performance life?
 20 **A. I believe we went through these questions.**
 21 **I think you questioned me on it at the last meeting.**
 22 **And what I stated then, to my recollection, was that**
 23 **the manufacturers will warranty the panels for**
 24 **20 years. Our expected economic use for life of a**
 25 **panel is 30 years. So, you know, can they last beyond**

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1 **30 years? My guess would be yes, but, you know, there**
2 **hasn't been PV technology out there for 30 years to**
3 **really put that final finite date as to life**
4 **expectancy.**
5 Q. So let me understand something. The
6 manufacturers' guarantee, is that a guarantee that the
7 panels won't, you know, break or fade, or is that a
8 guarantee that they're going to produce the energy, is
9 there a difference?
10 A. **There is a warranty as to how many kilowatt**
11 **hours or kilowatt watts that a panel will produce based**
12 **on its life. And that warranty, just like you get a**
13 **warranty when you buy a car, will, for the panels, go**
14 **out 20 years.**
15 MR. HALL: If I may interject. These exact
16 same questions were raised by Ms. Donato last month on
17 page 91. I don't know why we're going through this
18 again.
19 MS. DONATO: I will defer the questions if
20 I asked them. I do not recall getting an answer as to
21 performance guarantee.
22 MR. HALL: I'm looking at page 91.
23 MS. DONATO: I just said I would defer the
24 questions, Mr. Hall.
25 BY MS. DONATO:

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1 Q. Now, what is the size of the proposed
2 facility in megawatts?
3 A. **It's approximately 10 megawatts.**
4 Q. Okay. And when you testified at the last
5 meeting did you state that -- did you change the number
6 of panels that were to be constructed there from what
7 was previously presented?
8 A. **I don't believe so. I think prior to the**
9 **recess you had asked me a question. I did not have the**
10 **facts in front of me, and I believe, although, I mean,**
11 **I can go get the actual numbers I said, but I thought I**
12 **said in the neighborhood of 45,000. When we came back**
13 **after the recess I clarified that and corrected my**
14 **statement to say that right now on the plan is 40,484**
15 **panels. That's my recollection of what transpired at**
16 **that meeting.**
17 CHAIRMAN BOXER: Ms. Donato, I would again
18 say that probably somewhere in this testimony we're
19 going to get quite specific from the engineers, so --
20 MS. DONATO: That would be from the
21 engineer about the megawatts, you think, Mr. Boxer?
22 MR. HALL: Well, he answered the megawatts.
23 I think the number of panels --
24 CHAIRMAN BOXER: The number of panels, I
25 think that Mr. Kennedy is going to step up here and

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1 give us quite a bit of information on the footprints of
2 the panels and the size, et cetera. Again, you're the
3 last one I want to cut off, but I just want to make
4 sure that we don't sort of go back to the same ground.
5 MS. DONATO: I understand. I'm trying not
6 to.
7 BY MS. DONATO:
8 Q. How many buildings -- when you applied to
9 the BPU how many buildings on the Sanofi campus were
10 going to be served up by this facility?
11 CHAIRMAN BOXER: I just want to -- I think
12 -- again, I apologize. I think last time we covered
13 this.
14 MR. HALL: I think we did.
15 CHAIRMAN BOXER: I think we covered
16 buildings. I think we covered -- I think we covered
17 metering. I think we covered where the excess capacity
18 was going to be going in the event that they didn't
19 consume it. It would be going to the local power
20 company grid.
21 I just want to make sure that -- I'm just
22 trying to create -- I think to put Mr. Lynch in this
23 position we're going to be here probably quite a long
24 time, because I think the engineers are going to be
25 obligated to give us this information. And I don't see

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1 Mr. Lynch --
2 MS. DONATO: And if, then will I be able to
3 perhaps --
4 CHAIRMAN BOXER: I think we should revisit
5 it. I think you should -- if it's not satisfying you I
6 think you should come right back up and ask questions.
7 MS. DONATO: Okay. Because I just wanted
8 to clarify. I don't recall, and I'll look back over
9 the transcript again --
10 CHAIRMAN BOXER: Well, Mr. Lynch, how many
11 buildings are involved --
12 MS. DONATO: -- that three buildings are now
13 being served.
14 CHAIRMAN BOXER: I apologize. Let me just
15 ask Mr. Lynch so we can get -- do you remember how many
16 building were involved?
17 THE WITNESS: I do, Mr. Chairman. There's
18 one meter that serves three buildings. It's the
19 original three buildings. Sanofi occupies four
20 building on that site. The fourth building has its own
21 meter. None of the power from the solar facility will
22 be going to that fourth meter.
23 MR. HALL: Fourth building?
24 THE WITNESS: Fourth building, I'm sorry.
25 CHAIRMAN BOXER: And as I recall as well,

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1 the landlord did not want any power on its facility,
 2 right?

3 THE WITNESS: Any installation.

4 CHAIRMAN BOXER: Any installation, which is
 5 why we're sitting here.

6 THE WITNESS: The one thing I'd like some
 7 clarification on is -- and I want to be cooperative,
 8 but I'm trying to understand the relevance of how many
 9 buildings and the BPU and stuff going on over there
 10 with this application. I'm at a bit of a loss.

11 CHAIRMAN BOXER: I think everything is
 12 dealing with this application. I mean, I know that
 13 some of these things may be a little bit distant, but I
 14 think the citizens are being asked -- I think we're
 15 being asked to approve a very major variance against
 16 the master plan, and I think everything related to this
 17 is important. So, I think that we're going to just
 18 have to be a little flexible on the information. We'll
 19 do the best we can to not repeat questions, but I think
 20 we're going to have to get to the end -- we're going to
 21 have to get to the complete story.

22 MS. DONATO: I don't think this question
 23 was at all asked, but I just want to make sure that I
 24 understand.

25 BY MS. DONATO:

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1 Q. When you applied to the BPU how many
 2 buildings did you propose to serve with the information
 3 you provided to the BPU?

4 MR. HALL: I object. He answered the
 5 question. What he applied for is irrelevant. He said
 6 what the proposal is.

7 Now, this group she represents and Mr.
 8 Matinho are pursuing an appeal in the Appellate
 9 Division trying to reopen the BPU proceeding. Now, if
 10 the court makes a decision, that's fine, but that's
 11 there, that's not here. Here we have a land use
 12 application, and he said proposal, the proposal is to
 13 serve three buildings. Beyond that I just think we're
 14 drifting into territory that doesn't belong for a land
 15 use board.

16 MS. DONATO: And I really must disagree
 17 very much so. The Municipal Land Use Law provides at
 18 Section 22 that a Board in considering an application
 19 before it may, in appropriate instances, condition its
 20 approval upon the receipt of other requisite
 21 governmental approvals. And there is authority,
 22 particularly the Morris County Fair Housing Council
 23 case, which is an Appellate Division decision by one of
 24 the most note-worthy land use jurists, Judge Skillman.
 25 And in that particular case the Court concluded that

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1 the Board properly had denied an application because of
 2 an important land use approval required from the New
 3 Jersey Department of Environmental Protection.

4 There is always a chicken and an egg when a
 5 Board is asked to review something, and yet you don't
 6 know that the other governmental agency would approve
 7 it. This goes directly to the provisions of the New
 8 Jersey Administrative Code applicable to the BPU, and
 9 whether or not this facility would qualify as a
 10 net-metered facility. To be net metered you're not
 11 supposed to generate excess energy into the grid. So
 12 they're kind of creating a hybrid, and it's very
 13 important because it relates also to what we call the
 14 fundamental feasibility test. And that is, you know,
 15 is this application ready to be heard?

16 There was recently a decision by a Court,
 17 unfortunately it's an unpublished one, but it involved
 18 a hospital coming in as an inherently beneficial use.
 19 They hadn't received their Certificate of Need from the
 20 Department of Health, and the Court stated that you
 21 don't really have the qualification to be here as an
 22 inherently beneficial use. And I think that this
 23 argument is very critical to the eligibility of this
 24 use to be considered as inherently beneficial. And you
 25 can't separate the two. Section 22 of the land use law

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1 connects them.

2 MR. HALL: That's the precise argument Mr.
 3 Sasso made last month that we spent time on and it was
 4 rejected. So she's wasting our time. Been there, done
 5 that.

6 MR. SASSO: Mr. Chairman, I don't think so.
 7 Mr. Hall's recollection is, I think, a little bit off.
 8 More importantly, you know, for a person, a lawyer for
 9 the applicant to start off the meeting tonight
 10 rehabilitating his own witness through his own
 11 statements about what Mr. Lynch didn't know about his
 12 own application as to quote, "the Boss," kind of
 13 punctuates what we're doing and what we're dealing with
 14 here. And then you have Mr. Lynch objecting.

15 The same attorney that's saying, hey, don't
 16 let any member of the group ask any questions and
 17 participate, and then his own client is here making
 18 objections to you as the Chairman. There's something
 19 wrong, Judge -- I mean, Mr. Chairman.

20 The bottom line is this: What we have to
 21 do is get to the issue of inherently beneficial use.
 22 That inherently beneficial use that they are seeking to
 23 basically force on this Board revolves around a BPU
 24 approval that they are so proud to show to the members
 25 of the Board, yet the bottom line is it's not a

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1 contingent piece of property. When they went to the
 2 BPU all the facts show, and Mr. Hall submitted the
 3 information to the Board, that when it went to the BPU
 4 they showed the solar arrays, they showed the equipment
 5 on the other side of 287 next to Sanofi, which is in
 6 Bridgewater not Bedminster. So what she's saying is
 7 absolutely on point, in my opinion.
 8 (Applause.)
 9 MR. HALL: It's the same thing we heard
 10 last month. I mean, I'm sorry, but --
 11 MR. COLLINS: Mr. Chairman, I recommend
 12 that you allow the continuation of the line of
 13 questioning which started with the phrase, "When you
 14 applied to the BPU -- " because prior statements can
 15 be used in cross-examination to -- it sounds harsh, but
 16 to impeach the witness, which basically means to strive
 17 for the facts by asking about prior statements. I'm
 18 not criticizing the prior statement right now, I'm
 19 saying, why is that relevant in cross-examination?
 20 Because the case law says it is.
 21 So, I recommend you allow the line of
 22 questions, and I'm interested in these arguments, but,
 23 quite frankly, they're going to be the arguments
 24 throughout the case and we're not here to hear oral
 25 arguments from attorneys right now.

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1 So people should keep their focus on the
 2 question, the objection, whether they're sustained or
 3 overruled. And in this case I recommend that you
 4 overrule the objection, allow the question to continue,
 5 but we'll be careful not to go too far into something.
 6 CHAIRMAN BOXER: Thank you, Mr. Collins.
 7 Ms. Donato, why don't you continue and work
 8 with us.
 9 MS. DONATO: I will try, sir, Mr. Boxer.
 10 Sometimes there's complexity --
 11 CHAIRMAN BOXER: No, I know that and --
 12 MS. DONATO: -- and not quite as easy, but I
 13 appreciate your -- I'm trying. Okay. Would you like
 14 me to have the reporter repeat the question?
 15 CHAIRMAN BOXER: If you wouldn't mind, that
 16 would be helpful.
 17 (Whereupon, the following question was read
 18 back by the court reporter:
 19 "QUESTION: When you applied to the BPU how
 20 many buildings did you propose to serve with the
 21 information you provided to the BPU?")
 22 THE WITNESS: I don't recall.
 23 BY MS. DONATO:
 24 Q. I'm sorry, what did you just say?
 25 A. I said, I do not recall how many buildings

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1 were in the original application.
 2 Q. Do you know how many meters were on the
 3 plans submitted to the BPU?
 4 A. I do not.
 5 Q. Do you know how many lanes of road exist
 6 between the Kirby Farm and the Sanofi Campus?
 7 A. I do not.
 8 Q. Can you describe the roads that exist
 9 between the Kirby Farm and the Sanofi Campus?
 10 A. I believe it's Route 287 -- U.S. Route 287.
 11 Q. Do you know how many lanes there are of 287
 12 running northbound?
 13 A. I do not.
 14 Q. So then you don't know how many are running
 15 southbound?
 16 A. That's correct.
 17 MS. DONATO: I have no further questions.
 18 Thank you Mr. Lynch.
 19 CHAIRMAN BOXER: And I'm sure you'll have
 20 more for the engineers. We appreciate it.
 21 MS. DONATO: Thank you.
 22 CHAIRMAN BOXER: Based on Ms. Donato's
 23 question let me now ask the group, who now has
 24 questions for Mr. Lynch? (Audience members raise their
 25 hands.)

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1 That's great. So here's what we can do.
 2 Ma'am, come on up. We'll just take one at a time.
 3 There's no rush, but again, I will ask you to think
 4 about the questions and whether they've been asked
 5 before. We're going to try to do our best to filter
 6 them. If we know that they've been asked we're going
 7 to tell you that. Don't take it personally, please,
 8 because we want you to get every question that's
 9 important to you. So we need you to state your name
 10 and address and get sworn in by Mr. Collins.
 11 MS. SMITH: My name is Michele Smith, 927
 12 Washington Valley Road, Basking Ridge, New Jersey.
 13 MR. HALL: Objection. She was here last
 14 time and asked questions. I don't think she should
 15 come back.
 16 MR. COLLINS: Let's do this first.
 17 Michele, please raise your right hand. Do you swear or
 18 affirm to tell the truth, the whole truth, and nothing
 19 but the truth so help you God?
 20 MS. SMITH: I do.
 21 MICHELE SMITH, having been duly sworn,
 22 testifies as follows:
 23 MR. COLLINS: Michele, the question is that
 24 you asked questions last month.
 25 MS. SMITH: I agree. I asked questions

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1 last month.

2 MR. COLLINS: You should wait and you will

3 have an opportunity to ask -- wait until other people

4 who have not asked questions ask questions.

5 MS. SMITH: Actually, though, my only

6 question is: There was a question I asked last month

7 about who are the owners of Sanofi that they did not

8 contact, they took the word of somebody else. And it

9 was requested that that information be brought back to

10 this meeting. So I was just going to ask if they had

11 it.

12 CHAIRMAN BOXER: So, Ma'am, I'm sorry.

13 What was the question, again? I apologize.

14 MS. SMITH: There was a question -- I asked

15 a question because Mr. Lynch stated that he heard that

16 the owners of the property where Sanofi was located did

17 not want the solar power plant. I asked who the owners

18 were. His answer was, there was a conglomerate of

19 owners. I don't have an access to the transcript, so

20 this is my own --

21 MR. COLLINS: I remember Ms. Smith's

22 question and she's correct, and I believe the applicant

23 does have a writing that they could produce that

24 identifies the owner of the property, because I

25 remember that we directed that they do that. Thank

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1 you.

2 CHAIRMAN BOXER: We appreciate that.

3 MR. COLLINS: The witness should identify

4 the ownership information about the Sanofi property,

5 the Sanofi-Aventis property, and let's make it Exhibit

6 A-2.

7 MR. HALL: Yes, I submitted an e-mail to

8 Mr. Collins with copies of just public records.

9 CHAIRMAN BOXER: We've seen that.

10 MR. COLLINS: I think it should be A-2.

11 MR. HALL: I mean, that's fine. I don't

12 have any questions. We used public records.

13 CHAIRMAN BOXER: Mr. Collins, if you can

14 just work to have that identified.

15 MR. HALL: I have no problem marking it

16 A-2. We can agree what it is.

17 (Exhibit A-2, Ownership information about

18 Sanofi property, was received and marked.)

19 CHAIRMAN BOXER: Thank you, Ma'am. We

20 appreciate that. Let me ask who has -- sir, come on up

21 and same process, if you wouldn't mind.

22 MR. KIBLER: Bill Kibler. I'm with the

23 Raritan Headwaters Association. Our headquarters is on

24 a large crossroad in Bedminster.

25 B I L L K I B L E R, having been duly sworn,

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1 testifies as follows:

2 CHAIRMAN BOXER: Mr. Kibler, how do you

3 spell your last name?

4 MR. KIBLER: K-i-b-l-e-r. I had a host of

5 questions about the berm that I tried to filter out.

6 I'll deal with those with the engineer, but Mr. Lynch,

7 if you'll forgive me for a moment it's been a while, so

8 I had to put some notes together for this, and right

9 now I'm wishing I had typed much larger.

10 When we were here last month or a month

11 ago, Mr. Lynch, you said that there was a similar site

12 on Route 202 in Branchburg that you guys, or that

13 someone had developed as solar for Imclone; is that

14 correct?

15 THE WITNESS: I didn't -- I said we were in

16 the process of building a 10 megawatt facility there.

17 I'm not trying to say that the topography is similar

18 between the two sites, but the solar facility itself.

19 MR. KIBLER: Gotcha. Well, that's exactly

20 what I was trying to get at. So, it's generally

21 similar to what you're trying to do -- it's similar in

22 scale to what you're trying to do on the Kirby property

23 or the Kirby Farm?

24 THE WITNESS: Both projects are

25 approximately the same size, meaning 10 megawatts.

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1 MR. KIBLER: Okay. Is the project that

2 you're developing for Imclone is that ground mounted?

3 THE WITNESS: Yes.

4 MR. KIBLER: So that's similar to Kirby

5 Farm, to what you're doing at Kirby Farm, or what

6 you're proposing, excuse me, for Kirby Farm?

7 Kirby Farm is also proposed to be ground

8 mount; is that correct?

9 THE WITNESS: Yes.

10 MR. KIRBY: The Imclone facility is that

11 on-site or is it across Route 202 from Imclone?

12 THE WITNESS: It's across, it's on the

13 north side of Route 202.

14 MR. KIBLER: So, I guess that's kind of

15 like Kirby Farm that it's across the road. Would you

16 agree that 202 is not exactly as massive a road as

17 I-287?

18 THE WITNESS: Yes, I would.

19 MR. KIBLER: Is the solar development for

20 Imclone in the same township as Imclone? I realize

21 it's across 202, but is it in the same township?

22 THE WITNESS: Yes.

23 MR. KIBLER: Okay. Are both parcels under

24 the same ownership?

25 THE WITNESS: No.

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1 MR. KIBLER: Okay. Do you know what the
2 current land use is of the parcel where the solar is
3 being developed for Imclone?
4 THE WITNESS: I believe, so I'm not a
5 hundred percent sure, I believe it was office research
6 or office lab, but I guess --
7 MR. KIRBY: So it's not low density
8 residential?
9 THE WITNESS: The answer, I think I should
10 say, is no, because I do not know a hundred percent.
11 MR. KIBLER: All right. I'll follow up
12 with that. Are you familiar with any other solar power
13 facilities on corporate campuses on Route 202?
14 THE WITNESS: I'm aware of on Route 202
15 there is solar at a number of the Johnson & Johnson
16 facilities.
17 MR. KIBLER: Okay. Are you familiar with
18 Johnson & Johnson's ITS facility in Raritan Borough on
19 202, the former Janssen MacNeil farming facility.
20 CHAIRMAN BOXER: Sir, can I just ask a
21 question? I'm just trying to understand the relevancy
22 of everything that's not in Bedminster. I'm just
23 trying to understand where we're taking this.
24 MR. KIBLER: This has to do with the
25 necessity or the perceived necessity of developing a

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1 parcel of property that is not zoned for an industrial
2 use when, in fact, the use that they're proposing, the
3 solar use has been developed on similar sites without
4 having to go off-site, and, in fact, in the same area.
5 It happens not to be in Bedminster Township, but there
6 are other pharmaceutical facilities within the
7 immediate area that have developed, successfully
8 developed solar energy on the site without having to go
9 off-site.
10 MR. HALL: I would object as to relevance.
11 I think he's testifying. If he wants to bring in a
12 witness --
13 MR. KIBLER: Well, I'm not testifying. The
14 Chairman asked me what the relevance of the questioning
15 was, so I'm telling him. I was asking questions
16 before, I certainly wasn't testifying.
17 CHAIRMAN BOXER: I understand. I think it
18 might be helpful if we can maybe summarize. Just take
19 us to what you really want to ask this man, because I
20 think I know where you're going with it, and I think
21 it's probably just best to ask the question so Mr.
22 Lynch can answer it. It's going to be difficult if we
23 keep going through each site, because I'm not sure that
24 we're --
25 MR. KIBLER: No, it was only the one site,

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1 so I'm pretty much done with that.
2 Did I understand you to testify last month
3 that the Kirby Farm is the only site that meets the
4 legal requirement to be adjacent to the Sanofi
5 facility?
6 THE WITNESS: Can you ask that again? I'm
7 not sure I understood what you said.
8 MR. KIBLER: Yeah. I can ask it again,
9 sure. And correct me if I'm wrong, because this was
10 just a question. Did I understand you to testify last
11 month that the Kirby Farm property is the only site
12 that meets the legal requirement to be adjacent to the
13 Sanofi facility?
14 THE WITNESS: No, I don't think I submitted
15 testimony along those lines.
16 MR. KIBLER: Okay. Did you testify last
17 month that you would increase the agricultural yield
18 from the property when you're done?
19 THE WITNESS: I testified that we would
20 increase the agricultural yield from where it currently
21 is today after we're done, yes.
22 MR. KIBLER: Okay. And in preparing for
23 this project did you familiarize yourself with
24 Bedminster's Master Plan.
25 THE WITNESS: Yes, we did review it.

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1 MR. KIBLER: Okay. And do you understand
2 Bedminster's Master Plan to have the goal of protecting
3 current agricultural production or protecting the
4 potential for future agricultural production?
5 MR. HALL: I think these questions were all
6 asked last time by someone else. I'll defer to the
7 Chairman.
8 CHAIRMAN BOXER: Mr. Hall, it's okay to
9 continue with all of the -- I mean, you know, I suspect
10 some of these questions will always overlap. I just
11 think it's good that you're -- I think you're entering
12 a different area, which is fine, because I do think
13 agriculture and the use of agriculture and the yields
14 are going to be a very important part of the decisions
15 the Board has to make, so I think you can continue.
16 MR. KIBLER: Correct, and this is zoned for
17 agricultural use, so -- do you need me to repeat the
18 question or --
19 THE WITNESS: Please.
20 MR. KIBLER: You understand Bedminster's
21 Master Plan to have the goal of protecting just current
22 agricultural production or the potential for future
23 agricultural use?
24 THE WITNESS: My interpretation is to
25 protect the current, what's currently there.

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1 MR. KIBLER: Just one more area that I'd
 2 like to go into. I'll skip the stuff on berms because
 3 I can talk to the engineer about that later.
 4 How much of the property's going to be
 5 taken up by solar panels and supporting structures?
 6 THE WITNESS: I -- you know, I think our
 7 engineer can get into the specifics of it, but I did
 8 make a statement that 38.4 acres, or approximately
 9 29 percent was going to be within the fenced areas.
 10 The fenced areas will include the solar facilities, the
 11 inverter pads, I think is what -- I think you said
 12 buildings?
 13 MR. KIBLER: I hadn't brought up the
 14 buildings.
 15 THE WITNESS: You asked what did it cover?
 16 And with the expectation that 79 acres or 60 percent of
 17 the property will continue to remain undeveloped.
 18 MR. KIBLER: And that 60 percent -- well,
 19 let me ask the question a different way, because that
 20 60 percent that's going to remain undeveloped is going
 21 to continue to be an agricultural production; is that
 22 right?
 23 THE WITNESS: Are the woods, woodland.
 24 MR. KIBLER: Okay. Got it. And you said
 25 that -- because you're also going to have sheep grazing

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1 in the area where the panels are?
 2 THE WITNESS: Yes.
 3 MR. KIBLER: Okay. And was the -- were the
 4 sheep part of the increased agricultural production of
 5 the property?
 6 THE WITNESS: Yes.
 7 MR. KIBLER: Okay. Do you know what the
 8 tax bill is currently on the 38 acres or 38.4 acres,
 9 whatever, the part that's eventually going to be
 10 developed for solar, what the current tax bill is?
 11 MR. HALL: I'd object. We really shouldn't
 12 be getting into taxes.
 13 MR. KIBLER: Well, at the last meeting, Mr.
 14 Chairman, the witness testified for quite a while about
 15 the direct and indirect benefits that this project
 16 would bring to Bedminster. And one of the direct
 17 benefits that he talked about was tax revenue. So I
 18 think it's directly relevant.
 19 CHAIRMAN BOXER: Was your question what the
 20 solar installation would generate in taxes?
 21 MR. KIBLER: Yeah, the intent of the
 22 question was to, I mean, I can lay the whole question
 23 out if you want. I didn't want to make it too complex,
 24 but I'd like to know what the difference is between
 25 what the property is paying in taxes today as AG versus

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1 what the expectation is that it would be paying in
 2 taxes as industrial --
 3 CHAIRMAN BOXER: I think, because part of
 4 the requirement was -- part of the inherently
 5 beneficial argument is that something good comes out of
 6 it for the town. I assume you said earlier on that
 7 there's some tax improvements, there's some tax
 8 benefits.
 9 MR. KIBLER: And what I'm trying to get at
 10 is, I'd like to know what the amount of that tax
 11 increase is going to be.
 12 CHAIRMAN BOXER: If you have a general
 13 sense, Mr. Lynch, if not we can come back to it.
 14 THE WITNESS: The general sense, and I
 15 don't have the numbers at my fingertip, I believe the
 16 entire property right now, the hundred-plus acres is
 17 farm land assessed. And so I believe the tax right now
 18 on it is somewhere in the neighborhood of \$1,000.
 19 The 38 acres would no longer fall under the
 20 farmland assessment and would be then taxed at our
 21 current millage. I do not have a sense as to what the
 22 assessed value of the land would be. Solar -- the
 23 panels themselves are personal property, so there would
 24 be zero on the improvement piece, if you think about
 25 the tax bill as both the improvement, meaning someone's

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1 house and then the property underneath.
 2 We would expect, and again this is given
 3 our -- what we've seen in other communities where the
 4 property is moved from farmland assessed to fully
 5 assessed. I would expect that the tax revenues coming
 6 off the property could be as much as \$75,000, if not
 7 possibly a little more per AG, on the 38 acres. So the
 8 remaining 60 percent would continue to be farmland
 9 assessed for, or we would expect them to be. I'm not
 10 the tax assessor, obviously.
 11 MR. KIBLER: That was it. That was all the
 12 questions.
 13 CHAIRMAN BOXER: We appreciate it. We'll
 14 call up the next witness. I would say, Mr. Lynch, I
 15 said it at the beginning of the hearing last time, the
 16 math is so odd to me that the fact that there is no
 17 farming going on there today is a bigger issue, right?
 18 So, when you talk about the yield is higher, the yield
 19 is higher because there is no farming going on today.
 20 And you're coming in and placing, you know, a solar
 21 facility in place. It's the right argument, it's just
 22 somewhat counterintuitive to me just generally
 23 speaking, because the fact is that land should be
 24 agriculturally protected. Mentally I think about it
 25 and the fact that the yield is going to be greater

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1 because no one is farming it is, it's a fair argument
2 it's just an odd argument, but I understand. Thank
3 you. Okay.
4 Sir, come on up.
5 MR. YINGLING: Good evening. My name is
6 Jeff Yingling, 770 Country Club Road.
7 MR. COLLINS: And you need to be sworn in.
8 Do you swear or affirm to tell the truth, the whole
9 truth, and nothing but the truth so help you God?
10 MR. YINGLING: I do.
11 J E F F Y I N G L I N G, having been duly sworn,
12 testifies as follows:
13 MR. COLLINS: And you're not represented by
14 Ms. Donato?
15 THE WITNESS: No.
16 CHAIRMAN BOXER: And, sir, were you at the
17 last meeting?
18 MR. YINGLING: Yes.
19 CHAIRMAN BOXER: Okay. Thank you.
20 MR. YINGLING: I'll try not to duplicate
21 any of the questions that have come up. I'd like to
22 find out, has the DOT issued any approvals for crossing
23 287?
24 THE WITNESS: We have not filed for that at
25 this point.

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1 MR. YINGLING: Do you not think that that
2 might be an issue to address prior to construction for
3 seeking approvals here?
4 THE WITNESS: No. We would expect that
5 something like that is a condition to -- in order to --
6 it's part -- we would expect, as we have in other
7 applications, that it is a part of the Resolution that
8 that permit is received.
9 MR. YINGLING: Okay. This has been touched
10 on briefly by other persons, but I don't think the
11 answer really came up as to why KDC hasn't followed
12 through with the landlord of the Sanofi property
13 directly to find out about doing an installation on
14 directly the property?
15 CHAIRMAN BOXER: I think we have talked
16 about that. I think for now we're going to let, if
17 it's okay with you, I think we've talked about, you
18 know, in the first meeting I think it was very clear
19 that the landlord had no appetite to put this facility
20 on their property. Why they did we don't really know,
21 it's almost not important at this point. We have to
22 rule on just this. We have other issues that we have
23 to look at. That's interesting, but it's really not
24 going to be something that we look at that closely.
25 MR. YINGLING: It may be something of

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1 interest that there are environmental issues.
2 CHAIRMAN BOXER: There might be, but again
3 it's not even our town.
4 MR. YINGLING: On page 97 of your previous
5 testimony you indicated that, "The area is known for
6 its litter and boarded-up houses. The county considers
7 this area as a gateway to farm and horse country."
8 What would KDC do to guarantee that the
9 litter and abandoned house would be able to remain to
10 continue Bedminster being what it is today?
11 THE WITNESS: I'm sorry. What was the
12 question?
13 MR. YINGLING: What will KDC do to
14 guarantee that the litter and abandoned house will
15 remain to allow Bedminster to continue being what it is
16 today?
17 THE WITNESS: Well, our -- we're going to,
18 as I think Mr. Kennedy will go through with his -- with
19 the engineering, as far as what our specific both
20 landscaping and work on the property is. Our plan
21 would be -- is to clean up the house. The garage
22 itself has graffiti all on it. It's actually an --
23 they're both now -- both between the unattached or
24 detached, I guess, is the term, garage with the house
25 are not safe, so they've been boarded up. We would

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1 bring them back to at least presentable, you know,
2 paint them, secure them, but beyond that we're not
3 looking that the house would be occupied. If you
4 recall, there had been a barn on that property and due
5 to years of neglect and no attention it was mandated by
6 the Township of Bedminster for that barn to be taken
7 down. So, hopefully we're at a point where we can
8 intervene with regards to the farmhouse.
9 MR. YINGLING: Next, you indicated that you
10 were going to increase property yields by increasing
11 the amounts of fertilizer and pesticides used on the
12 property. We have well water in this area. What are
13 your plans if the increased chemical use pollutes our
14 drinking water?
15 THE WITNESS: I'm not sure -- can you
16 direct me where I actually stated about the fertilizer
17 and the pesticide?
18 MR. YINGLING: Unfortunately, I did not get
19 to go through the entire testimony, what page number,
20 but I have it in my notes as previous testimony. We
21 can come back to that.
22 Next question is about the berm, but I
23 guess I'll wait for the expert testimony.
24 CHAIRMAN BOXER: The berm's getting a lot
25 of play, but we'll get Mr. Kennedy up here.

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1 MR. YINGLING: It is. How will stormwater
2 be handled on the property? Will there be retention
3 basins installed compensating for the clearcutting of
4 the forest, and where will they be located?
5 THE WITNESS: Mr. Kennedy will go through
6 all of the stormwater management.
7 MR. YINGLING: Okay. And the last
8 question, you mentioned also in your testimony that
9 what happens in Bedminster is important to you. Why
10 would you consider putting an industrial-use facility
11 in a protected farmland area? And why not put
12 something like this on, like, maybe Cedar Bridge Road,
13 instead of selling to Sanofi selling to AT&T?
14 THE WITNESS: I don't think we can get from
15 Cedar Bridge Road over to AT&T, number one. And
16 secondly is, I guess I don't view it as an industrial
17 project.
18 MR. YINGLING: That's it for now. Thank
19 you.
20 CHAIRMAN BOXER: Appreciate your questions.
21 We'll get you back here if you have more. May I ask
22 anybody else if they have questions to come up, please?
23 Sir, come on up and you need to be sworn.
24 MR. FRANTZ: Steve Frantz, 90 Preston
25 Terrace.

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1 MR. COLLINS: Do you swear or affirm to
2 tell the truth, the whole truth, and nothing but the
3 truth so help you God?
4 MR. FRANTZ: Yes, I do.
5 S T E V E F R A N T Z, having been duly sworn,
6 testifies as follows:
7 CHAIRMAN BOXER: Mr. Frantz, you can just
8 raise the mic or speak louder.
9 MR. FRANTZ: I'll go to the other one.
10 MR. COLLINS: Steve, let me just confirm
11 that you're not represented by Ms. Donato?
12 MR. FRANTZ: I am not represented by Ms.
13 Donato. Just to touch on the litter comment that you
14 made last time, again, just for those of you who
15 weren't here, Ms. Donato asked, "When you drive down
16 Country Club and meadow at this time and you look at
17 the Kirby Farm what do you see?" I'm paraphrasing, and
18 Mr. Lynch's response was "Litter and a boarded-up
19 farm." That's his initial response.
20 So as a representative and a voice of KDC,
21 how can I as a member of Bedminster and the people in
22 this room be reassured that you actually have an
23 understanding of what the rural character of our town
24 is?
25 THE WITNESS: I don't know how you can be

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1 reassured.
2 MR. FRANTZ: You don't have any defense for
3 anything? Like, if you look at that property, I can
4 show you a nice picture of it, if you'd like, and the
5 first thing your response is that you see litter?
6 How can we have a sense that you understand
7 what our town's about? I know you live here and you
8 claim that you feel that this town is -- you're a part
9 of it and what happens is important to you, but you as
10 a representative of a company that's planning on
11 putting up large installation solar panels on a piece
12 of property close to my home I'm concerned that you
13 really have no idea what the rural character is.
14 MR. HALL: Is there a question in that?
15 MR. FRANTZ: I asked a question.
16 MR. HALL: No, you're making a statement.
17 MR. FRANTZ: Okay. Well, he's ignoring it.
18 He really doesn't have an answer.
19 MR. HALL: No, he answered the question.
20 MR. FRANTZ: Let me ask my other question.
21 So I understand, who's your -- the project, who is your
22 agreement with in selling the power?
23 CHAIRMAN BOXER: I think he stated that, do
24 we agree? I want to make sure --
25 MR. FRANTZ: So it's Sanofi?

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1 CHAIRMAN BOXER: I want to make sure that
2 we're not -- I mean, unless there's something specific
3 that you have that we haven't really dealt with --
4 MR. FRANTZ: I just have one question. In
5 the event that Sanofi leaves the property who's your
6 agreement with then?
7 CHAIRMAN BOXER: I know Mr. Lynch answered
8 it, but maybe you can just take a couple of minutes and
9 just for one more bear with us. I think it's an
10 important question. If you can answer it we can move
11 on.
12 MR. FRANTZ: Because just to touch on it,
13 you said that the owner of the property didn't want any
14 type of relationship. So if Sanofi leaves I understand
15 that you'll push the power to the grid, but you were
16 also saying last week that there is -- you'll continue
17 to power the facility, but do you have an agreement
18 with the landowner?
19 THE WITNESS: So Sanofi has a long-term
20 lease for the property. So if Sanofi leaves or Sanofi
21 leaves prior to the end of that lease I don't believe
22 there -- they have not relieved themselves of their
23 obligation with us. I can't speak as to whether or not
24 they've relieved themselves of their underlying
25 obligation with the landlord.

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1 We have access to the meter on the Sanofi
 2 site, such that we are always connected to that at that
 3 point where the power is either going into the
 4 buildings, the three buildings, or is going back to the
 5 grid.
 6 MR. FRANTZ: Okay. So then if Sanofi
 7 leaves the property and ends their agreement with the
 8 property owner you won't be supplying power to that
 9 property anymore?
 10 THE WITNESS: I can't say what will happen
 11 at that point in time. It may be to a successor. It
 12 may be ultimately to the landlord, but Sanofi is --
 13 Sanofi is our counter-party for the life of the
 14 transaction.
 15 MR. FRANTZ: Okay. But we don't know what
 16 the life of the transaction is?
 17 THE WITNESS: It is multiple years.
 18 MR. FRANTZ: Okay. Thank you.
 19 CHAIRMAN BOXER: I think last time, Mr.
 20 Lynch, just so I can get my own numbers right here, it
 21 was -- I think it's coterminous, right? It's 20 years,
 22 you said two, five-year renewals, is that the plan?
 23 THE WITNESS: Yeah, then I was informed
 24 afterwards that there was confidentiality that I may
 25 have breached in making those statements.

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1 CHAIRMAN BOXER: The statement's on the
 2 record, but that's what you said?
 3 THE WITNESS: That's correct. That's what
 4 it is.
 5 CHAIRMAN BOXER: Thanks very much. Okay.
 6 Anybody else? Come on up, sir. Introduce yourself.
 7 If you wouldn't mind, your name, address,
 8 and then we'll get you sworn.
 9 MR. VANCAMP: Good evening. David VanCamp
 10 from Burlington Township, New Jersey.
 11 MR. HALL: I have an objection. What's
 12 Burlington Township, what's that got to do with this?
 13 MR. COLLINS: We'll deal with that next.
 14 Mr. VanCamp, please raise your right hand. Do you
 15 swear or affirm to tell the truth, the whole truth, and
 16 nothing but the truth so help you God?
 17 MR. VANCAMP: Yes, I do.
 18 D A V I D V A N C A M P, Burlington Township, New
 19 Jersey, having been duly sworn, testifies as follows:
 20 MR. COLLINS: And Mr. VanCamp, there's an
 21 objection that -- maybe Mr. Hall should just state it
 22 and we could address it.
 23 MR. VANCAMP: That's fine. I can address
 24 that. Just as the other witness was from the Raritan
 25 Headwaters Association he's not a resident of

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1 Bedminster, as a citizen of New Jersey I bring a unique
 2 perspective, I think, to this, and through this
 3 questioning I think you'll see that. I have a right as
 4 a member of the public to be here in a public forum.
 5 Nothing states that you have to be a member of this
 6 specific town to be here.
 7 MR. HALL: No, but you should have some
 8 standing, some kind of relationship and not be a total
 9 stranger, but --
 10 CHAIRMAN BOXER: Mr. Collins?
 11 MR. COLLINS: I'm satisfied that he has the
 12 right to ask questions or make statements.
 13 CHAIRMAN BOXER: Why don't you proceed.
 14 MR. VANCAMP: Sure. I have a few questions
 15 and it's going to go into some detail, and I'll defer
 16 to the Board if you feel that you don't want to go in
 17 that direction and I'll defer to you.
 18 CHAIRMAN BOXER: As long -- I mean, let's
 19 just see where it takes us. Realizing that Mr. Lynch
 20 is not going to be the expert.
 21 MR. VANCAMP: I understand that, but his
 22 attorney also put him you up as a witness.
 23 CHAIRMAN BOXER: I understand, but let's
 24 just see we're it goes.
 25 MR. VANCAMP: We can see how this goes. I

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1 just wanted to start by saying, again, that I think I
 2 bring a unique perspective.
 3 CHAIRMAN BOXER: And why do you say that?
 4 MR. VANCAMP: Just as a resident that's
 5 aware of many solar installations and --
 6 CHAIRMAN BOXER: Could I request, if you're
 7 an engineer or professional, do you have any
 8 professional standing in the state?
 9 MR. VANCAMP: I'd like to defer that. I'm
 10 not --
 11 CHAIRMAN BOXER: I'm asking you on the
 12 record.
 13 MR. VANCAMP: I do, but I'm not here
 14 representing myself as a professional.
 15 CHAIRMAN BOXER: Tell us what your
 16 professional background is. I know that you're not an
 17 expert, but I want to understand how you are connected
 18 if you're not even in our town.
 19 MR. VANCAMP: Okay. I'm a licensed
 20 mechanical engineer in the state of New Jersey.
 21 CHAIRMAN BOXER: Okay. That's fine. You
 22 should be proud of that.
 23 MR. VANCAMP: I am, but I'm not here
 24 representing myself.
 25 CHAIRMAN BOXER: You're an educated man.

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1 We want to hear from you.
2 MR. VANCAMP: Let me start the questioning.
3 I want to respect, and I purposely tried to go last so
4 I don't repeat questions that were already stated. And
5 I was at the last meeting, so I'm well aware of what
6 was said and the testimony.
7 So I just want to start by asking, do the
8 grid-supply projects that you said that this project is
9 not, Mr. Lynch, they have inverters; is that correct?
10 THE WITNESS: We don't do any grid-supply
11 projects, so putting that aside, all solar projects
12 have an inverter.
13 MR. VANCAMP: Thank you. How about
14 underground electrical conduits, or overhead
15 electrical?
16 THE WITNESS: I'm sorry, what's your
17 question?
18 CHAIRMAN BOXER: Well, I just want to make
19 sure, because last month you were here, if you remember
20 that we had quite a bit of discussion with Mr. Lynch
21 about the inverters, the conduits, the head-ins, we
22 talked about boring, we talked about the access to the
23 Sanofi site, we talked about the net metering, we
24 talked about the meter connection. I mean, I think if
25 these are questions that are going to be technical

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1 we're going to turn you over to the engineers.
2 MR. VANCAMP: I understand. I'm just
3 trying to get some background to characterize --
4 CHAIRMAN BOXER: But you asked me to guide
5 you. I'm guiding you.
6 MR. VANCAMP: Sure, within reason. So I
7 just want to get an idea that are net-metered projects
8 and grid supply, aside from the inner connection, are
9 they typically, if we're looking at a ground-mount
10 system, are they usually very similar in nature?
11 THE WITNESS: We're not involved in the
12 grid supply part of the industry, so I cannot -- I'm
13 not an expert at all in grid-supply projects. I think
14 ground mount solar projects all have certain
15 similarities to them.
16 MR. VANCAMP: Okay. Thank you. You said
17 that you were aware -- you were recalling the Energy
18 Act of the state of New Jersey last month, but I just
19 want to make sure we're on the same page that it's
20 actually known as the Solar Act. I just want to make
21 sure that we're clear on the terminology. Is that --
22 there's an energy master plan of 2011, and there's a
23 Solar Act of 2012 signed by Christie. Are we on the
24 same page?
25 THE WITNESS: Well, I guess I'm trying to

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1 understand where your question lies in that. I agree
2 with you there is the Energy Master Plan, which I
3 believe was dated 2011. And then there was the Solar
4 Act, as it's referred to, which was legislation that
5 was passed by the assembly, the senate, and then signed
6 into law by Governor Christie.
7 MR. VANCAMP: And I believe that's what was
8 referenced as the Energy Act the last time, I just want
9 to clear it up, but it's the same thing, Solar
10 Act/Energy Act, we're using it interchangeably? It was
11 on the record as Energy Act. Just for point of
12 clarification --
13 THE WITNESS: There was some back and
14 forth, I believe, with Mr. Sasso and we were talking
15 about the Energy Master Plan or trying to talk about
16 both the Energy Master Plan and the legislation. So
17 the two are separate and very distinct. So, I'm sorry,
18 I'm not exactly following your line.
19 MR. VANCAMP: That's fine. I'll refer to
20 it as the Solar Act. So I just want --
21 THE WITNESS: So may I interrupt for a
22 second?
23 MR. VANCAMP: Sure.
24 THE WITNESS: So when you say the Solar Act
25 you're talking about the legislation?

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1 MR. VANCAMP: Yes, S-1925.
2 THE WITNESS: Okay.
3 MR. VANCAMP: And you said you were aware
4 of the Energy Act or the Solar Act, S-1925. Are you
5 aware that the average size Subsection "S," which is
6 considered the farmland projects, the grid-supply
7 projects, are 10.2 megawatts in size, were you aware of
8 that?
9 MR. HALL: I'm sorry. I object. He's
10 testifying.
11 MR. VANCAMP: It's a question.
12 MR. HALL: No, you said "Are you aware of?"
13 You have a factual premise to your question.
14 MR. VANCAMP: It's a question.
15 MR. HALL: No. The premise of your
16 question is, "Is that a true statement?" And "Do you
17 know?" I don't know if it's a true statement.
18 MR. VANCAMP: He said in last month's
19 testimony that he was familiar with the Solar Act. I'm
20 asking him a question related to the Solar Act.
21 CHAIRMAN BOXER: I'm just trying to
22 understand where you're going with your question, and
23 it might not be --
24 MR. VANCAMP: What I'm trying to do is
25 establish that there are parallels between the

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1 grid-supply projects that they dismissed, as this
2 project is not one of them, and this very large
3 net-metered project that's going to affect your town.
4 MR. HALL: Why don't you just ask him that?
5 MR. VANCAMP: I'm just asking if he knew
6 that the average size of the 640 megawatts that were in
7 the Subsection "S" Solar Act, if he realized that -- if
8 he's aware that the average size is similar to the size
9 of this net-metered project here that you're proposing?
10 I'm just asking for a parallel. You can say no.
11 THE WITNESS: I am not aware of the average
12 size of the projects that are qualified under
13 Subsection "S" of the Solar Act.
14 MR. VANCAMP: Okay. Thank you. On the
15 Solar Act Subsection "W" was an inquiry by the BPU if
16 net-metered projects over 3 megawatts should be
17 provided incentives for being built. And do you recall
18 that while KDC lobbied the BPU or sent comments to the
19 BPU that the Subsection "S" 640 megawatts be denied,
20 you also asked the BPU that net-metered projects over 3
21 megawatts have -- actually have incentives where you
22 get more SREC or what they were calling Super SREC?
23 THE WITNESS: Yes, I'm aware of that.
24 MR. VANCAMP: So given that the premise was
25 on the denial -- on the denial of the 640 megawatts I

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1 assume your premise was not protection of farmland,
2 although the BPU did recognize that as a consequential
3 benefit of denying those projects, I have to imagine
4 that the advantage was that the SRECs wouldn't
5 oversupply an already saturated market. So how do you
6 explain that contradiction if you lobbied for more
7 SRECs for net-metered projects?
8 MR. HALL: I object again. There's a
9 factual premise in his statement. If he wants to ask
10 if he knows what something says he can ask that, but
11 don't give a whole factual premise and then say, do you
12 agree? That's not --
13 CHAIRMAN BOXER: I'm trying to understand.
14 MR. COLLINS: No, I respect that it's an
15 objection. I would recommend that you allow the
16 question. On cross-examination there's great
17 liberality to how you ask a question and you can
18 properly state a premise, which the witness can deal
19 with if he knows some information that counters that
20 premise.
21 CHAIRMAN BOXER: I agree. I think what I
22 was going to say to you is, I think you can help guide
23 us how you can be helpful as well, is that we're trying
24 to understand the relationship to your questions as we
25 think about this approval process. As you go along you

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1 could always help us by telling us what you think is
2 important in the questions, why we should sort of pay
3 attention to it.
4 MR. VANCAMP: Okay. I'm sorry, because I
5 didn't want to take a lot of time --
6 CHAIRMAN BOXER: No, we don't mind. This
7 is important.
8 MR. VANCAMP: -- to explain why I'm asking
9 a certain question. I was asking detailed questions
10 because -- only relevant to what previous testimony was
11 on the topic. He said that he was familiar with the
12 Solar Act, so I'm asking questions relative to the
13 Solar Act. If you -- with all due respect, if you want
14 further information from me of why I'm asking a
15 particular question I'll provide that.
16 CHAIRMAN BOXER: Here's the point. You're
17 not from the town. We're trying to understand as you
18 ask questions why they're relevant.
19 MR. VANCAMP: They're relevant because this
20 is a statewide -- this is a statewide issue. I'm
21 asking you to not just look at this as an issue in
22 Bedminster, and I realize that you're a Zoning Board,
23 but these projects don't happen in a vacuum. There's
24 solar projects, large grid supplied, and net metered
25 all over the state and this has a greater context than

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1 just Bedminster.
2 CHAIRMAN BOXER: I would agree with you.
3 MR. VANCAMP: So I just ask that you just
4 bear with me.
5 CHAIRMAN BOXER: That's absolutely fine.
6 Go ahead.
7 MR. VANCAMP: Just a quick question on the
8 stipulation. You said that the property was considered
9 contiguous by the BPU, but yet the stipulation
10 settlement, which sounds like it was provided to the
11 Board, was dated 6/8/2012. In that settlement is it
12 true that JCP&L did not agree that the property should
13 be eligible for net metering?
14 THE WITNESS: I don't believe -- I thought
15 that I said that the property, or I'm sorry, the
16 project qualified, or our interpretation of the
17 stipulation from the BPU was that the project was
18 certified as net metered. I'm not sure with the final
19 stipulation, if JCP&L was -- agreed or disagreed to
20 where the BPU came out. I know they were a part of the
21 proceedings. I do not recall what their position was
22 at the end of the proceedings.
23 MR. VANCAMP: Okay. But it sounds like the
24 Board has that stipulation?
25 CHAIRMAN BOXER: We do.

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1 MR. VANCAMP: So that they can make --
 2 CHAIRMAN BOXER: They provided us a copy.
 3 MR. VANCAMP: Sounds good. I know that was
 4 a question at the last meeting.
 5 I'm going to try to get through this a
 6 little bit quicker. I'm having a little bit of
 7 difficulty with the characterization last month of how
 8 net metering works, or whether or not you would be
 9 selling to JCP&L. Is it the way that net metering
 10 works that any excess generation on a monthly basis is
 11 given as full retail credit to the next month's bill to
 12 the customer?
 13 THE WITNESS: No, it's not given as next
 14 month's bill. There is a true-up on a 12-month cycle
 15 under net metering.
 16 MR. VANCAMP: Under that true-up if there's
 17 an excess generation, which they consider NEG, isn't
 18 that paid to the customer by the electric distribution
 19 company, which in this case will be JCP&L at the
 20 avoided cost of wholesale power, which would
 21 essentially mean that the customer is selling to the
 22 grid?
 23 THE WITNESS: Well, under net metering you
 24 have to provide the last 12 months of usage, and so
 25 that total kilowatt hours that were used sort of

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1 creates the ceiling. There are situations where if a
 2 building -- if it was a new building and solar was
 3 being incorporated in that design where you could have
 4 a professional engineer certify what their expected
 5 usage would be, and then you're allowed to build up to
 6 that from a solar perspective.
 7 So the only -- the net metering is -- the
 8 facility is built based on, or maxed-built based on the
 9 last 12 months of usage. There is a -- as any contract
 10 would have, is because the sun may shine more than it
 11 was originally projected, where there may be some
 12 overage because of more kilowatt hours being produced,
 13 or load has been reduced relative to that 12-month
 14 previous calculation. So there is a true-up in the
 15 contract that at the end of the 12 months if there
 16 happen to be more kilowatt hours that had gone back to,
 17 in this case JCP&L, which is the local utility, then
 18 the account would be settled out, but you cannot build
 19 a project and get what's called a PTO, which is your
 20 Permission To Operate from the utility if you've built
 21 something greater than what the last 12 month's
 22 consumption was.
 23 MR. VANCAMP: Agreed. But at the end of
 24 the annualized period if you had net excess generation
 25 you would pay for that power?

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1 THE WITNESS: That is correct.
 2 MR. VANCAMP: Okay. Just clarifying that
 3 for the public and the Board. Thank you. Just a
 4 couple quick site comparisons. You mentioned
 5 Lawrenceville School. There was a news video, news
 6 clip off of your web site that had the sustainability
 7 directorate at the Lawrenceville School which states
 8 that KDC as a partner did not want sheep munching on
 9 wires. Can you explain why sheep under the panels here
 10 would be okay but not at Lawrenceville?
 11 THE WITNESS: I don't recall seeing that
 12 video, so, no, I can't answer the question.
 13 MR. VANCAMP: Okay. I can play the video
 14 but I'll spare you the embarrassment, I guess.
 15 MR. HALL: I object on that comment.
 16 That's inappropriate.
 17 MR. VANCAMP: Do you want me to play the
 18 video?
 19 CHAIRMAN BOXER: We're not going to play
 20 the video.
 21 MR. HALL: No. You can do it five months
 22 from now when we're done.
 23 CHAIRMAN BOXER: Let's just stick to the
 24 question. Let's not get overly dramatic. Stay focused
 25 on the question.

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1 MR. VANCAMP: I'm not getting dramatic.
 2 The Imclone Branchburg your web site states that over
 3 13 million kilowatt hours of power would be produced,
 4 and you said that this site is very similar in size.
 5 That would produce approximately 13,000 SRECs per year
 6 just for that project, and then additionally any
 7 project that you do produce SRECs. Given the state
 8 that the market is currently saturated how do you
 9 justify continuing to put these large projects on the
 10 grid? Isn't the industry chasing its own tail in the
 11 supply-and-demand theme?
 12 THE WITNESS: We still feel that there's a
 13 benefit to building these projects, and that's all I'm
 14 going to say on it.
 15 MR. VANCAMP: Okay. On the -- again, on
 16 the Branchburg Imclone project I think it was
 17 characterized as office laboratory zoning.
 18 MR. HALL: He then said he wasn't sure.
 19 That was his initial guesstimate.
 20 MR. VANCAMP: Okay. And I can't make
 21 factual statements so I'll leave that one alone. What
 22 I did -- would you be surprised if I looked at the tax
 23 records, which I have with me, that it was -- that it
 24 was indeed office laboratory? I mean, it sounds like
 25 it's plausible that it was office laboratory zoning;

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1 correct?

2 CHAIRMAN BOXER: What is that? I'm sorry.

3 MR. VANCAMP: It sounds like it's highly

4 likely that it's office laboratory. I'm trying to not

5 tell you what it is.

6 MR. COLLINS: You can tell him.

7 MR. VANCAMP: It was office laboratory.

8 MR. COLLINS: If he doesn't know --

9 MR. VANCAMP: Okay. It's office

10 laboratory. So he agreed it is.

11 Also, on Route 206 at 1545 where your

12 company resides you mention that you have solar. Do

13 you recall that the zoning for that property where you

14 have rooftop, ground mount, and carport is considered

15 OR or Office Research, which is a commercial zone?

16 THE WITNESS: No, I don't -- I mean, okay.

17 MR. VANCAMP: Okay. And are you aware that

18 KDC's project that you mentioned for North Jersey Media

19 Group in I think it's Rockaway, 4.96 megawatts, is it

20 -- would you be surprised that that was industrial

21 zoned?

22 THE WITNESS: No, I would not be surprised.

23 MR. VANCAMP: Okay. And are those on-site

24 panels, meaning on the same tax lot?

25 THE WITNESS: I believe -- which project

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1 are you asking about now?

2 MR. VANCAMP: North Jersey Media Group.

3 They look consolidated in the picture, but I'm just

4 confirming that they're all on one lot. It's

5 industrial zone.

6 THE WITNESS: I honestly don't know if

7 they're all on one tax lot.

8 MR. VANCAMP: Okay. And just to clarify,

9 the Bedminster zoning here is R-10, Rural Residential.

10 I think that that's obvious. I'm just wondering, do

11 you know what the zoning would be if the -- if they

12 were placed on the Sanofi site? Do you know what the

13 zoning for Sanofi is in Bridgewater?

14 THE WITNESS: I don't at this moment, no.

15 MR. VANCAMP: Okay. It's considered

16 special economic development.

17 MR. HALL: I object. He's testifying.

18 MR. VANCAMP: I thought I could say -- if

19 he doesn't know the answer I thought I could tell him.

20 MR. COLLINS: You can't testify, but you

21 can premise the question with a statement that you

22 happen to --

23 MR. VANCAMP: Okay. Would you be surprised

24 if it was a special economic development zone which is

25 considered commercial?

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1 Would you be surprised if it was?

2 MR. HALL: We will have a planner who will

3 answer all these questions. We're wasting time.

4 THE WITNESS: I honestly never really

5 thought about it. So --

6 MR. VANCAMP: Okay. Okay. That's fair.

7 The site where these panels might be located, you

8 didn't think about what the zoning would be, is what

9 you said, what you're saying?

10 CHAIRMAN BOXER: I think we can keep going.

11 I think we understand what the zoning issues are. We

12 understand the variance requirements. The applicant

13 obviously is aware of it because he's sitting here

14 before us.

15 MR. VANCAMP: When you introduced yourself

16 in the meeting last month you didn't give us your

17 educational background. Do you mind sharing that with

18 the public and the Board?

19 CHAIRMAN BOXER: Let me ask a question, Mr.

20 Collins. Is that relevant?

21 MR. COLLINS: Yes, this is relevant.

22 CHAIRMAN BOXER: Go ahead, Mr. Lynch.

23 THE WITNESS: I have a Bachelor's of

24 Science in accounting. And I have an MBA with a

25 concentration in finance.

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1 MR. VANCAMP: Thank you. So, therefore, do

2 you have any business talking about the technical

3 details of the project which last month involved

4 Letters of Interpretation, planning objectives,

5 fertilizers, landscape buffers, noise, glare, et

6 cetera?

7 THE WITNESS: I don't believe last month I

8 gave expert testimony on those. And as I've outlined

9 tonight with some of the questioning, I've postponed

10 that questioning for our expert such as Mr. Kennedy,

11 who's our engineer, to deal with.

12 MR. VANCAMP: Would you agree that it might

13 have been a better idea for the benefit of the Board

14 and the public for the engineer and the planner to have

15 gone first?

16 MR. HALL: I object. That's irrelevant.

17 CHAIRMAN BOXER: Let's just keep going.

18 It's up to the attorney who he chooses to put up, okay.

19 MR. VANCAMP: But it's a fair question to

20 the applicant.

21 CHAIRMAN BOXER: We're going to keep going.

22 I don't think it's a fair question. I don't think it

23 makes any sense, personally.

24 MR. VANCAMP: I think it makes a lot of

25 sense, because --

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1 CHAIRMAN BOXER: Sir, we can keep going or
2 we can --
3 MR. VANCAMP: I'm not --
4 MR. COLLINS: The ruling says to move onto
5 the next question.
6 CHAIRMAN BOXER: You can choose your path:
7 You can ask your questions, or you can sort of be done
8 and sit down.
9 MR. HALL: In hindsight I should be upset
10 because we've wasted almost two nights with Mr. Lynch,
11 but that's how we did it.
12 CHAIRMAN BOXER: I'm not sure we wasted Mr.
13 Lynch's time, because I'm --
14 MR. HALL: I apologize.
15 MR. VANCAMP: On your web site you have a
16 goal, a submission statement that says, "Our goal is to
17 reduce the carbon footprint of the country by
18 developing, owning, and operating a solar power
19 facility"; is that correct?
20 THE WITNESS: Yes, that is on our web site.
21 MR. VANCAMP: Do you have any projects
22 outside of New Jersey, any solar projects outside of
23 New Jersey?
24 THE WITNESS: We have developments of solar
25 projects outside of New Jersey.

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1 MR. VANCAMP: As a solar developer I would
2 imagine that you're keenly aware that the energy
3 information administration indicates that New Jersey
4 has a grid that is much cleaner than most states in the
5 United States?
6 THE WITNESS: A grid that's much cleaner?
7 MR. VANCAMP: Yeah, our portfolio of energy
8 production in New Jersey, it's cleaner than -- it's
9 cleaner than -- is it cleaner than Pennsylvania?
10 THE WITNESS: Are you saying the portfolio
11 of power plants located in the state, or portfolio of
12 power plants producing electricity that is consumed in
13 the state?
14 MR. VANCAMP: Consumed in the state.
15 THE WITNESS: The majority of the
16 electricity consumed in the state of New Jersey
17 actually comes from Pennsylvania, so I'm not sure I
18 would agree with your statement.
19 MR. VANCAMP: Okay. We resolved ownership
20 of the properties. As we get to larger and larger
21 projects is it fair to say that you diverge from roof
22 and carport applications and favor ground mounts? Is
23 that a fair characterization? Just inherently on the
24 ability to put panels somewhere. The larger projects
25 are typically ground mount; is that correct, whether

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1 net metered or grid supplied?
2 **A. Yeah, I think you're -- as I think about**
3 **the portfolio of larger projects in the state of New**
4 **Jersey the majority of them are -- the larger ones are**
5 **ground mounted, yes.**
6 MR. VANCAMP: And would it stand to reason
7 that these larger projects have more of a pronounced
8 impact as far as land use?
9 THE WITNESS: I'm going to assume that
10 every project, you know, meets its own merits and goes
11 through a process like this, and contemporaries to this
12 Land Use Board making those decisions that each of
13 those towns that those projects are moving forward in.
14 MR. VANCAMP: Okay. But it's not
15 necessarily linear, correct? So a 10 megawatt project
16 doesn't have five times the amount of impact as a 2
17 megawatt, right?
18 **A. I'm sorry. I'm not -- I don't understand**
19 **where your question --**
20 MR. VANCAMP: As far as the land use
21 impact, I'm just trying to make -- come to the
22 conclusion that the larger the project is the more --
23 inherently the more land use impact it has. Would that
24 stand to reason?
25 THE WITNESS: If it's a ground mount

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1 project, the larger project, yes, it's going to cover
2 more land.
3 MR. VANCAMP: Okay. Thank you.
4 You indicated in testimony last month
5 that -- I apologize, I'm going to say the word "berm,"
6 but that you believe that you considered a berm, and
7 it's planted with moderate vegetation to be a scenic
8 vista. Are you aware of a 2011 Superior Court case,
9 Atlantic Green Power versus Upper Pittsburgh Land Use
10 Board, are you aware of that case?
11 THE WITNESS: I am not.
12 MR. VANCAMP: The result of that case, and
13 it was a large solar case, said that a --
14 MR. HALL: I'm going to object again. He's
15 not familiar with the case, why is he asking the
16 question? Plus, it's a legal matter anyway. But we're
17 so far afield with anything --
18 CHAIRMAN BOXER: I think we're getting
19 probably close to the end.
20 MR. VANCAMP: Yeah. We are.
21 CHAIRMAN BOXER: Why don't we let him just
22 finish and we'll see where this takes us. Thank you,
23 Mr. Hall.
24 MR. VANCAMP: I wanted to understand the
25 matters of the case, which you said you're not familiar

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1 with, what seemed surprising to you, though. It was a
 2 denial of a large solar grid supply that was upheld by
 3 the Superior Court. They upheld the decision of denial
 4 by the Land Use Board. And they stated, "The scenic
 5 vista implies a more expansive view and not simply
 6 something hidden behind trees." Does that statement
 7 seem compelling?
 8 THE WITNESS: You know, I'm going to
 9 reserve answering on that because you're taking a court
 10 ruling reading a couple of sentences and asking for an
 11 immediate reaction. I just --
 12 MR. VANCAMP: Fair enough. And would it
 13 surprise you that the ruling was also based on the fact
 14 that the town's master plan made reference to the
 15 preservation of agricultural and rural character?
 16 THE WITNESS: I'm sorry. I mean, I'm
 17 completely -- I'm not familiar at all with either the
 18 developer, Upper Pittsfield (sic) or this ruling, so
 19 I'll pass on answering.
 20 MR. VANCAMP: That's fair enough. I think
 21 the planners will get into that, if you will.
 22 I think you acknowledged in your testimony
 23 tonight that all development applications have some
 24 impact. Many times the Board and the public will say
 25 that we don't want something built but provide no

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1 alternative location. In this case there's an obvious
 2 spot on the Sanofi site.
 3 MR. HALL: I object. He's testifying
 4 again. There's no testimony of an obvious spot.
 5 CHAIRMAN BOXER: Is there a question, sir?
 6 MR. VANCAMP: Yes.
 7 MR. COLLINS: I have to stop. That is a
 8 legitimate question.
 9 CHAIRMAN BOXER: I agree.
 10 MR. COLLINS: But you must ask the second
 11 phrase and make it into a question. So try to get
 12 it --
 13 MR. VANCAMP: I have the conclusion here
 14 and it says --
 15 MR. COLLINS: Well, don't make it a
 16 statement, make it a preface that is part of a
 17 question, that follows from your preface.
 18 MR. VANCAMP: The fact that you cannot
 19 convince the site owners to do solar on-site should not
 20 become the Board and the Township of Bedminster's
 21 issue; is that correct?
 22 THE WITNESS: I'm not answering that.
 23 MR. VANCAMP: Is that your answer, that
 24 you're not answering the question?
 25 MR. HALL: There was no testimony that he

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1 tried and failed to convince the owners to do anything.
 2 He said Sanofi said they didn't -- the owner didn't
 3 want it and KDC didn't pursue it. So the premise of
 4 the question is false, so he shouldn't have to answer
 5 it.
 6 MR. COLLINS: Mr. Hall's objection is
 7 correct as to that question.
 8 MR. VANCAMP: There was testimony --
 9 MR. COLLINS: The question is -- the
 10 objection is sustained. It should be sustained. You
 11 stated a prefatory statement in the question you just
 12 asked, which was inconsistent with the testimony given
 13 in the first hearing. So you might want to look at
 14 your transcript of the testimony given by Mr. Lynch,
 15 but Mr. Hall just described it correctly.
 16 MR. VANCAMP: Okay. Final question: How
 17 would you respond to the statement that this project
 18 has the size, characteristics, and impacts of a grid
 19 supply project while simply hiding under the veil of a
 20 net-metered project?
 21 THE WITNESS: What I would say to you is
 22 this project meets the dual benefit, which is something
 23 that has been put forward by the governor's office, the
 24 administration, and is highlighted in the energy master
 25 plan. You're highlighting a similarity that many

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1 net-metered projects could also fall into. We are
 2 providing a renewable source of electricity, long-term,
 3 and meeting the objectives of our PPA off-taker with
 4 reducing the cost of electricity and also achieving
 5 their sustainability goals.
 6 MR. VANCAMP: In your testimony this
 7 evening on the answer to my question you stated that
 8 the project is 10 megawatts, and the average size grid
 9 supply project is 10.2 megawatts.
 10 MR. HALL: He's testifying again. I have
 11 to keep objecting.
 12 MR. VANCAMP: I'm just clarifying the
 13 issue. He said -- he concluded that the average size
 14 grid supply is 10.2 megawatts, and that your project is
 15 10 megawatts; is that correct.
 16 THE WITNESS: No. I believe I said that I
 17 was unaware of exactly what the average megawatts of
 18 the Subsection "S" projects were. You stated 10.2.
 19 MR. VANCAMP: Okay. And does it stand to
 20 reason that 38.9 acres of solar has a large impact
 21 regardless of how many megawatts it's producing?
 22 MR. HALL: I object. A large impact is a
 23 meaningless statement.
 24 MR. VANCAMP: We can get into efficiencies
 25 of panels and whether you use tracking devices and

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1 whatnot to try to minimize your impact and reduce your
 2 field size and maximize your output.
 3 CHAIRMAN BOXER: Is there a question? We
 4 need to get to the question.
 5 MR. VANCAMP: I said, does it stand to
 6 reason that 38.9 acres of panels on prime farmland is a
 7 substantial impact, land use impact? That's my final
 8 question.
 9 THE WITNESS: And my answer is no.
 10 MR. VANCAMP: Okay. Fair enough. I thank
 11 the Board for your time and your patience and the
 12 service to your community.
 13 CHAIRMAN BOXER: Thanks for coming out
 14 tonight. Just for time, I'd like to know if there's
 15 any other citizens that are going to ask Mr. Lynch
 16 questions? I'm sorry, can you guys -- anybody, sir, do
 17 you have questions?
 18 MR. BOLASH: Just one.
 19 CHAIRMAN BOXER: All right. I'll tell you
 20 what, if you just have one we'll have you come up,
 21 because then we're going to take a little break. I
 22 think Mr. Lynch needs some time to collect. Just if
 23 you can speak right into the mic.
 24 MR. BOLASH: My name is Jeff Bolash, 150
 25 Somerset Terrace, Bedminster.

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1 MR. HALL: I object. He's represented by
 2 Ms. Donato.
 3 MR. BOLASH: You know, would you stop
 4 trying to protect them.
 5 MR. COLLINS: Please raise your right hand.
 6 Do you swear or affirm to tell the truth, the whole
 7 truth, and nothing but the truth so help you God?
 8 MR. BOLASH: Yes, I do.
 9 J E F F B O L A S H, having been duly sworn,
 10 testifies as follows:
 11 MR. COLLINS: Mr. Bolash, the objection is
 12 that you are represented by Ms. Donato; is that
 13 correct?
 14 MR. BOLASH: No. I am not, I never was,
 15 and I never will be a card-carrying member of Preserve
 16 Bedminster. I am a proud cardholder of Costco, though.
 17 MR. HALL: I have a letter to the BPU that
 18 says he's a member of Preserve Bedminster.
 19 MR. BOLASH: There are no members.
 20 MR. HALL: You sent a letter to BPU that
 21 said that.
 22 MR. BOLASH: Well, you know what? I'm not
 23 a professional letter writer. That's what you do. I
 24 just try to write things to be nice.
 25 MR. HALL: I'm sorry.

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1 MR. BOLASH: Will you stop?
 2 MR. HALL: I'm trying not to waste time, so
 3 ask your question.
 4 MR. BOLASH: Here's the question: Are you
 5 ready? And be honest. And this is also for you, Mr.
 6 Hall. Tommy --
 7 MR. HALL: Are you going to attack me like
 8 you attacked my partner Keith Lynott in your letter?
 9 MR. BOLASH: Well, no comment. Tommy, the
 10 Board members as well, think about this: I don't know
 11 where you live, but suppose your neighbor had a hundred
 12 acres and they wanted to put 40,000 solar panels 150
 13 feet from your house, would you want it there? And I
 14 think everyone here knows the answer to that already.
 15 Mr. Hall, same question to you, and to you,
 16 to you. Would you want that or would you not want it?
 17 MR. HALL: This is a statement, not a
 18 question.
 19 MR. BOLASH: That's it, would you want that
 20 or would you not want that? It sounds to me like a
 21 question.
 22 MR. HALL: For Mr. Lynch only.
 23 MR. BOLASH: To everybody here. Be honest.
 24 MR. HALL: No, he's the witness.
 25 MR. COLLINS: The only witness here tonight

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1 at this particular time is Mr. Lynch. And it is an
 2 appropriate question, and it was stated as a question,
 3 but I want to make sure about one other thing, Mr.
 4 Bolash. You are not represented by Ms. Donato, is that
 5 what you're telling us?
 6 MR. BOLASH: Yes, I am not.
 7 MR. COLLINS: Thank you. So the answer
 8 should be given.
 9 THE WITNESS: As long as it was shielded I
 10 would not have an issue if my neighbor, who has his own
 11 property rights, decided to put a solar facility on
 12 that property.
 13 MR. BOLASH: Thank you very much.
 14 THE WITNESS: You're welcome.
 15 CHAIRMAN BOXER: Thank you, Mr. Bolash,
 16 appreciate it. Let's take a 10-minute break and then
 17 we'll reconvene. Thank you very much.
 18 (A Break is taken 9:02 p.m.)
 19 (Back on the record at 9:16 p.m.)
 20 CHAIRMAN BOXER: Ladies and gentlemen, can
 21 I ask you to reconvene, if you wouldn't mind?
 22 Ladies and gentlemen, if I could ask you to
 23 take your seats so we could get started. Thank you.
 24 All right. Thank you very much, ladies and
 25 gentlemen. So we just have a couple of things we have

1 to deal with before we get started with Mr. Kennedy.
2 First, I want to make sure that we're done with Mr.
3 Lynch. There are no other questions. So Mr. Collins,
4 I think we could officially release Mr. Lynch from
5 testimony.

6 Okay, you actually have a question for Mr.
7 Lynch? Okay. Come on up.

8 MS. TERRAGLIA: I'm not certain if this is
9 a question for Mr. Lynch or for his attorney.

10 MR. COLLINS: Ma'am, please raise your
11 right hand. Do you swear or affirm to tell the truth,
12 the whole truth, and nothing but the truth so help you
13 God?

14 MS. TERRAGLIA: I do.

15 MR. COLLINS: Please, state your name and
16 address.

17 MS. TERRAGLIA: Daniel Terraglia, 77
18 Preston Terrace.

19 MR. COLLINS: Daniel, you're not
20 represented by Ms. Donato?

21 MS. TERRAGLIA: I am not.

22 D A N I E L T E R R A G L I A, having been duly
23 sworn, testifies as follows:

24 CHAIRMAN BOXER: Thank you very much. Just
25 speak in the mic so we can hear you.

1 MS. TERRAGLIA: Good evening.

2 CHAIRMAN BOXER: Good evening.

3 MS. TERRAGLIA: My question is, because
4 there's been much kind of time put in to determine
5 who's being represented by Ms. Donato, and my question
6 is this: It was stated that we were trying to
7 streamline who's being represented by her.

8 My question is, there's really no way to
9 streamline the voices that are being represented by
10 her, whether people are members of a certain committee
11 or not. There's no way -- there's several things that
12 come up during these meetings, but there is no way for
13 these things to be brought to the attorney whether
14 they're members or not. But my question is, how do you
15 determine who's a member when there's somebody who
16 donated \$20, whether somebody has a sign on their front
17 lawn? How are we to determine this? So to try to
18 strike anybody's questions or comments from these
19 proceedings --

20 CHAIRMAN BOXER: I think we said it. I
21 think we're basically going to trust the people that
22 come up here that say --

23 MS. TERRAGLIA: And I understand that, but
24 I know that when Mr. Bolash came up it was asked that
25 his points be stricken from the record. How do we

1 determine -- how are we going to determine who's to be
2 represented?

3 MR. HALL: Well, I'll answer that. Because
4 he submitted a letter to the State BPU in which he says
5 "I am a member of Preserve Bedminster," and Ms. Donato
6 sent us a letter saying, "Stop Somerset Hills Power
7 Plant," otherwise known as "Preserve Bedminster."
8 That's why I said it to him.

9 MS. TERRAGLIA: Okay. Fair enough. I
10 appreciate the response. Thank you.

11 CHAIRMAN BOXER: Okay. Thank you very
12 much. So is there anybody else for Mr. Lynch? I just
13 want to make sure we get everyone. (No response.)

14 Okay. Mr. Lynch, we can officially release
15 you now. Thank you very much.

16 MR. LYNCH: Thank you.

17 CHAIRMAN BOXER: All right. Just a couple
18 of administrative matters. First, we spoke to Mr. Hall
19 and Mr. Collins. We are going to continue until about
20 ten o'clock and then call it a night. If it get's real
21 long heads start to spin. So ten o'clock we're going
22 to make a hard stop, and then we have to deal with
23 dates, Mr. Collins. I know Mr. Hall asked me, along
24 with Mr. Ferriero. There's two dates that we have
25 meetings: The 5th and the 12th. Mr. Hall, what is

1 your preference?

2 MR. HALL: The 5th. I have a conflict with
3 the 12th.

4 CHAIRMAN BOXER: Ms. Donato, do you have
5 any issues?

6 MS. DONATO: I have conflicts of both
7 evenings. I have a regular Planning Board that I
8 represent on the 5th, and I have a pre -- another
9 matter that -- an application on the 12th for a
10 redevelopment project down at the beach.

11 CHAIRMAN BOXER: Thank you. Mr. Sasso, how
12 about you?

13 MR. SASSO: I'm fine. The only thing I was
14 wondering, in light of her conflicts, and she's
15 integral to the process, is the applicant willing to
16 ask for, and is the Board willing to grant, a special
17 meeting? Because if we don't have anything else to
18 deal with we can have, you know, our experts here, too,
19 and it may help Mr. Hall in terms of getting to a
20 conclusion quicker.

21 MR. HALL: We're not going to get to your
22 experts at the next meeting. I wish we would, but
23 we're not.

24 CHAIRMAN BOXER: You know, we have no
25 issues with special meetings, but frankly, I think

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1 we're not quite ready to put them on the docket yet. I
 2 think in December we're going to have to be very
 3 careful because as the month drags on it gets more
 4 difficult to get meetings and a quorum together. So, I
 5 don't know how we're going to satisfy both of you. My
 6 general feeling is that I'd like to give the benefit to
 7 the applicant for the 5th, but let me ask Mr. Collins.
 8 Do you have a preference, Mr. Collins?

9 MR. COLLINS: I think that makes some
 10 sense. We're always going to have some scheduling
 11 issues, but you do have to proceed and we have two
 12 regular meetings that month, and Ms. Donato has taken a
 13 case which she has to address in one or two of those
 14 meetings every month. So, I think she will have to
 15 find a way to find herself here on the 5th.

16 MR. SASSO: I'm just wondering, Mr.
 17 Chairman, if maybe this helps if we can have the
 18 planner testify, the applicant's planner on the 5th and
 19 have the other witnesses, if that helps.

20 MS. DONATO: I'll try to get coverage. I
 21 probably can get coverage for the regular Planning
 22 Board easier than the large application.

23 CHAIRMAN BOXER: That would be the 5th,
 24 right?

25 MS. DONATO: Yes, Mr. Boxer. That would

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1 probably be easier for me.

2 CHAIRMAN BOXER: That's perfect.

3 MS. DONATO: I've been going there for
 4 30 years, so --

5 CHAIRMAN BOXER: I'm sure you'll be missed.
 6 Why don't we plan on the 5th then.

7 MR. HALL: Thank you.

8 CHAIRMAN BOXER: Mr. Ferriero, based on
 9 that we'll schedule the other meeting for the 12th.

10 MR. FERRIERO: Okay. And that will be
 11 Morris and the two site plan waivers.

12 CHAIRMAN BOXER: So, we'll do the 5th here.
 13 We'll do the 5th back here in the school to circumvent
 14 any population problems, any overcrowding.

15 SECRETARY LINDSEY: Before we officially
 16 announce that, though, we have to clear that with the
 17 school.

18 MR. FERRIERO: We're going to have to carry
 19 it and hope it works.

20 MS. LINDSEY: We have to really hope it
 21 works.

22 MR. HALL: I'm sorry, Chair --

23 SECRETARY LINDSEY: I just was saying I
 24 have to check with the school to make sure that they
 25 don't have anything planned here. We do officially

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1 have to carry it, but I will have to check with the
 2 school that this is available.

3 CHAIRMAN BOXER: Why don't we do this then,
 4 why don't you check and then we can try to get it here
 5 on the 5th. I think it's best to not take chances at
 6 Town Hall in the event we have a larger crowd so we
 7 don't have to cancel the meetings on everybody. And
 8 then we'll have the meeting on the 12th at Town Hall.

9 MS. DONATO: And in the future if it would
 10 be possible to have the second Thursday, because it's
 11 not usual that I'm out on that evening.

12 MR. HALL: I have a second Thursday
 13 meeting. I'm the applicant. We can talk as we go
 14 forward, but I don't think -- especially since she's
 15 only representing one person, I mean, I don't --

16 MS. DONATO: It's one person with a big
 17 influence.

18 MR. HALL: He can ask questions.

19 CHAIRMAN BOXER: I understand. Let me talk
 20 to Mr. Collins. I'm not sure how we're going to be
 21 able to satisfy this. My general opinion is I would
 22 rather give the benefit to the applicant given the
 23 amount of witnesses and professionals they have
 24 standing by.

25 MS. DONATO: Well, I just ask Mr. Boxer

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1 that this is a complex matter. That the client has,
 2 you know, really called upon me because of prior
 3 experience in this area, and I don't think a lot of
 4 people are involved in this particular area. You know,
 5 I don't think it would be -- we're here on a second
 6 Thursday, so are you saying that you have a commitment
 7 on the second Thursday?

8 MR. HALL: Yes, I had to make coverage for
 9 someone else to attend my meeting tonight, and I would
 10 rather not make a habit of it.

11 MS. DONATO: I was under the understanding
 12 that you had requested this night, but I guess it was
 13 my --

14 MR. HALL: We did. This one night for our
 15 witness, Mr. Kennedy.

16 CHAIRMAN BOXER: Mr. Collins, let me ask
 17 you. You have --

18 MR. COLLINS: Let's not deal with this now.
 19 We're going to December 5th and we'll deal with this
 20 next month on December 5th.

21 MS. DONATO: Thank you.

22 CHAIRMAN BOXER: Okay. Thanks. We'll deal
 23 with it then. So let me -- we're going to call Mr.
 24 Kennedy up, so just for procedurally we'll do the best
 25 we can to take Mr. Kennedy's statement and summary. I

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1 don't think he's going to get through his testimony.
2 MR. HALL: Definitely won't. Mr. Kennedy,
3 if you will be sworn.
4 MR. COLLINS: Mr. Kennedy, do you swear or
5 affirm to tell the truth, the whole truth, and nothing
6 but the truth so help you God?
7 MR. KENNEDY: I do.
8 MR. COLLINS: Please state your name and
9 address, and business address is sufficient.
10 MR. KENNEDY: Certainly.
11 R O N A L D K E N N E D Y, 265 Main Street,
12 Gladstone, New Jersey, having been duly sworn,
13 testifies as follows:
14 DIRECT EXAMINATION BY MR. HALL:
15 Q. Mr. Kennedy, could you provide the Board
16 with a summary of your professional background and
17 qualifications?
18 **A. Certainly. I have a bachelor of science in**
19 **civil engineering from New Jersey Institute of**
20 **Technology. I've been doing site plan and subdivision**
21 **developments in New Jersey since 1983. I've appeared**
22 **numerous times before this Board and many other Boards**
23 **in the state of New Jersey giving testimony on**
24 **professional engineering.**
25 MR. HALL: Mr. Kennedy is an expert in

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1 the --
2 CHAIRMAN BOXER: Mr. Kennedy's been here
3 since he's 11. He's well respected.
4 MS. DONATO: May I ask one question on -- a
5 couple of questions on Voir Dire?
6 CHAIRMAN BOXER: Sure.
7 VOIR DIRE EXAMINATION BY MS. DONATO:
8 Q. Mr. Kennedy, did you sign the engineering
9 plans that have been filed here with the Board?
10 **A. No. One of my associates have.**
11 Q. Okay. And isn't it true that under the
12 engineering -- professional engineering standards that
13 the person who signs the plans is the person who is
14 responsible for any liability that may occur if there
15 was a design issue or a problem?
16 **A. No.**
17 Q. That's not true?
18 **A. No, it's not.**
19 MR. HALL: I object. I don't know what
20 this has to do with his qualifications.
21 Q. Well, did you participate in the
22 preparation of the plans?
23 **A. I did.**
24 Q. And did you participate in the preparation
25 of the stormwater management report?

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1 MR. COLLINS: The objection is denied in
2 that it's not Voir Dire of the witness' qualifications.
3 The objection seems correct. Do you have a reason why
4 this relates to his qualifications to testify here
5 tonight?
6 MS. DONATO: Mr. Collins, it is my
7 understanding that the Board of Professional Engineers
8 has certain standards as to where liability attaches.
9 And in order to attach liability to a professional
10 engineer, an individual engineer for design flaws that
11 engineer must have signed the plans. I will -- I'll
12 just bring that to your attention and I hope that --
13 MR. COLLINS: Could you help us understand
14 why that would affect his qualifications to testify
15 here tonight?
16 MS. DONATO: Well, it would affect his
17 qualifications --
18 MR. COLLINS: That's all you're asking
19 about right now.
20 MS. DONATO: His qualifications in terms of
21 as long as he said that he's going to be able to answer
22 all the questions about everything and not say he
23 didn't -- he can't answer the question, so is he
24 qualified to testify if he didn't sign the plans, and
25 he didn't sign the stormwater report. I know he's a

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1 professional engineer, but can I get a professional
2 engineer from California to come out and talk about
3 these plans?
4 MR. HALL: He's not licensed in New Jersey.
5 MR. COLLINS: That's not the issue. This
6 isn't qualifications. That subject is quite different
7 than qualification. So move on, please.
8 MS. DONATO: Okay. Thank you.
9 DIRECT EXAMINATION BY MR. HALL:
10 Q. Mr. Kennedy, I think -- why don't you tell
11 the Board your role in this project and then just tell
12 us what the project is.
13 **A. Certainly. And with this meeting I'll get**
14 **a little comfortable how we'll bring the easels over**
15 **and make sure they're visible to everyone, but my goal**
16 **of my testimony is just to do an overview tonight of**
17 **the property itself, and if we have time we'll get into**
18 **the proposal. But truly the objective of what I'm**
19 **trying to do is I'm going to give you a lot of facts, a**
20 **lot of numbers, and go through some of the details that**
21 **are on the plans that we have prepared and submitted to**
22 **this Board.**
23 **While Mr. Moschello from my office has**
24 **signed the plans I was very involved from the beginning**
25 **of this process in the preparation of the drawings, and**

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1 **the detailed design elements that our firm was involved**
 2 **in. What I'd like to do is just give an overview, as I**
 3 **typically do, from a large view out and then work down**
 4 **to the site and the specifics in the study.**
 5 **What I wanted to see, I guess I'm going to**
 6 **have to carry this around to the mic so we can get this**
 7 **on tape.**
 8 CHAIRMAN BOXER: There's no tape.
 9 MR. HALL: But it amplifies for the public
 10 and so you probably should hold it.
 11 THE WITNESS: That's just amplification?
 12 Let's see if everyone can hear on this first. The
 13 first thing I want to do is just get exhibits. I
 14 believe, Mr. Collins, the next exhibit is A-3.
 15 MR. COLLINS: Yes.
 16 THE WITNESS: And for this I'm going to
 17 call it an existing neighborhood aerial exhibit, the
 18 date's November 14, 2013.
 19 (Exhibit A-3, existing neighborhood aerial
 20 photograph, was received and marked.)
 21 CHAIRMAN BOXER: We may have to -- I think,
 22 Ron, maybe the next thing to do is maybe you guys can
 23 move this way, because there's no way that we're going
 24 to be able to angle it so everybody can see.
 25 THE WITNESS: I'll move it closer.

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1 CHAIRMAN BOXER: Well, Ron, we're going to
 2 need to see it, too. That's probably perfect right
 3 there. Ma'am, if you guys move over you can see.
 4 All right. Ron, go ahead, please.
 5 THE WITNESS: All right. So what I just --
 6 this is an aerial exhibit of a recent Google Earth type
 7 of image taken from this case web site that shows the
 8 general neighborhood. The predominant features on this
 9 plan --
 10 CHAIRMAN BOXER: Ron, I apologize, I can't
 11 see it if you stand there. You're going to have to do
 12 it on the other side.
 13 THE WITNESS: You can't see the exhibit?
 14 CHAIRMAN BOXER: We can see the exhibit,
 15 but you were blocking.
 16 THE WITNESS: The example is that north is
 17 straight up on this exhibit. Across the top is Route
 18 78. East being towards my direction. To the left of
 19 the drawing is west. We have 287 at the north and
 20 south component, north at the top of the sheet, south
 21 at the bottom of the sheet, and certainly the
 22 predominant feature at the intersection of 78 and Route
 23 287.
 24 Outlined in yellow is the property in
 25 question. We'll go through the details of block and

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1 lots, and the square footage, and the size of each lot.
 2 On the top part of the sheet is Burnt Mills Road. From
 3 my right side is the Pluckemin Village crossing 287 and
 4 78 out to Burnt Mills Road.
 5 Country Club Road starts at Burnt Mills
 6 Road, comes along the frontage of this site and exits
 7 down to the Bridgewater border to the south part of the
 8 site.
 9 Route 202/206 is on the right side of
 10 Pluckemin Village underneath 78 at the
 11 Bridgewater/Bedminster border, and then heading south
 12 towards Bridgewater. The feature that we talked about
 13 was the Sanofi site which is shown on the right side of
 14 this exhibit with its various buildings and its parking
 15 lot.
 16 Around the property we have to the
 17 northeast of the tract of land is the neighborhood, the
 18 Somerset Terrace, Victory Drive, and Preston Terrace.
 19 Generally, a series of lots with houses that were
 20 built, it looks like from the '40s to about the '60s
 21 the predominant houses that were built in that area.
 22 Some newer houses that have infill construction on some
 23 of the lots.
 24 As we travel just a little west of there
 25 you have a series of either vacant lots or lots that

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1 have predominantly agricultural uses on it and
 2 residential uses on it.
 3 As you come back to the west you have the
 4 back of the lots that are on Airport Road, and again
 5 similar types of uses, larger lots. Generally, they're
 6 vacant, agricultural, or large lot residential types of
 7 uses.
 8 And then to the south you have Meadow Road
 9 that intersects at the corner of Lot 10, which is part
 10 of the property in question, and the lots, again, to
 11 the south of that in Bedminster are larger lots, single
 12 family or agricultural use.
 13 Bridgewater Township border generally goes
 14 on the east side of the property down to the southern
 15 side of the tract onto Country Club Road, and then
 16 swings around to Meadow Road. And you can see, I don't
 17 know if the Board can see it this far away, but there's
 18 an orange line that represents the border. That
 19 borders coincidental with Chambers Brook, which is the
 20 predominant stream corridor that's in this vicinity of
 21 this project.
 22 We also have neighborhoods that are in
 23 Bridgewater that are called the R-40 Zone, and that's
 24 predominately a one-acre lot development in
 25 Bridgewater. Most of Bridgewater in that area is sewer

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1 and water and has traditional suburban type of
 2 development that occurs along Country Club Road or
 3 Chambers Court that's down to the south of the project.
 4 (Exhibit A-4, existing site aerial
 5 photograph, was received and marked.)
 6 If I zoom into the lot itself, and this is
 7 Exhibit A-4, it's called the Existing Site Aerial
 8 Exhibit. The date, again, is November 14, 2013. Same
 9 base aerial which is zooming in more to the site
 10 itself. Same point of reference where north is
 11 straight up.
 12 The property, I'm going to say, is
 13 generally a rectangular parcel of land. There is one
 14 small out parcel, we'll go through that as well. The
 15 total acreage of all three parcels are 132.05. It
 16 represents Block 62, Lot 10, which is 107 acres.
 17 That's the large lot. That's generally to the west of
 18 Country Club Road. We have a small lot, Block 69, Lot
 19 4, which is 1.36 acres. And that's generally along
 20 Country Club Road in the northeast section of the tract
 21 mounted. And then the last block is Block 71.02, Lot
 22 1, and that is generally to the east of Country Club
 23 Road. And the predominant feature on that is this pond
 24 that's shown on this aerial exhibit. Again, the total
 25 acreage 132.05 acres.

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1 Lot 10 is the main lot, that's where the
 2 historic, I'll call it agricultural development, on the
 3 property is. The existing homestead house is right off
 4 a driveway off of Country Club Road in this S-Turn.
 5 That dates back to the 1800s according to the master
 6 plan documents. It's a traditional I'll call it an
 7 agricultural farmhouse that's been there from the
 8 1800s, surrounded as you see on this exhibit even today
 9 a series of pastures and row-crop farm fields that
 10 surround the lot.
 11 You also see to the west side of the
 12 property that are these lighter colors that I'm going
 13 to point to in the southwest, and the northwest,
 14 they're the traditional hardwoods that are on the
 15 property, even dating back to 1931 they were the oldest
 16 aerials that I was able to find on the property, those
 17 are still a very mature hardwooded area on the lot.
 18 The rear of the property where you see the
 19 darker green areas are generally a cedar forest. That
 20 has successional growth that it looks like from, again,
 21 the aerial photos, last was used as a farm field in the
 22 late '80s that they were used as farm fields. That
 23 stopped and now you have successional growth that's
 24 occurring on there.
 25 In the center of the lot you'll have a

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1 wooded area, again, the lighter hardwood trees. And
 2 that's primarily areas that are along stream corridors
 3 or wetlands. I'll go through the environmental
 4 constraints in a second with another exhibit, but
 5 that's predominantly the area that has hardwoods
 6 associated with wetlands, or with stream corridors.
 7 And then you have the series of front fields that
 8 you'll see the lightest colors on here, and they're the
 9 ones that are the more active, agricultural uses that
 10 occurred in the last ten years on the property.
 11 The fields themselves is -- I'm going to
 12 just describe it as the field that's just to the north
 13 of the existing house. This field in the last couple
 14 of weeks when I went out there it was actually turned
 15 over. Crop was planted and a Ryegrass was planted.
 16 That is relatively new. That was found in the last
 17 couple of weeks, but this area was just turned over.
 18 And, generally, the field that's to the
 19 south of the house at the intersection of Country Club
 20 Road and Meadow Road is the most active field that's
 21 used for hay. I've seen in the years I've been going
 22 by it generally hay use is what's being cultivated from
 23 that field.
 24 The existing structures on the property,
 25 this exhibit that has to be more than a year old shows

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1 the barn that's on the property. That's since been
 2 removed. That was in quite bad shape. It was given an
 3 unsafe structure violation by the town. And the
 4 current property owners had it removed within the last,
 5 I'd say, six months. So that has been removed from the
 6 property.
 7 The existing house, and then as Mr. Lynch
 8 described, there's a small garage, a two-car garage
 9 right to the north of the house still exists. It's not
 10 in good shape. While there's power to it the box in
 11 the basement is turned off right now and it doesn't
 12 look like it has the meters spinning at all.
 13 The town has issued the building, both
 14 buildings, an unsafe structure violation that needs to
 15 be remediated. We'll talk about that more as we get
 16 into this application. But that site now is not
 17 habitable. And from what I've been told, the last time
 18 it's occupied is about three to four years ago it was
 19 occupied with a tenant.
 20 There's an existing driveway from the
 21 garage in the housing area that you see on this plan
 22 that goes simply just out to the road. It's paved and
 23 it has some deterioration in the pavement where some
 24 stone has been placed over the top of the area of
 25 pavement that have been deteriorated.

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1 The other lot which is Lot 4 is
 2 predominantly an area that has a stream corridor or a
 3 tributary through. You'll see on the other exhibit of
 4 environmental constraints that it is encumbered by
 5 various wetlands and transition areas, and it is
 6 wooded. There's no structures on it. There's no
 7 active agricultural activity on it. I call it just a
 8 wood lot along a wetland corridor.

9 The other lot which is across or to the
 10 east of Country Club Road, the predominant feature, as
 11 I stated before, was the pond itself. It appears that
 12 the pond was constructed during the construction of
 13 Route 287, so it was the late '60s that the pond was
 14 actually constructed according to the aerial maps. And
 15 then right next to it in this orange line is Chambers
 16 Road, which is the predominant stream feature that's in
 17 this area. No improvements on the lot. It looks like
 18 from the older aerial there was farming at one time,
 19 generally fallowed with some seed that's overgrown in
 20 that area.

21 The next exhibit --
 22 MR. COLLINS: That will be A-5.
 23 (Exhibit A-5, environmental constraints
 24 aerial, was received and marked.)
 25 THE WITNESS: I'm going to title that

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1 Environmental Constraints Exhibit. Same date
 2 November 14, 2013. We're going to go through a series
 3 of layers of the environmental constraints on the
 4 property. The first thing before I get into the
 5 constraints would just be the general topography.
 6 Generally, the land I would describe as typical rolling
 7 Bedminster topography, where it has some changing
 8 grade, not a lot of steep slopes. Two very small
 9 areas: One, that's associated with right next to the
 10 pond down in the south portion of the pond, and then
 11 there's another small area associated with the stream
 12 corridor up on the tributary that's on the northeast
 13 corner of Lot 10, the steep slopes. The other area,
 14 according to your criteria, if you don't have steep
 15 slopes on the property.

16 Highest point of the property is where my
 17 finger is now on the north side of the property,
 18 generally in line with where Preston Terrace terminates
 19 at the property line. That area where I'm pointing to
 20 now is the highest point on the property. And then it
 21 generally falls off radial to this location, to the
 22 west, to the south, and to the east towards the stream
 23 corridors that you see the different colors on.

24 Similarly, there's another high point
 25 that's located in the rear of the property, again,

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1 along the northern side of the property, and that
 2 radiates to the east and to the west and to the south.
 3 So those are the high points that are on both lots and
 4 they generally fall in both directions towards those
 5 stream corridors.

6 Steep slopes are very limited that are on
 7 the property. Only those two small areas. As far as
 8 wetlands and the transition areas associated with the
 9 wetlands they're shaded in the green on this exhibit.
 10 A wetland study has been performed. A Letter of
 11 Interpretation from the Department of Environmental
 12 Protection has been received and the appropriate
 13 transition areas or buffers are shown on this exhibit.

14 So, if I work from west to east there's two
 15 pockets of wetlands that are on the west side of the
 16 property, and you'll see the transition areas that are
 17 a little darker shades of green associated with them.
 18 The other sections of wetlands that are considered
 19 swales or open waters that do not have any transition
 20 area or buffers associated with them and they're shown
 21 on this exhibit.

22 In the center part of Lot 10 that's
 23 generally a wetlands corridor or stream corridor that
 24 has wetlands associated with it, and you can see the
 25 various fingers, and again with different transition

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1 areas. Some having transition areas, other ones not
 2 having transition areas.

3 And then when we get down to Country Club
 4 Road you have the whole Chambers Brook area around the
 5 pond that shows the significant amount of wetlands, and
 6 again various transition areas. Some have a 50-foot
 7 max and some don't, some have a zero transition area.

8 The next element is riparian zones that are
 9 associated with the stream corridors. The Department
 10 of Environmental Protection defines corridors of
 11 riparian protection for most all streams in the state
 12 based on certain classifications. In this case it
 13 would be a 50-foot wide riparian corridor on each side
 14 of the tops of banks of each of the stream corridors.
 15 And they're shown on our plans to exist in this color
 16 that's in the center, I'll call it a purple type of
 17 color in the center, as well as this area along
 18 Chambers Brook and around the pond. That's regulated
 19 by DEP.

20 Generally, you can't go into it without
 21 getting some type of permit from DEP. It's regulated
 22 and it's a high level of criteria to disturb anything
 23 within that riparian area.

24 The next element which is similar to the
 25 area that's in this purple color on this exhibit is the

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1 municipality has a stream corridor conservation
 2 easement. Basically, it said if any of the stream
 3 corridors are in excess of 50 acres you want
 4 essentially a 50-foot wide conservation easement buffer
 5 that the municipality wants, even though it's regulated
 6 by DEP as well, and that's shown in the same area here
 7 in this blue outline, generally in the center section
 8 of Lot 10, as well as the corridor of Chambers Brook
 9 and around this regulated pond. So that would be an
 10 easement that would be sought and received by
 11 Bedminster Township.

12 And the next thing would be a flood plain
 13 associated with the stream corridor. Chambers Brook is
 14 considered by DEP to be a delineated stream. They
 15 spent money and did a study, a very detailed study to
 16 determine where the flood plain is. That's shown in
 17 red on this exhibit. And with my fingers I'm going to
 18 point to the width of that. Okay. So it's fairly wide
 19 between the red. I didn't shade that in, because it
 20 would be hard to see, but basically that's the flood
 21 plain. It consumes portions of Country Club Road, and
 22 that would be the flood plain associated with Chambers
 23 Brook Road. Regulated, any work on that area would
 24 require certain work permits by the DEP.

25 There's another smaller tributary at

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1 Chambers Brook that's located in the center core, and
 2 it's shown on here in this red line of the flood plain
 3 associated with that. And you can see it's in this
 4 area. It doesn't go all the way through the site
 5 because the drainage area -- we're getting near the
 6 headwaters at the top of that drainage area, and that
 7 wouldn't be regulated above the area where my red is
 8 shown right now.

9 Soils have been identified on this exhibit.
 10 There's, I think, there's eight different soil series.
 11 There's some subcategories in the soil series, but
 12 they're shown on the exhibit. The general notion of
 13 the soils on this property, typical to most of
 14 Bedminster, it's shale with clay on top of it. And it
 15 doesn't change much from that. Obviously, there's a
 16 lot of nuances. If I looked at each one of these
 17 different soil series it's going to describe it quite
 18 different from each one, but we'll get into some of the
 19 details for the soil movements later, but it's
 20 generally all shale, and then the overlayer on top of
 21 that is decomposed shale with a lot of clay in those
 22 soils.

23 The next exhibit I have is A-6.
 24 (Exhibit A-6, proposed site plan dated
 25 11/14/13, was received and marked.)

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1 MR. KENNEDY: Which is proposed site plan
 2 rendering exhibit. Again, same date, November 14,
 3 2013. So based on the constraints, based on the
 4 topography, based on the wooded areas, what's being
 5 proposed is the two areas of solar panels: One on the
 6 west side; one on the east side of Lot 10.

7 You'll see the individual lengths of these
 8 would be actual panels themselves, the darker colors
 9 that are there. You'll see a driveway that's being
 10 proposed that will go around the access, the different
 11 portions for construction and for maintenance of the
 12 panels. And then along this driveway you're going to
 13 see some elements that I'm going to go quite into a bit
 14 into detail about where the pads are that are generally
 15 going to take the inverters, the transformers, and the
 16 other electrical components of the site.

17 I'm going to talk in general terms about
 18 the systems that are there. But I want to say, I'm not
 19 an electrical engineer. When I get asked questions
 20 later about electricity, that's not me. There will be
 21 other people that can talk to that. But what I want to
 22 do to this Board and to the public is to describe the
 23 components that go in there, that are going to be put
 24 in the land, and on the land.

25 CHAIRMAN BOXER: Mr. Kennedy, let me

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1 suggest something. As I think about the next section
 2 because we're going to get into a little more detail,
 3 it might be a very good time to take a natural break at
 4 this point. I don't think it's going to matter. We
 5 have a good overview.

6 THE WITNESS: Correct. Now I want to get
 7 into nine or ten components of what the system is.

8 CHAIRMAN BOXER: Right. So my sense is
 9 that what we should do is probably take a natural break
 10 here.

11 MR. HALL: I'll defer to the Chair.

12 CHAIRMAN BOXER: I think it's probably a
 13 better time, because I think we all want to be fresh
 14 and listen to this. It's important. And I think
 15 you're going to be rushed in ten minutes. So if you
 16 wouldn't mind at this point let's adjourn and gather up
 17 information.

18 MR. COLLINS: Yes, and we'll be carrying
 19 this case to -- and the hearing on this matter to
 20 December 5th at 7 p.m. at this school, same location.
 21 There's a remote chance that we won't be able to get
 22 the location, in which case we'll have to ask the
 23 applicant to notice some other location, but we'll be
 24 trying to get this location and we hope to be here on
 25 December 5th, 7 p.m. If we're here no further notice.

1 MR. HALL: And we expressly consent to an
 2 extension of time to the end of December.
 3 CHAIRMAN BOXER: Okay. Can I get a motion
 4 to adjourn, please?
 5 BOARD MEMBER GUTTSCHALL: Motion.
 6 (The hearing adjourns at 9:51 p.m.)
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1 CERTIFICATE
 2
 3 I, IRIS LA ROSA, a Notary Public and Certified
 4 Shorthand Reporter of the State of New Jersey, do
 5 hereby certify that the foregoing is a true and
 6 accurate transcript of the testimony as taken
 7 stenographically by and before me at the time, place,
 8 and on the date hereinbefore set forth.
 9 I DO FURTHER CERTIFY that I am neither a
 10 relative nor employee nor attorney nor counsel of any
 11 of the parties to this action, and that I am neither a
 12 relative nor employee of such attorney or counsel, and
 13 that I am not financially interested in the action.
 14
 15
 16 IRIS LA ROSA, CSR, RPR
 17 Certificate No. 30XI 00162800
 18 Dated:
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 21
 22
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