

OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF WILLOWBROOK SOLAR I, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED TO
CONSTRUCT AN ELECTRIC GENERATION
FACILITY IN HIGHLAND AND BROWN
COUNTIES, OHIO.

CASE NO. 18-1024-EL-BGN

ENTRY

Entered in the Journal on October 4, 2018

{¶ 1} On June 22, 2018, Willowbrook Solar I, LLC (Willowbrook or Applicant) filed a pre-application notification letter with the Ohio Power Siting Board (Board) regarding its proposed 150 megawatt (MW) solar-powered electric generating facility in Concord and White Oak Townships in Highland County and Eagle Township in Brown County, Ohio (hereafter Project).

{¶ 2} Thereafter, on September 17, 2018, Willowbrook filed an application with the Board for a Certificate of Environmental Compatibility and Public Need to construct the Project.

{¶ 3} In addition to filing its application, Willowbrook also filed a motion seeking waivers from certain provisions of the Board's rule requirements, contending that good cause exists for granting its request. Specifically, Willowbrook is requesting waivers, in part, from Ohio Adm.Code 4906-4-08(A)(1)(c) (manufacturers' safety manual documents and recommended setbacks), Ohio Adm.Code 4906-4-08(A)(5)(c) (geological test boring plans), and Ohio Adm.Code 4906-4-08(D)(2)-(4) (study area).

{¶ 4} Ohio Adm.Code 4906-4-08(A)(1)(c) requires information concerning the safety and reliability of all equipment including the generation equipment manufacturer's safety manual or similar document and any recommended setbacks from the manufacturer. Willowbrook submits that the nature of the Project (a solar farm) and timing of the panel model selection warrant a waiver. Applicant will not select the final panel model until after

final engineering of the Project is complete. Willowbrook commits that once the specific panel model and manufacturer is selected, Applicant will provide Staff with the manufacturer's safety standards, including complete copies of its safety manuals or similar documents as part of the final construction plans for the Project. Willowbrook also commits to identifying specific setbacks recommended by the manufacturer, if any, once the manufacturer and specific panel model have been selected.

{¶ 5} Ohio Adm.Code 4906-4-08(A)(5)(c) requires an applicant to describe plans for test borings, including closure plans for such borings. Willowbrook requests this waiver given that the panel layout will not be complete until final engineering drawings are developed and also given the nature of the Project. Applicant justifies the waiver request by stating that it expects that equipment will use the subsurface only to a very limited degree, will be very shallow (no more than ten feet below grade), and is not expected to contact bedrock. Additionally, Willowbrook anticipates conducting only limited test borings in connection with the construction of the Project. If the waiver is approved, Applicant commits to provide its plan for such test borings, including appropriate closure plans, to Staff no more than 30 days prior to the commencement of the field work and after the Project's layout has been finalized. Further, within 60 days following receipt of all relevant data from the borings, Willowbrook commits to provide Staff with all of the information as required by the plan, including subsurface soil properties, static water level, rock quality description, percent recovery, and depth and description of bedrock contact.

{¶ 6} Ohio Adm.Code 4906-4-08(D)(2) requires Applicant to provide an evaluation of the impact of the proposed facility on the preservation and continued meaningfulness of mapped landmarks within a ten-mile radius and describe plans to avoid or mitigate any adverse impact. Ohio Adm.Code 4906-4-08(D)(3) requires Applicant to describe and evaluate impacts to the identified recreation and scenic areas within ten miles of the project area. Ohio Adm.Code 4906-4-08(D)(4) requires Applicant to evaluate the visual impact of the proposed facility within a ten-mile radius from the project area. As part of its application, Willowbrook has evaluated the impact of the Project on the preservation and

continued meaningfulness of the registered landmarks, scenic and recreation areas, and visibility and viewshed within a five-mile vicinity of the project area in the Cultural Resources Report (Exhibit H) and Visual Impact Report (Exhibit I). As part of its review and due to the Project's low profile, as well as screening afforded by vegetation and existing structures, visibility of the planned components is anticipated to be limited to the immediate vicinity of the Project. The Cultural Resources Report provides information on the lack of impact to landmarks and notes that, due to the technology and the setting specific to the Project, no effects are anticipated on landmarks or scenic and recreation areas outside of a two-mile radius of the Project.

{¶ 7} On October 2, 2018, Staff filed a letter responding to Applicant's request for waivers. Staff does not object to the requested waivers, but reserves the right to require information from the Applicant in areas covered by the requested waivers if Staff determines it to be necessary during the course of the investigation. Staff also reserves the right to investigate and contest all other issues presented in the application.

{¶ 8} Ohio Adm.Code 4906-4-01(B) provides that the Board may waive any provisions in Ohio Adm.Code Chapter 4906-4 upon an application or a motion filed by a party, other than a requirement mandated by statute.

{¶ 9} Upon consideration of Willowbrook's request for waivers and Staff's response, the administrative law judge (ALJ) finds that good cause exists to grant the request for waivers of Ohio Adm.Code 4906-4-08(A)(1)(c), 4906-4-08(A)(5)(c), and 4906-4-08(D)(2)-(4) as clarified below. Regarding Applicant's request for a waiver of its plan for test borings including appropriate closure plans as outlined in Ohio Adm.Code 4906-4-08(A)(5)(c), the attorney examiner clarifies that Willowbrook must provide such plans for test borings at least 30 days prior to the commencement of the field work and after the Project's layout has been finalized so that Staff has sufficient time to review the information prior to the commencement of field work.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That, pursuant to Paragraph 9, Willowbrook's motion for waivers is granted, as clarified in this Entry. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties of record.

THE OHIO POWER SITING BOARD

/s/ Jeffrey R. Jones

By: Jeffrey R. Jones
Administrative Law Judge

SJP/mef

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Summary: Administrative Law Judge Entry granting motion for waivers as clarified in paragraph nine electronically filed by Ms. Mary E Fischer on behalf of Jeffrey R. Jones, Administrative Law Judge