

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF
SOUTH FIELD ENERGY LLC FOR A FIRST
AMENDMENT TO THE CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED ISSUED IN CASE NO. 15-
1716-EL-BGN.

CASE NO. 19-638-EL-BGA

ORDER ON CERTIFICATE

Entered into the Journal on May 16, 2019

I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the application filed by South Field Energy LLC to amend its certificate.

II. DISCUSSION

A. *Procedural History*

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapters 4906-1 et seq.

{¶ 3} On September 22, 2016, the Board granted the application filed by South Field Energy LLC (SFE or Applicant) for a certificate to construct the South Field Energy facility (Project), a dual fuel combined-cycle electric generation facility in Yellow Creek Township, Columbiana County, Ohio. *In re South Field Energy LLC*, Case No. 15-1716-EL-BGN (*Certificate Case*), Opinion, Order, and Certificate (Sept. 22, 2016). The Board granted SFE's application in the *Certificate Case*, pursuant to a joint stipulation and subject to 31 conditions.

{¶ 4} On March 19, 2019, SFE filed an application in the above-captioned case (*First Amendment Application*) proposing certain changes to the Project as approved by the

Board in the *Certificate Case*. The changes proposed in the *First Amendment Application* are not expected to affect the overall project's impacts.

{¶ 5} On March 20, 2019, SFE filed proof of service of the *First Amendment Application*, pursuant to Ohio Adm.Code 4906-3-11(B)(2).

{¶ 6} On April 3, 2019, SFE filed proof that, pursuant to R.C. 4906.06(C) and R.C. 4906.06(E), public notice of the *First Amendment Application* was published on March 22, 2019, in the *Morning Journal*, a newspaper in general circulation in Columbiana County, Ohio.

{¶ 7} Thereafter, on April 22, 2019, the Board's Staff (Staff) filed a report evaluating the *First Amendment Application*.

B. Applicable Law

{¶ 8} Pursuant to R.C. 4906.04, the Board's authority applies to major utility facilities and requires entities to be certified by the Board prior to commencing construction of a facility.

{¶ 9} In accordance with R.C. Chapter 4906, the Board promulgated the rules set forth in Ohio Adm.Code Chapter 4906-3 regarding the procedural requirements for filing applications for major utility facilities and amendments to certificates.

{¶ 10} Pursuant to R.C. 4906.07, when considering an application for an amendment of a certificate, the Board "shall hold a hearing * * * if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility * * *." R.C. 4906.06(B) and (C), as well as Ohio Adm.Code 4906-3-11, 4906-3-06, and 4906-3-09, require the applicant to provide notice of its application for amendment to interested parties and potentially effected members of the public.

{¶ 11} SFE is a limited liability company and, as such, an entity defined as a person under R.C. 4906.01(A). Additionally, pursuant to the Board's Order in the *Certificate Case*, SFE is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.10. As indicated above, the Applicant provided the required notices in this proceeding, its proposed first amendment to its certificate.

C. Summary of Staff Report

{¶ 12} Initially, Staff notes that the Project is currently under construction. Staff reports that, in filing its *First Amendment Application*, SFE seeks Board approval for two proposed changes: (a) to increase the limit of disturbance (LOD) area along the Project's southern boundary, and (b) to construct a temporary material and equipment laydown area at the existing Buckeye Water District property which is adjacent to the generation facility site (Staff Report at 2.)

{¶ 13} Proposed increase in the LOD area along the Project's southern boundary. Under SFE's first proposed change, the Project's current boundary line would shift approximately 60 feet further south at the eastern end and about 152 feet further south at the western end. Staff indicates that the LOD increase is needed to accommodate a temporary topsoil storage area. The topsoil would be graded and stabilized by seeding until it would be re-excavated for final project restoration. (Staff Report at 2.)

{¶ 14} Proposed construction of a temporary material and equipment laydown area. Staff reports that the Applicant expects to lease the proposed laydown area, constituting approximately 20 acres, for 24 months from Buckeye Water District. The lease would be structured to allow the Buckeye Water District to keep any property improvements. Otherwise, the Applicant would restore the leased area and remove any installed gravel. (Staff Report at 2.)

{¶ 15} None of the changes proposed in the *First Amendment Application* are expected to affect significantly the impacts of the overall project already considered and approved by the Board in the *Certificate Case*.

{¶ 16} **Social Impacts.** In Staff's opinion, the proposed adjustments are not expected to significantly alter existing land uses. Impacts would be almost entirely confined to the existing industrial use properties. The Buckeye Water District property and the generation facility site have been studied for the presence of archaeological and historic impacts and no adverse impacts on cultural resources are expected. (Staff Report at 3.)

{¶ 17} **Surface Waters.** Staff finds that neither the proposed laydown area, nor the topsoil storage area would require any fill of wetlands. The Applicant delineated five wetlands in the vicinity of the laydown area. However, wetland E is the only wetland within the boundary of the laydown area. The Applicant stated that this wetland would be surrounded by a silt fence and there would be no development in this area. The Applicant also asserts that it would place signage at the periphery of the wetland indicating the presence of a protected wetland. No wetlands were delineated in the topsoil storage area. No streams, ponds, or 100-year floodplains would be impacted. (Staff Report at 3.)

{¶ 18} **SWPPP and NPDES.** The Applicant would develop a Stormwater Pollution Prevention Plan (SWPPP) and would submit a Notice of Intent for coverage under the Ohio Environmental Protection Agency General National Pollutant Discharge Elimination System Permit (NPDES) for the temporary laydown area. The existing NPDES and SWPPP would be updated for the main facility to incorporate the topsoil storage area. (Staff Report at 3.)

{¶ 19} **Threatened and Endangered Species.** The laydown area is comprised of grassy areas and paved road. No tree clearing would be required at either the laydown

area or the topsoil storage area. The proposed project areas have been routinely disturbed by mowing and hay production. Due to lack of suitable habitats, impacts to state and federal listed species are not anticipated (Staff Report at 3).

{¶ 20} Upon its review, which included consideration of all statutory requirements, Staff believes that the *First Amendment Application* meets the necessary criteria for granting the requested amendment to the certificate. Accordingly, Staff recommends that the Board approve the amendment to the certificate, provided that the Applicant shall continue to adhere to all conditions of the Opinion, Order, and Certificate issued in the *Certificate Case*, as amended through the above-captioned case. (Staff Report at 3.)

D. Board's Conclusion

{¶ 21} After considering the application and the Staff Report, the Board finds that the proposed change in the facility presented in the *First Amendment Application* does not result in any material increase in any environmental impact or a substantial change in the location of all or a portion of the facility approved in the *Certificate Case*. Therefore, pursuant to R.C. 4906.07, the Board finds that a hearing on the *First Amendment Application* is not necessary under the circumstances presented in this case. Further, the Board finds that the proposed changes to the project do not affect our conclusion from the *Certificate Case* that the project satisfies the criteria set forth in R.C. Chapter 4906, promotes the public interest, and does not violate any important regulatory principle or practice. Therefore, the Board concludes that the *First Amendment Application* should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as amended in the above-captioned case.

E. Findings of Fact and Conclusions of Law

{¶ 22} SFE is a limited liability company and, as such, a person under R.C. 4906.01(A).

{¶ 23} On March 19, 2019, SFE filed an application seeking a first amendment to the certificate issued in the *Certificate Case*.

{¶ 24} On April 22, 2019, Staff filed its Report of Investigation containing its evaluation of the *First Amendment Application*.

{¶ 25} The proposed amendment to the certificated facility does not result in a substantial change in the location of the facility or any material increase in any environmental impact; therefore, in accordance with R.C. 4906.07, an evidentiary hearing is not necessary.

{¶ 26} Based on the record, and in accordance with R.C. Chapter 4906, the amendment application regarding the certificate issued in the *Certificate Case* should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as amended in the above-captioned case.


III. ORDER


{¶ 27} It is, therefore,

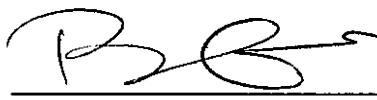
{¶ 28} ORDERED, That SFE's *First Amendment Application* be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as amended in the above-captioned case. It is, further,

{¶ 29} ORDERED, That a copy of this Order on Certificate be served upon all parties and interested persons of record.

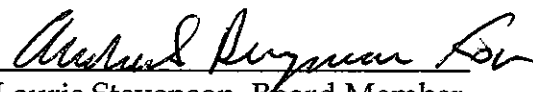
THE OHIO POWER SITING BOARD

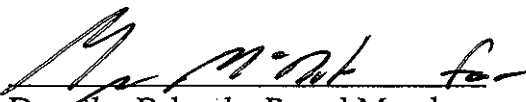

 Sam Randazzo, Chairman
 Public Utilities Commission of Ohio

 for
 Lydia Mihalik, Board Member
 and Director of the Ohio
 Development Services Agency

 for
 Mary Mertz, Board Member
 and Director of the Ohio
 Department of Natural Resources

 Amy Acton, M.D., MPH, Board Member
 and Director of the Ohio
 Department of Health

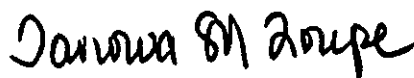
 for
 Laurie Stevenson, Board Member
 and Director of the Ohio
 Environmental Protection Agency

 for
 Dorothy Pelanda, Board Member
 and Director of the Ohio
 Department of Agriculture

 Greg Murphy, Board Member
 and Public Member

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~~MAY 04 2019~~ MAY 16 2019



Tanowa Troupe
 Secretary