

## OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION OF  
MADISON FIELDS SOLAR PROJECT, LLC,  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AND PUBLIC NEED  
ISSUED TO CONSTRUCT AN ELECTRIC  
GENERATION FACILITY IN MADISON  
COUNTY, OHIO.

CASE NO. 19-1881-EL-BGN

### ENTRY

Entered in the Journal on May 21, 2020

{¶ 1} On October 18, 2019, Madison Fields Solar Project, LLC (Madison Fields) filed a preapplication notification letter with the Ohio Power Siting Board (Board), consistent with Ohio Adm.Code 4906-3-03(A), regarding its proposed 180 megawatt (MW) solar electric generating facility in Madison County, Ohio.

{¶ 2} Thereafter, on October 23, 2019, Madison Fields filed a motion for waiver requesting that the Board grant a waiver of Ohio Adm.Code 4906-3-03(B)(2), which requires notices of public information meetings to be sent to all property owners and affected tenants at least 21 days before the meeting. Specifically, Madison Fields requests that the Board find the timing of the notice for the second public information meeting held on November 6, 2019, which was sent to property owners and affected tenants on October 17, 2019, is in substantial compliance with the rule and, therefore, should not be considered as failure to provide public notices. Madison Fields notes that it held the first public information meeting on November 5, 2019, adding that the public notice for that meeting was sent at least 21 days before the scheduled meeting, in compliance with Ohio Adm.Code 4906-3-03(B).

{¶ 3} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the

Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at [coronavirus.ohio.gov/](https://coronavirus.ohio.gov/).

{¶ 4} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 5} Subsequently, on April 28, 2020, Madison Fields filed an additional motion for waiver from certain provisions of the Board’s rule requirements, contending that good cause exists for granting its request. Specifically, Madison Fields is requesting waiver, in part, from Ohio Adm.Code 4906-3-03(B), which requires the public information meeting to “be held in the area in which the project is located.” In order to ensure its application was sufficient, Madison Fields explains that it postponed filing its application with the Board in February and is currently in the process of preparing to hold a third public information meeting in an effort to finalize and file its application within the next three months. Given the current state of emergency, and the unique fact that Madison Fields has already held two public information meetings for this project within the last six months, which, according to its memorandum in support, were both well-attended, Madison Fields requests that the Board authorize it to hold a virtual public information meeting, as detailed in its motion. Furthermore, Madison Fields requests that the Board grant its motion an expedited basis, in accordance with Ohio Adm.Code 4906-2-27(C).

{¶ 6} No memoranda contra Madison Fields' motions for waiver were filed in this proceeding.

{¶ 7} On May 4, 2020, Staff filed a letter indicating that, under the unique circumstances of this case, it did not object to Madison Fields' April 28, 2020 request to hold a virtual public information meeting and provide notice of such, as detailed in its motion and memorandum in support.

{¶ 8} Ohio Adm.Code 4906-3-01(B) provides that the Board may waive any provisions in Ohio Adm.Code Chapter 4906-3 upon an application or a motion filed by a party, other than a requirement mandated by statute.

{¶ 9} Upon consideration of the unique circumstances of this case and the state of emergency, the administrative law judge (ALJ) finds that Madison Fields' April 28, 2020 limited request to waive the requirement that the public information be held in the area where the project is to be located is reasonable and should be granted. However, while granting this limited waiver request, the ALJ further notes that the Board is not endorsing or objecting to the actual manner in which the public information meeting is proposed to be held, as detailed in the motion and memorandum in support. If Madison Fields wishes to proceed with planning and holding the virtual public information meeting, it carries with it the risk associated with doing so. Nonetheless, the ALJ certainly encourages Madison Fields to ensure all those who may wish to participate in the virtual public information meeting have the opportunity to do so, just as they would under normal circumstances. This must include the creation of a process by which members of the public may request reasonable accommodations to obtain access to the public information meeting. The details of this process, and all requests for accommodation received, should be forwarded to Board staff upon receipt. Such shared information shall include any proposed resolutions from Madison Fields.

{¶ 10} Moreover, given that the public notice for the November 6, 2019 public information meeting was sent 20 days in advance of the meeting and the fact that Madison Fields anticipates holding what it believes to be a virtual equivalent to the Board's public information meeting requirements, the ALJ also finds that the public notice was in substantial compliance with the Board's rules and that the October 23, 2019 motion for waiver should be granted.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That Madison Fields' October 23, 2019 motion for waiver be granted. It is, further,

{¶ 13} ORDERED, That Madison Fields' April 28, 2020 motion for waiver be granted, to the extent it is requesting to waive the Board's requirement that a public information meeting be held in the area in which the project is to be located. It is, further,

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

THE OHIO POWER SITING BOARD

/s/ Megan J. Addison

By: Megan J. Addison  
Administrative Law Judge

JRJ/mef

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 19-1881-EL-BGN**

Summary: Administrative Law Judge Entry granting motions for waivers as detailed herein.  
electronically filed by Ms. Mary E Fischer on behalf of Megan J. Addison, Administrative Law  
Judge, Ohio Power Siting Board