

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Madison :
Fields Solar Project, LLC, :
for a Certificate of :
Environmental :
Compatibility and Public : Case No. 19-1881-EL-BGN
Need Issued to Construct :
an Electric Generation :
Facility in Madison :
County, Ohio. :

- - -

PROCEEDINGS

before Ms. Megan Addison and Mr. Matthew Sandor,
Administrative Law Judges, Ohio Power Siting Board,
via Webex, called at 10:01 a.m. on Thursday,
December 17, 2020.

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ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481 - (800) 223-9481

- - -

APPEARANCES:

Dickinson Wright PLLC
By Ms. Christine M.T. Pirik
and Mr. William V. Vorys
150 East Gay Street, Suite 2400
Columbus, Ohio 43215

On behalf of the Madison Fields Solar
Project, LLC.

Dave Yost, Ohio Attorney General
By Mr. Robert Eubanks
and Mr. Thomas Lindgren,
Assistant Attorneys General
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the OPSB.

Ohio Farm Bureau Federation
By Ms. Amy Milam
280 North High Street
P.O. Box 182383
Columbus, Ohio 43218-2383

On behalf of the Ohio Farm Bureau
Federation.

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JOINT EXHIBIT

IDENTIFIED ADMITTED

1 December 9, 2020, Stipulation
filed by the Applicant, the
Ohio Farm Bureau Federation,
and the Ohio Power Siting
Board Staff

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1 Thursday Morning Session,
2 December 17, 2020.

3 - - -

4 EXAMINER ADDISON: We will go on the
5 record.

6 The Ohio Power Siting Board has set for
7 hearing at this time and place Case No.
8 19-1881-EL-BGN which is captioned in the Matter of
9 the Application of Madison Fields Solar Project, LLC,
10 for a Certificate of Environmental Compatibility and
11 Public Need Issued to Construct a Solar-Powered
12 Electric Generation Facility in Madison County, Ohio.

13 Good morning, everyone. My name is Megan
14 Addison and with me is Matthew Sandor. We are the
15 Administrative Law Judges assigned by the Board to
16 hear this case.

17 At this time we will take appearances of
18 the parties. First, on behalf of the Applicant.

19 MS. PIRIK: Thank you, your Honor. On
20 behalf of the Applicant Madison Fields Solar Project,
21 LLC, the law firm of Dickinson Wright, Christine
22 Pirik and William Vorys, 150 East Gay Street, Suite
23 2400, Columbus, Ohio 43215.

24 EXAMINER ADDISON: Thank you. Next,
25 counsel on behalf of the Intervenor Ohio Farm Bureau

1 Federation.

2 MS. MILAM: Good morning, your Honor.
3 Amy Milam on behalf of Ohio Farm Bureau Federation,
4 280 North High Street, Columbus, Ohio 43215.

5 EXAMINER ADDISON: Thank you very much.
6 Counsel on behalf of Board Staff.

7 MR. EUBANKS: Thank you, your Honor. On
8 behalf of the Board Staff, Robert Eubanks and Thomas
9 Lindgren, Ohio Attorney General's Office, 30 East
10 Broad Street, 16th Floor, Columbus, Ohio 43215.

11 EXAMINER ADDISON: Thank you very much.

12 I note that this evidentiary hearing is
13 taking place pursuant to the parameters set forth in
14 the entry issued on September 28, 2020. Due to the
15 COVID-19 emergency that remains in effect, pursuant
16 to Executive Order 2020-01D issued by the Governor of
17 the State of Ohio and consistent with the Amended
18 Substitute House Bill 197, this hearing is being held
19 via Webex which enables parties to participate by
20 video conference while also affording the public
21 access to the hearing by telephone or video over the
22 internet.

23 Before we call our first witness, I would
24 like to address some preliminary matters. First, if
25 counsel or witnesses experience technical

difficulties during the hearing, please immediately let the Administrative Law Judges know by phone or e-mail. You can also contact our event host by calling (614) 466-6843 or via the Webex chat function. Please be aware that chats are recorded and should not be considered private. Chats are also not part of the official record in this case. For those of you watching or listening as an attendee, while you may observe the hearing, your microphones will be muted.

Let's talk about how the hearing will be conducted. In many respects this virtual hearing will proceed in much of the same fashion as in -- as an in person hearing before the Board.

However, due to the remote nature of the hearing, here are some general ground rules and reminders for the hearing. First, to avoid unnecessary background noise, I would ask that counsel keep their microphones on mute unless they are speaking or to be -- or preparing to speak quickly as is the case with raising objections during the cross-examination of a witness. The microphones of witnesses will be kept on mute until it is their time to testify.

With respect to your video, counsel

1 should leave their cameras on at all times except
2 during breaks. You may turn your video off if you
3 need to step away from the hearing when your
4 co-counsel is taking the lead. Just remember to turn
5 your camera back on when you return. Witnesses will
6 need to turn on their cameras and microphones when
7 they begin their testimony.

8 Please be mindful of the court reporter.
9 You should speak clearly and at a reasonable pace so
10 that the court reporter can accurately transcribe the
11 hearing. As a reminder, everyone should do their
12 best to avoid speaking over each other by taking
13 proactive steps like intentionally allowing for a
14 pause at the end of questions to the witness and
15 generally slowing down in order to allow for
16 connectivity lags and objections from counsel.

17 During their testimony, witnesses will
18 have access only to the filings in this case docket
19 as well as other documents that have been identified
20 as potential exhibits and previously exchanged among
21 the parties and shared with the Bench. Witnesses
22 should not access or seek any other information in
23 documents while testifying nor should they
24 communicate through any means with anyone privately
25 during their testimony. Exhibits admitted into the

1 record which have not previously been docketed with
2 the Board should be e-mailed by the next day to the
3 court reporter. The e-mail address is KSpencer,
4 S-P-E-N-C-E-R, @aando.com.

5 Does counsel have any questions about the
6 ground rules?

7 Okay. And again, are there any
8 preliminary matters that the parties wish to address
9 at this time?

10 All right. Thank you very much. If not,
11 I will hand the reigns over to Judge Sandor.

12 ALJ SANDOR: Thanks, Judge Addison. The
13 Applicant may proceed with its case.

14 MS. PIRIK: Thank you, your Honor. Would
15 you like us to mark our exhibits?

16 ALJ SANDOR: Yes, please. Go ahead.

17 MS. PIRIK: Thank you, your Honor. All
18 of our exhibits have been filed in the docket. Our
19 first exhibit is Applicant Exhibit 1 which is the
20 Application that was filed on July 17, 2020;
21 Applicant Exhibit 2, the supplement to the
22 Application filed on August 3, 2020; Applicant
23 Exhibit 3 which is an update to the Application
24 Exhibit W filed on July 23, 2020; Applicant
25 Exhibit 4, which is the response to the first data

request filed on September 28, 2020; Applicant Exhibit 5, response to the second data request filed on October 2, 2020; Applicant Exhibit 6, response to the third data request filed on October 23, 2020; Applicant Exhibit 7, response to the fourth data request filed on November 4, 2020; Applicant Exhibit 8, supplement response to the third and fourth data request filed on November 13, 2020; Applicant Exhibit 9, certificate of service filed on October 23, 2019.

Applicant Exhibit 10 is a proof of publication filed on October 28, 2019; Applicant Exhibit 11, certificate of service filed on June 11, 2020; Applicant Exhibit 12, proof of publication filed on June 11, 2020; Applicant Exhibit 13, certificate of service filed on June 24, 2020; Applicant Exhibit 14, proof of publication filed on July 20, 2020; Applicant Exhibit 15, certificate of service filed on September 17, 2020; Applicant Exhibit 16, proof of service and proof of publication filed on October 19, 2020.

Applicant Exhibit 17 is the second service and second publication filed on November 25, 2020; and Applicant Exhibit 18 is the prefiled testimony of Lauren Devine.

1 And Joint Exhibit 1 is the December 9,
2 2020, Stipulation filed by the Applicant, the Ohio
3 Farm Bureau Federation, and the Ohio Power Siting
4 Board Staff.

5 ALJ SANDOR: They are so marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 ALJ SANDOR: And actually if we could
8 have Staff just go ahead and mark their exhibits at
9 this time as well.

10 MR. EUBANKS: Yes, your Honor. We can
11 mark Matt Butler's prefiled testimony as Staff's
12 Exhibit 1, and then we can mark the Staff Report
13 which was docketed on November 18, 2020, as Staff's
14 Exhibit 2.

15 ALJ SANDOR: They are so marked. Thank
16 you.

17 (EXHIBITS MARKED FOR IDENTIFICATION.)

18 ALJ SANDOR: Ms. Pirik, if you would like
19 to proceed with your witness.

20 MS. PIRIK: Thank you, your Honor. We
21 would call Lauren Devine to the stand, please.

22 ALJ SANDOR: Can the host please promote
23 Ms. Devine to a panelist role.

24 MR. SCHMIDT: Ms. Divine has been
25 promoted. Please unmute your audio and enable your

1 video.

2 ALJ SANDOR: Good morning, Ms. Devine.

3 Can you hear me?

4 MS. DEVINE: I can.

5 ALJ SANDOR: Perfect. Please raise your
6 right hand.

7 (Witness sworn.)

8 ALJ SANDOR: Thank you.

9 Ms. Pirik.

10 - - -

11 LAUREN BROWN DEVINE

12 being first duly sworn, as prescribed by law, was
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 By Ms. Pirik:

16 Q. Ms. Divine, could you please state your
17 name and spelling, title, and company name for the
18 record.

19 A. Sure. My name is Lauren Brown Devine,
20 D-E-V-I-N-E. And I am a Senior Permitting and
21 Environmental Manager for Savion, LLC.

22 Q. Do you have what's before you marked as
23 Applicant Exhibit 18?

24 A. I do.

25 Q. Is that your prefiled testimony that was

1 filed on December 9, 2020?

2 A. It is.

3 Q. Can you confirm that the testimony was
4 prepared under your supervision and direction?

5 A. It was.

6 Q. Do you have any corrections to your
7 testimony?

8 A. I do not.

9 Q. If you were asked the same questions that
10 are currently in Applicant Exhibit 18, would your
11 answers be the same?

12 A. They would.

13 Q. Do you have before you also what has been
14 marked as Joint Exhibit 1?

15 A. I do.

16 Q. And is that the Joint Stipulation and
17 Recommendation that was entered into between Madison
18 Fields Solar, the Ohio Power Siting Board Staff, and
19 the Ohio Farm Bureau Federation?

20 A. It is.

21 MS. PIRIK: Ms. Gibson, did you hear the
22 answer?

23 COURT REPORTER: Yes.

24 MS. PIRIK: Okay. Your Honor, we have no
25 further questions for this witness, and she's

1 available for cross-examination.

2 ALJ SANDOR: Thank you. Does the Farm
3 Bureau have any cross for the witness?

4 MS. MILAM: No cross, your Honor.

5 ALJ SANDOR: Thank you.

6 Does Board Staff have any cross for the
7 witness?

8 MR. EUBANKS: I have one question, your
9 Honor.

10 ALJ SANDOR: Okay.

11 - - -

12 CROSS-EXAMINATION

13 By Mr. Eubanks:

14 Q. A recent public comment filed in the
15 record for this case indicates that a copy of the
16 Application was incorrectly sent to the Fairfield
17 Local School District in Leesburg instead of the
18 correct school district, Fairbanks Local in Milford
19 Center. Has the Applicant been in contact with the
20 Fairfield Local School District, and is the District
21 aware of the project?

22 A. Yeah. I would be happy to address this
23 question. I understand from my counsel that pursuant
24 to the rule, we are not required to serve local
25 school districts. We attempted to send a courtesy

1 copy to the Fairbanks Local School District in
2 Milford Center, Ohio, and inadvertently sent the
3 Application to Fairfield Local School District in
4 Leesburg, Ohio.

5 Although Fairbanks did not receive the
6 courtesy copy intended for them, we have been in
7 direct contact with the school district.
8 Specifically project representatives met with Adham
9 Schirg, the Superintendent for Fairbanks Local School
10 District, to discuss project details including
11 project timeline and potential tax revenue from the
12 project. So the oversight and misaddress of the
13 courtesy copy has not inhibited communication with
14 Fairbanks Local School District, and all
15 communication with Fairbanks thus far has been
16 positive.

17 MR. EUBANKS: I have no further
18 questions.

19 ALJ SANDOR: Thank you.

20 And any redirect from Ms. Pirik?

21 MS. PIRIK: No redirect, your Honor.

22 ALJ SANDOR: All right. Thank you.

23 With no further questions, you are
24 excused. Thanks for your testimony.

25 Okay. Ms. Pirik, anything further?

1 MS. PIRIK: Yes, your Honor. I would
2 like to move admission for Exhibits 1 through 18.

3 ALJ SANDOR: Any objections from the Farm
4 Bureau to their admission?

5 MS. MILAM: No objections, your Honor.

6 ALJ SANDOR: And any objection from
7 Board's Staff?

8 MR. EUBANKS: No objections, your Honor.

9 ALJ SANDOR: Thank you.

10 Applicant Exhibits 1 through 18 are
11 admitted.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 ALJ SANDOR: And then we will maybe keep
14 the joint exhibit until the end.

15 MS. PIRIK: Okay.

16 ALJ SANDOR: Okay. So, Board Staff, go
17 ahead and proceed with your witness.

18 MR. EUBANKS: Your Honor, I would like to
19 call to the stand Matthew Butler.

20 ALJ SANDOR: Can the host please promote
21 Mr. Butler to a panelist role.

22 THE COURT: Mr. Butler has been promoted.
23 Please unmute your microphone and enable your video.

24 MR. BUTLER: Good morning.

25 ALJ SANDOR: Good morning, Mr. Butler.

1 Please raise your right hand.

2 (Witness sworn.)

3 ALJ SANDOR: Thank you. You may proceed.

4 - - -

5 MATTHEW BUTLER

6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Eubanks:

10 Q. Hello, sir. Please state and spell your
11 name for the record.

12 A. It's Matthew Butler, M-A-T-T-H-E-W
13 B-U-T-L-E-R.

14 Q. Are you responsible for preparing
15 testimony for this matter?

16 A. Yes. I prepared prefiled testimony.

17 Q. Have you reviewed your testimony that was
18 docketed with the Commission on December 9, 2020?

19 A. Yes, I have.

20 Q. Is it a true and accurate copy of the
21 testimony that you prepared for this matter?

22 A. Yes.

23 Q. Are there any changes you would like to
24 make to your testimony?

25 A. No.

1 Q. If I were to ask you again today the same
2 questions that are asked in your prefiled testimony,
3 would you provide the same answers?

4 A. Yes.

5 Q. Moving onto the Stipulation, are you
6 familiar with the Stipulation that was signed and
7 docketed by the parties in this matter on December 9,
8 2020?

9 A. I am, yes.

10 Q. How are you familiar with the
11 Stipulation?

12 A. I was involved in the discussion and
13 Staff review of the Stipulation.

14 Q. Do you recognize Joint Exhibit 1 as the
15 Stipulation reached between the parties?

16 A. Yes.

17 Q. We'll go on to the Staff Report, per
18 Provision B12 of the Stipulation, do you understand
19 the Stipulation to adopt the conditions in the Staff
20 Report as modified by the Stipulation?

21 A. Yes.

22 Q. Are you familiar enough with the Staff
23 Report to identify it?

24 A. I am.

25 Q. And how are you familiar with the Staff

1 Report?

2 A. I led the Staff investigation that
3 resulted in the Staff Report.

4 Q. Was the Staff Report docketed with the
5 Board on November 18, 2020, a true and accurate copy
6 of the Staff Report you helped prepare in this
7 matter?

8 A. Yes, it is.

9 MR. EUBANKS: With that I would ask that
10 Staff's Exhibits 1 and 2 and Joint Exhibit 1 which
11 are -- which have already been marked be admitted
12 into evidence, subject to any questions by the Bench
13 or the parties.

14 ALJ SANDOR: Thank you.

15 I will first ask if any of the parties
16 have questions for Mr. Butler. The Farm Bureau, do
17 you have any cross for Mr. Butler?

18 MS. MILAM: No cross, your Honor.

19 ALJ SANDOR: Thank you.

20 And then, Ms. Pirik, any cross from the
21 Applicant?

22 MS. PIRIK: No cross, your Honor.

23 ALJ SANDOR: Thank you.

24 Or the Bench.

25 EXAMINER ADDISON: No questions. Thank

1 you.

2 ALJ SANDOR: Excellent. Mr. Butler, you
3 are excused.

4 And then I believe Mr. Eubanks just moved
5 for admission of Staff's exhibits so any objections
6 from the Farm Bureau?

7 MS. MILAM: None, your Honor.

8 ALJ SANDOR: Thank you.

9 And then objections from the Applicant?

10 MS. PIRIK: No objection, your Honor.

11 ALJ SANDOR: All right. So Staff Exhibit
12 1 and Staff Exhibit 2 are admitted.

13 (EXHIBITS ADMITTED INTO EVIDENCE.)

14 ALJ SANDOR: Now, Ms. Pirik, if we want
15 to move the joint exhibit.

16 MS. PIRIK: Yes, your Honor. We would
17 join in the motion to move Joint Exhibit 1 into the
18 record.

19 ALJ SANDOR: Okay. Thank you. That's
20 right, Mr. Eubanks had moved it prior.

21 Any objection -- or any objections to the
22 admission of the joint exhibit?

23 Hearing none, Joint Exhibit 1 is
24 admitted.

25 (EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ SANDOR: And I believe that brings us to the end. Are there any other questions or issues that the parties would like to address before we adjourn?

Perfect. Thank you. Well, thank you all very much. We are adjourned.

(Thereupon, at 10:21 a.m., the hearing was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, December 17, 2020, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7014)

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/31/2020 9:12:26 AM

in

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

Summary: Transcript in the matter of the Madison Fields Solar Project, LLC hearing held on 12/17/20 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.