

BEFORE  
THE OHIO POWER SITING BOARD

In the Matter of the Application	)	
of Kingwood Solar I LLC, for a	)	
Certificate of Environmental	)	Case No. 21-0117-EL-BGN
Compatibility and Public Need	)	

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**LIST OF ISSUES FOR CROSS-EXAMINATION SUBMITTED BY CITIZENS FOR  
GREENE ACRES, INC., JENIFER ADAMS, P. CHANCE BALDWIN, JACOB  
CHURCH, VERITY DIGEL, RONALD DOWLING, JED HANNA, KRAJICEK FAMILY  
TRUST, JAMES JOSEPH KRAJICEK, KAREN LANDON, NICOLE MARVIN,  
CHAD MOSSING, KAREN MOSSING, NICHOLAS PITSTICK, KYLE SHELTON,  
MARLIN VANGSNESS, JEAN WEYANDT, AND JERALD WEYANDT**

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The above-named Intervenors<sup>1</sup> hereby submit their list of issues about which they may pursue cross-examination at the hearing. Intervenors will ask questions about the following issues:

1. Kingwood Solar’s application for a certificate (“Application”) for the Kingwood Solar Project (“Project”) proposes a Project that will expose the Intervenors to views of hundreds of acres of solar panels adjoining and surrounding the Intervenors’ properties and nearby public roads that will spoil their visual and aesthetic enjoyment of living and working there. The Application fails to commit to specific measures that will be taken to protect the Intervenors’ views, but instead leaves those details to be determined after a certificate is issued rather than properly and fairly adjudicating them in this proceeding.

2. The Application does not sufficiently provide for the protection and repair of drainage tiles and surface waterways that are damaged by the Project’s construction or operation.

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<sup>1</sup> References to “Intervenors” herein include the members of Citizens for Greene Acres, Inc., whether or not they are named as individual intervenors.

3. Kingwood Solar failed to conduct an adequate study of the Project's adverse effects on wildlife. The Application also failed to evaluate the adverse effects of the Project's fences on wildlife species that currently travel from their places of residence inside and outside of the Project Area (including those living on the Intervenor's land) throughout the Project Area to forage and hunt. The study failed to evaluate the adverse effects on wildlife that will no longer be able to travel from one pocket of wildlife-friendly habitat to another due to the obstructions from the Project's fences. The Application fails to provide for the prevention of the propagation of rodents and other nuisance wildlife inside the Project's fences, from which these animals may spread to the Intervenor's land.

4. The Application fails to provide for reasonable measures that are necessary to protect birds and other wildlife. The proliferations of fencing in the Project, by preventing wildlife movement, will congregate and cause the overpopulation of wildlife on the Intervenor's land, and other habitat areas inside and outside of the Project Area. The crowding of wildlife, such as deer, in smaller areas will increase adverse impacts such as grazing on the crops and plants in Intervenor's fields and yards.

5. The Application does not provide vegetative barriers in the setbacks between the Project Area and neighboring properties that are adequate to protect the aesthetic enjoyment of the neighbors' properties. In addition, while the Application calls for planting some vegetation inside and outside of the Project Area, it fails to provide for adequate measures to sustain the vegetation or keep it alive. Moreover, the Application fails to prevent the intrusion of invasive plant species and other weeds from the Project into the surrounding community.

6. The Application does not prevent the tracking of dirt onto public roads, airborne dust, and intrusive traffic during the Project's construction.

7. The Application does not provide adequate measures for protecting and repairing public roads, traffic signs, storm sewer conduits, culverts, and underdrains damaged by construction or construction traffic.

8. The Application does not protect the Intervenors' land and community streams from increases in runoff from the Project Area during construction and operation.

9. The Application fails to identify the specific locations for the solar panels, night lights, and other Project components, leaving this task to a later day subsequent to the certificate's issuance. This failure deprives the Board and the Intervenors of the opportunity to determine whether the panels and other components will displace or injure streams, wildlife habitat, and other natural resources, whether the night lights will be an annoyance to the Intervenors, and whether the Project's components will be in the line of sight from the Intervenors' land and home.

10. The economic impact study in the Application is incomplete and marred with flaws. The study does not identify or quantify the adverse economic impacts of the Project, such as the reduced values of neighborhood properties, the adverse economic impact of the proposed facility on local commercial and industrial activities, or the loss of farm land and crop production on the local economy, thus violating OAC 4906-4-06(E)(4).

11. The Application does not prevent a reduction in tourism and recreation in the area and communities around the Project.

12. The Application provides setbacks that are too short to protect Intervenors and the surrounding community. In particular, the Application provides setbacks between Intervenors' properties and the Project's fences and other components that are too short to protect the Intervenors' properties, yards, and homes.

13. The Application fails to provide a fence design adequate to allow wildlife movement and to minimize the fences' aesthetically displeasing characteristics.

14. The Application fails to identify measures to protect the solar panels and other Project components from tornadoes, high wind, hail, lightening, fire, and other severe weather and natural disasters, as well as to protect Intervenor, recreational and cultural resources, and surrounding communities from flying debris, pollutants, and toxic materials that could be released by these events.

15. The Application does not account for or provide for adequate emergency services to address emergencies at the Project.

16. The Application does not adequately provide for decommissioning upon the closure of the Project, including financial assurance (e.g., bonding) and the proper disposal of solar panels and other equipment or structures.

17. The Application fails to adequately and accurately evaluate, and fails to protect the Intervenor from, the noise impacts of Project construction and operation, including noise from pile driving equipment, earthmoving machinery, inverters, tracking motors, and transformers.

18. The Application fails to provide the information necessary for the Board to examine the nature and economics of the various alternatives to the Project as required by R.C. 4906.10(A)(3).

19. The Application does not provide for a Project that is consistent with local land use plans.

20. The Application does not provide a description or design of the equipment and structures in the interconnection of the solar facility to the regional electric power grid that is

required by OAC 4906-4-05.

21. The Application contains no commitments for financial assurance to guarantee the decommissioning of the Project, nor does it identify the type of financial assurance mechanism that will be used.

22. The Application fails to describe the necessary coordination with appropriate authorities for temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction of the Project as required by OAC 4906-4-06(F)(4), including procedures necessary to prevent the interference with the movement of farm machinery on the roads.

23. The Application fails to protect neighbors from adverse effects from construction laydown areas.

24. The Application does not contain the information on water quantity and water quality required by OAC 4906-4-07(C)(1)(b), (1)(d), (1)(e), (2)(a), (2)(b), (2)(c), 2(d), 2(e), 3(a), 3(b), and 3(d).

25. The Application does not protect Clark's Run, the Little Miami River, and other streams from soil and other pollutants that will run off the Project Area during construction and operation of the Project.

26. The Application contains no estimate of the volume of solid waste and debris generated during construction, or the debris' disposal destination, as required by OAC 4906-4-07(D).

27. The Application does not describe how the proposed Project incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives that are required by OAC 4906-4-07(C)(3)(e).

28. The Application fails to protect the groundwater supplies on which the Intervenors rely. The Application does not contain measures to protect the Intervenors' water supply wells from the Project's uses of groundwater and drawdown of the aquifers. The Application does not provide an evaluation of the impact to public and private water supplies due to construction and operation of the proposed Project as required by OAC 4906-4-08(A)(4)(a). The Application does not estimate the amount of water to be used for each round of solar panel cleaning, it does not identify the source of the water to be used for solar panel cleaning, and it provides no study on the adverse impact of this water usage on water wells or other water supplies used as the source of this water. In particular, the Application fails to demonstrate whether groundwater use by the Project will adversely impact the neighbors' wells.

29. The Application fails to comply with OAC 4906-4-08(A)(1)(e), because it does not describe the fire protection, safety, and medical emergency plan(s) to be used during construction and operation of the Project and the Application does not describe how such plan(s) will be developed in consultation with local emergency responders.

30. The Application does not contain descriptions of equipment and procedures that will mitigate the effects of noise emissions from the proposed Project during construction and operation as required by OAC 4906-4-08(A)(3)(d).

31. The Application fails to provide the adequate and accurate preconstruction background noise study of the Project Area required by OAC 4906-4-08(A)(3)(e).

32. The Application does not contain the literature surveys of plant and animal life within the Project Area and within one-fourth mile of the Project Area that is required by OAC 4906-4-08(B)(1)(c).

33. The Application does not contain the field surveys of plant and animal life within

the Project Area and within one-fourth mile of the Project Area that are required by OAC 4906-4-08(B)(1)(d).

34. The Application does not provide information regarding potential impacts to ecological resources such as deer and other animals during operation and maintenance of the Project as required by OAC 4906-4-08(B)(3).

35. The Application fails to provide for the prevention of herbicide drift onto Intervenors' land.

36. The Application fails to adequately identify, and fails to provide mitigation of the Project's adverse effects on, cultural (including historical) and archaeological resources. The Application does not include the investigations of cultural (including historical) and archaeological resources required by OAC 4906-4-08(D). The Application does not describe and evaluate the Project's visual impacts on the cultural, historical, and archaeological resources surrounding the Project Area.

37. The Application fails to provide much of the information required by OAC 4906-4-08(D)(4) about the Project's visual impacts. The Application does not comply with the mandate in OAC 4906-4-08(D)(4)(e) to "[p]rovide photographic simulations or artist's pictorial sketches of the proposed Project from public vantage points that cover the range of landscapes, viewer groups, and types of scenic resources found within the study area." In particular, the Application fails to include photographic simulations or artist sketches of the proposed Project that reveal the Project's appearance to the Intervenors and other nearby neighbors as seen from their homes and yards.

38. The Application does not contain much of the information required by OAC 4906-4-08(C)(1)(b). The Application does not provide a table showing the distances between the

solar equipment and the property lines associated with all structures within 250 feet and 1500 feet. Appendix P of the Application contains tables that fail to comply with OAC 4906-4-08(C)(1)(b), since they lack the information described in the foregoing sentence. These tables also fail to identify the locations or owners of the structures listed in the tables, thus defeating the main purpose of OAC 4906-4-08(C)(1)(b) to advise neighboring landowners about how close their land and structures are to the proposed solar equipment.

39. While OAC 4906-4-08(D)(4)(f) requires Kingwood Solar to describe measures that will be taken to minimize any adverse visual impacts created by the Project, including but not limited to visual screening, the Application fails to provide adequate visual screening or other minimization measures to reduce the neighbors' and the public's views of solar equipment.

40. The Application fails to evaluate the visual impact of the Project's lighting as required by OAC 4906-4-08(D)(4) and fails to commit to implementing measures required by OAC 4906-4-08(D)(4)(f) to minimize adverse visual impacts of the Project's lighting.

41. The Application does not contain a description of mitigation procedures required by OAC 4906-4-08(E)(2)(c) to be utilized by the applicant during construction, operation, and maintenance to reduce impacts to agricultural land, structures, and practices, because it fails to provide for the prevention and eradication of noxious and invasive plant species and weeds in the Project Area.

42. The Application violates OAC 4906-4-08(E)(2), because it does not contain a description of mitigation procedures to be utilized during construction, operation, and maintenance to avoid and minimize damage to field tile drainage systems and to timely repair damaged field tile systems to their original condition.



43. The Application fails to provide for measures to prevent the Project from interfering with signals from cell phones, internet, radio, global positioning systems, or real-time kinematic devices.

44. The Application does not provide for groundwater testing and other measures adequate to protect the groundwater from contamination from metals and other pollutants from constructing, operating, cleaning, and maintaining the solar panels and other Project components.

45. The Application fails to protect the neighbors from electromagnetic fields.

46. The Application fails to adequately protect the neighbors and motorists from glare from solar panels.

47. The Application provides for a sprawling, scattered design of the Project that is inefficient and wasteful, and that will increase the harm to the community by increasing the number of neighbors and neighboring properties that will be close or adjacent to the Project.

48. The Application provides for the removal of prime farm land from food production.

49. The Application fails to protect forested areas, but instead proposes to cut trees to make way for the Project.

50. The Application provides for the siting of solar panels on rolling land, including rolling land that slopes to the north away from the sun.

51. The Application provides for a solar panel layout with boundaries running diagonal to north-south and east-west, causing hundreds of acres to be wasted.

52. The Application does not contain the procedures necessary to restore the soils in the Project Area in a manner that will make them suitable for agriculture after the Project has ceased operation.

53. The Application proposes a solar facility design, including inadequate setbacks, that will reduce the property values of nearby properties.

54. The Application does not commit to purchasing or utilizing equipment, components, supplies, and labor for the Project from people or businesses in Greene County, the State of Ohio, or even the United States of America. Nor does the Application commit to avoiding producers of equipment, components, or supplies that utilize slave labor or that fail to responsibly control their pollution during the manufacturing or shipping processes for finished products or raw manufacturing materials. The Application fails to account for the costs of producing the raw materials and finished products used to manufacture solar equipment or components.

55. The Application does not contain much of the information required by the Board's rules, and thus is not complete.

56. Besides asking questions to demonstrate that the Application lacks the information described in Paragraphs 1-55 above, Intervenor also will ask questions to show that the evidence in the entire evidentiary record, including the testimony and exhibits at the hearing, lacks the information described in Paragraphs 1-55 above. Intervenor will ask questions to show that the entire evidentiary record fails to adequately address the concerns about the Project described in Paragraphs 1-55 above and in Paragraphs 57-73 below. Thus, Intervenor will ask questions to establish that the Application and the evidentiary record as a whole lack the information necessary under the statutory criteria of R.C. 4906.10(A) to (a) determine the nature of the Project's probable environmental impact, (b) find that the Project will serve the public interest, convenience, and necessity, (c) determine that the Project will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under those

chapters, and (d) represent the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations. Intervenors will ask questions to show that the conditions included in the Staff Report also fail to provide for the attainment of these statutory criteria.

57. Intervenors may ask questions about the contents of leases and good neighbor agreements obtained for the Project by Kingwood Solar.

58. Solar energy is an inefficient and unreliable source of electricity, and farmland should not be sacrificed for an inefficient and unreliable source of electricity.

59. Kingwood Solar and its participating landowners have engaged in irresponsible conduct towards nonparticipating landowners near the Project Area by keeping their solar development intentions secret from the public, including their failure to record leases, memoranda of leases, and other legal instruments with the County Recorder's Office notifying prospective buyers of land in and near the Project Area about Kingwood Solar's plans to construct its Project.

60. Intervenors will ask questions to demonstrate that Kingwood Solar has not complied with the public information requirements of OAC 4906-3-03.

61. Intervenors will ask questions to show that the community around the Project Area and local officials overwhelmingly oppose the Project.

62. The Project Area is in a poor location for solar production, and other areas would be more suitable.

63. The Project is incompatible with local land use plans.

64. The manufacturing and transportation of solar equipment, the mining and production of raw materials and components, and other aspects of producing solar energy

produce air pollution emissions.

65. Upon replacement or during decommissioning, the Project's solar panels and other solar equipment and structures may be dumped in landfills instead of being recycled.

66. Intervenors will have questions about the conditions proposed in the Staff report and about the conditions or revisions to conditions proposed by Kingwood Solar, including but not limited to recommended conditions 2-11, and 15-37 in the Staff Report.

67. The staff recommendations recommend that, if a certificate is issued, then the applicant should submit many of the plans necessary to protect the public after the certificate is issued. This deprives the Board and the Intervenors of the opportunity to determine whether these plans will protect the Intervenors from harm.

68. Intervenors will ask questions about how the Project will impair the quality of life for Intervenors and the surrounding communities.

69. Intervenors plan to ask questions about the payment of fees for PJM's facilities study of the Project.

70. Intervenors will ask questions about new service requests submitted to PJM for the Project after October 12, 2021.

71. The costs of producing electricity with solar equipment is more costly and less efficient than using other forms of energy production to create electricity.

72. Intervenors will ask questions about the experience of Kingwood Solar and its parent company or companies in the construction, operation, and decommissioning of solar facilities.

73. The Intervenors also plan to cross-examine witnesses about any issues that are discussed in the witnesses' testimony, as well as any issues and concerns raised

by the applicant and other parties to this proceeding.

Respectfully submitted,

/s/ Jack A. Van Kley  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on November 22, 2021, a copy of the foregoing List of Issues was served by electronic mail on the following: Jodi Bair at Jodi.Bair@ohioattorneygeneral.gov; Daniel A. Brown at dbrown@brownlawdayton.com; Kevin Dunn at kdd@planklaw.com; John Hart at jehartlaw@gmail.com; Werner Margard III at Nathaniel B. Morse at nbmorse@vorys.com; Werner.Margard@ohioattorneygeneral.gov; Michael Settineri at mjsettineri@vorys.com; Lee Slone at lee.slone@dinsmore.com; Charles Swaney at cswaney@woh.rr.com; David Watkins at dw@planklaw.com; Anna Sanyal at aasanyal@vorys.com; Nathaniel Morse at nmorse@vorys.com; Thaddeus Boggs at tboggs@fbtlaw.com; Chad A. Endsley at cendsley@ofbf.org; Amy M. Milam at amilam@ofbf.org; and Leah F. Curtis at lcurtis@ofbf.com.

/s/ Jack A. Van Kley  
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Summary: Notice of List of Issue for Cross-Examination electronically filed by Mr. Jack A. Van Kley on behalf of Citizens for Greene Acres, Inc. and Jenifer Adams and P.Chance Baldwin and Jacob Church and Verity Digel and Ronald Dowling and Jed Hanna and James Joseph Krajicek and Krajicek Family Trust and Karen Landon and Nicole Marvin and Chad Mossing and Karen Mossing and Nicholas Pitstick and Kyle Shelton and Marlin Vangsness and Jean Weyandt and Jerald Weyandt