

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application)	
of Nestlewood Solar I LLC for a)	Case No. 18-1546-EL-BGN
Certificate of Environmental)	
Compatibility and Public Need)	

MOTION FOR WAIVERS

Pursuant to Section 4906.06(A)(6), Revised Code and Rule 4906-3-01 of the Ohio Administrative Code, Nestlewood Solar I LLC (“Nestlewood”) moves the Ohio Power Siting Board (“the Board”) to grant certain waivers from Chapter 4906-4 of the Ohio Administrative Code. Nestlewood will be filing an application to construct the Nestlewood Solar electric generation facility (the “Project”), a new solar powered generating facility to be located in Clark Township in Brown County, Ohio and Tate Township in Clermont County, Ohio. Although the application is being filed in accordance with Chapter 4906-4 of the Ohio Administrative Code, Nestlewood seeks waivers from: Rule 4906-4-08(A)(1)(c) (manufacturers’ safety manuals or similar documents and any manufacturer recommended setbacks) and Rule 4906-4-08(A)(5)(c) (description of its plan for test borings, including appropriate closure plans). A memorandum in support of the requested waivers is attached hereto.

WHEREFORE, Nestlewood Solar I LLC respectfully requests that the Board grant waivers in part or in whole from Rule 4906-4-08(A)(1)(c) and Rule 4906-4-08(A)(5)(c) of the Ohio Administrative Code.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Nestlewood Solar I LLC (“Nestlewood”) is proposing to construct an 80 MW solar powered electric generating facility in Brown County and Clermont County, Ohio (the “Project”). In support of its application to construct the Project, Nestlewood is seeking the following waivers from the Board’s rules: (1) a waiver from Rule 4906-4-08(A)(1)(c) to allow Nestlewood to provide manufacturers’ safety manuals or similar documents and any manufacturer recommended setbacks to the Board’s Staff as part of the final construction plans for the Project as opposed to being a part of the application; and (2) a waiver from Rule 4906-4-08(A)(5)(c) to allow Nestlewood to submit a description of its plan for test borings, including appropriate closure plans, to the Board’s Staff no less than thirty (30) days prior to the commencement of the field work and after the Project’s layout has been finalized as opposed to being a part of the application.

As more fully explained below, good cause exists to grant the waivers. Moreover, Nestlewood’s application will provide all information necessary for the Board and its Staff to conduct a review and make the determinations required by Section 4906.10, Revised Code.

II. REQUESTED WAIVERS

A. Rule 4906-4-08(A)(1)(c) of the Ohio Administrative Code (Manufacturer’s Safety Manual or Similar Document and any Recommended Setbacks from the Manufacturer)

Rule 4906-4-08(A)(1)(c) of the Ohio Administrative Code provides that the applicant shall provide information on the safety and reliability of all equipment including the generation equipment manufacturer’s safety standards including a complete copy of the manufacturer’s safety manual or similar document and any recommended setbacks from the manufacturer.

The nature of the Project (a solar farm) and timing of panel model selection warrant a waiver. Nestlewood will not select the final panel model until after final engineering of the Project is complete. Also, the reliability of the solar panels themselves are highly unlikely to present any safety concerns, and the general public will not be exposed to the components of this project because except for access roads, they all will be either securely fenced or buried. Once the specific panel model and manufacturer is selected, Nestlewood will provide the Board's 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 this Project. Nestlewood also will identify specific setbacks recommended by the manufacturer (if any) once the manufacturer and specific panel model have been selected. The Board has granted similar waivers to other solar projects in the past. *In re Hillcrest Solar I, LLC*, Case No. 17-1152-EI-BGN, Entry dated Aug. 3, 2017; *In re Willowbrook Solar I, LLC*, Case No. 18-1024-EL-BGN, Entry dated Oct. 4, 2018.

Accordingly, for good cause shown, Nestlewood respectfully requests that the Board grant a waiver from Rule 4906-4-08(A)(1)(c) of the Ohio Administrative Code and allow Nestlewood to provide the manufacturer's safety manual or similar documents and any manufacturer's recommended setbacks to the Board's Staff as part of the final construction plans for the Project as opposed to being a part of the application.

B. Rule 4906-4-08(A)(5)(c) of the Ohio Administrative Code (Test Borings, Including Closure Plans for such Borings)

Rule 4906-4-08(A)(5)(c) requires the applicant to describe plans for test borings, including closure plans for such borings. Such plans for the test borings are to contain a timeline for providing the test boring logs and certain information to the Board including subsurface soil properties, static water level, rock quality description, percent recovery and depth and

description of bedrock contact.

Nestlewood 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 (a solar farm). Nestlewood expects that equipment will use the subsurface only to a very limited degree because its subsurface impact will be very shallow. Racking piles are expected to reach a depth of approximately ten (10) feet below the surface and the buried collection line system is expected to be installed at least of three (3) feet below grade. No geologic conditions are known that would pose a material constraint to the Project. The vast majority of the Project will be constructed at a depth of no more than ten (10) feet, and the vast majority of features consist of solar panels.

Moreover, Nestlewood expects to conduct only limited test borings in connection with the construction of this Project. If the waiver is approved, Nestlewood will provide its plan for such borings, including appropriate closure plans, to the Board's Staff no less than thirty (30) days prior to the commencement of the field work and after the Project's layout has been finalized. Within sixty (60) days following the receipt of all relevant data from the borings, Nestlewood will provide the Board's Staff with all of the information as required by the plan, including subsurface soil properties, status water level, rock quality description, percent recovery, and depth and description of bedrock contact.

Nestlewood respectfully requests a waiver from Rule 4906-4-08(A)(5)(c) of the Ohio Administration Code and requests that such plans for the test borings, including closure plans for such borings, be allowed to be submitted to the Board's Staff no less than thirty (30) days prior to the commencement of the field work as opposed to being a part of this application. Good cause exists for granting this waiver. In addition, the Board has granted similar waivers to other

solar projects in the past. *In re Hillcrest Solar I, LLC*, Case No. 17-1152-EI-BGN, Entry dated Aug. 3, 2017; *In re Willowbrook Solar I, LLC*, Case No. 18-1024-EL-BGN, Entry dated Oct. 4, 2018.

III. CONCLUSION

As good cause exists for granting the waivers, Nestlewood respectfully requests that the Board grant waivers in part or in whole from Rules 4906-4-08(A)(1)(c) and 4906-4-08(A)(5)(c), of the Ohio Administrative Code.

Respectfully submitted,

/s/ MacDonald W. Taylor

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Summary: Motion for Waivers electronically filed by Mr. MacDonald W Taylor on behalf of Nestlewood Solar I LLC