

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of)
of Angelina Solar I, LLC, for a)
Certificate of Environmental)
Compatibility and Public Need)
Case No. 18-1579-EL-BGN

**PETITION FOR LEAVE TO INTERVENE OF CONCERNED CITIZENS OF
PREBLE COUNTY, LLC, ROBERT BLACK, MARJA BRANDLY, CAMPBELL
BRANDLY FARMS, LLC, MICHAEL IRWIN, KEVIN AND TINA JACKSON,
VONDERHAAR FAMILY ARC, LLC, AND VONDERHAAR FARMS INC.**

Pursuant to R.C. 4906.08(A)(3) and Ohio Administrative Code (“OAC”) § 4906-2-12,
this Motion to Intervene is submitted by the following Petitioners:

Concerned Citizens of Preble County, LLC (“CCPC”)
1731 W. Consolidated Road
Eaton, OH 45320

Robert Black
6587 Fairhaven Road
College Corner, OH 45003-9249

Marja Brandly and Michael Irwin
6812 Fairhaven College Corner Rd.
College Corner, OH 45003

Campbell Brandly Farms, LLC
Marja Brandly, Member
6812 Fairhaven College Corner Rd.
College Corner, OH 45003

Kevin and Tina Jackson
5239 E. Greenwood Church Road
Liberty, IN 47353

Vonderhaar Family ARC, LLC
Rachael Vonderhaar, Member
4636 St. Rt. 725 W
Camden, OH 45311-9610

Vonderhaar Farms Inc.
Alan and Rachael Vonderhaar, Shareholders
4636 St. Rt. 725 W
Camden, OH 45311-9610

A memorandum in support of this petition is provided below.

**MEMORANDUM IN SUPPORT OF
PETITION FOR LEAVE TO INTERVENE**

OAC 4906-2-12(B) provides that the Board or administrative law judge may consider the following criteria when considering petitions to intervene:

- (a) The nature and extent of the person's interest;
- (b) The extent to which the person's interest is represented by existing parties;
- (c) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

For the following reasons, there is good cause under these criteria to grant intervenor status to the Petitioners in these proceedings.

Nature and extent of interest:

CCPC's purpose is to advocate for its members in order to address the problems posed by the Angelina Solar I and Alamo Solar I projects, including the participation in this proceeding at the OPSB. CCPC has 31 members who will be directly and adversely affected by the solar project, which will be constructed and operated near their homes and properties:

Robert Black
6587 Fairhaven Road
College Corner, OH 45003-9249

Tim Buckley
6351 Taylor Road
Oxford, OH 450567

Marja Brandly and Michael Irwin
6812 Fairhaven College Corner Rd.
College Corner, OH 45003

Campbell Brandly Farms, LLC
Marja Brandly, Member
6812 Fairhaven College Corner Rd.
College Corner, OH 45003

Kevin and Tina Jackson
5239 E. Greenwood Church Road
Liberty, IN 47353

Christopher and Amanda Johnston
9770 Campbell Road
Camden, OH 45311

Marilee McDonough
7624 Junction Rd.
College Corner, OH 45003

Shara Ridenour
7484 Fairhaven College Corner Road
College Corner, OH 45003

Robert and Bernice Schmidt
11598 Stateline Road
College Corner, OH 45003-9212

Joseph and Jacqueline Schriever
7646 State Route 725 W
Camden, OH 45311-9696

Michael Sims
10010 Camden College Corner Rd.
College Corner OH 45003

Earl and Sharon Stang
5462 State Route 177
Camden, OH 45311

Adam Vonderhaar
7664 Fairhaven College Corner Road
College Corner, OH 45003

Alan and Rachael Vonderhaar
4636 St. Rt. 725 W
Camden, OH 45311-9610

Vonderhaar Family AG, LLC
Alan Vonderhaar, Member
4636 St. Rt. 725 W
Camden, OH 45311-9610

Vonderhaar Family ARC, LLC
Rachael Vonderhaar, Member
4636 St. Rt. 725 W
Camden, OH 45311-9610

Vonderhaar Farms Inc.
Alan and Rachael Vonderhaar, Shareholders
4636 St. Rt. 725 W
Camden, OH 45311-9610

David and Katie Woodruff
11278 State Line Road
College Corner, OH 45003

Woodruff Family Farm, LLC
John and Beverly Woodruff, Members
8593 Talawanda Springs Road
College Corner, OH 45003-9214

John and Beverly Woodruff
8593 Talawanda Springs Road
College Corner, OH 45003-9214

Steven Wyatt and Stephanie Longworth
9122 Paintcreek 4-Mile Road
Camden, OH 45311

A number of CCPC members own, farm, and/or live on properties that are adjacent to the project area for the solar project. Members Robert Black, Campbell Brandly Farms, LLC, Kevin and Tina Jackson, Shara Ridenour, Joseph and Jacqueline Schriever, Earl and Sharon Stang, Adam

Vonderhaar, Vonderhaar Family ARC, LLC, and Steven Wyatt and Stephanie Longworth own land adjacent to the project area and most of those members reside on that land. Members Marja Brandly and Michael Irwin reside for the majority of the time at the farm owned by Campbell Brandly Farms, LLC, which is adjacent to the project area. Vonderhaar Farms Inc. rents and farms land from Vonderhaar Family ARC, LLC and Campbell Brandly Farms, LLC located adjacent to the project area. Thus, all of the proposed intervenors own, rent, and/or reside at land that is adjacent to the project area, except for CCPC. CCPC has standing to participate as an intervenor through associational standing, because one or more of its members have standing to participate as intervenors. See *Fraternal Order of Police v. City of Columbus*, 10 Ohio App.3d 1 (10th Dist. 1983) (ruling that an association has the right to bring legal action on behalf of its members).

The solar project will have a serious adverse impact on the Petitioners' homes and properties that will spoil the enjoyment of living and working there. The Petitioners will present evidence about the following respects, among others, in which Angelina Solar's application fails to protect their properties and their enjoyment of living and working there:

- The Petitioners' views of hundreds of acres of solar panels surrounding the Petitioners' properties and on the public roads near the Petitioners' properties 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 Petitioners' views, but instead leaves those details to be determined after the certificate is issued rather than properly and fairly adjudicating them in this proceeding. The application does not provide adequate or sufficiently detailed commitments for planting

vegetation barriers between the solar project structures and equipment and Petitioners' properties to minimize visual impacts

- Noise, dust, and traffic will be intrusive during the project's construction.
- Angelina Solar failed to conduct an adequate study of the project's adverse effects on wildlife. The applicant's study 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 Petitioners' wooded 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 identify 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 in Hueston Woods, the Petitioners' woods, 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 disease, coyote predation of livestock, and auto accidents.
- The application does not sufficiently provide for the protection and repair of drainage tiles that are damaged by the project's construction.

- The application fails to protect the environment from potential spills of drilling fluids that could flow down hilly terrain and into streams that are not sufficiently identified in the application.
- The application needs to protect the groundwater supplies on which the Petitioners rely.
- The application does not protect the existing storm water drainage patterns that protect the Petitioners' land from being flooded by runoff from the project area.
- 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 Petitioners 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 Petitioners, and whether the project's components will be in the line of sight from the Petitioners' land and home.
- The application fails to evaluate and protect against adverse effects on technology signals such as cell phones, internet signals, radio signals, and real-time kinematic signals that are used in the area for installing field drainage tiles, running GPS equipment for agriculture, and other purposes.
- While the application calls for the planting of vegetation inside and outside of the project area, it fails to provide for adequate measures to

sustain the vegetation or keep it alive. Moreover, it fails to prevent the intrusion of invasive plant species and other weeds in the area whose seeds may be contained in the mixtures of seeds used to plant the land in the project.

- The setbacks proposed between the neighboring properties (including the Petitioners') and the project's fences and components are too short to protect the neighboring properties.
- The application fails to identify measures to protect the solar panels from high wind, hail, lightening, fire, and other natural disasters, as well as to protect Petitioners from flying debris and toxic materials that could be released by these disasters. The application does not account for or provide for adequate emergency services to address emergencies at the solar project.
- The application does not evaluate and protect against increased temperatures resulting from the project's many acres of solar panels.
- The application does not adequately provide for decommissioning upon the closure of the project, including financial assurance (e.g., bonding) and the disposal of solar panels and other equipment or structures.

The Petitioners should be granted intervention so that they can address these and other problems with the application.

Extent to which interests are represented by existing parties and potential contribution to the just and expeditious resolution of these proceedings:

No other party represents, or can represent, the Petitioners' interests in protecting themselves and their property from the impacts of the solar project. As adjacent landowners

surrounded by and near the project area, their participation in the case is necessary to the just and expeditious resolution of this proceeding.

Potential for undue delay or unjust prejudice:

Granting intervenor status to the Petitioners will not unduly delay the proceedings or cause unjust prejudice to the Applicant. The Petitioners will comply with whatever case management schedule that the Board establishes. Moreover, the Petitioners will be represented in these proceedings by counsel experienced in practice before the Board.

For the foregoing reasons, the Petitioners request the Board to grant this Petition for Leave to Intervene.

Respectfully submitted,

/s/ Jack A. Van Kley
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Van Kley & Walker, LLC
132 Northwoods Blvd., Suite C-1
Columbus, Ohio 43235
(614) 431-8900 (telephone)
(614) 431-8905 (facsimile)
Email: jvankley@vankleywalker.com
(willing to accept service by email)

Christopher A. Walker (0040696)
Van Kley & Walker, LLC
137 North Main Street, Suite 316
Dayton, Ohio 45402
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(willing to accept service by email)

CERTIFICATE OF SERVICE

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, I hereby certify that, on March 29, 2019, a copy of the foregoing document also is being served by electronic mail on the following:

Michael Settineri at mjsettineri@vorys.com, MacDonald Taylor at mwtaylor@vorys.com, Kathryn West at kwest@prebco.org, Dylan Borchers at dborchers@bricker.com, and Chad Endsley at cendsley@ofbf.org.

/s/ Jack A. Van Kley
Jack A. Van Kley

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Case No(s). 18-1579-EL-BGN

Summary: Petition for Leave to Intervene electronically filed by Mr. Jack A Van Kley on behalf of Concerned Citizens of Preble County, LLC and Black, Robert Mr. and Brandly, Marja Ms. and Campbell Brandly Farms, LLC and Irwin, Michael Mr. and Jackson, Kevin Mr. and Jackson, Tina Ms. and Vonderhaar Family ARC, LLC and Vonderhaar Farms Inc.