

BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of)	
of Alamo Solar I, LLC, for a)	
Certificate of Environmental)	Case No. 18-1578-EL-BGN
Compatibility and Public Need)	

PETITION FOR LEAVE TO INTERVENE OF CONCERNED CITIZENS OF PREBLE COUNTY, LLC, ERIC AND KELLY ALTOM, MARY BULLEN, CAMDEN HOLDINGS, LLC, JOHN AND JOANNA CLIPPINGER, JOSEPH AND LINDA DELUCA, JASON AND TONYA HEGGS, DONN KOLB AS THE TRUSTEE FOR THE DONN E. KOLB REVOCABLE LIVING TRUST, DORIS JO ANN KOLB AS THE TRUSTEE FOR THE DORIS JO ANN KOLB REVOCABLE LIVING TRUST, KENNETH AND ELAINE KOLB, JAMES AND CARLA LAY, CLINT AND JILL SORRELL, JOHN AND LINDA WAMBO, JOHN FREDERICK WINTER, AND MICHAEL AND PATTI YOUNG

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

Eric and Kelly Altom
1950 Camden Road
Eaton, OH 45320

Mary Bullen
4388 Eidson Road
Camden, OH 45311

Camden Holdings, LLC
Mary Bullen, Member
4388 Eidson Road
Camden, OH 45311

John and Joanna Clippinger
1050 Mann Road
Eaton, OH 45320

Joseph and Linda DeLuca
129 Amelia Drive
Eaton, OH 45320-9508

Jason and Tonya Heggs
2042 Gasper Road
Eaton, OH 45320

Doris Jo Ann Kolb Revocable Living Trust
Doris Jo Ann Kolb, Trustee
Donn E. Kolb Revocable Living Trust
Donn Kolb, Trustee
3464 Paint Creek Road
Eaton, OH 45320-9301

Kenneth and Elaine Kolb
1701 Mann Road
Eaton, OH 45320-9329

James and Carla Lay
3719 Camden Road
Eaton, OH 45320

Clint and Jill Sorrell
807 Mariner Cove
Eaton, OH 45320-2521

John and Linda Wambo
4309 Paint Creek Road
Eaton, OH 45320

John Frederick Winter
2595 Camden Road
Eaton, OH 45320

Michael and Patti Young
1188 West Consolidated Road
Eaton, OH 45320

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 Alamo Solar I and Angelina Solar I projects, including the participation in this proceeding at the OPSB. CCPC has 33 members who will be directly and adversely affected by the Alamo Solar I Project, which will be constructed and operated near their homes and properties:

Eric and Kelly Altom
1950 Camden Road
Eaton, OH 45320

Mary Bullen
4388 Eidson Road
Camden, OH 45311

Camden Holdings, LLC
Mary Bullen, Member
4388 Eidson Road
Camden, OH 45311

John and Joanna Clippinger
1050 Mann Road
Eaton, OH 45320

Joseph and Linda DeLuca
129 Amelia Drive
Eaton, OH 45320-9508

Karen and Kip Hamilton
1731 Consolidated Road
Eaton, OH 45320

Jason and Tonya Heggs
2042 Gasper Road
Eaton, OH 45320

Doris Jo Ann Kolb Revocable Living Trust
Doris Jo Ann Kolb, Trustee
Donn E. Kolb Revocable Living Trust
Donn Kolb, Trustee
3464 Paint Creek Road
Eaton, OH 45320-9301

Kenneth and Elaine Kolb
1701 Mann Road
Eaton, OH 45320-9329

James and Carla Lay
3719 Camden Road
Eaton, OH 45320

Martin L. Peacock Trust
Martin Peacock, Trustee
Debbie J. Peacock Trust
Debbie Peacock, Trustee
4245 Camden Road
Eaton, OH 45320

William and Teresa Resetar
3142 Paint Creek Road
Eaton, OH 45320

Leroy and Billie Schatzle
4242 State Route 127-S
Eaton, OH 45320

Clint and Jill Sorrell
807 Mariner Cove
Eaton, OH 45320-2521

Robert and Kay Sorrell
2924 Paint Creek Road
Eaton, OH 45320

John and Linda Wambo
4309 Paint Creek Road
Eaton, OH 45320

John Frederick Winter
2595 Camden Road
Eaton, OH 45320

Michael and Patti Young
1188 West Consolidated Road
Eaton, OH 45320

The following CCPC members own and/or live on properties that are adjacent to the project area for the Alamo Solar Project: Eric and Kelly Altom, Mary Bullen, Camden Holdings, LLC, John and Joanna Clippinger, Joseph and Linda DeLuca, Jason and Tonya Heggs, Donn Kolb as the trustee for the Donn E. Kolb Revocable Living Trust, Doris Jo Ann Kolb as the trustee for the Doris Jo Ann Kolb Revocable Living Trust, Kenneth and Elaine Kolb, James and Carla Lay, Clint and Jill Sorrell, John and Linda Wambo, John Frederick Winter, and Michael and Patti Young. 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 Alamo 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 adequately assess the project's visual impacts or even identify the specific locations of the solar panels so that specific impacts on individual neighbors can be adequately assessed. 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.
- Alamo 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 Project's construction equipment, while traveling the area's roads, may interfere with the movement of large farm machinery on the roads.
- 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 and noxious 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 solar panels and/or fences may obstruct motorists' views of the roads at intersections in and adjacent to the Project Area.
- While the application pretends to provide the local governments with additional tax funding by its potential participation in the Payments in Lieu of Taxes ("PILOT"), these payments are made only to the county commissioners' general fund instead of to the townships or schools at and near the Project Area.
- 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 application defers the Board's decisions on numerous design, construction and operational aspects of the solar project until plans are submitted for the Staff's review and approval following the certificate's issuance. This prevents these important aspects of the project from

being tested in the adjudicatory process and deprives the Petitioners of their rights to a hearing on these project decisions.

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 landowners adjacent to or 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
Jack A. Van Kley (0016961)
Van Kley & Walker, LLC
132 Northwoods Blvd., Suite C-1
Columbus, Ohio 43235
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(614) 431-8905 (facsimile)
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(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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CERTIFICATE OF SERVICE

On May 15, 2019, the docketing division's e-filing system will electronically serve notice of the filing of this document on the following parties: Michael Settineri at mjsettineri@vorys.com, MacDonald Taylor at mwtaylor@vorys.com, W. Joseph Scholler at jscholler@fbtlaw.com, Thaddeus Boggs at tboggs@fbtlaw.com, Amy Milam at amilam@ofbf.org, Leah Curtis at lcurtis@ofbf.org, Chad Endsley at cendsley@ofbf.org, Kathryn West at kwest@prebco.org, and Dylan Borchers at dborchers@bricker.com. A courtesy copy of this document has also been sent to these persons by electronic mail.

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

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in

Case No(s). 18-1578-EL-BGN

Summary: Petition to Intervene electronically filed by Mr. Jack A Van Kley on behalf of Concerned Citizens of Preble County, LLC and Mr. Eric Altom and Ms. Kelly Altom and Ms. Mary Bullen and Camden Holdings, LLC and Mr. John Clippinger and Ms. Joanna Clippinger and Mr. Joseph DeLuca and Ms. Linda DeLuca and Mr. Jason Heggs and Ms. Tonya Heggs and Mr. Donn Kolb and Ms. Doris Kolb and Mr. Kenneth Kolb and Ms. Elaine Kolb and Ms. Carla and Mr. James Lay and Ms. Carla Lay and Mr. Clint Sorrell and Ms. Jill Sorrell and Mr. John Wambo and Ms. Linda Wambo and Mr. John Frederick Winter and Mr. Michael Young and Ms. Patti Young