

The Ohio Power Siting Board

Public Hearing

In Re: Nestlewood Solar I, LLC

Case No. 18-1546-EL-BGN



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1 THE OHIO POWER SITING BOARD

2 PUBLIC HEARING

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Case Number: 18-1546-EL-BGN

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7 In the Matter of the Application of
8 Nestlewood Solar I, LLC for a Certificate of
9 Environmental Compatibility and Public Need
10 to Construct an Electric Generating Facility
11 in Brown and Clermont Counties, Ohio

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18 Date and Time: Thursday, May 30, 2019
19 6:00 p.m.

20 Place: Hamersville Elementary
21 and Middle School
22 1950 State Route 125
23 Hamersville, Ohio 45130

24 Administrative

25 Law Judge: Anna Sanyal

Board member: Mary Mertz

Reporter: Margaret J. Fahey
Notary Public - State of
Ohio

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1 P-R-O-C-E-E-D-I-N-G-S

2 MS. SANYAL: Let's go on the record.

3 The Ohio Power Siting Board has
4 assigned for public hearing at this time and
5 place Case Number 18-1546-EL-BGN, which is
6 captioned In the Matter of the Application
7 of Nestlewood Solar I, LLC for a Certificate
8 of Environmental Compatibility and Public
9 Need to Construct an Electric Generating
10 Facility in Brown and Clermont Counties,
11 Ohio.

12 My name is Anna Sanyal, and I am the
13 Administrative Law Judge assigned by the
14 Ohio Power Siting Board to preside over this
15 local hearing.

16 With me today is Ohio Power Siting
17 board member Mary Mertz, who is also the
18 Director of the Ohio Department of Natural
19 Resources.

20 At this time, Director Mertz, do you
21 have any comments that you would like to
22 make?

23 MS. MERTZ: I will just say I am
24 pleased to be here at the home of the
25 Hornets, and look forward to hearing all of

1 the public comments and anything you all
2 have to share and your thoughts about the
3 proposal.

4 I appreciate the opportunity to be here
5 today.

6 MS. SANYAL: Thank you, Director Mertz.

7 Along with Director Mertz, we also have
8 some people from the Power Siting Board and
9 the Ohio Utilities Commission.

10 We have Derek Collins from the Ohio
11 Power Siting Board Staff.

12 Rick, if you want to wave.

13 Thank you.

14 We also have Matt Schilling, Jill
15 Kocher, Scott Elisar, Rachael Mains, and
16 Sarah Ross from the Public Utilities
17 Commission of Ohio.

18 We are all available to answer any
19 questions concerning the application after
20 the hearing process, so please hang around
21 after the hearing if you still have
22 questions that have not been answered.

23 At this time I would like to go ahead
24 and take appearances on behalf of the
25 parties. So let's go to the company first.

1 Mike Settineri.

2 Thank you.

3 MR. SETTINERI: Thank you, your Honor.

4 On behalf of Nestlewood Solar I, LLC,
5 Mike Settineri from the law firm of Vorys,
6 Sater, Seymour and Pease, LLP, 52 East Gay
7 Street, Columbus, Ohio 43215.

8 Also with me tonight is Joe Jordan, the
9 project manager.

10 Thank you.

11 MS. SANYAL: Thank you, Mr. Settineri
12 and Mr. Jordan.

13 On behalf of Ohio Farm Bureau
14 Federation?

15 MR. ARNOLD: Thank you, your Honor.

16 My name is Dale Arnold. I'm the
17 Director of Energy, Utility, and Local
18 Government Policy for the Ohio Farm Bureau,
19 280 North High Street, Columbus, Ohio,
20 43215.

21 MS. SANYAL: Thank you, Mr. Arnold.

22 And at this time are there any other
23 parties that desire to make a formal
24 appearance at this point in time?

25 (No response)

1 Okay. Let's move on.

2 The subject matter of this evening's
3 public hearing is the application filed by
4 Nestlewood on December 14th, 2018 to
5 construct an 80 megawatt solar powered
6 electric generating facility in Lewis and
7 Clark Township in Brown County and Tate and
8 Franklin Townships in Clermont County.

9 The proposed project will be located
10 within approximately 610 acres of privately
11 owned land, approximately three miles west
12 of Hamersville, Ohio.

13 In its application, Nestlewood states
14 the purpose of the project will be to
15 generate electricity and interconnect with
16 the regional transmission grid to supply
17 this area with power.

18 Construction of the facility is
19 expected to begin during June of 2019, and
20 it's scheduled to be in service by the
21 second quarter of 2020.

22 Again, as I mentioned briefly before we
23 went on the record, the purpose of this
24 evening's public hearing is to receive
25 comments from you regarding Nestlewood's

1 application. It's not intended to be a
2 question and answer session, but instead it
3 is your opportunity to let the Ohio Power
4 Siting Board know what you think about the
5 proposals in the application.

6 I wanted to let you know that this
7 public hearing is just one aspect of the
8 application process, or rather the process
9 of this case.

10 The adjudicatory hearing for this
11 proceeding is scheduled to take place on
12 June 13th of 2019 at 10:00 a.m. at the
13 offices of the Ohio Power Siting Board that
14 is located in downtown Columbus at 180 East
15 Broad Street in Columbus, Ohio.

16 I will note that the board's staff
17 filed its report of investigation on May
18 15th, 2019. But I want to make clear that
19 the staff report is just a recommendation to
20 the Power Siting Board, and is one of the
21 main factors that the board considers when
22 approving the application.

23 Tonight's hearing is being transcribed
24 by a court reporter. If you plan to
25 testify, please speak clearly so she can

1 accurately reflect your comments on the
2 record.

3 I know that at least one of you has
4 prepared a written statement. If any others
5 have any written statements, it would be
6 helpful if you gave me a copy before you
7 left.

8 When you arrived, you were offered the
9 opportunity to sign up to testify up at that
10 table over there. So when I finish with
11 this very long introduction, I will begin
12 calling each of you forward, one by one, and
13 you will -- before you come up here, you
14 will -- I will swear you in.

15 There will be an oath or an
16 affirmation, and you will state that the
17 testimony you will be giving is the whole
18 truth. And that testimony will become part
19 of the official record in this case and it
20 will be reviewed by the board before the
21 board makes its final decision on the
22 application.

23 The parties to the case, especially
24 Mr. Settineri, who introduced himself
25 earlier, may ask you questions. So just try

1 to answer the questions to the best of your
2 ability if he has any.

3 Should you decide that you do not want
4 to testify, even if you signed up, just let
5 me know, and I will pass on to the next
6 witness. And if you didn't sign up, just
7 let me know at the end of everyone else on
8 the sign-up sheet, and we'll make sure you
9 have an opportunity to testify.

10 We appreciate your participation in
11 tonight's hearing, and we are all grateful
12 that you are here.

13 Please be considerate of everyone's
14 time and try to give your statements -- try
15 to keep your statements as brief as
16 possible.

17 At this time I will begin calling the
18 witnesses forward.

19 Let's see. The first person I have is
20 Ralph Herbolt.

21 MS. SANYAL: You will raise your right
22 hand. Do you swear or affirm that the
23 testimony you are about to provide is the
24 whole truth?

25 MR. HERBOLT: Yes.

1 MS. SANYAL: And then, go ahead. State
2 your name and your address for the record.

3 MR. HERBOLT: Ralph Herbolt, 236 East
4 Plane Street, Bethel, Ohio.

5 The main thing I want to say most is
6 that I am in favor of the project. I think
7 that the solar is a much cleaner technology
8 than coal and much safer than fracking and
9 some of the older technologies.

10 That's it.

11 MS. SANYAL: Thank you.

12 Okay. Thank you. I just wanted to
13 make sure there were no questions.

14 The next person I have is Dennis
15 Obermeyer.

16 If you will raise your right hand.

17 Do you solemnly swear or affirm that
18 the testimony you are about to provide is
19 the whole truth?

20 MR. OBERMEYER: Yes, I do.

21 MS. SANYAL: Okay. And will you state
22 your name and address for the record?

23 MR. OBERMEYER: My name is Dennis
24 Obermeyer. I live at 2050 Bethel Maple
25 Road, Hamersville, Ohio. I live

1 three-tenths of a mile from the project.
2 I've resided at this location for four
3 years.

4 So my question is probably pertaining
5 to you. I have a creek that runs through my
6 property, and it's a pretty good size creek
7 across from the Burke property.

8 Anyway, I am concerned about the
9 watershed running off from the solar panels.
10 From what I read online, a lot of times
11 there's broken solar panels that can
12 extrude, you know, harmful chemicals or
13 pollution into our system.

14 And I see where they have filed an
15 application with the Brown Soil And Water
16 Conservation District.

17 Have those been approved and looked
18 into and so forth at this point?

19 And that's one of my main concerns,
20 yes. And I am a little concerned, too,
21 about the road construction in our area,
22 that it's a lot of heavy equipment that's
23 going to be operating at this facility when
24 putting the project in.

25 And we've suffered a lot of damages to

1 our road, you know, in the past year. I
2 just wonder if the counties are going to
3 take that into consideration as far as, you
4 know, repairing the roads after the project
5 and during the project until completion and
6 it's done.

7 So that's my main concern, the
8 environmental impact on my property.

9 So that's all I have to say.

10 MS. SANYAL: Okay. Thank you.

11 Do you plan on staying after the
12 hearing? Because I do think staff could
13 speak to some of your concerns.

14 MS. OBERMEYER: Okay, and address my
15 issues.

16 Thank you very much.

17 MS. SANYAL: Okay.

18 I have Terri Daugherty.

19 MS. DAUGHERTY: I reserve my right to
20 testify later.

21 Thank you.

22 MS. SANYAL: Okay.

23 And then I have Kate and James Powers.

24 And you can go together or one by one,
25 whichever works for you.

1 Will you just be testifying together?

2 MS. POWERS: We both have questions for
3 specifically before and after.

4 MS. SANYAL: Okay.

5 So as I mentioned earlier, you know,
6 this is not intended to be a question/answer
7 session.

8 So why don't we do this? Why don't you
9 just tell us your concerns. We can write it
10 down on the transcript.

11 And then, after the hearing, Mr. Jordan
12 and you guys can pow-wow, with Mr. Jordan.

13 How does that sound?

14 MS. POWERS: Okay. She can probably
15 answer a couple of our questions. Also we
16 have questions about the environment as
17 well.

18 MS. MERTZ: So --

19 MR. SETTINERI: Your Honor?

20 MS. SANYAL: Yes.

21 MR. SETTINERI: Mr. Jordan and I will
22 be available after the hearing if anyone has
23 questions as well.

24 MS. SANYAL: Okay.

25 MS. POWERS: Is that going to go on the

1 record?

2 MS. SANYAL: No, it's not, because this
3 is not intended -- the part of -- the
4 hearing part is not intended to be a
5 question and answer session.

6 It's just a way for you to voice your
7 concerns, which is why I mentioned why don't
8 we just put your concerns on the record.

9 And then, when we close the hearing for
10 the day, you can ask your questions to
11 Mr. Jordan.

12 Does that work?

13 MS. POWERS: Sure.

14 MS. SANYAL: Okay.

15 So are both of you testifying together
16 or just one of you?

17 MS. POWERS: Yeah, both of us. We have
18 questions.

19 MS. SANYAL: Well, then we'll do a dual
20 swearing in.

21 MS. POWERS: Okay.

22 MS. SANYAL: Do both of you solemnly
23 swear or affirm that the testimony you are
24 about to provide is the whole truth?

25 MS. POWERS: Yes.

1 MR. POWERS: Yes.

2 MS. SANYAL: And then will each of you
3 state your name and your address?

4 And then, you know, let's do it one
5 person by one person.

6 MS. POWERS: Okay. I am Kate Powers.

7 I live at 2033 Bethel Maple Road in
8 Hamersville, and this is my son James.

9 And we are going to be directly next to
10 part of the solar panels. And you can
11 literally see -- you will be able to see the
12 solar panels from my house.

13 And I would like to know how it's going
14 to affect my property value. Because I
15 don't know about anybody else, but my house
16 is my biggest asset that I have right now.
17 And if my property value is going to
18 decline, I don't want the solar panels
19 anywhere near us.

20 Thank you.

21 MS. SANYAL: Anything else?

22 MR. POWERS: I would like to know the
23 impact it will have on our creek that we
24 have that runs onto our property, and on the
25 local wildlife in the area.

1 MS. SANYAL: Thank you.
2 Any other issues?
3 MS. POWERS: No.
4 MS. SANYAL: Okay.
5 Thank you very much.
6 MS. POWERS: Thank you.
7 MS. SANYAL: Okay.
8 I have Tim Trester.
9 MR. TRESTER: I apologize. I didn't
10 realize the sign-up sheet was to testify.
11 MS. SANYAL: Well, if you want to
12 change your mind and offer some --
13 MR. TRESTER: I am fine.
14 Thank you.
15 MS. SANYAL: Okay.
16 And then I have John McManus.
17 Mr. McManus, if you will raise your
18 right hand.
19 Do you solemnly swear or affirm that
20 the testimony you are about to provide is
21 the whole truth?
22 MR. McMANUS: I do.
23 MS. SANYAL: Okay.
24 MR. McMANUS: My name is John McManus.
25 I am the administrator for the Clermont

1 County Soil and Water Conservation District.
2 The address is 1000 Locust Street,
3 Owensville, Ohio.

4 We appreciate the opportunity to review
5 the application. We really only have one
6 comment regarding the soil and water
7 management on the site.

8 The application included mention of
9 sediment conservation control practices
10 and that they would be applying for a
11 construction general permit through the Ohio
12 EPA, which is good.

13 In the application there didn't seem to
14 be any intent to provide post-construction
15 stormwater management facilities. We
16 believe post-construction stormwater
17 management should be put in place.

18 Even though the ground underneath the
19 solar panels is open, the water that is on
20 the solar panels will likely concentrate and
21 flood.

22 And given it's along that road and the
23 soils on the site, we think
24 post-construction stormwater management is
25 necessary.

1 It's our recommendation that the site
2 adhere to the water management and the
3 sediment control regulations for Clermont
4 County, as well as Ohio EPA's construction
5 general permit.

6 MS. SANYAL: Okay.

7 Thank you very much.

8 I am at the end of my list.

9 Are there any other people who would
10 like to testify today?

11 I am going to give you like 30 seconds
12 to think about it, and then I would also
13 like to put on the record that I received
14 written comments from Mr. Roland Franke at
15 2211 Oak Corner Road, Hamersville, Ohio
16 45130.

17 And I will be submitting those to the
18 Power Siting Board.

19 Yes, sir?

20 MR. HAVENS: I would like to comment.

21 MS. SANYAL: Okay.

22 Would you like to come down here?

23 And may I have your full name first so
24 I can put it on the sign-in sheet?

25 MR. HAVENS: Yeah, it's Aaron Havens,

1 A-a-r-o-n H-a-v-e-n-s.

2 MS. SANYAL: Okay.

3 Mr. Havens, will you please raise your
4 right hand?

5 Do you solemnly swear or affirm that
6 the testimony you are about to provide is
7 the whole truth?

8 MR. HAVENS: Yes.

9 MS. SANYAL: Okay. Thank you.

10 And then if you will give us your
11 address.

12 MR. HAVENS: Yes. It's 1206 Leonard
13 Road, Hamersville, Ohio 45130.

14 MS. SANYAL: And I am sorry.

15 What was the name of the road?

16 MR. HAVENS: Leonard.

17 MS. SANYAL: Leonard. Thank you.

18 Go ahead with your testimony.

19 MR. HAVENS: Okay. I don't have any
20 questions. It's basically a statement.

21 We had a question and -- you know, a
22 question and answer that we did in November.
23 When we asked questions, they could not
24 answer anything. When I would ask
25 questions, they would give me four different

1 answers.

2 We have still not heard anything from
3 them. It's sort of like they are sliding
4 this in on us. We don't have answers.

5 You know, it's been brought up about
6 the concern about the watershed. It's been
7 brought up about the toxic.

8 I asked four different people about
9 landscaping, what are they going to do to
10 protect it, you know, to keep it away from
11 us.

12 Nestlewood has never answered any of
13 these questions.

14 I have serious concerns about the
15 construction. I can't get a Clark Township
16 trustee to come down our road, let alone
17 to this meeting. I can't get a Brown County
18 commissioner to come to this meeting.

19 I mean, I really have concerns about
20 all of this, and nothing is getting
21 answered, so I no longer have any questions.
22 I am totally against this and it's sort of
23 underhanded the way this is shaking down.

24 I am speaking for myself. A few of my
25 immediate neighbors, I guarantee they feel

1 the same way.

2 MS. SANYAL: Thank you.

3 MR. HAVENS: Thank you.

4 MS. SANYAL: I would like you to know
5 that Mr. Jordan is here. So if you are okay
6 with staying after the hearing, I hope you
7 will take the opportunity to chat with
8 him.

9 MR. HAVEN: He was here last time, and
10 I didn't get any answers.

11 Why would I waste my time this time?

12 MS. SANYAL: Thank you for noting your
13 concerns.

14 Ms. Daugherty, would you --

15 MS. DAUGHERTY: I am good, I think.

16 MS. SANYAL: Okay.

17 Anyone else?

18 UNIDENTIFIED SPEAKER: On the first
19 part, if you said Franklin Township, it's
20 Tate Township, when you introduced.

21 MS. SANYAL: I was under the impression
22 it's Franklin and Tate Township.

23 I may have misspoken.

24 UNIDENTIFIED SPEAKER: That's all I
25 just wanted to say.

1 MS. SANYAL: Okay. Thank you.

2 UNIDENTIFIED SPEAKER: It's hard to
3 hear.

4 MS. SANYAL: I'm sorry. I am trying to
5 scream as loudly as I can.

6 Do we have any other people who want to
7 testify?

8 (No response)

9 MS. SANYAL: Okay.

10 Seeing that there are no other
11 individuals who want to testify, I want to
12 thank you for coming out today.

13 This will conclude the public hearing
14 portion of the evening, but I hope you will
15 stay and speak to the representative from
16 Nestlewood and the Power Siting Board Staff.
17 We are here to answer your questions. I
18 know you have questions, and hopefully we
19 can get some of them answered.

20 And, you know, we are happy to stay as
21 long as we need to get some of those
22 questions answered.

23 So thank you again. Have a nice
24 evening. If you have additional comments
25 after this hearing, you can always go online

1 on our website and file them under the case
2 number, which is 18-1546-EL-BGN.

3 So we will go off the record now, but
4 we will be here to answer more questions.

5 Thank you and have a great evening.

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7 - - -

8 HEARING ADJOURNED AT 6:30 P.M.

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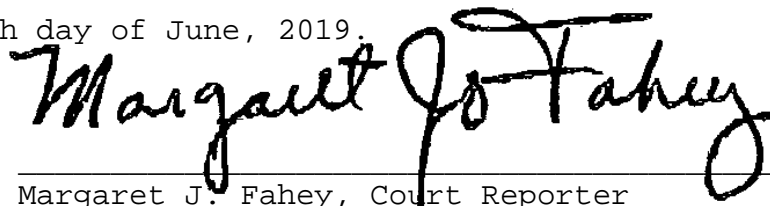
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C E R T I F I C A T E

STATE OF OHIO :
COUNTY OF HAMILTON : SS

I, Margaret J. Fahey, the undersigned,
a duly qualified and commissioned notary public
within and for the State of Ohio, do certify that
the foregoing is the hearing given at said time
and place; and that I am neither a relative of
nor employee of any of the parties or their
counsel, and have no interest whatever in the
result of the action.

IN WITNESS WHEREOF, I hereunto set my hand
and official seal of office at Cincinnati, Ohio,
this 5th day of June, 2019.



Margaret J. Fahey, Court Reporter
Notary Public - State of Ohio
My commission expires March 27th, 2024

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