

BEFORE THE OHIO POWER SITING BOARD

- - -

In the Matter of the :
Application of Nestlewood :
Solar I, LLC for a :
Certificate of :
Environmental :
Compatibility and Public : Case No. 18-1546-EL-BGN
Need to Construct an :
Electric Generating :
Facility in Brown and :
Clermont Counties. :

- - -

PROCEEDINGS

before Anna Sanyal, Hearing Examiner, at the Ohio
Power Siting Board, 180 East Broad Street, Room 11-D,
Columbus, Ohio, called at 10:00 a.m. on Thursday,
June 13, 2019.

- - -

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APPEARANCES:

Vorys, Sater, Seymour & Pease, LLP
By MacDonald W. Taylor
and Michael J. Settineri
52 East Gay Street
Columbus, Ohio 43216-1008

On behalf of Nestlewood Solar I, LLC.

Ohio Farm Bureau
By Amy Milam
280 North High Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Ohio Farm Bureau
Federation.

Dave Yost, Ohio Attorney General
By Thomas G. Lundgren
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215

On behalf of the Staff of the Public
Utilities Commission of Ohio.

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1 Thursday Morning Session,
2 June 13, 2019.

3 - - -

4 THE EXAMINER: The Ohio Power Siting
5 Board has assigned an evidentiary hearing at this
6 time and place, Case No. 18-1546-EL-BGN, which is
7 captioned In the Matter of the Application of
8 Nestlewood Solar I, LLC for a Certificate of
9 Environmental Compatibility and Public Need to
10 Construct an Electric Generating Facility in Brown
11 and Clermont Counties, Ohio.

12 My name is Anna Sanyal, and I'm the
13 Administrative Law Judge assigned by the Ohio Power
14 Siting Board to preside over this local hearing.
15 I'll start with appearances and I'll start with
16 Nestlewood first.

17 MR. TAYLOR: Thank you, your Honor, on
18 behalf of Nestlewood Solar I, LLC, MacDonald Taylor
19 and Michael Settineri, with the law firm of Vorys,
20 Sater, Seymour and Pease, 52 East Gay Street,
21 Columbus, Ohio, 43215.

22 THE EXAMINER: Thank you.

23 I'll go with Staff next.

24 MR. LUNDGREN: Thank you, your Honor. On
25 behalf of the Board Staff, Ohio Attorney General Dave

1 Yost, by Thomas G. Lundgren, Assistant Attorney
2 General at 30 East Broad Street, 16th floor,
3 Columbus, Ohio, 43215.

4 THE EXAMINER: Thank you very much.

5 And Ohio Farm Bureau.

6 MS. MILAM: Thank you, your Honor, Amy
7 Milam on behalf of Ohio Farm Bureau Federation, 280
8 North High Street, Columbus, Ohio, 43215.

9 THE EXAMINER: Thank you very much.

10 And Mr. Taylor, you may proceed.

11 MR. TAYLOR: We'd like to call Mr. Joe
12 Jordan.

13 THE EXAMINER: Mr. Jordan. Thank you for
14 already being seated. Will you please raise your
15 right hand.

16 (Witness placed under oath.)

17 MR. TAYLOR: Your Honor, we'd like to
18 begin today by marking a number of exhibits.

19 THE EXAMINER: That works.

20 MR. TAYLOR: Company Exhibit 1 is the
21 Application that's filed in this case.

22 THE EXAMINER: Is it the large binder?

23 MR. TAYLOR: Yes, it is.

24 THE EXAMINER: It is so marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. TAYLOR: Company Exhibit 2 is the
2 Footprint Modification filed in the docket in this
3 case.

4 THE EXAMINER: Okay, it is so marked.
5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. TAYLOR: Company Exhibit 3 are the
7 Responses to Staff Data Requests also filed in the
8 docket in this case.

9 THE EXAMINER: It is so marked.
10 (EXHIBIT MARKED FOR IDENTIFICATION.)

11 MR. TAYLOR: Company Exhibit 4 is the
12 Proof of Service of the Application on the local
13 libraries and various local government entities.

14 THE EXAMINER: It is so marked.
15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 MR. TAYLOR: Company Exhibit 5 is the
17 Proof of the Mailing of the various public notices as
18 well as the various proofs of publication of those
19 mailings in this case.

20 THE EXAMINER: Okay. So marked.
21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 MR. TAYLOR: Company Exhibit 7 is the
23 Direct Testimony of Joseph Jordan.

24 THE EXAMINER: It is so marked.
25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 MR. TAYLOR: And finally at this time I'd
2 like to mark Joint Exhibit 1 which is the Joint
3 Stipulation entered into by the parties in this case.

4 THE EXAMINER: It is so marked.

5 (EXHIBIT MARKED FOR IDENTIFICATION.)

6 MR. TAYLOR: Thank you, your Honor.

7 - - -

8 JOSEPH JORDAN

9 being first duly sworn, as prescribed by law, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Taylor:

13 Q. Mr. Jordan, I'd like to walk through
14 those exhibits with you and have you identify them.
15 Before we begin, can I have you give your name and
16 business address, please.

17 A. Yes, my name is Joseph Jordan. My
18 business address is 909 Lake Carolyn Parkway, Suite
19 260, Irving, Texas, 75039.

20 Q. Can you please identify what's been
21 marked as Company Exhibit 1.

22 A. Company Exhibit 1 is our Application to
23 the Ohio Power Siting Board for a Certificate of
24 Environmental Compatibility and Public Need for
25 Nestlewood Solar.

1 Q. Mr. Jordan, was that prepared by you or
2 at your direction?

3 A. Yes.

4 Q. And could you please identify what's been
5 marked as Company Exhibit 2, please.

6 A. Company Exhibit 2 is a notice regarding
7 Modification of Project Footprint.

8 Q. And was that prepared by you or at your
9 direction?

10 A. Yes.

11 Q. And could you please identify what's been
12 marked as Company Exhibit 3, please.

13 A. Company Exhibit 3 are our Responses to
14 Data Requests from staff at the Ohio Power Siting
15 Board.

16 Q. Were those responses prepared by you or
17 at your direction?

18 A. Yes.

19 Q. Could you please identify what's been
20 marked as Company Exhibit 4.

21 A. Company Exhibit 4 is Proof of Service of
22 the Application to government officials.

23 Q. Could you please identify what's been
24 marked as Company Exhibit 5.

25 A. Company Exhibit 5 is Proof of Mailing and

1 various notices for the public information meeting
2 and the public hearing for the project.

3 Q. And does Company Exhibit 5 also include
4 the Proofs of Publication?

5 A. Yes.

6 Q. Thank you. And were you involved in
7 developing the mailing list for this project?

8 A. Yes.

9 Q. And could you please identify what's been
10 marked as Company Exhibit 7, please.

11 A. Company Exhibit 7 is my Direct Testimony.

12 Q. And finally, could you please identify
13 what's been marked as Joint Exhibit 1.

14 A. Joint Exhibit 1 is the Joint Stipulation
15 and Recommendation between all the parties in this
16 case.

17 Q. And were you involved in the negotiations
18 that led to that Joint Stipulation?

19 A. Yes.

20 Q. Okay. Mr. Jordan, I'd like to turn your
21 attention to Exhibit 7 which is your Direct
22 Testimony, please.

23 A. Yes.

24 Q. And was this prepared by you or at your
25 direction?

1 A. Yes.

2 Q. And do you have any corrections to that
3 testimony at this time?

4 A. Yes, I do.

5 Q. And what are they?

6 A. I have one minor addition and one minor
7 correction.

8 Q. What is the addition?

9 A. On Page 6, line 5, answer 12. After the
10 sentence ending "Ohio Administrative Code," add a new
11 sentence, "An additional notice was provided by
12 letter sent May 2nd, 2019 following a change in the
13 date of the public hearing from May 31st, 2019 to
14 May 30th, 2019."

15 Q. Is a copy of that additional notice
16 included as a part of Company Exhibit 5?

17 A. Yes.

18 Q. Is Proof of Publication of that
19 additional notice in the local newspapers also
20 included in Company Exhibit 5?

21 A. Yes.

22 Q. You said you also had a correction. What
23 is that correction?

24 A. On Page 6, line 10, please change
25 "Exhibit 6" to "Exhibit 5."

1 Q. And Mr. Jordan, other than the correction
2 and addition we just noted, if I were to ask you the
3 questions in your testimony today, would your answers
4 be the same?

5 A. Yes.

6 Q. And Mr. Jordan, you attended the public
7 hearing as well as the public information session in
8 this case?

9 A. Yes.

10 Q. And at those hearings, some individuals
11 had questions about the project?

12 A. Yes.

13 Q. Can you describe the interactions you've
14 had with the members of the public at those meetings
15 and outside of them?

16 A. Sure. Starting with the public
17 information meeting, approximately 70 people
18 attended, many of them neighbors of the project. The
19 questions that a lot of neighbors asked were around
20 things such as storm water, drainage, property value,
21 toxicity of panels, wildlife concerns and roads and
22 construction process. We handed out our business
23 cards to people who were concerned for follow-up or
24 any additional questions.

25 Following the public information hearing,

1 we had the public hearing last month in Hamersville.
2 Approximately 30 to 35 people attended that hearing.
3 Five people got up to speak voicing concerns and
4 questions. Out of those five people, one was a
5 regulator representing the Soil Conservation District
6 of Clermont County, John McManus. I had spoken to
7 Mr. McManus in depth prior to the hearing.

8 Following the hearing, we stayed after
9 the hearing to talk to the four people who got up to
10 talk through their questions and concerns, and I have
11 also reached out to them subsequent to that hearing
12 to maintain contact throughout the process.

13 Q. Do you intend to continue to engage with
14 members of the public as the project moves forward?

15 A. Yes, as we continue with design for our
16 landscaping plan and stormwater calculations, we will
17 keep both those four people who got up to talk
18 abreast of where things are going, where things are
19 at, as well as other neighbors of the project as we
20 progress the design of the project.

21 Q. Thank you, Mr. Jordan. I'd like to turn
22 your attention to what's been marked as Joint Exhibit
23 1, please. Do you have that in front of you?

24 A. Yes, I do.

25 Q. And just to clarify, you were involved in

1 negotiations that led to this Joint Stipulation?

2 A. Yes.

3 Q. And just to be clear, in your original
4 June 3rd, 2019 prefiled testimony, it's marked as
5 Company Exhibit 7, did you make any recommendations
6 at that time regarding the conditions proposed by
7 Staff in the May 15th, 2019 Staff Report?

8 A. Yes. Yes.

9 Q. And does the Joint Stipulation that's
10 marked as Joint Exhibit 1 reflect any changes to
11 those recommendations, to those revisions you had
12 suggested?

13 A. Yes.

14 Q. And so to be clear, the recommended
15 conditions in the Joint Stipulation replace the
16 revisions to Staff's proposed conditions that you
17 presented in your additional prefiled testimony?

18 A. Yes.

19 Q. Is the Joint Stipulation identified as
20 Joint Exhibit 1 a product of serious bargaining among
21 capable and knowledgeable parties?

22 A. Yes.

23 Q. Were you personally involved in the
24 negotiation of the Joint Stipulation?

25 A. Yes.

1 Q. And were the signatory parties to the
2 Joint Stipulation all represented by counsel?

3 A. Yes.

4 Q. And were the conditions that you proposed
5 revised in your original Direct Testimony revised in
6 the Joint Stipulation?

7 A. Yes.

8 Q. And does the Joint Stipulation benefit
9 the public interests?

10 A. Yes, it does. The Joint Stipulation
11 reflects my recommendations regarding Staff's
12 proposed conditions after negotiation with Staff. To
13 be clear, the recommended conditions in the Joint
14 Stipulation replaced the revisions to Staff's
15 proposed conditions that I presented in my initial
16 prefiled testimony marked as Company Exhibit 7.

17 Q. And Mr. Jordan, does the Joint
18 Stipulation benefit the public interests?

19 A. Yes, the project is a major
20 infrastructure project and a major capital
21 investment. It benefits the community. The project
22 will generate clean and quiet renewable electricity
23 and will provide on-peak power during the high demand
24 period of midday and late afternoon.

25 In addition, the project will benefit the

1 local economy through additional jobs, economic
2 growth and increased tax revenue.

3 Q. Mr. Jordan, does the Joint Stipulation
4 violate any important regulatory principle or
5 practice?

6 A. No.

7 Q. What do you recommend the Ohio Power
8 Siting Board do in regard to the Joint Stipulation?

9 A. I recommend that they approve it.

10 MR. TAYLOR: Okay. Thank you very much.
11 Witness available for cross-examination, your Honor.

12 THE EXAMINER: I actually just have a
13 couple of questions for you before we do cross.

14 - - -

15 EXAMINATION

16 By The Examiner:

17 Q. Initially thank you for giving us
18 testimony about how you're continuing to resolve
19 issues brought that were identified during the public
20 hearing because I did have several questions but I
21 think you kind of answered those.

22 When do you anticipate the construction
23 will start on this project because I think the
24 application had June 2019?

25 A. Yeah, I think the earliest that we would

1 be starting would be January of next year. That's
2 our current expected commencement of construction.

3 Q. Then do we know when the final solar
4 panel technology will be identified?

5 A. At the time of start of construction, we
6 will need to have procured modules, so we will know
7 the final technology at that point.

8 Q. Okay.

9 THE EXAMINER: I think those are all the
10 questions I have. Any redirect based on my
11 questions?

12 MR. TAYLOR: No, your Honor.

13 THE EXAMINER: The witness is available
14 for cross. Any questions from Staff?

15 MR. LUNDGREN: No questions, your Honor.

16 THE EXAMINER: Miss Milam?

17 MS. MILAM: None, your Honor.

18 THE EXAMINER: Then you may step-down.

19 Thank you for your testimony.

20 THE WITNESS: Thank you, your Honor.

21 MR. TAYLOR: Your Honor, at this time,
22 we'd ask that Company Exhibits 1, 2, 3, 4, 5, 7, as
23 well as Joint Exhibit 1 be moved into the record in
24 this case.

25 THE EXAMINER: Any objections to those?

1 MR. LUNDGREN: No objections.

2 MS. MILAM: None, your Honor.

3 THE EXAMINER: Well, then they are
4 admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 MR. TAYLOR: And your Honor, next witness
7 I will call is Lynn Gresock.

8 THE EXAMINER: Please raise your right
9 hand.

10 (Witness placed under oath.)

11 THE EXAMINER: Mr. Taylor, you may
12 proceed.

13 MR. TAYLOR: I'd like to mark an
14 additional Exhibit. I'd like to have Company Exhibit
15 8 marked as the Direct Testimony of Lynn, L-Y-N-N,
16 Gresock, G-R-E-S-O-C-K.

17 THE EXAMINER: It is so marked.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 - - -

20 LYNN GRESOCK

21 being first duly sworn, as prescribed by law, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 By Mr. Taylor:

25 Q. Miss Gresock, could you tell us your name

1 and business address, please.

2 A. My name is Lynn Gresock. My business
3 address is 3 Lan Drive, Suite 100, Westford,
4 Massachusetts, 01886.

5 Q. Thank you. Could you please identify
6 what's been marked as Company Exhibit 8, please.

7 A. Company Exhibit 8 is my testimony.

8 Q. And do you have any corrections to your
9 Direct Testimony?

10 A. I do not.

11 Q. And if I asked you the same questions of
12 your testimony today, would your answers be the same?

13 A. Yes, they would.

14 MR. TAYLOR: That's it for this witness.
15 She's available for cross-examination.

16 THE EXAMINER: Any questions for this
17 witness?

18 MR. LUNDGREN: No, questions, your Honor.

19 MS. MILAM: None, your Honor.

20 THE EXAMINER: You may step-down.

21 MR. TAYLOR: Your Honor, I would move
22 that Company Exhibit 8 be moved into the record.

23 THE EXAMINER: Any objections to the
24 Exhibit being admitted?

25 MR. LUNDGREN: No, objections, your

1 Honor.

2 MS. MILAM: No objections, your Honor.

3 THE EXAMINER: It is so admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 MR. TAYLOR: Your Honor, that concludes
6 our presentation.

7 THE EXAMINER: Thank you. Are there any
8 other matters that we would like to discuss before we
9 go off the record?

10 MR. LUNDGREN: Excuse me, the Staff would
11 like to call a witness.

12 THE EXAMINER: I'm sorry. Of course
13 Staff would like to call a witness. You may do so.

14 MR. LUNDGREN: The Staff calls
15 Mr. Collins to the stand.

16 THE EXAMINER: Mr. Collins, please come
17 up here. Will you please raise your right hand.

18 (Witness placed under oath.)

19 THE EXAMINER: You may proceed.

20 - - -

21 DEREK F. COLLINS

22 being first duly sworn, as prescribed by law, was
23 examined and testified as follows:

24 DIRECT EXAMINATION

25 By Mr. Lundgren:

1 Q. Thank you, your Honor. Good morning,
 2 Mr. Collins. Can you state your full name for the
 3 record.

4 A. My real full name is Derek F. Collins.

5 Q. What is your business address?

6 A. My business address is 180 East Broad
 7 Street, Columbus, Ohio, 43215, 6th floor.

8 Q. Thank you. Where are you employed?

9 A. I'm employed with the Public Utilities
 10 Commission of Ohio, the Ohio Power Siting Board.

11 Q. What are your duties for the Board, for
 12 the Power Siting Board?

13 A. I'm a Utility Specialist, and I look at
 14 all of the geotechnical -- do all the geotechnical
 15 work for the agency.

16 Q. Thank you. Were you involved in the
 17 Staff's investigation of the proposed Nestlewood
 18 Solar Farm?

19 A. Yes, I was. I was the Project Lead for
 20 this project.

21 Q. Thank you. And do you have before you a
 22 document that has been marked as Staff Exhibit 1?

23 A. Yes, I do.

24 Q. And can you explain what it is?

25 A. Exhibit 1 is the Staff Report of

1 Investigation for Nestlewood Solar Farm.

2 Q. Thank you. Were you involved in the
3 preparation of this report?

4 A. Yes, I was.

5 Q. Thank you. Does it accurately reflect
6 the results of Staff's Investigation?

7 A. Yes, it does.

8 Q. Thank you. Are you familiar with the
9 terms of the Joint Stipulation that has been filed in
10 this case?

11 A. Yes, I am.

12 Q. Would you recommend that the Ohio Power
13 Siting Board adopt the Stipulation?

14 A. Yes, I do.

15 Q. Thank you.

16 THE EXAMINER: Mr. Lundgren, do I have a
17 copy of Staff Exhibit 1?

18 MR. LUNDGREN: I'm sorry, your Honor, I
19 will get one for you.

20 THE EXAMINER: Let the record reflect
21 that I am marking this as Staff Exhibit 1.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 MR. LUNDGREN: I have no further
24 questions, and I would move for the admission of
25 Staff Exhibit 1.

1 THE EXAMINER: Okay. Any objections?

2 MR. TAYLOR: No objection.

3 THE EXAMINER: It is so admitted.

4 (EXHIBIT ADMITTED INTO EVIDENCE.)

5 - - -

6 EXAMINATION

7 By The Examiner:

8 Q. Mr. Collins, I just have one question,
 9 and this is really just for my education. In
 10 condition No. 28, there was just one sentence added
 11 at the very end, and it's about noxious weeds. And I
 12 just didn't know if noxious weeds show up when we
 13 plant pollinator friendly plantings. This is not
 14 very important. This is just so I know why that
 15 sentence was added.

16 A. For condition 28 did you say?

17 Q. Correct. I think that was the only real
 18 difference between the Staff Report, the conditions
 19 contained within the Staff Report and in the
 20 Stipulation, and it's fine if you don't --

21 A. Yes, those are sort of the indigenous
 22 vegetation that's already there.

23 THE EXAMINER: Thank you. I was just
 24 wondering. That's all the questions I have, and I
 25 assume you have no redirect based on that question?

1 MR. LUNDGREN: No, your Honor.

2 THE EXAMINER: Any cross-examination of
3 this witness?

4 MR. TAYLOR: No, your Honor.

5 MS. MILAM: No, your Honor.

6 THE EXAMINER: You may step-down,
7 Mr. Collins.

8 Do we have any other issues?

9 MR. TAYLOR: Your Honor, I just wanted to
10 confirm that Joint Exhibit 1 was admitted into the
11 record in this case.

12 THE EXAMINER: It was, yes, according to
13 my records.

14 MR. TAYLOR: Thank you.

15 THE EXAMINER: Any other matters to
16 discuss?

17 MR. TAYLOR: No.

18 THE EXAMINER: No other witnesses?

19 MS. MILAM: No, your Honor.

20 THE EXAMINER: Hearing that there are no
21 other issues, this case will be submitted to the
22 record and the Power Siting Board will issue a
23 decision in due course. Thank you very much.

24 (The hearing was concluded at 10:20 a.m.)

25 - - -

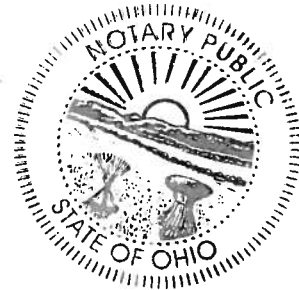
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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, June 13, 2019, and carefully compared with my original stenographic notes.

Cynthia L. Cunningham

Cynthia L. Cunningham



This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 18-1546-EL-BGN

Summary: Transcript In the Matter of the Application of Nestlewood Solar I, LLC for a Certificate of Environmental Compatibility and Public Need to Construct an Electric Generating Facility in Brown and Clermont Counties, hearing held on June 13, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy