

BEFORE THE OHIO POWER SITING BOARD

- - -

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

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PROCEEDINGS

before Anna Sanyal, Administrative Law Judge, at the
 Public Utilities Commission of Ohio, 180 East Broad
 Street, Room 11-D, Columbus, Ohio, called at 10:00
 a.m. on Friday, August 30, 2019.

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VOLUME II

- - -

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APPEARANCES:

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

On behalf of the Company.

Dave Yost, Ohio Attorney General
John L. Jones, Section Chief
Ohio Power Siting Board
by Mr. John H. Jones
30 East Broad Street, 16th Floor
Columbus, Ohio 43215-3793

On behalf of the Staff of the Public
Utilities Commission.

Ohio Farm Bureau
By Ms. Amy Milam
280 N. High Street, 6th Floor
Columbus, Ohio 43215

On behalf of the Ohio Farm Bureau
Federation.

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1 Friday Morning Session,
2 August 30, 2019.

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4 THE ADMINISTRATIVE LAW JUDGE: The Ohio
5 Power Siting Board has called for hearing Case
6 No. 18-1546-EL-BGN captioned In the Matter of the
7 Application for Nestlewood Solar I, LLC, for a
8 Certificate of Environmental Compatibility and Public
9 Need to construct an electric generating facility in
10 Brown and Clermont Counties, Ohio.

11 My name is Anna Sanyal, and I am the
12 Administrative Law Judge assigned to this matter.

13 As a preliminary note, before we do
14 appearances I would just like to note that we have
15 reopened the hearing record in the matter to get some
16 additional testimony on the record regarding a
17 May 24, 2019, Notice of Footprint Modification filed
18 by Nestlewood.

19 At this time I will take appearances. We
20 can start with the staff.

21 MR. JONES: Okay. Good morning, your
22 Honor. I'm John Jones. I represent the staff of the
23 Ohio Power Siting Board and Ohio Attorney General
24 Dave Yost, 30 East Broad Street, Columbus, Ohio,
25 43215.

1 THE ADMINISTRATIVE LAW JUDGE: Thank you,
2 Mr. Jones.

3 MR. SETTENERI: Good morning. On behalf
4 of Nestlewood Solar I, LLC, Mike Settineri and
5 MacDonald Taylor from the law firm of Vorys, Sater,
6 Seymour and Pease, 52 East Gay Street, Columbus,
7 Ohio, 41215.

8 THE ADMINISTRATIVE LAW JUDGE: Thank you,
9 Mr. Settineri.

10 MS. MILAM: Good morning, your Honor.
11 Amy Milam on behalf of the Ohio Farm Bureau
12 Federation, 280 North High Street, Columbus, Ohio
13 42315.

14 THE ADMINISTRATIVE LAW JUDGE: Thank
15 you, Ms. Milam.

16 And I will let the company and staff
17 proceed as you see fit.

18 MR. SETTENERI: Thank you, your Honor.
19 First, the company, with the agreement of the
20 parties, would like to mark two exhibits and then
21 stipulate to adding those into the record.

22 The first document I'd like to mark is
23 Company Exhibit 9. That is an Executive Summary of a
24 report regarding the Kirtland, K-I-R-T-L-A-N-D, Snake
25 Habitat.

1 The next document to mark is Company
2 Exhibit 10. That is a July 25, 2019, update to a
3 Wetland Delineation Report.

4 Going back to Company Exhibit 9, I'd also
5 note for the record that report is dated August 20,
6 2019. Both of these exhibits were submitted to
7 staff, I would represent to the Bench, and are
8 related to the Notice of Footprint Modification.

9 At this time we would like to move for
10 the admission of those exhibits into the record with
11 the agreement of the other parties to the case
12 through stipulation.

13 THE ADMINISTRATIVE LAW JUDGE: First of
14 all, both exhibits are so marked.

15 (EXHIBITS MARKED FOR IDENTIFICATION.)

16 THE ADMINISTRATIVE LAW JUDGE: Let's wait
17 until we have additional testimony regarding those
18 exhibits.

19 MR. SETTENERI: Okay.

20 MR. JONES: At this time, your Honor, the
21 staff would like to call Grant Zeto to the stand,
22 please.

23 (Witness sworn.)

24 THE ADMINISTRATIVE LAW JUDGE: You may be
25 seated and you may proceed.

1 MR. JONES: Thank you, your Honor.

2 - - -

3 GRANT ZETO

4 being first duly sworn, as prescribed by law, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Jones:

8 Q. State your name for the record, please.

9 A. Grant Zeto.

10 Q. Where are you employed?

11 A. The Public Utilities Commission, 180 East
12 Broad Street, Columbus, Ohio.

13 Q. What are your job duties and
14 responsibilities?

15 A. I am a project analyst for the Power
16 Siting Board staff.

17 Q. Did you have the opportunity to take part
18 in the investigation of this application of
19 Nestlewood Solar I, LLC, in Case No. 18-1546-EL-BGN?

20 A. Yes, I did.

21 Q. Okay. What was your role?

22 A. I reviewed the surface waters,
23 threatened and endangered species, and the vegetation
24 of the report.

25 Q. And did you happen to review the

1 supplemental information that was filed by the
 2 applicant in this case that's marked now for the
 3 record as Exhibits 9 and 10?

4 A. Yes, I did.

5 MR. SETTENERI: Can we go off the record,
 6 please?

7 THE ADMINISTRATIVE LAW JUDGE: Sure.

8 (Discussion off record.)

9 THE ADMINISTRATIVE LAW JUDGE: Back on
 10 the record.

11 Q. (By Mr. Jones) Mr. Zeto, I asked you a
 12 question a minute ago about Exhibits 9 and 10. Those
 13 were not filed yet in the docket of this case; is
 14 that correct?

15 A. I believe that is correct.

16 Q. But they're marked as exhibits here in
 17 this proceeding, correct?

18 A. Correct.

19 Q. Okay. Did you have an opportunity then
 20 to review what is marked as Applicant Exhibit 9?

21 A. Yes.

22 Q. Okay. And what is Exhibit 9?

23 A. Exhibit 9 is the Doug Wynn report on the
 24 Kirtland Snake.

25 Q. And, likewise, what was the finding then

1 from that report analysis?

2 A. That the area for the additional
3 collection line does not contain habitat for that
4 species.

5 Q. And then looking then at Applicant
6 Exhibit No. 10, what is this document?

7 A. This is a additional wetlands surface
8 water study conducted for the applicant for the
9 additional collection line area.

10 Q. And did you review the information in
11 Exhibit 10?

12 A. I did.

13 Q. Okay. And were there any conclusions
14 drawn from this supplemental information?

15 A. Those areas do not contain any wetlands
16 or streams.

17 Q. And these two exhibits then, these
18 reports are related then to the modification that was
19 sought here by the company that was filed May 24,
20 2019, for the project site?

21 A. I'm sorry, can you repeat that?

22 Q. Yes. Are you familiar then with the
23 notice regarding the modification of the project
24 footprint that was filed in this project --

25 A. Yes.

1 Q. -- on May 24, 2019?

2 A. Yes.

3 Q. So as it concerns the change that was
4 proposed then by the applicant for the project, do
5 Exhibits 9 and 10 help to confirm that there is no
6 additional impacts that you would be concerned with?

7 A. Correct. I don't know any other concerns
8 about this area.

9 Q. Okay. And then Exhibits 9 and 10, would
10 these be considered a supplement to the application?

11 A. Yes, they would.

12 Q. Okay. Would the exhibits that you have,
13 that you've identified, would they be considered
14 supplemental information as provided by Condition 1
15 in the Stipulation and Recommendation filed in this
16 docket?

17 A. Yes, they would.

18 Q. Okay. And the notice regarding the
19 modification that was filed May 24, 2019, is this
20 also captured by Condition 1 as a supplement of the
21 filing for purposes of Condition 1 in the Joint
22 Stipulation and Recommendation?

23 A. Yes, I believe it would.

24 Q. Okay. So given the modification
25 requested by the applicant in this case, does

1 the staff agree with the modification that's being
2 sought here by the company?

3 A. Yes. Staff has no objection to it.

4 MR. JONES: Okay. I have no further
5 questions, your Honor.

6 THE ADMINISTRATIVE LAW JUDGE: Any
7 questions?

8 MS. MILAM: No, your Honor.

9 MR. SETTENERI: No.

10 THE ADMINISTRATIVE LAW JUDGE: Since I
11 have not seen these exhibits, do you mind if we go
12 off the record for a few minutes, and I'm just going
13 to briefly glance over these. So let's go off the
14 record for a few minutes.

15 (Recess taken.)

16 THE ADMINISTRATIVE LAW JUDGE: I've
17 briefly reviewed Company Exhibits 9 and 10. I do not
18 have any questions.

19 And I understand, Mr. Settineri, you may
20 have a comment.

21 MR. SETTENERI: Just for the benefit of
22 the court reporter, I will be docketing electronic
23 copies of Exhibits 9 and 10, especially because
24 Exhibit 10 contains full-sized maps.

25 THE ADMINISTRATIVE LAW JUDGE: Thank you.

1 MR. SETTENERI: To help the court
2 reporter.

3 THE ADMINISTRATIVE LAW JUDGE: Thank you.
4 I understand there are no more questions for the
5 witness.

6 Mr. Zeto, you may step down.

7 Are there any other matters we wish to
8 discuss before we go off the record?

9 MR. SETTENERI: Just simply we would like
10 to again present our motion to admit through
11 stipulation Company's Exhibits 9 and 10 into the
12 record.

13 THE ADMINISTRATIVE LAW JUDGE: Thank you.
14 They are admitted.

15 MR. SETTENERI: Thank you.

16 (EXHIBITS ADMITTED INTO EVIDENCE.)

17 THE ADMINISTRATIVE LAW JUDGE: Seeing
18 that we have no other issues to discuss, the case
19 will be submitted to the Board, and the Board will
20 issue an opinion shortly. Thank you.

21 (The hearing concluded at 10:13 a.m.)

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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 Friday, August 30, 2019, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson
Rosemary Foster Anderson,
Professional Reporter and Notary
Public in and for the State of
Ohio.

My commission expires April 5, 2024.

(rfa-90883)

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in

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

Summary: Transcript Volume II - In the Matter of the Application for 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 August 30, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.