

BEFORE THE OHIO POWER SITING BOARD

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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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IDFD ADMTD

9 - Executive Summary of the Survey for  
Kirtland's Snake Habitats  
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10 - Amendment to Waters of U.S.  
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1 Friday Morning Session,  
2 August 30, 2019.

3 - - -

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.)

22                                 - - -

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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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**This foregoing document was electronically filed with the Public Utilities**

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**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.