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September 29, 2020

Ms. Tanowa M. Troupe, Secretary  
Public Utilities Commission of Ohio  
180 E. Broad Street, 11th Floor  
Columbus, OH 43215-3793

Re: OPSB Case No. 18-1578-EL-BGN  
Alamo Solar I, LLC  
Stipulation Redline

Dear Ms. Troupe:

Please find attached a copy of the Joint Amended and Restated Joint Stipulation Recommendation showing the revisions made to the original July 5, 2019 Joint Stipulation and Recommendation filed in this proceeding. Alamo Solar committed to provide this document to the parties at the recent prehearing conference.

Very truly yours,

*/s/ Michael J. Settineri*

Michael J. Settineri  
Vorys, Sater, Seymour and Pease LLP  
Attorney for Alamo Solar I, LLC

MJS/jaw

cc: Administrative Law Judge Jay Agranoff  
Administrative Law Judge Lauren Augostini  
All Parties of Record

9/28/2020 37259320

## BEFORE THE OHIO POWER SITING BOARD

In the Matter of the Application of )  
Alamo Solar I, LLC )  
for a Certificate of Environmental )  
Compatibility and Public Need )

Case No. 18-1578-EL-BGN

### AMENDED AND RESTATED JOINT STIPULATION AND RECOMMENDATION

#### I. INTRODUCTION

The undersigned parties (the “Parties”) submit this Amended and Restated Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Ohio Power Siting Board (the “Board”). This Stipulation is intended by the Parties to resolve all matters pertinent to the certification and construction of the proposed Alamo Solar Farm.

Alamo Solar I, LLC (“Alamo” or, the “Applicant”) intends to build the Alamo Solar Farm as a 69.9 MW solar-powered generating facility in Preble County, Ohio. Alamo anticipates increasing the nameplate capacity of the facility to 89 MW within the current project footprint but that increase would be the subject of a future application to amend the certificate for the project. The project would consist of large arrays of ground-mounted photovoltaic (“PV”) modules, commonly referred to as solar panels. The project also includes associated support facilities, such as access roads, meteorological stations, buried electrical collection lines, inverter pads, and a substation.

The solar panels would be attached to metal racking. The racking would include piles driven or rotated into the ground. The solar panel arrays would be grouped in large clusters that would be fenced for public safety and equipment security, with locked gates at all entrances.

The Applicant has not yet selected the final solar panel technology to be utilized for this project, but has limited its consideration to two commonly used solar panel technologies that are substantially similar in function and outward design: crystalline or thin-film. Both types of

common racking systems, fixed-tilt and single-axis tracking, would accommodate either crystalline or thin-film solar panel modules. Both solar panel technologies are comparable, and the Applicant plans to submit the final project designs to the Board's Staff for review prior to construction.

The Applicant has not selected the specific module vendor, but intends to use a manufacturer that has the capability and experience to provide approximately 186,400 to 279,600 modules for this project.

The Applicant would create a collector system made up of a network of electric and communication lines that would transmit the electric power from the solar arrays to a common location, at which point the power would be delivered to the existing high-voltage transmission system.

The electricity from the solar panels is generated in direct current ("DC"). DC power from the solar panels would be delivered through electric lines, which would travel through cable trays on the racking and then to combiner boxes. Power from the combiner boxes would be transmitted to groups of components, collectively called an inverter, which would include an inverter that converts DC to alternating current ("AC"), a step-up transformer that increases the voltage to 34.5 kiloVolts ("kV"), and a cabinet containing power control electronics.

Each inverter would deliver AC power to a common substation through a system of buried electric lines and associated communication lines. The Applicant intends for each portion of the AC collector system to originate in one of the solar fields and terminate at the substation. The Applicant has committed that those portions of the AC collector system outside the fenced solar fields and fenced substation would be buried at least thirty-six inches below grade. The

Applicant will use warning tape to mark the lines and register the underground facilities with the Ohio Utilities Protection Service.

The substation for the project would be located on a parcel of land approximately 2,500 feet south of Antioch Road and 1,400 feet east of Call Road. The major components of the Applicant's substation would be collection line feeders and breakers, a 34.5 kV bus, a main power transformer that steps up the voltage to 69 kV, a high-voltage breaker, metering/relaying transformers, disconnect switches, equipment enclosure containing power control electronics, and a lightning mast.

A very short 69 kV transmission line ("gen-tie") would connect the project substation to the east side of the point of interconnection at the Dayton Power & Light Camden-to-Crystal I transmission line. The gen-tie would be approximately 300 feet in length. A dead-end structure will connect the gen-tie to the Camden-to-Crystal I line.

The Applicant proposes to use up to 11.8 miles of access roads for construction, operation and maintenance of the solar farm. The access roads would consist of aggregate material and/or grass. The access roads would be up to 25 feet wide during construction and then reduced to 16 feet wide during operation.

The project would include up to five solar meteorological stations that would be up to 15 feet tall, and fenced/gated. The meteorological stations would include pyranometers, which measure the solar resource.

## **II. HISTORY OF THE APPLICATION**

The Applicant filed a Pre-Application Notification Letter regarding the proposed solar electric generation project on October 22, 2018. A public informational meeting regarding the proposed solar electric generating project was held in Eaton, Ohio on November 13, 2018.

On December 10, 2018, the Applicant filed its Application and motions for waivers from the requirements to submit the manufacturers' safety manuals or similar documents with the application, to submit a description of its plan for test borings with the application, to request to reduce the size of the study area regarding the impact on landmarks, and to show the gen-tie on the mapping submitted with the Application. Applicant also filed a motion for protective order to keep portions of the Application confidential, including cost information and other sensitive financial data.

On February 8, 2019, a letter of compliance regarding the Application was sent to the Applicant.

On March 20, 2019, the Applicant filed its Certificate of Service indicating that a copy of the complete and accepted Application was served upon the appropriate governmental officials and local libraries.

On March 22, 2019, the Eaton Community School District filed a motion to intervene. This motion was granted April 3, 2019.

On March 26, 2019, the Ohio Farm Bureau Federation filed a motion to intervene. The Ohio Farm Bureau Federation's motion was granted April 3, 2019.

On April 3, 2019, the Administrative Law Judge ("ALJ") issued an Entry scheduling hearings in the matter, directing the Staff to file its Staff Report of Investigation, and for parties to file their issues list and testimony. The ALJ also granted the motion for waivers and motion for protective order.

On May 9, 2019, the Preble Shawnee Local School District filed a motion to intervene. This motion was granted June 10, 2019.

On May 13, 2019, the Preble County Engineer, the Preble County Soil & Water Conservation District, the Board of Trustees of Gasper Township, the Board of Trustees of Washington Township, and the Preble County Planning Commission all filed motions to intervene. These motions were granted June 10, 2019.

On May 14, 2019, the Preble County Commissioners filed a notice of intervention. The notice of intervention was accepted June 10, 2019.

On May 15, 2019, the 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 (collectively, the "Citizens") filed a motion to intervene. The Citizens' motion was granted June 10, 2019.

A local public hearing was held on June 12, 2019 at 6:00 pm at The Grange, Preble County Council on Aging, 501 Nation Avenue, Eaton, Ohio 45320.

The adjudicatory ~~hearing is scheduled to commence~~was called and continued on June 26, 2019 at ~~10:00 am at~~ the offices of the PUCO, ~~and then be continued to July 17, 2019 at 10:00 am.~~

A Joint Stipulation and Recommendation was filed on July 5, 2019 in this proceeding by Alamo Solar I, LLC, the Ohio Farm Bureau Federation, the Preble County Commissioners, the Preble County Engineer, the Preble Soil & Water Conservation District, the Board of Trustees of

Gaspar Township, the Board of Trustees of Washington Township, the Preble County Planning Commission, and the Staff of the Ohio Power Siting Board.<sup>1</sup>

The adjudicatory hearing recommenced July 17, 2019 at the offices of the PUCO.

This Stipulation results from discussions among the Parties who acknowledge that this agreement is amply supported by the record and thus is entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the proposed Alamo Solar Farm.

### **III. STIPULATION AND RECOMMENDATION**

#### **A. Recommended Conditions**

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation* (as modified by the Joint Amended and Restated Stipulation).
- (2) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review. The Applicant may conduct separate preconstruction conferences for each stage of construction.
- (3) The Applicant shall submit one set of detailed engineering drawings of the final project design to Staff at least 30 days before the preconstruction conference. This final design shall include all conditions of the certificate and references at the locations where the Applicant and/or its contractors must adhere to a specific condition in order to comply with the certificate. The final project layout shall be provided in hard copy and as geographically-referenced electronic data. The final project layout shall reflect any road adjacent setbacks as measured from the edge of the right-of-way rather than the edge of the roadway. The final project layout

<sup>1</sup> The Staff of the Ohio Power Siting Board separately executed the Joint Stipulation and Recommendation July 8, 2019.

shall reflect at least the following minimum setbacks: (1) 25 feet between the facility fence and any property line of a non-participating parcel or any edge of right-of-way of a public road; (2) 150 feet between the facility fence and any residence on a non-participating parcel; and (3) 500 feet between any central inverter and any residence on a non-participating parcel. The Applicant shall promptly retrofit any inverter as necessary to effectively mitigate any off-site noise issue identified during operation of the facility.

- (4) If any changes to the project layout are made after the submission of final engineering drawings, the Applicant shall provide all such changes to Staff in hard copy and as geographically-referenced electronic data. All changes are subject to Staff review to ensure compliance with all conditions of the certificate, prior to construction in those areas.
- (5) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (6) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate, unless the Board grants a waiver or extension of time.
- (7) As the information becomes known, the Applicant shall file in this proceeding the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation. Such filings shall be served on all intervening parties to the certification process.
- (8) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff no less than seven days prior to the applicable construction activities. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.
- (9) At least 30 days before the preconstruction conference, the Applicant shall provide Staff with a copy of its public information program, for confirmation that it complies with this condition, that informs affected property owners and tenants of the nature of the project, and that provides specific contact information of



Applicant personnel who are familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities.

- (10) At least 30 days before the preconstruction conference, the Applicant shall provide Staff with a copy of a complaint resolution process, for confirmation that it complies with this condition, to address potential public complaints resulting from facility construction and operation. The resolution process must describe how the public can contact the facility and how the facility would contact anyone issuing a complaint, and require the Applicant to acknowledge receipt of a complaint within 48-hours and to promptly respond to such complaint.
- (11) At least seven days prior to the start of facility operation, the Applicant shall notify via mail affected property owners and tenants who were provided notice of the public informational meeting, as well as anyone who has requested updates regarding the project, and all intervening parties to the certification process. This notice will provide information about the start of operation and describe how the public can contact the facility.
- (12) During the construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the fifteenth day of April, July, October, and January of each year for the first five years of operation. The report should include a list of all complaints received through the Applicant's complaint resolution process, a description of the actions taken toward a resolution of each complaint, and a status update if the complaint has yet to be resolved.
- (13) General construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving shall be limited to the hours between 9:00 a.m. and 7:00 p.m. Monday through Friday; hoe ram and blasting operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm. Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (14) ~~Prior to commencement of construction, the Applicant shall prepare a Phase I cultural resources survey program for the project area in conjunction with Staff and~~ If the resulting survey work from the Historic Resource Survey Research Design for the project dated January 14, 2020 and the Phase 1 Archeological Survey Research Design for the project dated January 16, 2020, each as approved by the Ohio Historic Preservation Office (OHPO). ~~If the resulting survey work by letter dated February 19, 2020,~~ discloses a find of cultural, archaeological, or architectural significance, or a site that could be eligible for inclusion on the National Register of Historic Places, then the Applicant shall submit a modification, or mitigation plan detailing how such site(s) will be avoided or

impacts minimized. Any such mitigation effort, if needed, shall be developed in coordination with the OHPO and submitted to Staff for review and acceptance.

- (15) Prior to commencement of construction, the Applicant shall prepare a landscape and lighting plan in consultation with a landscape architect licensed by the Ohio Landscape Architects Board that addresses the aesthetic and lighting impacts of the facility with an emphasis on any locations where an adjacent non-participating parcel contains a residence with a direct line of sight to the project area and also include a plan describing the methods to be used for fence repair. The plan shall include measures such as fencing, vegetative screening or good neighbor agreements. Unless alternative mitigation is agreed upon with the owner of any such adjacent, non-participating parcel containing a residence with a direct line of sight to the fence of the facility, the plan shall provide for the planting of vegetative screening designed by the landscape architect to enhance the view from the residence and be in harmony with the existing vegetation and viewshed in the area. The Applicant shall maintain vegetative screening for the life of the facility and the Applicant shall replace any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. The Applicant shall maintain all fencing along the perimeter of the project in good repair for the term of the project and shall promptly repair any damage as needed. Lights shall be motion-activated and designed to narrowly focus light inward toward the facility, such as being downward-facing and/or fitted with side shields. The Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition.
- (16) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning surface and subsurface field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the facility in agricultural areas, whether such drainage systems are publicly or privately maintained. Benchmark conditions of surface and subsurface drainage systems shall be documented prior to construction, including the location of mains and grassed waterways. ~~and efforts to contact the owners of all parcels adjacent to the project area to request drainage system information on those parcels.~~ Such documentation shall be provided to the County Engineer. Any tile installation or repairs shall be performed in accordance with applicable provisions of Standard Practice for Subsurface Installation of Corrugated Polyethylene Pipe for Agricultural Drainage or Water Table Control, ASTM F499-02 (2008), to the extent practicable. If uncertainty arises concerning the proper procedures for tile repair, Applicant may consult with the local Soil & Water Conservation District or a USDA Natural Resources Conservation Service representative for privately maintained tile, and shall consult with the County Engineer for tile located in a county maintenance/repair ditch, as delineated in Document A, attached hereto. Damaged field tile systems shall be promptly repaired no later than 30 days after such damage is discovered, and be returned to at least original conditions or their modern equivalent at the Applicant's expense. When repairing tiles in a county maintenance/repair ditch, the Applicant shall give reasonable notice of such repairs to the County Engineer and Staff. The County Engineer or his/her representative shall have the right to visually inspect and approve the repair work

performed prior to backfill. If the County Engineer does not approve the repair work in a timely manner, Staff shall have the right to visually inspect and approve the repair work performed prior to backfill. If the opinion of the County Engineer and the opinion of Staff on approval of the repair work differ, Staff shall have the final authority to approve the repair work. As stated in the Application, the Applicant will develop a Stormwater Pollution Prevention Plan that will require the utilization of silt fences during construction and the prompt removal of construction silt from drainage ditches when necessary for continued efficient drainage. The Applicant shall provide the Soil & Water Conservation District and the County Engineer with a single point of contact with the Applicant after construction is completed to address any resource concerns.

- (17) Within 30 days after issuance or receipt, the Applicant shall provide Staff a copy of any arrangement or resolution adopted by Preble County relating to the Payment in Lieu of Taxes (PILOT) program.
- (18) Prior to the preconstruction conference, the Applicant shall submit a vegetation management plan to Staff for review and confirmation that it complies with this condition. The plan would identify all areas of proposed vegetation clearing for the project, specifying the extent of the clearing, and describing how such clearing work would be done as to minimize removal of woody vegetation. The plan shall describe how trees and shrubs along access routes, at construction staging areas, during maintenance operations, and in proximity to any other project facilities would be protected from damage. The plan shall also describe the implementation and maintenance of vegetative ground cover for the solar fields and any vegetative screening, including any pollinator-friendly plantings and describe any planned herbicide use. The plan shall also describe the steps to be taken to prevent establishment and/or further propagation of noxious weed identified in OAC 901:5-37 during implementation of pollinator-friendly plantings. The Applicant shall consult with the Ohio Seed Improvement Association prior to purchase of seed stock regarding the names of reputable vendors of seed stock and shall purchase seed stock used on this project from such recommended sources to the extent practicable and to the extent seed stock is available from such vendor(s).
- (19) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to Indiana bats and northern long-eared bats, unless coordination with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) allows a different course of action.
- (20) The Applicant shall have an environmental specialist on site during construction activities that may affect sensitive areas as shown on the Applicant's final approved construction plan as approved by Staff. Sensitive areas include, but are not limited to, areas of vegetation clearing, designated wetlands and streams, and locations of threatened or endangered species or their identified habitat. The environmental specialist shall be familiar with water quality protection issues and

potential threatened or endangered species of plants and animals that may be encountered during project construction. The environmental specialist selected by the Applicant shall be authorized to report any issues simultaneously to Staff and the Applicant.

- (21) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federal listed species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff and the appropriate agencies.
- (22) The Applicant shall provide a construction access plan for review prior to the preconstruction conference. The plan would consider the location of streams, wetlands, wooded areas, and sensitive wildlife and plant species, and explain how impacts to all sensitive resources will be avoided or minimized during construction, operation, and maintenance. The plan would include the measures to be used for restoring the area around all temporary access points, and a description of any long-term stabilization required along permanent access routes.
- (23) The Applicant shall minimize, to the extent practicable, the clearing of wooded areas, including scrub/shrub areas that would lead to fragmentation and isolation of woodlots or reduce connecting corridors between one woodlot and another.
- (24) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary road closures, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation, local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final traffic plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition.
- (25) ~~If county or township roads are utilized for the construction of this project, the Applicant shall also enter into a road use agreement with the appropriate local authorities prior to construction and subject to Staff review and confirmation that it complies with this condition. The road use agreement shall contain provisions for the following: (a) a preconstruction survey of the conditions of the roads; (b) a post construction survey of the condition of the roads; (c) an objective standard of repair that obligates the Applicant to restore the roads to the same or better condition as they were prior to construction; and (d) a timetable for posting of a construction road and bridge bond prior to the use or transport of heavy equipment on public roads or bridges for construction and for the posting of a decommissioning bond prior to the use or transport of heavy equipment on public roads or bridges for decommissioning.~~ The Applicant shall provide the Board's Staff a copy of the transportation management plan and any ~~road use~~

~~agreement(s)~~ changes to the Road Use and Maintenance Agreement for Solar Projects and Infrastructure dated January 15, 2020 between the Applicant and Preble County Board of County Commissioners, the Preble County Engineer, Gasper Township and Washington Township 30 days prior to the preconstruction conference.

- (26) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (27) Local fire and EMS service providers (Camden-Somers Fire Department, West College Corner Fire Department, Eaton Fire and EMS and Gasper Fire Department) will be trained in how to respond to emergency/fire situations that could occur at the project. At least one in-service emergency training shall be conducted prior to commencement of construction. Multiple training dates for both firefighters and EMS staff will be offered to ensure all responders have adequate situational training specific to solar energy facilities. In addition, safety meetings shall be held with emergency service personnel on an on-going basis. The Applicant will include in such training any emergency procedures which may be specific to the solar array model used for the project. If local fire and EMS responders lack any specialized equipment needed to appropriately respond to an emergency at the project, the Applicant shall provide such equipment to the local fire and EMS service providers when construction commences.
- (28) At least 60 days prior to construction, as stated in the Application, the Applicant shall submit a comprehensive decommissioning plan for review and approval by Staff. The plan will specify the responsible parties, outline a decommissioning schedule of fewer than 12 months, estimate full decommissioning and restoration costs net of salvage value, require restoration of the project area, and require proper disposition of all project components. The plan shall be prepared by a professional engineer registered with the State Board of Registration for Professional Engineers and Surveyors. Prior to construction, the Applicant will, if applicable, post financial security in the form of a performance bond with the Board as obligee, e.g. a decommissioning bond, to ensure that funds are available to pay for the net decommissioning costs. The Applicant will retain an independent and registered professional engineer to calculate the net decommissioning costs, which shall be incorporated into the plan and reflected in the financial security. This net decommissioning estimate shall be recalculated at least every five years by an engineer retained by Applicant and the financial security adjusted to reflect any increase in the net decommissioning costs, but will

not be adjusted to reflect any decrease in the net decommissioning costs. The Board shall maintain the authority to accept or reject the engineer chosen by the Applicant to conduct such analysis.

- (29) If one acre or more of ground is disturbed, the Applicant shall obtain from Ohio EPA a “General Permit Authorization for Storm Water Discharges Construction Associated with Construction Activities” (also known as a Construction General Permit). Following the completion of final project engineering design, the Applicant shall perform pre- and post-construction stormwater calculations to determine if post-construction best management practices are required, based on requirements contained in Ohio EPA’s Construction General Permit. The calculations along with a copy of any stormwater submittals made to the Ohio EPA shall be submitted to the Preble County Office of Land Use Management and the Preble Soil & Water Conservation District. The Applicant will also provide confirmation that it incorporated guidance from the Ohio EPA’s document “Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays” dated October 2019 to the Preble County Office of Land Use Management and the Preble Soil & Water Conservation District. If post construction storm water best management practices are required, the Applicant will submit construction drawings detailing any stormwater control measures to the Preble County Office of Land Use Management and the Preble Soil & Water Conservation District, as applicable, no less than seven days prior to the applicable construction activities.
- (30) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.

## **B. Other Terms and Conditions**

(1) This Stipulation is ~~expressly~~ conditioned upon ~~its acceptance~~ adoption of the Stipulation by the Board in its entirety and without material modification. ~~In the event~~ Each Signatory Party has the right, in its sole discretion, to determine whether the Board’s approval of this Stipulation constitutes a “material modification” thereof. If the Board rejects or materially modifies all or any part of this Stipulation ~~or imposes additional conditions or requirements upon the Parties, each party shall have the right,~~ any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without material modification upon

rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within thirty (30) days of the Board's order, to file an application for rehearing with the Board. Upon an entry on rehearing being issued by the Board maintaining the material modification to the stipulation, each party shall have the right, within ten (10) days of the Board's order on rehearing, to file a notice of termination of, and withdrawal from, the Stipulation. Upon notice of termination and withdrawal of the Stipulation by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such an event, a hearing shall go forward, and the Parties shall be afforded the opportunity to present's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board ("Notice of Withdrawal"). No Signatory Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Board review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues-brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after a hearing if necessary.



(2) The Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each Party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each Party further agrees that it will not use this Stipulation as factual or legal precedent on any issue. The Parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

#### **IV. RECOMMENDED FINDINGS AND CONCLUSIONS OF LAW**

The Parties agree that the record in this case, provided the Board approves the Conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as Findings of Fact and Conclusions of Law, that:

##### **A. Recommended Findings of Fact**

1. Alamo Solar I, LLC is licensed to do business in the State of Ohio.
2. Alamo Solar Farm qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On October 22, 2018, the Applicant filed a Pre-Application Notification Letter informing the Board of a public informational meeting in Case No. 18-1578-EL-BGN.
4. On November 5, 2018, the Applicant filed proof of publication made on October 27, 2018 in the Eaton Register-Herald, a newspaper of general circulation in Preble County, and of notice of the public informational meeting scheduled to be held in Case No. 18-1578-EL-BGN on November 13, 2018.



5. The Applicant held the public informational meeting in Case No. 18-1578-EL-BGN at the Toney Building on the Preble County Fairgrounds, located at 722 South Franklin Street, Eaton, Ohio 45320 on November 13, 2018.

6. The Applicant submitted its Application in Case No. 18-1578-EL-BGN to construct the Alamo Solar Farm on December 10, 2018.

7. On December 10, 2018, the Applicant filed a motion for waivers of certain filing requirements in Case No. 18-1578-EL-BGN.

8. On December 10, 2018, the Applicant filed a motion for protective order to keep confidential certain information in the Application in Case No. 18-1578-EL-BGN.

9. On January 31, 2019, the Applicant filed a supplement to its Application.

10. On April 3, 2019, the ALJ granted Alamo's motion for waivers and motion for protective order.

11. On February 8, 2019, the Board issued a letter stating that the Board's Staff had received sufficient information to begin its review of the Application.

12. On March 20, 2019, the Applicant filed correspondence indicating that the Application fees were paid.

13. On March 20, 2019, the Applicant filed a Certificate of Service indicating that copies of the Application were served upon local public officials and libraries.

14. On March 22, 2019, the Eaton Community School District filed a motion to intervene.

15. On March 26, 2019, the Ohio Farm Bureau Federation filed a motion to intervene.

16. On April 3, 2019, the ALJ issued an Entry setting forth a scheduled hearing date and directing the Staff to file a Staff Report.

17. On April 24, 2019, the Applicant filed a Notice indicating that the initial notice was sent on March 1, 2019 to government officials, libraries and affected property owners pursuant to Ohio Adm. Code 4906-3-09(A)(1).

18. On May 9, 2019, the Preble Shawnee Local School District filed a motion to intervene.

19. On May 13, 2019, the Preble County Engineer; Preble Soil & Water Conservation District, the Board of Trustees of Gasper Township, the Board of Trustees of Washington Township, and the Preble County Planning Commission all filed motions to intervene.

20. On May 14, 2019, the Preble County Commissioners filed a notice of intervention.

21. On May 15, 2019, the 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 filed a motion to intervene.

22. On May 28, 2019, the Staff Report of Investigation (“Staff Report”) was filed in Case No. 18-1578-EL-BGN.

23. On June 10, 2019, the Applicant filed a Notice indicating that the second notice was mailed to government officials, libraries and property owners pursuant to Ohio Adm. Code 4906-03-09(A)(2). Notice was also published in the Eaton Register-Herald, a newspaper in general circulation in Preble County, on May 29, 2019.

24. On June 10, 2019, the ALJ issued an Entry ordering the Applicant to arrange for the publication of a notice in the form of the initial notice, and this notice must reference and allow for an intervention period in this proceeding up to 30 days following the service of the notice.

25. On June 11, 2019, the Dayton Daily News, a newspaper in general circulation in Preble County, published the notice required by the ALJ's June 10, 2019 entry.

26. A local public hearing was held on June 12, 2019 at 6:00 pm at The Grange, Preble County Council on Aging, 501 Nation Avenue, Eaton, Ohio 45320.

27. On June 21, 2019, Applicant filed a Notice indicating that the notice required by the ALJ's June 10, 2019 Entry had been published in the Dayton Daily News, a newspaper in general circulation in Preble County, on June 11, 2019.

28. The adjudicatory hearing was called and continued on June 26, 2019 at the offices of the PUCO.

29. A Joint Stipulation and Recommendation was filed on July 5, 2019 in this proceeding by Alamo Solar I, LLC, the Ohio Farm Bureau Federation, the Preble County Commissioners, the Preble County Engineer, the Preble Soil & Water Conservation District, the Board of Trustees of Gasper Township, the Board of Trustees of Washington Township, the Preble County Planning Commission, and the Staff of the Ohio Power Siting Board.<sup>2</sup>

30. The adjudicatory hearing recommenced on July 17, 2019 at the offices of the PUCO.

31. ~~28.~~ Because no electric transmission line or gas pipeline is being proposed in this Application, R.C. 4906.10(A)(1) is not applicable.

<sup>2</sup> The Staff of the Ohio Power Siting Board separately executed the Joint Stipulation and Recommendation July 8, 2019.

32. ~~29.~~ Adequate data on the Alamo Solar Farm has been provided to determine the nature of the probable environmental impact as required by R.C. 4906.10(A)(2).

33. ~~30.~~ Adequate data on the Alamo Solar Farm has been provided to determine that the facilities described in the Application and supplemental filings and subject to the Conditions in this Stipulation represent the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by R.C. 4906.10(A)(3).

34. ~~31.~~ Adequate data on the Alamo Solar Farm has been provided to determine that the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, that the Alamo Solar Farm will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.

35. ~~32.~~ Adequate data on the Alamo Solar Farm has been provided to determine that this facility will either comply with, or is not subject to, the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waste, air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).

36. ~~33.~~ Adequate data on the Alamo Solar Farm has been provided to determine that it will serve the public interest, convenience and necessity, as required by R.C. 4906.10(A)(6).

37. ~~34.~~ Adequate data on the Alamo Solar Farm has been provided to determine what its impact will be on the viability as agriculture land of any land in the existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).

38. ~~35.~~ Adequate data on the Alamo Solar Farm has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives as required by R.C. 4906.10(A)(8).

39. ~~36.~~ The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

**B. Recommended Conclusions of Law**

1. Alamo Solar I, LLC is a “person” under R.C. 4906.01(A).
2. The proposed Alamo Solar Farm is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the Alamo Solar Farm under R.C. 4906.10(A)(2).
4. The record establishes that the Alamo Solar Farm described in the Application, and subject to the conditions in this Stipulation represent the minimum adverse environmental impact, considering the state of available technology, and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
5. The record establishes that the Alamo Solar Farm is consistent with regional plans for expansion of the electric power grid of the electric systems serving the State of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability as required by R.C. 4906.10(A)(4).
6. The record establishes, as required by R.C. 4906.10(A)(5) that to the extent that it is applicable, construction of the proposed Alamo Solar Farm will comply with the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the

state, solid and hazardous waste, air navigation, and all rules and standards adopted under the relevant Chapters of the Ohio Revised Code.

7. The record establishes that the Alamo Solar Farm described in the Application, and subject to the conditions in this Stipulation, will serve the public interest, convenience and necessity under R.C. 4906.10(A)(6).

8. The impact of the Alamo Solar Farm on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).

9. The record establishes that the Alamo Solar Farm would incorporate maximum feasibility water conservation practices under R.C. 4906.10(A)(8).

10. Based on the record, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the Alamo Solar Farm.

The undersigned hereby stipulate, agree and represent that they are authorized to enter into this Amended and Restated Joint Stipulation and Recommendation on this ~~530~~<sup>30</sup>th day of July, ~~2019~~<sup>2020</sup>. Furthermore, the Parties expressly agree that this Amended and Restated Joint Stipulation and Recommendation may be amended and/or supplemented in a writing executed by the Parties.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being sent via electronic mail on July 30, 2020 to:

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Summary: Correspondence re Stipulation Redline electronically filed by Mr. Michael J. Settineri on behalf of Alamo Solar I, LLC