

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of :  
Powell Creek Solar, LLC for a :  
Certificate of Environmental : Case No. 20-1084-EL- BGN  
Compatibility and Public Need for a :  
Solar Facility Located in Putnam :  
County, Ohio :

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**MEMORANDUM CONTRA APPLICANT'S MOTION  
FOR WAIVER  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE OHIO POWER SITING BOARD**

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Pursuant to R.C. 4906.10, Ohio Adm.Code 4906-2-27(B), Ohio Adm.Code 4906-2-11(C), and Ohio Adm.Code 4906-3-01(B), the Staff of the Ohio Power Siting Board (Staff) respectfully urges the Ohio Power Siting Board (Board) to deny a waiver of the requirement in Ohio Adm.Code 4906-4-08(A)(1)(c). For the reasons set forth in the attached Memorandum in Support, good cause exists to deny Applicant's request for waiver of Ohio Adm.Code 4906-4-08(A)(1)(c). Staff does not object to the Applicant's waiver request for the rule requirements in Ohio Adm.Code 4906-4-08-(D)(2) – (4).

Respectfully submitted,  
**Dave Yost**  
Ohio Attorney General

**John Jones**  
Section Chief

*/s/ Jodi J. Bair*

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**On Behalf of the Staff of the  
Ohio Power Siting Board**

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## MEMORANDUM IN SUPPORT

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### **I. INTRODUCTION**

On October 7, 2020, Powell Creek Solar, LLC (Applicant) filed a motion for waiver of several provisions of the Ohio Administrative Code (Ohio Adm.Code) in its case before the Ohio Power Siting Board (Board). Applicant is seeking a waiver of Ohio Adm.Code 4906-4-08(D)(2) – (4), regarding study areas for the project’s impact on landmarks, recreational areas, scenic areas, and overall visual impacts outside of five miles of the project; and Ohio Adm.Code 4906-4-08(A)(1)(c), which requires the submission of manufacturers’ safety manuals or similar documents and any manufacturer recommended setbacks.

As explained below, the Staff of the Ohio Power Siting Board (Staff) believes that good cause exists for the Board to deny Applicant’s requested waiver of Ohio Adm.Code 4906-4-08(A)(1)(c), but asserts no objection to a waiver of the requirements of Ohio Adm.Code 4906-4-08(D)(2)-(4).

### **II. PROVIDING MANUFACTURER’S SAFETY MANUAL AND RECOMMENDED SETBACKS**

Staff objects to the request for waiver of Ohio Adm.Code 4906-4-08(A)(1)(c). Applicant requests a waiver of its responsibility to file the manufacturer’s safety manuals and setback requirements as part of its initial application. Applicant states that it will not select the exact solar panels until the final engineering of the Project is complete. As

provided in its application Exhibit A, the Applicant only provided manufacturing equipment specifications for the Jinko brand of solar panels.

Staff objects to this waiver request. In performing the investigation necessary to analyze this application, Staff must understand the requested layout of the facility and also consider how far away the generation facilities will be from other neighboring properties. Staff also asserts that without having the recommended setback requirements and manuals from the manufacturer, there may be other issues, e.g. safety warnings, that may be important factors recommended by the manufacturer to consider in the review of the project application and should be a part of the application.

Therefore, Staff asks that the Applicant not be permitted to omit requirements of the Ohio Adm.Code 4906-4-08(A)(1)(c).

### **III. CONCLUSION**

For the foregoing reasons, Staff asks the Board to deny Applicant's request for a waiver of Ohio Adm.Code 4906-4-08(A)(1)(c). Staff again asserts that it has no objection to Applicant's request for a waiver of Ohio Adm.Code 4906-4-08(D)(2)-(4). Staff reserves the right to investigate and contest any other issues presented in the application as necessary.

Respectfully submitted,

**Dave Yost**  
Ohio Attorney General

**John H. Jones**  
Section Chief

*/s/ Jodi J. Bair*

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**On Behalf of the Staff of the  
Ohio Power Siting Board**

## PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Memorandum Contra** submitted on behalf of the Staff of the Ohio Power Siting Board, was served via electronic mail upon the following Parties of Record, this 22<sup>nd</sup> day of October, 2020.

*/s/ Jodi J. Bair*

**Jodi J. Bair**

Assistant Attorney General

### **Parties of Record:**

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Summary: Memorandum Contra Applicant's Motion for Waiver Submitted on Behalf of the Staff of the Ohio Power Siting Board electronically filed by Mrs. Kimberly M Naeder on behalf of OPSB