

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of :
Angelina Solar I, LLC, for a Certificate : Case No. 18-1579-EL-BGN
of Environmental Compatibility and :
Public Need to Construct the Angelina :
Solar Farm. :

**POST-HEARING REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE OHIO POWER SITING BOARD**

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

Jodi J. Bair
Kyle L. Kern
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, OH 43215
614.644.8588 (telephone)
614.644.8764 (fax)
Jodi.Bair@ohioattorneygeneral.gov
Kyle.Kern@ohioattorneygeneral.gov

**On behalf of the Staff of
The Ohio Power Siting Board**

January 4, 2021

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I. BACKGROUND

On July 29, 2020, Angelina Solar I, LLC, the Ohio Farm Bureau Federation, the Preble County Commissioners, the Preble County Engineer, the Preble Soil & Water Conservation District, the Dixon Township Board of Trustees, the Preble County Planning Commission and the Staff of the Ohio Power Siting Board filed an Amended and Restated Stipulation and Recommendation (“Amended Stipulation” or “Joint Ex. 2”) in this case. This Amended Stipulation incorporates a new condition (Condition 30), regarding the management of potential post-construction stormwater, and another new condition (Condition 31) related to certificate authority that has recently been incorporated into other siting certificates. The Amended Stipulation includes additions and revisions to ten previously-proposed conditions. These revisions increase the project’s setbacks, improve conditions related to cultural resources, visual screening and lighting, clarify the complaint resolution process, improve drainage and tile care, road

maintenance, and decommissioning (Conditions 1, 3, 9, 11, 13, 16, 18, 20, 26, and 29).
See Redline Amended Stipulation, Sept. 29, 2020).

In response to the Applicant’s Supplemental filings, Staff investigated these additions and, through its investigation and subsequent negotiations, Staff recommends the significantly expanded conditions. These modified conditions mitigate and minimize impacts to the Project environment. Staff proposes that the Board adopt these conditions and respectfully requests that the certificate issued by the Board be subject to such conditions.

II. INTRODUCTION

The Ohio Farm Bureau Federation, the Preble County Commissioners, the Preble County Engineer, the Preble Soil & Water Conservation District, the Preble County Planning Commission, the Board of Trustees of Dixon Township, Angelina Solar I LLC (“Applicant” or “Angelina”), and the Staff of the Ohio Power Siting Board (“Signatory Parties”) signed the Amended Stipulation and recommend that the Ohio Power Siting Board (“Board”) approve this agreement. These elected officials and local agencies represent members of the public located in the Project area. Concerned Citizens of Preble County, LLC, Robert Black, Marja Brandly, Campbell, Brandly Farms, LLC, Michael Irwin, Kevin and Tina Jackson, Vonderhaar Family Arc, LLC, and Vonderhaar Farms Inc. (“CCPC”) is the only party that opposes the Angelina solar project (“Project”).

After the initial phase of the proceedings in this case, the Applicant, the Ohio Farm Bureau Federation, Preble County Commissioners, Preble County Engineer, the

Preble County Soil & Water Conservation District, the Dixon Township Board of Trustees, the Preble County Planning Commission and the Staff of the Board requested that these proceedings be reopened in order for the consideration of several new conditions and additional commitments. The Amended Stipulation was filed on July 29, 2020 and the hearing began on October 29, 2020. CCPC did not object to the reopening request and fully participated in the hearing. All parties had an opportunity to conduct additional discovery; however, no parties, including CCPC, chose to conduct any additional discovery.

One of the primary arguments made by CCPC is that Angelina Solar's Application is incomplete and that Angelina improperly submitted studies into the record through supplemental testimony. CCPC Dec. 11, 2020 Brief ("CCPC Brief") at 5-6. CCPC also complains that the application is lacking needed detail because the Amended Stipulation allows for 12 post-certificate studies that will be proposed and approved in secret. *Id.* at 4, 9. CCPC reiterates its argument that the Amended Stipulation improperly delegates post-certificate approvals to the Board Staff. *Id.* at 81, 83, 89. However, Staff required the Applicant to do what is required by law. Staff conducted its investigation, recommended conditions that comply with Board precedent, and upon the submission of Angelina's supplemental information, more details were decided in the Amended Stipulation. Redline Joint Amended Stipulation ("Redline Stipulation") at 3, 89, 10, 12, 13 (Sept. 29, 2019).

III. ARGUMENT

A. The Stipulation properly delegates responsibilities to Staff in compliance with RC. 4906.02(C).

Post-certificate studies, plans, and details are routine conditions regularly approved by the Board. These post-certificate studies and plans are necessary to ensure compliance with the certificate. CCPC complains that many studies were added through the Applicant's supplemental testimony and that there are post-certificate studies that are not subject to adjudicatory process. However, many of the studies contained in the supplemental testimony and the Amended Stipulation were modified to include stricter requirements or additional details. *See* Redline Stipulation at 6, 7, 8, 9, 10, 11, 12.¹ Post-certificate studies submitted to Staff are consistently authorized in order to provide information nearer to the time of construction. This provides more accurate and detailed information. This also allows the Staff the opportunity to confirm that the Applicant installs the facility, utilizes equipment and constructions practices, and implements mitigation measures as described in the Application as modified and clarified in supplemental findings, replies to data requests, and recommendations in the Staff Report and the Amended Stipulation. There is nothing improper about this and the Ohio Supreme Court has sanctioned this exercise of discretion by the Board:

R.C. Chapter 4906, the board's enabling statute, expressly allows the board to delegate many responsibilities to subordinates. * * * R.C. 4906.02(C) states, "The chairman of the public utilities commission may assign or transfer duties among the commission's staff." * * * One responsibility, however, cannot be delegated: "the board's authority to grant certificates

¹ Stricter requirements were added to the Amended Stipulation, such as defining minimum setbacks to right-of-ways and increasing the setbacks between inverters and non-participating parcels. Amended Stipulation at 6, 7.

under section 4906.10 of the Revised Code shall not be exercised by any officer, employee, or body other than the board itself.” R.C. 4906.02(C). Appellants argue that the board improperly delegated its decision-making authority The issues characterized as improperly deferred, however, simply require additional submissions * * * to staff before the preconstruction conference.

In re Application of Am. Transm. Sys, Inc., 125 Ohio St.3d 333, 2010-Ohio-1841, 928 N.E.2d 427, ¶¶ 20-21.

As held by the Ohio Supreme Court, “[s]imply because certain matters are left for further review and possible comment does not mean that they have been improperly delegated to staff.” *In re Application of Buckeye Wind, L.L.C.*, 2012-Ohio-878, ¶¶ 13-14. CCPC ignores the Court’s ruling in this case, and instead cites to the dissenting opinion in support of its claim. CCPC Brief at 82, 83. In the *Buckeye* case, the appellants raised four separate propositions of law alleging improper delegation of authority by the Board relating to transportation plans, location of collection lines, determination of blade throw potential and the relocation of turbines. *Buckeye* at ¶ 14. But the Court did not find that these actions constituted an improper delegation of authority to Staff. In fact, the Court noted that:

R.C. 4906.10(A) allows a certificate to be issued *upon such conditions as the board considers appropriate*, The statutes authorize a dynamic process that does not end with the issuance of a construction certificate. The General Assembly vested the board with authority to allow its staff to monitor * * * compliance with conditions neighbors already had the chance to be heard.

Id. at ¶ 16 (emphasis in original). CCPC’s argument that there are a multitude of post-certificate studies that must be evaluated by Staff without the Board members’ participation and that this is not the process envisioned by the General Assembly when it

enacted R. C. 4906. CCPC Brief at 83. CCPS is wrong. The Court noted that the Board does not improperly delegate its authority when it allows for the further “fleshing out of certain conditions of the certificate” by ordering post-certificate” submissions to its Staff. *Id.* ¶ 18. CCPC’s arguments have been raised before the Court and were rejected. The Board should reject them here.

B. Angelina’s Application, supporting studies, and testimony provide information regarding the Project’s visual impacts and mitigation measures as required by Ohio Adm.Code 4906-4-08(D)(4).

CCPC claims that the Application makes no commitments for mitigation measures to minimize adverse visual impacts and the Applicant’s simulations do not accurately portray the facility. CCPC Brief at 10-11. CCPC’s argument regarding the accurate portrayal is based upon the simulation’s use of eight-foot solar panels. The application states that the panels installed for the project may be from 8 to 15 feet above the ground surface. The Application does provide an accurate description of the possible panel height Applicant Ex. 1, at 7-8. CCPC Brief at 13. The Application provided simulations and by definition, simulations are not exact pictures of the final panel design. The description in the Application provides more details of the panels that may be used in the Project.

In addition, CCPC argues that an improper delegation of authority given to Staff is the lack of finalization of the landscape and lighting plan for the Project. The Staff Report recommendation, as adopted in the Amended Stipulation, requires that Angelina provide screening for all non-participating parcels containing a direct line of sight to the project

area for the entire lifetime of the project. Staff Ex. 1 at 34. The Amended Stipulation requires that the Applicant prepare a landscape and lighting plan in consultation with a licensed landscape architect. Amended Stipulation at 7, 8. For non-participating parcels with a direct line of sight, the plan shall provide for the planting o vegetative screening designed to enhance the view from the residence and be in harmony with the existing vegetation and viewshed area. *Id.* This vegetative screening shall be maintained for the life of the facility and the Applicant shall replace any failed planting so that, after five years at least 90 percent of the vegetation has survived. *Id.* These agreed upon requirements clearly show the applicant’s compliance with Ohio Adm.Code 4906-4-08(D)(4).

CCPC argues that the flexibility in the approach described above is insufficient because it will permit Angelina to “do whatever it wants.” CCPC Brief at 10. But to require an inflexible single plan at this point could possibly not be in the best interests of CCPC. There may be techniques, designs, or plantings suggested by the landscape architect that will work better in light of the final panel selected or in light of the direct line of site with particular residences. The Amended Stipulation requires that the screening must be maintained for the life of the facility and the view must be in harmony with the existing vegetation and viewshed in the area. Joint Ex. 2 at 7-8. Angelina has committed to a landscape plan that satisfies the Board’s rules that the project’s visual impact be minimized.

C. The Stipulation adequately addresses noise mitigation measures.

The Stipulation limits construction activities to daylight hours. Joint Ex. 2 at 7. During construction, the noise will be louder than operational noise. CCPC argues that the Applicant has not agreed to minimize construction noise as required by Ohio Adm.Code 4906-4-08(3)(d). This rule requires that the Applicant describe the effects of noise emissions from the proposed construction and operation, including limits on the time of day when construction may occur. Angelina's commitments follow this rule. The Amended Stipulation very clearly requires the Applicant to comply with this rule. General construction activities are 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. Amended Stipulation at 8. Further construction restrictions were agreed upon in the Stipulation that limit pile driving between the hours of 9:00 a.m. and 7:00 p.m., Monday through Friday. Id. Hoe and blasting operations, if required, are limited to the hours of 10:00 a.m. and 4:00 p.m. Id. These limitations minimize construction noise and are measures that are in compliance with the rule.

CCPC also claims that the project lacks mitigation measures for the operation noise from the inverters as required by Ohio Adm.Code 4906-4-08-(A)(3). CCPC Brief at 25. According to Angelina's noise expert, David Hessler, sound from the substation would be inaudible at homes near the Project area. Co. Ex. 14 at 4-5. Additionally, the parties agreed, based upon input from the public, to add even more stringent noise limitations in the Amended Stipulation with the following setbacks:

The final project layout 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 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.

Amended Stipulation at 6-7. The Board should find that Angelina has adequately evaluated sound impacts from the project and mitigated with increased setbacks and prompt retrofit of inverters if necessary.

D. The Angelina project will effectively minimize any damage to drainage tiles and may improve the condition of current drainage tile system.

The Board's rules require that Angelina describe mitigation procedures that will be used to both avoid and minimize damage to field tile drainage systems. Ohio Adm.Code 4906-04-08(E)(2). CCPC complains that the Application does not comply with the mandate in the Ohio Administrative Code to provide for the timely repair of damaged field tile systems to at least original conditions. CCPC Brief at 40. However, Angelina has agreed to repair any damaged tile promptly, and in no event, later than 30 days after discovery. Joint Ex. at 9. The Applicant identifies the steps that it will take to identify all tile drainage systems that might be affected by the project. Angelina will consult with the owners of agricultural land in order to ascertain the type, size, and location of all functioning drain tile in the Project areas. Co. Ex. 6 at 10. As explained by Applicant witness Herling, this identification process will be completed prior to the start of construction for all Project areas. *Id.* According to the Applicant, it will also engage

the Preble County Engineer, the County expert on drainage issues, when repairing existing drain tile. Co. Ex. 9 at 3.

The Application adequately described the measures that will be taken to identify existing systems and avoid or minimize any impacts from construction or operations. Additionally, the Applicant must make timely and satisfactory repairs, which is a commitment that may improve the current drainage tile system. The conditions related to drainage tile in the Project areas satisfy the Board's rules.

E. Angelina will provide adequate safety measures for the Project - fencing for public safety, locked gates and security equipment.

The Board's rule requires that Angelina provide information regarding the safety of the Project's equipment and describe measures that will be taken to restrict public access to the facility. Ohio Adm.Code 4906-04-08(A). CCPC claims that despite criminal activity, Angelina has given little thought to prevent criminal access to its facility. CCPC Brief at 46. However, CCPC is wrong. The Application and the Staff Report indicate that Angelina will comply with the safety standards applicable to commercial solar farms established by the Occupational Safety and Health Administration and National Fire Protection Association. Staff Ex. 1 at 28. And, as required by the Amended Stipulation, the Applicant will coordinate with local law enforcement officers. Joint Ex. 1 at 10. The rule does not state that all measures must be 100% full-proof, which is what CCPC seems to demand. Angelina will fence the Project area, provide locked gates at entrances, and utilize other necessary security equipment. Tr. I at 90. Angelina has clearly demonstrated that it will take adequate measures to restrict public access to the Project.

CCPC states that the facility will attract criminals to the community. CCPC Brief at 46. But there is no evidence in the record to show that this is the case. There is nothing in the record showing that the solar facility will contain anything of value that would attract criminals. Furthermore, there is no evidence in the record to show that the Project will cause an increase in neighborhood crime. As reason dictates, Angelina will take appropriate security and safety measures including fences, locked gates, lighting, and possibly security cameras to maintain the safety of the facility.

F. Angelina’s solar facility does not increase the likelihood of groundwater contamination.

CCPC is concerned that the Amended Stipulation does not adequately protect the Project area from contamination that could occur in the event of extremely severe weather. CCPC Brief at 48. But there is no evidence that groundwater contamination will occur. And it is important to note that the Preble Soil and Water Conservation, along with the Preble County Commissioners, the Board of Trustees of Dixon Township, the Preble County Planning Commission, as well as the Preble County Engineer were actively involved in the negotiations and signatory parties to the Amended Stipulation. Joint Ex. 2. CCPC produced no credible evidence that shows that the solar panels increase the chances of groundwater contamination. It is the job of the Preble County Soil & Water Conservation District to ensure water quality and soil protection now and for future generations. <http://www.prebleswcd.org/about.html>. The Stipulation recognized that the Project will incorporate maximum feasibility water conservation practices. Joint Ex. 1 at 16. Staff also determined that no ponds or lakes will be impacted by the facility during

construction or operation. Staff Ex. 1 at 17. Other concerns, such as potential stormwater pollution shall be addressed through Angelina's Stormwater Pollution Prevention Plan that requires the use of silt fences during construction and the prompt removal of construction silt from drainage when necessary for efficient drainage. Joint Ex. 1 at 8. Angelina shall also 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 concerns. *Id.* Additionally, no wastewater discharge is expected from the facility. Staff Ex. 1 at 31.

As determined in the Staff Report, the solar facility does not increase the possibility of groundwater contamination. If there is any risk presented in the future, the Soil & Water District and the County Engineer have been involved in the Project and will continue to be the points of contact for any such concerns.

G. Angelina appropriately agreed to plan for fire protection, safety, and medical emergencies in cooperation with local agencies.

The Board rules require the Applicant to describe the fire protection safety, and medical emergency plans and also describe how such plans will develop in consultation with the local emergency responders. Ohio Adm.Code 4906-04-08(A)(1)(e). This is exactly what the Applicant has agreed to do:

Local fire and EMS service providers ... 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.

Amended Stipulation at 11. The Applicant also agreed to provide any specialized emergency equipment to the local fire and EMS responders if they are lacking them. *Id.*

Though CCPC argues that the Applicant failed to provide the emergency services required under Ohio Adm.Code 4906-04-08(A)(1)(e), the terms agreed to in the Stipulation clearly demonstrate compliance with this emergency services provision in the Board's rules. The affected county officials and agencies that provide the emergency services for the Project areas are signatory parties to the Stipulation and by agreeing to the terms of the Amended Stipulation, are satisfied with the Applicant's emergency services plans.

H. The setbacks required by the Administrative Code and the Stipulation are sufficient to maintain motorists' safety at intersections.

CCPC complains that the facility will obstruct motorists' views of cross-traffic at road intersections where there are solar panels or fences. CCPC Dec. 11, 2020 at 51. The testimony in the record of Applicant witness Mr. Robinson states that the setback distance in the Application would provide adequate motorist visibility at road intersections and additional setback distance will serve to further improve motorist visibility at those intersections, while maintaining effective screening. Applicant Ex. 3, Robinson Supp. Test.6/28/19. In the Amended Stipulation, the setback distance was expanded so as to measure the setback from the right-of-way instead of the roadway. Joint Ex. 1 at 4. CCPC provided no evidence demonstrating that the Project will impair motorists' safety. The Amended Stipulation increased the setback obligations and a

witness at the hearing provided testimony stating that this new setback enhances motorists' visibility.

I. The Applicant is specifically obligated to address and control noxious and invasive weeds.

CCPC's claim that the Applicant fails to provide for the control of noxious and invasive weeds is inaccurate. In fact, the agreement reached by the parties requires that the vegetation management plan for the Project describe the steps to be taken to prevent establishment and/or further propagation of noxious weeds identified in the Ohio Adm.Code 901:5-37. Joint Ex. 2 at 10. Contrary to what CCPC asserts, the Applicant must address and prevent the growth of noxious weeds. In addition, Angelina must consult with the Ohio Seed Improvement Association, Ohio's official Noxious Weed Free Forage and Mulch Certification agency, to limit the spread of noxious weeds. *Id.*, ohioseed.org. Important to recognize is that the Ohio Farm Bureau Federation is a signatory party to the Amended Joint Stipulation. Based upon the Applicant's commitments to prevent and control noxious weeds, the Board should reject CCPC's assertion that the Applicant has no plan to control noxious weeds.

J. The Project will have a minimal effect on wildlife.

CCPC claims that the Applicant inappropriately conducted literature and field surveys of species in the Project areas; therefore, not providing the required wildlife data. CCPC Brief at 54. Angelina conducted a survey of those species designated as endangered or threatened for the Project area. The Applicant request information from the Ohio Department of Natural Resources and the U.S. Fish and Wildlife Service

regarding state and federal listed threatened or endangered plant and animal species. Staff Ex. 1 at 17-18. Staff reviewed additional published ecological information. *Id.* The signatory parties agreed to protect those potentially threatened or endangered species of plants and animals that may be encountered during construction:

The Applicant shall contact Staff, the ODNR, and the USFW 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.

Joint Ex. 2 at 10. This provision will protect those potentially threatened or endangered species of plants or animals.

CCPC complains that the Applicant did not conduct a bat survey. CCPC Brief at 56. This issue was addressed by the Amended Stipulation through Condition 19, which restricts tree removal to seasonal guidelines intended to avoid impacts to bats. Joint Ex. 2 at 10.

CCPC asserts that Angelina failed to provide required information to assess, avoid, and mitigate impacts on wildlife that will result in crop and livestock damage. CCPC Brief at 57. Angelina's expert witness Mr. Rupprecht testified that deer in the surrounding would likely increase by less than 5%, and therefore should not have a negative effect on the surrounding properties. Applicant Ex. 13 at 7.

The Applicant satisfied the requirement of Ohio Adm.Code 4906-4-08(B). The Board should find that the impacts have been adequately described and that appropriate measures will be taken to minimize those impacts.

K. The Project should not cause increased surface water drainage.

The Applicant's witness Mr. Waterhouse testified that the Project should not have an impact on drainage, nor should it result in an increase in runoff from the Project Areas.

Mr. Waterhouse stated:

Although the solar panels and some of the ancillary equipment are impervious, the large gaps between panel arrays to prevent shading and other open areas, combined with the vegetation surrounding and beneath each panel, means that drainage and runoff characteristics should not be dissimilar from a farmed field with crops growing on it. In my experience, the construction and operation of similar projects to the Project has not led to drainage issues, or an increase in runoff. In fact, when compared to a fallow field, I would expect the Project to have superior drainage and runoff characteristics, due to the year-round vegetation maintained in and around the Project Area.

Applicant Ex. 8 at 4. Mr. Waterhouse is an engineer with 15 years of experience, and 5 years working exclusively with solar projects. *Id.* at 2. Staff found that the solar facilities generate electricity without impact to surface or groundwater and further, that construction would generate very little wastewater discharge at the project site. Staff Ex. 1 at 16. Staff's findings and Mr. Waterhouse's testimony provide evidence demonstrating that there is no likely negative surface water drainage that will be created by the Angelina facility.

L. As required by Ohio law, Angelina's solid waste disposal plans would comply with the solid waste disposal requirements.

The Staff Report found that the Applicant's solid waste disposal plans would comply with Ohio Revised Code Chapter 3734's requirements. Though CCPC claims that the application fails to estimate the amount of waste that will be generated, Angelina

identified the different kinds of waste expected to be generated and how it will be appropriately disposed.

Staff, in its Report, identified the construction debris as crates, nails, boxes, packing materials, and other miscellaneous debris. Staff Ex. 1 at 27. As stated in the Stipulation, the Solar Farm will comply with the requirements of the Ohio Revised Code regarding air and water pollution, withdrawal of waters of the state, *solid and hazardous waste*, air navigation, and all rules and standard adopted under the Ohio Revised Code. Joint Ex. 2 at 19 (emphasis added). All construction-related debris is to be disposed of at a licensed municipal landfill. Staff Ex. 1 at 27. Furthermore, the Project's operations may generate small amounts of non-hazardous solid waste that will be reused, recycled, or disposed of according to federal, state, and local requirements. *Id.* By making these commitments that the Applicant must follow throughout construction and the life of the project, Angelina complies with the Board's rules on solid waste disposal.

M. The Stipulation obligates the Applicant to work with local agencies and coordinate the use of the local roads, meeting the requirements of Ohio Adm.Code 4906-4-06(F)(3).

The Applicant has reached a road use agreement with the local agencies². Joint Ex. 2 at 10. CCPC complains that there is inadequate detail to explain the Project's interference with public road traffic. CCPC Brief at 77. CCPC also says that the Applicant has failed to comply with Ohio Adm.Code 4906-4-06(F)(4) that requires that the Applicant describe coordination with appropriate authorities regarding road and

² Local agencies include Preble County Board of County Commissioners, the Preble County Engineer, and Dixon Township. Staff Ex. 1 at 11.

traffic issues. The Stipulation obligates Angelina to coordinate with the Ohio Department of Transportation, local law enforcement, and health and safety officials prior to commencement of construction in order to coordinate a traffic plan. Staff Ex. 1 at 11. The Applicant is literally complying with the Ohio Adm. Code's requirements and not only signing a road use agreement but also coordinating with all of the local agencies regarding the Project and its effect on local public roads.

IV. CONCLUSION

Angelina's application for a Certificate should be granted subject to the recommended conditions contained in the Amended Stipulation. CCPC makes no strong arguments that the Project does not meet the statutory set for in R.C. 4906.10. The record in this case contains sufficient evidence to allow the Board to determine that the Revised Code and Administrative Code requirements have been met. CCPC's argument that the Board cannot delegate its responsibility for determining compliance with the conditions of the certificate is wrong. Ohio caselaw fully supports the Board's ability to do so. Staff respectfully requests that the Board issue a certificate for the construction of the Angelina solar Project conditioned upon the Applicant satisfying the terms of the Amended Stipulation.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Jodi J. Bair

Jodi J. Bair

Kyle L. Kern

Assistant Attorney General

Public Utilities Section

30 East Broad Street, 16th Floor

Columbus, OH 43215

614.644.8588 (telephone)

614.644.8764 (fax)

Jodi.Bair@ohioattorneygeneral.gov

Kyle.Kern@ohioattorneygeneral.gov

**On behalf of the Staff of
The Ohio Power Siting Board**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **Post-Hearing Reply Brief**, submitted on behalf of the Staff of the Ohio Power Siting Board, was served via electronic mail upon the following parties of record, this 4th day of January 2021.

/s/ Jodi J. Bair

Jodi J. Bair

Assistant Attorney General

Parties of Record:

Michael J. Settineri
Gretchen L. Petrucci
Clifford W. Lauchlan
Vorys, Sater, Seymour And Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
mjsettineri@vorys.com
glpetrucci@vorys.com
cwlauchlan@vorys.com

Attorneys for Angelina Solar I, LLC

Chad A. Endsley
Chief Legal Counsel
Leah F. Curtis
Amy M. Milam
Ohio Farm Bureau Federation
280 North High Street
P.O. Box 182383
Columbus, OH 43218-2383
cendsley@ofbf.org
lcurtis@ofbf.org
amilam@ofbf.org

Attorneys for Ohio Farm Bureau Federation

W. Joseph Scholler
Thaddeus M. Boggs
Frost Brown Todd LLC
9277 Centre Pointe Dr., Suite 300
West Chester, Ohio 45069-4866
jscholler@fbtlaw.com
tboggs@fbtlaw.com

Attorneys for Eaton Community School District and Preble Shawnee Local School District

Martin P. Votel
Preble County Prosecuting Attorney
Kathryn M. West
Assistant Prosecuting Attorney
Preble County Prosecutor's Office
101 E. Main St.
Eaton, OH 45302
mvotel@prebco.org
kwest@prebco.org

Attorneys for Preble County Engineer; Boards of Trustees of Dixon and Israel Townships, Preble County, Ohio; Preble Soil & Water Conservation District;

*Preble County Planning Commission,
Preble County Board of Trustees*

Jack A. Van Kley
Christopher A. Walker
Van Kley & Walker, LLC
132 Northwoods Blvd., Suite C-1
Columbus, Ohio 43235
jvankley@vankleywalker.com
cwalker@vankleywalker.com

*Attorneys for The Concerned Citizens of
Preble County, LLC, and individual
citizens Robert Black, Marja Brandly,
Campbell Brandly Farms, LLC, Michael
Irwin, Kevin and Tina Jackson,
Vonderhaar Family Arc, LLC, and
Vonderhaar Farms, Inc.*

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Summary: Reply Post-Hearing Reply Brief Submitted on Behalf of the Staff of the Ohio Power Siting Board electronically filed by Mrs. Kimberly M Naeder on behalf of OPSB