

From: [Puco ContactOPSB](#)
To: [Puco Docketing](#)
Subject: comment for 20-1605-EL-BGN
Date: Thursday, May 13, 2021 11:45:55 AM

Subject: Birch Solar - Engineering/Surveying Services Provided In Conflict With ORC

Per the below response from the Ohio Board of Registration and in review portions of the Birch Solar 1, LLC application, it appears at least one engineering study (Hydrology and Flooding) was performed by professional engineers not registered in the State of Ohio. Additionally this engineer appears to have potentially utilized a professional land surveyor also not licensed in Ohio to provide survey/LIDAR data to perform their engineering analysis.

I have provided said study to the Ohio Board Registration to gain their opinion as it does appear the said engineer(s) are in violation, my opinion, of ORC by representing to the public, per their study being included in an application submitted to the OPSB, in any manner that conveys the engineer or the firm can offer or provide engineering and/or surveying services in Ohio at a minimum. Until such a time where the Ohio Board of Registration has provided clear and concise direction pertaining to if this specific study is in violation of the all or portions of the ORC listed below, I request that this study be removed from the Birch Solar 1, LLC application and not evaluated in your completeness review.

I will forward any future response from the Ohio Board of Registration to you immediately upon receipt.

Respectfully,

Jim Thompson

----- Forwarded message -----

From: Jason.Mclean@pes.ohio.gov <Jason.Mclean@pes.ohio.gov>
Date: Thu, May 6, 2021 at 9:52 AM
Subject: RE: Performing Engineering/Surveying in Ohio Without Registration
To: againstbirchsolar@gmail.com <againstbirchsolar@gmail.com>
Cc: PES.Board@pes.ohio.gov <PES.Board@pes.ohio.gov>

Mr. Thompson,

As discussed earlier in our phone conversation, the practice of engineering and surveying and using the title engineer or surveyor in Ohio is protected by law under Ohio Revised Code Sections 4733.02, 4733.021, 4733.16, 4733.22 and 4733.99. Individuals can use the title engineer if used as an internal classification; however, the laws prevent any individual or entity from conveying to the public that they are an engineer/surveyor or professional engineer/surveyor and capable of offering or providing engineering/surveying services in Ohio without possessing an active registration from this

Board.

As general guidance, the Board typically advises that:

It is illegal in Ohio, as in most states, to engage in the below activities when **not** registered with this Board:

- Advertising to provide engineering and/or surveying services in Ohio.
- Contracting to provide or receiving payment for engineering and/or surveying services in Ohio.
- Obtaining engineering and/or surveying work then contracting the work out to an Ohio registered professional engineer or professional surveyor.
- Performing engineering and/or surveying work in Ohio.
- Using the terms “P.E.,” “P.S.,” “*engineering*,” “*surveying*” or any modification or derivation of these terms in your name, company name or advertising in Ohio.
- Representing to the public in any manner that would convey the individual or the firm can offer or provide engineering and/or surveying services in Ohio.
- Engaging an Ohio professional engineer and/or professional surveyor to review work product and place their engineering/surveying seal and signature to said work product, as that would be *plan stamping*, which is a violation.

To avoid potential violations of R.C. Sections 4733.02, 4733.021, 4733.16, 4733.22 and 4733.99 an entity shall not offer to provide engineering or surveying services, or advertise in a manner that could lead the public to believe that the firm is capable of offering and providing engineering and/or surveying services unless they are duly registered with this Board.

As explained, some utility work may be exempted if the work does not fall under the definition for the practice of engineering or surveying, and in circumstances where the work is performed on the utilities property and is kept in house. Typically, if the engineering work performed in Ohio is required for permitting, it will likely require an Ohio professional engineer. Unfortunately, without any specific work product to review for illegal practice, this email should only serve as general guidance on Ohio laws and rules. If you have any questions about this email or Ohio laws and rules you may contact the Board.

Sincerely,

Due to coronavirus [COVID-19] Governor DeWine and the Ohio Department of Health have directed state agencies to work remotely from home in order to reduce the spread of the virus. While the Board will be providing essential services to our licensees and the public, some services may be delayed or reduced. If you have questions or need immediate assistance you may email me at

jason.mclean@pes.ohio.gov

Jason McLean
Enforcement Supervisor
*Ohio Board of Registration for
Professional Engineers and Surveyors*
77 South High St., 24th Floor, Ste. 2472
Columbus, Ohio 43215

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Case No(s). 20-1605-EL-BGN

Summary: Public Comment submitted by J. Thompson via web electronically filed by
Docketing Staff on behalf of Docketing