

**Exhibit K**  
**Ohio Department of Natural Resources**  
**Communication**



# Ohio Department of Natural Resources

MIKE DeWINE, GOVERNOR

MARY MERTZ, DIRECTOR

## Office of Real Estate

John Kessler Chief

2045 Morse Road – Bldg. E-2

Columbus, OH 43229

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March 6, 2020

Drew Carson  
SWCA Environmental Consultants  
200 West 22<sup>nd</sup> Street, Suite 220  
Lombard, Illinois 60148

**Re:** 20-090; Cadence Solar Project

**Project:** The proposed project involves the construction of a solar energy center on approximately 4,400 acres.

**Location:** The proposed project is located in Union County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

**Natural Heritage Database:** The Natural Heritage Database has the following records at or within a one-mile radius of the project area:

Western creek chubsucker (*Erimyzon claviformis*), SC  
Pondhorn (*Uniomerus tetralasmus*), T

The review was performed on the project area you specified in your request as well as an additional one-mile radius. Records searched date from 1980. This information is provided to inform you of features present within your project area and vicinity.

Please note that Ohio has not been completely surveyed and we rely on receiving information from many sources. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Although all types of plant communities have been surveyed, we only maintain records on the highest quality areas.

Statuses are defined as: E = state endangered; T = state threatened; P = state potentially threatened; SC = state species of concern; SI = state special interest; A = species recently added to state inventory, status not yet determined; X = presumed extirpated in Ohio; FE = federal endangered, FT = federal threatened, FSC = federal species of concern, FC = federal candidate species.

**Fish and Wildlife:** The Division of Wildlife (DOW) has the following comments.

The DOW recommends that impacts to streams, wetlands and other water resources be avoided and minimized to the fullest extent possible, and that best management practices be utilized to minimize erosion and sedimentation.

The project is within the range of the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species. The following species of trees have relatively high value as potential Indiana bat roost trees to include: shagbark hickory (*Carya ovata*), shellbark hickory (*Carya laciniosa*), bitternut hickory (*Carya cordiformis*), black ash (*Fraxinus nigra*), green ash (*Fraxinus pennsylvanica*), white ash (*Fraxinus americana*), shingle oak (*Quercus imbricaria*), northern red oak (*Quercus rubra*), slippery elm (*Ulmus rubra*), American elm (*Ulmus americana*), eastern cottonwood (*Populus deltoides*), silver maple (*Acer saccharinum*), sassafras (*Sassafras albidum*), post oak (*Quercus stellata*), and white oak (*Quercus alba*). Indiana bat roost trees consists of trees that include dead and dying trees with exfoliating bark, crevices, or cavities in upland areas or riparian corridors and living trees with exfoliating bark, cavities, or hollow areas formed from broken branches or tops. However, Indiana bats are also dependent on the forest structure surrounding roost trees. If suitable habitat occurs within the project area, the DOW recommends trees be conserved. If suitable habitat occurs within the project area and trees must be cut, the DOW recommends cutting occur between October 1 and March 31. If suitable trees must be cut during the summer months, the DOW recommends a net survey be conducted between June 1 and August 15, prior to any cutting. Net surveys should incorporate either nine net nights per square 0.5 kilometer of project area, or four net nights per kilometer for linear projects. If no tree removal is proposed, this project is not likely to impact this species.

The project is within the range of for the snuffbox (*Epioblasma triquetra*), a state endangered and federally endangered mussel, the clubshell (*Pleurobema clava*), a state endangered and federally endangered mussel, the Northern riffleshell (*Epioblasma torulosa rangiana*), a state endangered and federally endangered mussel, the rayed bean (*Villosa fabalis*), a state endangered and federally endangered mussel, the rabbitsfoot (*Quadrula cylindrica cylindrica*), a state endangered and federal candidate mussel, the elephant-ear (*Elliptio crassidens crassidens*), a state endangered mussel, and the pondhorn (*Unio merus tetralasmus*), a state threatened mussel.

This project must not have an impact on freshwater native mussels at the project site. This applies to both listed and non-listed species. Per the Ohio Mussel Survey Protocol (2018), all Group 2, 3, and 4 streams (Appendix A) require a mussel survey. Per the Ohio Mussel Survey Protocol, Group 1 streams (Appendix A) and unlisted streams with a watershed of 10 square miles or larger above the point of impact should be assessed using the Reconnaissance Survey for Unionid Mussels (Appendix B) to determine if mussels are present. Mussel surveys may be recommended for these streams as well. This is further explained within the Ohio Mussel Survey Protocol. Therefore, if in-water work is planned in any stream that meets any of the above criteria, the DOW recommends the applicant provide information to indicate no mussel impacts will occur. If this is not possible, the DOW recommends a professional malacologist conduct a mussel survey in the project area. If mussels that cannot be avoided are found in the project area, as a last resort, the DOW recommends a professional malacologist collect and relocate the mussels to suitable and similar habitat upstream of the project site. Mussel surveys and any subsequent mussel relocation should be done in accordance with the Ohio Mussel Survey Protocol. The Ohio Mussel Survey Protocol (2018) can be found at: <http://wildlife.ohiodnr.gov/portals/wildlife/pdfs/licenses%20&%20permits/OH%20Mussel%20Survey%20Protocol.pdf>

The project is within the range of the Scioto madtom (*Noturus trautmani*), a state endangered and federally endangered fish, and the Tippecanoe darter (*Etheostoma Tippecanoe*), a state threatened fish. The DOW recommends no in-water work in perennial streams from April 15 to June 30 to reduce impacts to indigenous aquatic species and their habitat. If no in-water work is proposed in a perennial stream, this project is not likely to impact these or other aquatic species.

The project is within the range of the king rail (*Rallus elegans*), a state endangered bird. Nests for this species are deep bowls constructed out of grass and usually hidden very well in marsh vegetation. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to August 1. If no wetland habitat will be impacted, the project is not likely to impact this species.

The project is within the range of the Northern harrier (*Circus cyaneus*), a state endangered bird. This is a common migrant and winter species. Nesters are much rarer, although they occasionally breed in large marshes and grasslands. Harriers often nest in loose colonies. The female builds a nest out of sticks on the ground, often on top of a mound. Harriers hunt over grasslands. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 15 to August 1. If this habitat will not be impacted, the project is not likely to impact this species.

The project is within the range of the loggerhead shrike (*Lanius ludovicianus*), a state endangered bird. The loggerhead shrike nests in hedgerows, thickets and fencerows. They hunt over hayfields, pastures, and other grasslands. If thickets or other types of dense shrubbery habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 1 to August 1. If this habitat will not be impacted, this project is not likely to impact this species.

The Division of Wildlife is working closely with our partners at Ohio Pollinator Habitat Initiative (OPHI) to create and enhance pollinator habitat at solar power installations. Attached for your use is the Ohio Solar Site Pollinator Habitat Planning and Assessment Form. This form was developed by the OPHI Solar Pollinator Program Advisory Team. We recommend that the areas between and around the solar panels be planted with legumes and wildflowers (i.e. forbs) that are beneficial to pollinators and other wildlife and reduce use of non-native grass and gravel. The recommended legumes and forbs listed below are low-growing so as not to cast shadows on the solar panels and would only require one to two mowings a year for maintenance, which should minimize maintenance costs. For other areas of the installation where vegetation does not have to be low-growing, alternative pollinator mixes are available with a more diverse array of flowering plants. This perennial vegetation will provide beneficial foraging habitat to songbirds and pollinators while reducing storm water runoff, standing water, and erosion. Please contact the Ohio Pollinator Habitat Initiative <http://www.ophi.info/>, and specifically Mike Retterer [mretterer@pheasantsforever.org](mailto:mretterer@pheasantsforever.org) for further information on solar power facility pollinator plantings.

Recommended low-growing grasses and forbs may include:

Little Bluestem	<i>Schizachyrium scoparium</i>
Sideoats Grama	<i>Bouteloua curtipendula</i>
Alfalfa	<i>Medicago spp.</i>
Alsike Clover	<i>Trifolium hybridum</i>
Brown-eyed Susan	<i>Rudbeckia triloba</i>
Butterfly Milkweed	<i>Asclepias tuberosa</i>

Lanceleaf Coreopsis	<i>Coreopsis lanceolata</i>
Partridge Pea	<i>Chamaecrista fasciculata</i>
Timothy	<i>Phleum pratense</i>
Orchardgrass	<i>Dactylis glomerata</i>
Crimson Clover	<i>Trifolium incarnatum</i>
Ladino or White Clover	<i>Trifolium repens</i>

Due to the potential of impacts to federally listed species, as well as to state listed species, we recommend that this project be coordinated with the U.S. Fish & Wildlife Service.

**Water Resources:** The Division of Water Resources has the following comment.

The local floodplain administrator should be contacted concerning the possible need for any floodplain permits or approvals for this project. Your local floodplain administrator contact information can be found at the website below.

[http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List\\_8\\_16.pdf](http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List_8_16.pdf)

ODNR appreciates the opportunity to provide these comments. Please contact Sarah Tebbe, Environmental Specialist, at (614) 265-6397 or [Sarah.Tebbe@dnr.state.oh.us](mailto:Sarah.Tebbe@dnr.state.oh.us) if you have questions about these comments or need additional information.

Mike Pettegrew  
Environmental Services Administrator (Acting)

**From:** [sarah.tebbe@dnr.ohio.gov](mailto:sarah.tebbe@dnr.ohio.gov)  
**To:** [Drew Carson](#)  
**Subject:** FW: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments  
**Date:** Friday, October 23, 2020 3:12:06 PM  
**Attachments:** [image003.png](#)  
[image005.png](#)  
[2020 State bat survey guidance 6 3 20.pdf](#)

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**EXTERNAL: This email originated from outside SWCA. Please use caution when replying.**

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Hi Drew,

The original comments are still valid, however we have updated our bat language. Please see the attached guidance that ODNR has started including with all comment letters, and the new standard language for bat assessments below. If you have any questions or concerns, please don't hesitate to reach out! Thanks, Sarah

*The entire state of Ohio is within the range of the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species, the northern long-eared bat (*Myotis septentrionalis*), a state endangered and federally threatened species, the little brown bat (*Myotis lucifugus*), a state endangered species, and the tricolored bat (*Perimyotis subflavus*), a state endangered species. During the spring and summer (April 1 through September 30), these species of bats predominately roost in trees behind loose, exfoliating bark, in crevices and cavities, or in the leaves. However, these species are also dependent on the forest structure surrounding roost trees. If trees are present within the project area, and trees must be cut, the DOW recommends cutting only occur from October 1 through March 31, conserving trees with loose, shaggy bark and/or crevices, holes, or cavities, as well as trees with DBH = 20 if possible. If trees are present within the project area, and trees must be cut during the summer months, the DOW recommends a mist net survey or acoustic survey be conducted from June 1 through August 15, prior to any cutting. Mist net and acoustic surveys should be conducted in accordance with the most recent version of the "OHIO DIVISION OF WILDLIFE GUIDANCE FOR BAT SURVEYS AND TREE CLEARING". If state listed bats are documented, DOW recommends cutting only occur from October 1 through March 31, however, limited summer tree cutting may be acceptable after consultation with DOW (contact Sarah Stankavich, [sarah.stankavich@dnr.state.oh.us](mailto:sarah.stankavich@dnr.state.oh.us)).*

*The DOW also recommends that a desktop habitat assessment, followed by a field assessment if needed, is conducted to determine if there are potential hibernaculum(a) present within the project area. Information about how to conduct habitat assessments can be found in the current USFWS "Range-wide Indiana Bat Survey Guidelines." If a habitat assessment finds that potential hibernacula are present within 0.25 miles of the project area, please send this information to Sarah Stankavich, [sarah.stankavich@dnr.state.oh.us](mailto:sarah.stankavich@dnr.state.oh.us) for project recommendations. If a potential or known hibernaculum is found, the DOW recommends a 0.25-mile tree cutting and subsurface disturbance buffer around the hibernaculum entrance, however, limited summer or winter tree cutting may be acceptable after consultation with DOW. If no tree cutting or subsurface impacts to a hibernaculum*

*are proposed, this project is not likely to impact these species.*

---

**From:** Reardon, Nathan <Nathan.Reardon@dnr.ohio.gov>

**Sent:** Wednesday, October 14, 2020 2:24 PM

**To:** Tebbe, Sarah <sarah.tebbe@dnr.ohio.gov>

**Subject:** RE: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Hi Sarah,

The only changes would be the new bat guidance. There are no records in the project area, so nothing would change from that perspective, but there is now the recommendation of the potential hibernaculum assessment. We can provide an updated letter with the new guidance, or just provide the new guidance as an addendum to the original letter.

**Nathan Reardon**

Compliance Coordinator

ODNR Division of Wildlife

2045 Morse Road

Columbus, OH 43229

Phone: 614-265-6741

Email: [nathan.reardon@dnr.ohio.gov](mailto:nathan.reardon@dnr.ohio.gov)

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**From:** Tebbe, Sarah <[sarah.tebbe@dnr.ohio.gov](mailto:sarah.tebbe@dnr.ohio.gov)>

**Sent:** Tuesday, October 13, 2020 12:38 PM

**To:** Reardon, Nathan <[Nathan.Reardon@dnr.ohio.gov](mailto:Nathan.Reardon@dnr.ohio.gov)>

**Subject:** FW: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Hi Nate,

Please see below and advise.

Thanks again!

Sarah

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**From:** Drew Carson <[DCarson@swca.com](mailto:DCarson@swca.com)>  
**Sent:** Tuesday, October 13, 2020 12:34 PM  
**To:** Tebbe, Sarah <[sarah.tebbe@dnr.ohio.gov](mailto:sarah.tebbe@dnr.ohio.gov)>  
**Subject:** RE: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Hello -

The Cadence Solar Energy Project has progressed along the design and development process since our previous coordination, below and attached. As we advance to the Ohio Power Siting Board application process the development team has requested your confirmation that the review below can be considered current or if you need to revise anything, especially in light of the listing of the little brown bat and the tri-colored bat. We've attached a map and kmz of the final Project Area. The final Project Area is fully encompassed by the previous iterations that had been under consideration.

Our thanks to you and the team for your input and guidance along the way.

-Drew

**Drew Carson**  
Natural Resources Project Manager

**SWCA Environmental Consultants**  
M 513.407.0508

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**From:** [sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us) <[sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us)>  
**Sent:** Thursday, March 26, 2020 3:12 PM  
**To:** Drew Carson <[DCarson@swca.com](mailto:DCarson@swca.com)>  
**Subject:** FW: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

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Hi Drew,

After additional review, ODNR has no further comments on the proposed solar project.

Thanks,  
Sarah

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**From:** Reardon, Nathan <[Nathan.Reardon@dnr.state.oh.us](mailto:Nathan.Reardon@dnr.state.oh.us)>  
**Sent:** Thursday, March 26, 2020 7:47 AM  
**To:** Tebbe, Sarah <[sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us)>; Pirvu, Natalie <[natalie.pirvu@dnr.state.oh.us](mailto:natalie.pirvu@dnr.state.oh.us)>;



Woischke, Debra <[Debra.Woischke@dnr.state.oh.us](mailto:Debra.Woischke@dnr.state.oh.us)>

**Cc:** Kessler, John <[John.Kessler@dnr.state.oh.us](mailto:John.Kessler@dnr.state.oh.us)>

**Subject:** RE: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Sarah,

Our original comments cover the additional area as well. Thanks.

**Nathan Reardon**

Compliance Coordinator  
ODNR Division of Wildlife  
2045 Morse Road  
Columbus, OH 43229  
Phone: 614-265-6741

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**From:** Tebbe, Sarah <[sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us)>

**Sent:** Monday, March 16, 2020 12:42 PM

**To:** Reardon, Nathan <[Nathan.Reardon@dnr.state.oh.us](mailto:Nathan.Reardon@dnr.state.oh.us)>; Pirvu, Natalie <[natalie.pirvu@dnr.state.oh.us](mailto:natalie.pirvu@dnr.state.oh.us)>; Woischke, Debra <[Debra.Woischke@dnr.state.oh.us](mailto:Debra.Woischke@dnr.state.oh.us)>

**Cc:** Kessler, John <[John.Kessler@dnr.state.oh.us](mailto:John.Kessler@dnr.state.oh.us)>

**Subject:** Fwd: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Hey gang,

Please the attached and below, let me know if we have any additional comments.

Thanks,  
Sarah

---

**From:** Drew Carson <[DCarson@swca.com](mailto:DCarson@swca.com)>

**Sent:** Friday, March 13, 2020 12:29:47 PM

**To:** Tebbe, Sarah <[sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us)>; DNR EnvironmentalReviewRequest <[EnvironmentalReviewRequest@dnr.state.oh.us](mailto:EnvironmentalReviewRequest@dnr.state.oh.us)>

**Cc:** Kessler, John <[John.Kessler@dnr.state.oh.us](mailto:John.Kessler@dnr.state.oh.us)>; Pettegrew, Mike <[Mike.Pettegrew@dnr.state.oh.us](mailto:Mike.Pettegrew@dnr.state.oh.us)>; Wojcikiewicz, John <[jwojcikiewicz@invenenergyllc.com](mailto:jwojcikiewicz@invenenergyllc.com)>; Becky Braeutigam <[becky.braeutigam@swca.com](mailto:becky.braeutigam@swca.com)>  
**Subject:** RE: 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

Hi Sarah –

Thank you again for your review and input so far. The Cadence Solar Energy Center team is working to acquire additional land for consideration and inclusion for the Project. We are requesting a revision of your Environmental Review to include these lands, or your confirmation that the data and recommendations provided in the previous review remain valid and complete for these additional areas. We have provided a map depicting the additional land as well as shapefiles for your review. The attached shapefile “Cadence Project Area Merged” represents the current total Project Area, whereas “Cadence Project Area Separate” depicts the previously reviewed areas and the additional lands separately. We are requesting this information for inclusion in Ohio Power Siting Board application materials with an anticipated submittal timeframe of early April. Please let us know if you need any additional information to complete this request.

Thanks!

-Drew

**Drew Carson**  
Natural Resources Project Manager

**SWCA Environmental Consultants**  
M 513.407.0508

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**From:** [sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us) <[sarah.tebbe@dnr.state.oh.us](mailto:sarah.tebbe@dnr.state.oh.us)>  
**Sent:** Friday, March 6, 2020 2:39 PM  
**To:** Drew Carson <[DCarson@swca.com](mailto:DCarson@swca.com)>  
**Subject:** 20-090; SWCA Environmental Consultants - Cadence Solar Project Comments

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Hi Drew,

Attached are the ODNR comments on the subject project.

Thanks,

Sarah Tebbe

Ohio Department of Natural Resources  
Office of Real Estate  
2045 Morse Road  
Columbus, Ohio 43229  
(614) 265-6397



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**Commission of Ohio Docketing Information System on**

**9/30/2021 12:22:36 PM**

**in**

**Case No(s). 21-1003-EL-BLN**

Summary: Application - 13 of 14 (Exhibit K – Ohio Department of Natural Resources Communication) electronically filed by Christine M.T. Pirik on behalf of CADENCE SOLAR ENERGY LLC