

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Marion :
County Solar Project, LLC :
for a Certificate of :
Environmental :
Compatibility and Public : Case No. 21-36-EL-BGN
Need to Construct a :
Solar-Powered Electric :
Generation Facility in :
Marion County. :

- - -

PROCEEDINGS

before Daniel E. Fullin, Administrative Law Judge,
via Webex Teleconference, called at 10:00 a.m. on
Thursday, October 28, 2021.

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ARMSTRONG & OKEY, INC.
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APPEARANCES:

Dickinson Wright, PLLC
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and Christine Pirik, Esq.
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On behalf of the Applicant
Marion County Solar Project, LLC.

Ohio Farm Bureau Federation
By Amy M. Milam, Esq.
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On behalf of the Ohio Farm Bureau.

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John H. Jones, Section Chief
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On behalf of the Staff of the
Ohio Power Siting Board

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2 Jon Pawley Prefiled Testimony 18 19

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1 Thursday Morning Session,
2 October 28, 2021.

3 - - -

4 ALJ FULLIN: I will get us started here.
5 Hello, I'm Dan Fullin. I'm the Administrative Law
6 Judge that's been assigned to this case, and I think
7 I'll just get started. I'm going through a few
8 preliminaries here, but we'll be underway soon.

9 The Ohio Power Siting Board has called
10 for hearing at this time and place Case No.
11 21-36-EL-BGN which is the Matter of the Application
12 of Marion County Solar Project, LLC for a Certificate
13 of Environmental Compatibility and Public Need to
14 Construct a Solar-Powered Electric Generation
15 Facility in Marion County.

16 Again, my name is Daniel E. Fullin,
17 spelled F-U-L-L-I-N, and I'm the Administrative Law
18 Judge assigned to the case. I would now like to have
19 appearances on behalf of the Applicant and then
20 followed by any other parties and the Staff. We'll
21 begin with the Applicant.

22 MR. McDONNELL: Thank you, your Honor.
23 On behalf of the Applicant Marion County Solar
24 Project, LLC, the law firm of Dickinson Wright by
25 Christine Pirik and Matthew McDonnell at 150 East Gay

1 Street, Suite 2400, Columbus, Ohio, 43215.

2 ALJ FULLIN: Thank you.

3 And next let's have the appearance on
4 behalf of the intervener in this case, the Farm
5 Bureau.

6 MS. MILAM: Good morning, your Honor, Amy
7 Milam on behalf of Ohio Farm Bureau Federation, 280
8 North High Street, 6th floor, Columbus, Ohio, 43215.

9 ALJ FULLIN: Thank you.

10 And on behalf of the Staff.

11 MR. LINDGREN: Thank you, your Honor. On
12 behalf of the Board Staff, Ohio Attorney General Dave
13 Yost by Thomas G. Lindgren, Assistant Attorney
14 General at 30 East Broad Street, 26th floor,
15 Columbus, Ohio, 43215.

16 ALJ FULLIN: Thank you.

17 I would note for the record that there
18 are no other interveners, so I believe we have all
19 the parties that we're expecting to participate in
20 today's hearing online and they've all entered
21 appearances.

22 So just a few little preliminary matters.
23 This might be already familiar to people that have
24 done these virtual hearings, probably some have done
25 them more often than I have, first, if anyone

1 experiences technical difficulties, there are a
2 couple of different options to address these.

3 You can just speak up if you're able to
4 reach me, you know, if I can hear you over the system
5 or you could always call Micah, our event host, by
6 calling 614-466-6843, or you could use the Chat
7 function on the right-hand side of the Webex app, or
8 you can chat with Micah or the bench to try to
9 address any issues that you have.

10 Regarding the Chat, the Chats are
11 recorded but are considered private, so they'll be
12 able to be seen by the others, but they are not part
13 of the official record for the case. If all else
14 fails, again, just try to contact me if you need to
15 by calling my cell number which is 614-378-5742.

16 I'll point out that anyone that happens
17 to be watching or listening as attendees, you'll be
18 able to observe the hearing but your microphones and
19 video will remain muted and turned off. Witnesses
20 are currently attendees, but when the time comes for
21 them to testify, they will be promoted by our host to
22 be participants in the hearing.

23 Let me see what else I need to cover. We
24 ask that the counsel for all sides leave their
25 cameras on at all times except during breaks which I

1 don't expect to have any. I don't expect this
2 hearing to last that long. You can turn off your
3 video if you have co-counsel stepping in. Looks like
4 that's not going to happen today.

5 I ask that everyone be mindful of the
6 court reporter. Try to speak clearly and at a
7 reasonable pace so the reporter can actually
8 transcribe the testimony.

9 The exhibits that will be admitted in the
10 record that have not previously been filed in this
11 docket will need to be e-mailed to our court
12 reporter. I don't expect that's going to happen. I
13 believe everything that's going to be submitted as an
14 exhibit has already been filed, but if that comes up
15 later, just bring it to my attention.

16 I think that's all I have in terms of
17 preliminary matters. With that, I'll go ahead and
18 turn it over to Mr. McDonnell and he can call his
19 first witness.

20 MR. McDONNELL: Thank you, your Honor.
21 Would it be okay if we mark the exhibits for the
22 record? Is that okay with you?

23 ALJ FULLIN: Yes, I'm anxious to do that.

24 MR. McDONNELL: Thank you, sir, much
25 appreciated. At this time, we would like to mark the

1 following documents, Joint Exhibit 1 which is the
2 Joint Stipulation and Recommendation that was filed
3 on October 13th, 2021.

4 Applicant Exhibit 1 is the application
5 which was filed on March 5th, 2021.

6 Applicant Exhibit 2 is the supplement to
7 the application which was filed on March 31st, 2021.

8 Applicant Exhibit 3 is the response to
9 the first data request which was filed on April 20th,
10 2021.

11 Applicant Exhibit 4 is the response to
12 the second data request filed on April 27th, 2021.

13 Applicant Exhibit 5 is the supplemental
14 response to the first data request filed on
15 June 29th, 2021.

16 Applicant Exhibit 6 is the Response to
17 the Third Data Request filed on July 6th, 2021.

18 Applicant Exhibit 7 is the Supplemental
19 Response to the Third Data Request which was filed on
20 July 23rd, 2021.

21 Applicant Exhibit 8 is the Response to
22 the Fourth Data Request which was filed on
23 August 23rd, 2021.

24 Applicant Exhibit 9 is the Certificate
25 of Service of the Public Information Meetings that

1 was filed on February 4th, 2021.

2 Applicant Exhibit 10 is the Proof of
3 Publication of the Public Information Meeting that
4 was filed on February 5th, 2021.

5 Applicant Exhibit 11 is a Certificate of
6 Service for the Application filed on May 6th of 2021.

7 Applicant Exhibit 12 is the Proof of
8 Service Publication that was filed on August 24th,
9 2021.

10 Applicant Exhibit 13 is the Proof of
11 Service and Proof of Second Publication filed on
12 September 23rd, 2021.

13 And Applicant Exhibit 14 is the Prefiled
14 Testimony of Sean Flannery which was filed on
15 October 13th, 2021.

16 (EXHIBITS MARKED FOR IDENTIFICATION.)

17 ALJ FULLIN: Then you already told me
18 there's also going to be one more Staff (sic)
19 Exhibit. Do you want to go ahead and introduce that?

20 MR. McDONNELL: Certainly, your Honor.
21 There will be -- We will be marking Applicant's
22 Exhibit 15 which was filed on the docket on
23 October 26th. That is the State Historic
24 Preservation Office's response letter to the History
25 Architecture Study that was filed on October 26th, so

1 earlier this week.

2 And if it's okay with you, your Honor,
3 we are happy to call our witness, Sean Flannery.

4 EVENT HOST: Mr. Flannery, you've been
5 promoted to (inaudible.)

6 ALJ FULLIN: Okay, I'd like you to raise
7 your right hand to be sworn in.

8 (Witness placed under oath.)

9 ALJ FULLIN: Thank you. You can proceed
10 with the examination.

11 - - -

12 SEAN FLANNERY

13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. McDonnell:

17 Q. Mr. Flannery, can you please state your
18 name, title and company name for the record, please.

19 A. Yes, thank you, Sean Flannery, S-E-A-N
20 F-L-A-N-N-E-R-Y. I am a Senior Director of
21 Permitting and Environmental for Savion, LLC. Savion
22 is the owner of the Applicant in this case, Marion
23 County Solar Project.

24 Q. Thank you, Mr. Flannery. Do you have
25 before you what has been marked as Applicant Exhibit

1 14?

2 A. Yes, I do.

3 Q. Great. Is that your prefiled testimony
4 that was filed on October 13th, 2021?

5 A. Yes, it is.

6 Q. And can you confirm that that testimony
7 was prepared under your supervision and direction?

8 A. Yes, it was.

9 Q. And do you have any supplements to your
10 testimony?

11 A. No, I don't.

12 Q. Are you -- Mr. Flannery, are you certain
13 of that, whether you were intending on taking a look
14 at Applicant Exhibit 15 today?

15 A. Yes, apologies. We are offering for the
16 record the Applicant Exhibit 15 that was mentioned
17 earlier.

18 Q. Thank you, Mr. Flannery. And can you --
19 Would you like to -- Do you have Applicant Exhibit 15
20 that was filed on October 26th, 2021 in front of you?

21 A. Yes, I do.

22 Q. And having already marked that as
23 Applicant Exhibit 15, would you like to supplement
24 this by adding this particular document to your
25 testimony?

1 A. Yes, I would.

2 Q. Thank you, Mr. Flannery. Do you have any
3 other changes or corrections to your testimony at
4 this time?

5 A. No, I do not.

6 Q. Thank you, Mr. Flannery. So if you were
7 asked the same questions that are currently in
8 Applicant Exhibit 14 as supplemented with Applicant
9 Exhibit 15, would your answers be the same?

10 A. Yes, they would.

11 Q. Okay. And so do you also have before you
12 what has been marked as Joint Exhibit 1?

13 A. Yes, I do, the Joint Stipulation.

14 Q. So can you confirm, is that the Joint
15 Stipulation and Recommendation that was entered into
16 between Marion County Solar Project, the Ohio Power
17 Siting Board Staff and the Ohio Farm Bureau
18 Federation?

19 A. Yes, it is.

20 Q. Thank you, Mr. Flannery.

21 MR. McDONNELL: Your Honor, we have no
22 further questions for the witness. At this time he's
23 available for cross-examination.

24 ALJ FULLIN: Thank you. I don't believe
25 I have any questions at this time. Does either the

1 Staff or the Farm Bureau have any questions of this
2 witness? Maybe I'll go and take turns. The Farm
3 Bureau first.

4 MS. MILAM: Good morning, your Honor, we
5 have no questions for this witness.

6 ALJ FULLIN: Thank you.

7 How about the Staff?

8 MR. LINDGREN: The Staff has no questions
9 either. Thank you.

10 ALJ FULLIN: Thank you.

11 MR. McDONNELL: At this point, your
12 Honor, we would like to move the admission of
13 Applicant's Exhibits 1 through 15 into the record.

14 ALJ FULLIN: Thank you. Any objection by
15 anyone that's of counsel here in the case to the
16 admission of the 15 Exhibits, Staff (sic) Exhibits?

17 MS. MILAM: No objection.

18 MR. LINDGREN: No objections from Staff.

19 ALJ FULLIN: Thank you. I have no
20 objections either. I will admit it into evidence at
21 this time. That would be all 15 Exhibits.

22 (EXHIBITS ADMITTED INTO EVIDENCE.)

23 MR. McDONNELL: Your Honor, would you
24 also like us to move for the admission of Joint
25 Exhibit 1 or should we wait for the Staff to give

1 their testimony?

2 ALJ FULLIN: I'm fine with doing it that
3 way unless Staff has some reason they prefer to do it
4 differently.

5 MR. LINDGREN: We have no preference
6 either way, your Honor.

7 ALJ FULLIN: I will accept that you're
8 offering the Joint Exhibit into evidence at this
9 time. I'm asking either of the parties if they have
10 any objection to admission of Joint Exhibit 1.

11 MS. MILAM: No objection.

12 ALJ FULLIN: Hearing no objection, I will
13 admit Joint Exhibit 1 into evidence at this time
14 also.

15 (EXHIBIT ADMITTED INTO EVIDENCE.)

16 ALJ FULLIN: Does the Applicant have
17 anything further?

18 MR. McDONNELL: Nothing further, your
19 Honor. Thank you.

20 ALJ FULLIN: Next we'll have testimony
21 from -- I don't know if there's a preference, but I
22 was going to ask the Farm Bureau first if they have
23 anything that they want to present, we'll do that
24 first if they have something.

25 MS. MILAM: We do not, your Honor.

1 ALJ FULLIN: Thank you.

2 Then next I will allow the Staff to put
3 on their case.

4 MR. LINDGREN: Thank you, your Honor.
5 The Staff at this time calls Jon Pawley to the stand.

6 EVENT HOST: Mr. Pawley, you've been
7 promoted.

8 ALJ FULLIN: So I'll have you raise your
9 right hand and be sworn in.

10 (Witness placed under oath.)

11 - - -

12 JON PAWLEY

13 being first duly sworn, as prescribed by law, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Lindgren:

17 Q. Good morning, Mr. Pawley. Could you
18 please state your full name for the record.

19 A. Yes, my name is Jon Pawley, it's J-O-N
20 P-A-W-L-E-Y.

21 Q. Thank you. And what is your business
22 address?

23 A. My business address is 180 East Broad
24 Street, Columbus, Ohio, 43215.

25 Q. Thank you. And did you file Prefiled

1 Testimony in this case on October 20th of 2021?

2 A. Yes, I did.

3 Q. Thank you. Do you have any changes or
4 corrections to that testimony?

5 A. No, I do not.

6 Q. Thank you. Do you have anything to add
7 to that testimony this morning?

8 A. No, sir.

9 Q. Thank you. And were you involved in the
10 preparation of the Staff Report in this case?

11 A. Yes, I was. In this particular case I
12 served as the overall Staff Project Lead for the
13 investigation, and that resulted in the production of
14 the Staff Report of Investigation that was filed
15 September 13th, 2021.

16 Q. Thank you. Does that report accurately
17 reflect the results of the Staff's investigation?

18 A. Yes, sir.

19 MR. LINDGREN: Your Honor, I would ask to
20 have marked as Staff Exhibit 1 the Staff Report and
21 Investigation that was filed in the docket on
22 September 13th of 2021.

23 ALJ FULLIN: Your suggestion is that the
24 Staff Report be Staff Exhibit 1?

25 MR. LINDGREN: Yes, please.

1 ALJ FULLIN: Yes, it will be so
2 identified.

3 MR. LINDGREN: Thank you.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. (By Mr. Lindgren) Mr. Pawley, are you
6 familiar with the terms of the Joint Stipulation and
7 Recommendation?

8 A. Yes, I am.

9 Q. Thank you. And do you support adoption
10 of the Stipulation by the Board?

11 A. Yes, Staff supports the adoption by the
12 Board of the Joint Stipulation.

13 MR. LINDGREN: Thank you. I have no
14 further questions. I would ask to have marked as
15 Staff Exhibit 2 the Prefiled Direct Testimony of Jon
16 Pawley that was filed on October 20th, 2021.

17 ALJ FULLIN: Yes, it will be so
18 identified for the record.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. LINDGREN: Thank you. Subject to any
21 cross-examination or questions from the Bench, I move
22 for the admission of both Staff Exhibits 1 and 2.

23 ALJ FULLIN: Thank you. Any
24 cross-examination from the Farm Bureau?

25 MS. MILAM: No, your Honor.

1 ALJ FULLIN: Or from the Applicant?

2 MR. McDONNELL: No, no questions, your
3 Honor. Thank you.

4 ALJ FULLIN: Okay. I have no
5 cross-examination either, and I've noted that both of
6 the Staff Exhibits have been moved. Any objection to
7 admission of the two Staff Exhibits?

8 (No Response.)

9 ALJ FULLIN: Noting there appears to be
10 no objection, those will be admitted into evidence at
11 this time.

12 (EXHIBITS ADMITTED INTO EVIDENCE.)

13 ALJ FULLIN: I think we heard from all
14 the parties that are intending to put evidence in the
15 case, so I'm prepared to bring this -- to adjourn
16 this hearing and bring it to a close unless there's
17 anything else that any of the parties need to bring
18 to my attention before I do so.

19 Noting that there does not seem to be
20 anyone that wants to raise anything else, I will
21 adjourn the hearing at this time, thank everyone for
22 their time as there is nothing further in this case.
23 Thank you.

24 MS. MILAM: Thank you.

25 (The hearing was concluded at 10:19 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, October 28, 2021, and carefully compared with my original stenographic notes.

Cynthia L. Cunningham

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

11/12/2021 10:58:06 AM

in

Case No(s). 21-0036-EL-BGN

Summary: Transcript October 28th 2021 In the Matter of the Application of Marion County Solar Project, LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility in Marion County. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy