

## MARSHALL &amp; MELHORN, LLC

In the Matter of the Application of ) Case No. 21-0277-EL-BGN  
Border Basin I, LLC for a Certificate )  
of Environmental Compatibility and )  
Public Need )  
)

**PETITION FOR LEAVE TO INTERVENE OF ROBIN L. GARDNER;  
MICHAEL J. GARDNER 2011 MARITAL TRUST #1; AND GARDNER  
BROTHERS, LLC**

Pursuant to R.C. 4906.08(A)(3) and Ohio Administrative Code (“OAC”) § 4906-2-12, Robin L. Gardner; Robin L. Gardner, Trustee of the Robin L. Gardner Revocable Trust; Robin L. Gardner, Trustee of the Michael J. Gardner 2011 Marital Trust #1; and Gardner Brothers, LLC (collectively referred to as the “Gardners”) submit this Petition to Intervene in this proceeding. A memorandum in support of this petition is provided below.

**MEMORANDUM IN SUPPORT OF  
PETITION FOR LEAVE TO INTERVENE**

OAC 4906-2-12(B) provides that the Ohio Power Siting Board (“Board”) or administrative law judge may consider the following criteria when considering petitions to intervene: (1) the nature and extent of the person’s interest; (2) the extent to which the person’s interest is represented by existing parties; (3) the

person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and (4) whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party. There is good cause under these criteria to grant intervenor status to the Gardners.

**Nature and extent of interest:**

The Gardners will be directly and adversely affected by the Border Basin Solar Project ("Project"), which Border Basin I, LLC ("Border Basin Solar") plans to construct and operate. Robin L. Gardner lives at 16067 State Route 12 East, Findlay, OH 45840, which is adjacent to the project area (the "Project Area") for the Project.

Ms. Gardner is the trustee of the Robin L. Gardner Revocable Trust (the "Robin Gardner Trust"), which owns the following property that is adjacent to or in the vicinity of the Project Area: Parcel No. 350001002881 (State Route 12, Findlay, Ohio 45850).

Ms. Gardner is the trustee of Michael J. Gardner 2011 Marital Trust #1 (the "Michael Gardner Trust"), which owns the property on which she lives as well as the following properties that are adjacent to or in the vicinity of the Project Area:

- 150001015116 (Township Road 212, Findlay, OH 45850)
- 350001001403 (16067 State Route 12, Findlay, OH 45850)
- 630001021442 (County Road 236, Findlay, OH 45850)
- 130000029460 (State Route 12, Findlay, OH 45850)
- 350001009464 (State Route 12, Findlay, OH 45850)
- 350001009465 (State Route 12, Findlay, OH 45850)

Garner Brothers, LLC, whose mailing address is 16067 State Route 12, Findlay, OH 45840, owns the following properties adjacent to or in the vicinity of

the Project Area:

- 130000029070 (Township Road 215, Findlay, OH 45850)
- 130001010632 (16038 State Route 12, Findlay, OH 45850)
- 130001010635 (State Route 12, Findlay, OH 45850)
- 130001015357 (State Route 12, Findlay, OH 45850)
- 130001025206 (State Route 12, Findlay, OH 45850)
- 130001029580 (16242 State Route 12, Findlay, OH 45850)
- 130001029640 (16280 State Route 12, Findlay, OH 45850)
- 130001029641 (State Route 12, Findlay, OH 45850)
- 130001010119 (State Route 12, Findlay, OH 45850)
- 130001010120 (State Route 12, Findlay, OH 45850)
- 130001010123 (State Route 12, Findlay, OH 45850)

Ms. Gardner seeks to intervene in her personal capacity, as Trustee of the Robin Gardner Trust, and as Trustee of the Michael Gardner Trust Gardner Brothers, LLC seeks to intervene on its own behalf.

The Project will have a serious adverse impact on Robin Gardner's residence that will spoil the enjoyment of living there and will otherwise impair the other properties of the Gardners' listed above. In that regard, the Gardners will present evidence about the issues described below, among others, with respect to which the application ("Application") for the Project fails to protect the Gardners' properties.

1. Unsightly views of solar panels and other solar equipment from their residence and yard, which are within a direct line of sight of the Project;
2. Unsightly views of solar areas resulting from lack of maintenance and inadequate weed control;
3. Dirt tracked on the public roads, airborne dust, and traffic near their residence during the Project's construction;

4. Drawdown of the aquifer in which their water well is drilled if the Project uses groundwater in the vicinity of their house to clean solar panels, water vegetation, or control dust;
5. Lighting that may illuminate their house and yard at night;
6. Inadequate distances between the Project and their house and yard;
7. Noise impacts from Project construction, including noise from heavy machinery and pile pounding;
8. Noise impacts from Project operation, including noise from inverters, transformers, and tracker motors;
9. The spread of uncontrolled noxious and invasive weeds from the Project to their place of residence;
10. Harm to deer and other wildlife from habitat loss inside the Project, including overcrowding in areas outside the solar fences due to the animals' exclusion from their prior forage areas inside the Project Area;
11. Infestation in their yard and house from rodents that may move from solar arrays where they multiply while being protected from predators by the solar fences; and
12. The devaluation of their property due to the Project's presence and proximity to their house and land.

The Gardners should be granted intervention so that they can address these and other problems with the Project.

**Extent to which interests are represented by existing parties and potential contribution to the just and expeditious resolution of these proceedings:**

No other party represents, or can represent, the Gardners' interests in protecting themselves from the Project's impacts. As residents on property adjacent to the Project Area, their participation in the case is necessary to the just and expeditious resolution of this proceeding.

**Potential for undue delay or unjust prejudice:**

Granting intervenor status to the Gardners will not unduly delay the proceedings or cause unjust prejudice to the Applicant. The Gardners will comply with whatever case management schedule that the Board establishes.

For the foregoing reasons, the Gardners request that the Board to grant this Petition for Leave to Intervene.

Respectfully submitted,

/s/ John A. Borell, Jr.

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## **CERTIFICATE OF SERVICE**

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, I hereby certify that, on February 18, 2022, a copy of the foregoing Petition has been served by electronic mail on the following:

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**Case No(s). 21-0277-EL-BGN**

Summary: Petition Petition for Leave to Intervene of Robin L. Gardner; Michael J. Gardner 2011 Marital Trust #1; and Gardner Brothers, LLC electronically filed by Mr. John A. Borell on behalf of Robin L. Gardner and Robin L. Gardner, Trustee of the Robin L. Gardner Revocable Trust and Robin L. Gardner, Trustee of the Michael J. Gardner 2011 Marital Trust #1 and Gardner Brothers, LLC