

**BEFORE  
THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of</b>	)	
<b>Kingwood Solar I LLC for a Certificate</b>	)	<b>Case No. 21-0117-EL-BGN</b>
<b>of Environmental Compatibility and</b>	)	
<b>Public Need</b>	)	

**MOTION TO STRIKE**  
**PORTION OF THE DIRECT TESTIMONY OF MICHELE BURNS**

Pursuant to Ohio Adm.Code 4906-2-27, Kingwood Solar I LLC (“Kingwood Solar”) respectfully moves to strike a portion of the direct testimony of Michele Burns as filed on February 28, 2022. Kingwood Solar moves to strike:

- Page 4, lines 59-69: This testimony discuss the purported impact of the Kingwood Solar Project on land productivity after the Project is decommissioned. This portion of the testimony is outside the scope of Ms. Burns’ knowledge and expertise. It also contains speculation and reliance on studies that are not attached to Ms. Burns’ testimony.

This portion of Ms. Burns’ testimony is not reliable or permissible under the Rules of Evidence and under common evidentiary practices at the Ohio Power Siting Board. Further details and explanation are set forth in the attached Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE  
MOTION TO STRIKE  
PORTION OF THE DIRECT TESTIMONY OF MICHELE BURNS**

Ms. Burns' testimony on page 4, lines 59-69 is not reliable or permissible under the Rules of Evidence and under common practices at the Ohio Power Siting Board. Specifically, Ms. Burns' direct testimony reflects that she is the Executive Director of the Tecumseh Land Preservation Association dba Tecumseh Land Trust. It also reflects that she has a B.S. in Natural Resource Management and an M.S. in Natural Resource Management. Nowhere in her testimony is there any evidence that she (or staff of the Tecumseh Land Trust) is an expert or has specialized knowledge of the impact of solar facilities on land productivity. Additionally, Ms. Burns directly quotes from an unnamed study from the Ohio State University which is not attached to her testimony. Furthermore, there is no evidence that Ms. Burns has the expertise to interpret any studies which measure the impact of solar facilities on land productivity. Finally, the unnamed research Ms. Burns relies on focuses on natural gas pipelines. Ms. Burns is not qualified to opine on whether natural gas pipelines are akin to solar facilities with regard to measuring the facilities' impact on land. Despite this lack of expertise, Ms. Burns opines that utility scale solar projects could impact food production and the agricultural industry in general.

The testimony provided by Ms. Burns does not establish that she is an expert or has specialized knowledge or experience in order to present testimony regarding the future impact of the Kingwood Solar Project on the agricultural land the Project is sited on. Ohio Rules of Evidence 702. In addition, it is not reasonable for Ms. Burns to rely on an unnamed study that is not attached to her testimony. For these reasons, the Administrative Law Judge should strike testimony beginning with line 59 through line 69 on page 4 of Ms. Burns' testimony (starting with "To better understand").

For all of the foregoing reasons, the Administrative Law Judge should strike the portion of Ms. Burns' direct testimony as detailed in this motion.

Respectfully submitted,

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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 on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 4th day of March 2021 upon the persons listed below.

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**Case No(s). 21-0117-EL-BGN**

Summary: Motion Motion to Strike Portions of the Direct Testimony of Michele  
Burns electronically filed by Mr. Michael J. Settineri on behalf of Kingwood Solar I  
LLC