

THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION
OF HARVEY SOLAR I, LLC FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED.

CASE NO. 21-164-EL-BGN

ENTRY

Entered in the Journal on March 9, 2022

{¶ 1} Harvey Solar I, LLC (Harvey Solar or Applicant) is a person as defined in R.C. 4906.01. It is owned by Clean Planet Renewable Energy, LLC, which, in turn, is a joint venture partnership between Eolian, L.P. and Open Road Renewables, LLC.

{¶ 2} R.C. 4906.04 provides that no person shall construct a major utility facility in the state without first obtaining a certificate for the facility from the Ohio Power Siting Board (Board).

{¶ 3} Ohio Adm.Code 4906-3-03 requires an applicant, no more than 90 days prior to submitting a standard application, to conduct at least one informational meeting that is open to the public and is “held in the area in which the project is to be located.”

{¶ 4} On June 24, 2021, Harvey Solar filed a preapplication notification letter with the Board regarding the proposed construction and operation of a solar-powered electric generation facility in Bennington and Hartford townships, Licking County, Ohio (Project or Facility). The Facility will have a maximum total generating capacity of up to 350 megawatts. The letter states that construction of the Facility is estimated to begin as early as the fourth quarter of 2022 and that the Facility is scheduled to be in service by the fourth quarter of 2023.

{¶ 5} On July 26, 2021, Harvey Solar filed proof of its compliance with Ohio Adm.Code 4906-3-03(B), requiring notice of the public information meeting be sent to each property owner and affected tenant and published in a newspaper of general circulation in the project area. An in-person public information meeting was held at the Hartford

Fairgrounds 4-H Building on July 14, 2021. Additionally, a virtual public information meeting was held on July 15, 2021.

{¶ 6} On August 6, 2021, as supplemented on September 17, 2021, Harvey Solar filed an application with the Board for a certificate of environmental compatibility and public need to construct the proposed Facility.

{¶ 7} Pursuant to Ohio Adm.Code 4906-3-06, within 60 days of receipt of an application for a major utility facility, the Chair of the Board must either accept the application as complete and compliant with the content requirements of R.C. 4906.06 and Ohio Adm.Code Chapters 4906-1 through 4906-7 or reject the application as incomplete. By letter dated October 4, 2021, Board Staff notified Harvey Solar that its application was compliant and provided sufficient information to permit Staff to commence its review and investigation. Pursuant to Ohio Adm.Code 4906-3-06 and 4906-3-07, the Board's October 4, 2021 letter directed Harvey Solar to serve appropriate government officials and public agencies with copies of the complete, certified application and to file proof of service with the Board. The letter further instructed Harvey Solar to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 8} On October 8, 2021, Harvey Solar filed a certificate of service of its accepted and complete application and filed proof that it submitted its application fee to the Treasurer of the State of Ohio as required by Ohio Adm.Code 4906-3-07.

{¶ 9} Pursuant to the administrative law judge (ALJ) Entry of January 4, 2022, petitions to intervene in this proceeding would be accepted by the Board up to 30 days following publication of the notice required by Ohio Adm.Code 4906-3-09 or by February 18, 2022, whichever is later.

{¶ 10} The Board of Trustees of Harford Township and the Board of Trustees of Bennington Township (collectively, the Townships) each filed a notice to intervene in this matter on February 10, 2022, and February 17, 2022, respectively. In support of their notices,

the Townships state that the proposed Facility is located predominantly within their jurisdictions and that they have an extensive interest in the proposed Project including, but not limited to, waterways, drainage, and environmental issues.

{¶ 11} Upon review, the ALJ finds that the notices meet the requirements of Ohio Adm.Code 4906-2-12, are reasonable, and that the Townships shall be considered as intervenors in this case.

{¶ 12} On February 14, 2022, the Village of Hartford (Village) filed a motion to intervene. The Village represents that, although none of the Project land parcels are directly inside the Village, they are nearby the Village limits and Village property, including the Village-owned wastewater treatment plant and sewer lines. In support of its motion, the Village explains that its police department will be the closest law enforcement agency to the Project. Specifically, if the Project proceeds, the Village anticipates needing to conduct more joint operations with Hartford Township, which provides fire, rescue, and emergency medical services to all of Hartford Township, including the Village. It anticipates a significant increase in vehicular traffic, resulting in the wear and tear of its infrastructure. Additionally, the Village submits that the proposed Project will result in environmental, cultural, sociological, and tangible impacts that it expects to last for the 40-year duration of the Project. The Village represents that, although it works closely with the Licking County Engineer, county-wide elected officials, and Hartford Township, its residents will not be adequately represented by the other parties. Finally, the Village notes that, although it is requesting intervention as an interested party, its council, at this time, has not authorized a specific position relative to the pending application.

{¶ 13} Upon review, the ALJ finds that the motion meets the requirements of Ohio Adm.Code 4906-2-12, is reasonable, and that the Village shall be considered as an intervenor in this case.

{¶ 14} On February 18, 2022, the Ohio Farm Bureau Federation (Ohio Farm Bureau) filed a motion to intervene. In support of its application, the Ohio Farm Bureau states that

it has a real and substantial interest in this matter that is not represented by existing parties. Specifically, the Ohio Farm Bureau wants to make sure that, if the Project goes forward, landowners and their land are protected and have appropriate recourse for needed repairs or remediation. It notes that its interest in this case is guided by policy resolutions from the Ohio Farm Bureau Federation's 2022 State Policies. Finally, the Ohio Farm Bureau asserts that its involvement will contribute to a just and expeditious resolution of the issues involved in this proceeding and will not cause any undue delay or unjustly prejudice any existing party.

{¶ 15} Upon review, the ALJ finds that the motion meets the requirements of Ohio Adm.Code 4906-2-12, is reasonable, and that the Ohio Farm Bureau shall be considered as an intervenor in this case.

{¶ 16} On February 18, 2022, the Curry Farm Historic District (Historic District); Five Roots, LLC (Five Roots); and Edward, Susan, Kelly, and Matthew Jaeger (collectively, Joint Movants) jointly filed a motion to intervene. According to the motion, the Historic District is a historic property listed on the National Register of Historic Places and is owned by Five Roots. Joint Movants submit that Five Roots' members will be directly and adversely affected by the Project, which they contend will be constructed and operated nearly surrounding the Historic District and within 425-800 feet of the 4 historic outbuildings located on the Historic District property, which also includes a residential historic home owned by Joint Movants and a two-acre operating vineyard (Five Roots Vineyard).

{¶ 17} Joint Movants assert that the Project will have a serious adverse impact on their home and property, which will spoil the visual and aesthetic enjoyment of living on and visiting their property. Joint Movants also believe that the Project will limit the future development/redevelopment plans for the Historic District to serve Hartford Township's, Licking County's, and the state of Ohio's economic development Agritourism opportunities. Joint Movants represent that Five Roots has made significant investments in

design plans for the purpose of establishing the platform for future development, which have been put on hold pending the outcomes of this case.

{¶ 18} According to Joint Movants, Harvey Solar does not adequately commit to specific measures that will be taken to protect the Historic District's views but, instead, leaves this concern to be addressed after the issuance of the certificate. Specifically, Joint Movants aver that the application does not provide adequate or sufficiently detailed commitments for planting vegetation barriers between the Project structures as well as equipment and the Historic District property to minimize visual impacts. Additionally, Joint Movants contend that the economic study in the application is incomplete as it does not attempt to identify or quantify the adverse economic impacts of the Project. Further, they assert that the application does not adequately describe the Project's extreme adverse environmental impact to the Historic District. Joint Movants represent that they have been unsuccessful in their attempt to enter into a Good Neighbor Agreement with the Applicant.

{¶ 19} According to Joint Movants, no other parties can represent their interests in protecting their property from the adverse impacts of the Project. Additionally, Joint Movants assert that their participation in this case is necessary for the just and expeditious resolution of this proceeding and will not unduly delay the proceedings or cause unjust prejudice to the Applicant.

{¶ 20} Upon review, the ALJ finds that, with respect to Edward, Susan, Kelly, and Matthew Jaeger; Historic District; and Five Roots, the motion meets the requirements of Ohio Adm.Code 4906-2-12 and is reasonable. Therefore, Joint Movants shall be considered as intervenors in this case.

{¶ 21} On February 18, 2022, James and Carol Clever (the Clevers) filed a joint motion to intervene. They submit that they are participating property owners relative to the Project and, therefore, have a real and substantial interest in this case that cannot be adequately represented by another party to this proceeding. The Clevers state that their intervention

will contribute to a just and expeditious resolution of the issues in this proceeding and that their participation will neither delay this proceeding nor prejudice any party.

{¶ 22} Upon review, the ALJ finds that the motion meets the requirements of Ohio Adm.Code 4906-2-12, is reasonable, and that the Clevers shall be considered as intervenors in this case.

{¶ 23} Pursuant to the procedural schedule set forth in the Entry of January 4, 2022, company testimony is to be filed on or before March 21, 2022, and intervenor and Staff testimony is to be filed on or before March 28, 2022. The ALJ now finds that any motions to strike and any stipulations and supporting testimony, should be filed on or before noon on April 4, 2022.

{¶ 24} The ALJ notes that, pursuant to the Entry of January 4, 2022, a telephonic prehearing conference was scheduled for April 4, 2022, at 10:00 a.m. The prehearing shall now be rescheduled for Friday, March 25, 2022, at 11:00 a.m. Instructions for participation at the prehearing conference will be emailed to the parties. The parties should come prepared to discuss any procedural issues, including the scheduling of witnesses and the sharing of exhibits.

{¶ 25} It is, therefore,

{¶ 26} ORDERED, That intervenor status be granted consistent with Paragraphs 11, 13, 15, 20, and 22. It is, further,

{¶ 27} ORDERED, That any stipulations and supporting testimony or any motions to strike be filed in accordance with Paragraph 23. It is, further,

{¶ 28} ORDERED, That the prehearing conference be rescheduled in accordance with Paragraph 24. It is, further,

{¶ 29} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

THE OHIO POWER SITING BOARD

/s/ Jay S. Agranoff

By: Jay S. Agranoff
Administrative Law Judge

SJP/kck

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Case No(s). 21-0164-EL-BGN

Summary: Administrative Law Judge Entry ordering that intervenor status be granted consistent with Paragraphs 11, 13, 15, 20, and 22; ordering that any stipulations and supporting testimony or any motions to strike be filed in accordance with Paragraph 23 and ordering that the prehearing conference be rescheduled in accordance with Paragraph 24. electronically filed by Kelli C. King on behalf of Jay Agranoff, Administrative Law Judge, Ohio Power Siting Board