BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of	**)**	
Chipmunk Solar LLC for a	**)**	
Certificate of Environmental	**)**	**Case No. 21-960-EL-BGN**
Compatibility and Public Need	**)**	

Chipmunk Solar LLC's April 5, 2022 Responses to
Staff's March 29, 2022 Data Requests

1) **How many acres of tree clearing are anticipated for the Chipmunk Solar Project?**

    a. **Response:**

    As reported on page 27 of the Ecological Assessment Report (Exhibit Q), approximately 7.1 acres of mixed forest and 0.9 acres of deciduous forest are anticipated to be cleared for construction of the facility, for a total of approximately 8 acres. Much of this tree clearing will occur in narrow hedgerows. As recommended by the USFWS and ODNR, removal of trees will only occur between October 1 and March 31.

2) **How many acres of grassland/pastureland would be impacted by construction of the Chipmunk Solar Project?**

    a. **Response:**

    As reported on page 27 of the Ecological Assessment Report (Exhibit Q), approximately 9.7 acres of hay/pasture land are anticipated to be impacted by construction. In addition, over 1,700 acres of cultivated crop land will be re-seeded with native or naturalized grasses, adding significant grassland to the Project Area.

3) **It was noted in the Application that there are "two mapped 100-year floodplains within the Project Area…". Has the Applicant contacted the Pickaway County floodplain administrator in regards to any permitting that may be required for construction within a mapped 100-year floodplain?**

    a. **Response:**

    The Applicant has reviewed the Flood Damage Reduction Resolution adopted by Pickaway County (available here: https://www.pickaway.org/docs/planning/floodregs2012.pdf). Section 3.9 of the resolution indicates that major utility facilities permitted by the Ohio Power Siting Board under R.C. Chapter 4906 are exempt from applying for a floodplain development permit.

4) **Would tree clearing or any other construction occur within 660 feet of the bald eagle nest identified and described by the USFWS? Furthermore, although the bald eagle nest described and identified by USFWS was not observed during preliminary field surveys, would the applicant be willing to commit to conditioning of no construction/tree clearing work occurring within 660 feet or within direct line-of-site of a nest from January 15 through July 31 if a nest is ever discovered or observed?**

    a. **Response:**

    As stated on page 68 of the Application, if a bald eagle nest is located any time before or during construction, applicable state and agency guidelines will be adhered to. These guidelines include the USFWS recommendation that no tree clearing or construction occur within 660 feet or within the direct line-of-sight of a bald eagle nest from January 15 through July 31. The Applicant received an updated consultation letter from the USFWS on March 25, 2022 (Attachment 1). The letter was updated following subsequent conversations with the USFWS and the ODNR regarding the Applicant's attempts to locate the bald eagle nest. The consultation letter no longer mentions the bald eagle nest. The Applicant will follow all recommendations in the updated USFWS consultation letter.

5) **Please confirm that no in-water work leading to impacts to streams within the project area is still anticipated from installation of collection lines, access roads, etc.?**

    a. **Response:**

    Yes, that is correct, no in-water work that would lead to stream impacts is anticipated from Facility construction.

6) **Staff recommends that solar projects plant a minimum of 70% of the project area in beneficial vegetation, utilizing plant species listed in the table titled "Attachment A" on the third page of the provided hyperlink. Staff also recommends that the Applicant follow the Ohio Solar Site Pollinator Habitat Planning and Assessment Form with a minimum score of 80 points. Staff further recommends that routine mowing will be limited to fall/spring seasons, to allow for natural reseeding of plantings and reduce impacts to ground-nesting birds. These guidelines are intended to provide wildlife habitat, encourage water infiltration, and reduce erosion. Is the Applicant willing to commit to staff's recommendations? If the Applicant does not find this recommendation to be practical, please explain and provide the Applicant's closest practical commitment in line with these recommendations. (https://ohiodnr.gov/static/documents/real-estate/ODNR%20Recommended%20Requirements%20for%20Proposed%20Solar%20Energy%20Facilities%20in%20Ohio.pdf)**

    a. **Response:**

The Applicant will revegetate at least 70% of the *construction ground disturbance area* with a seed mix that will provide wildlife habitat, encourage water infiltration, and reduce erosion. It is not practical to plant a minimum of 70% of the "project area." As defined by Ohio Administrative Code 4906-1-01(GG), "'[p]roject area' means all land within a contiguous geographic boundary that contains the facility, associated setbacks, and properties under lease or agreement that contain any components of the facility." The Chipmunk Solar Project Area encompasses 3,684 acres, of which approximately 1,883 acres are anticipated to be disturbed by construction. Planting vegetation in 70% of the "project area" would require disturbing approximately 2,579 acres of land. Further, some of the area within the Chipmunk Solar Project Area, but outside of the construction ground disturbance area, is comprised of floodplain, forested areas, wetlands, streams, or other areas that have been purposefully avoided by the facility design. It would not be practical or desirable to plant vegetation in these areas.

The seed mix selected for revegetation of the solar array field (approximately 1,700 acres) and areas within the proposed vegetation mitigation buffers outside of the fenceline is anticipated to comply with the following recommendations: 1) the seed mix will include plant species listed in the table titled "Attachment A" on the third page of the provided hyperlink; 2) the seed mix will score a minimum of 80 points on the Ohio Solar Site Pollinator Habitat Planning and Assessment Form (Version 1, March 2018); and, 3) the seed mix will allow for routine mowing of the solar array field to be limited to the fall and spring seasons. Additional, non-routine mowing may be required, especially during the establishment period, to control weeds and promote successful establishment of desired plants, as outlined in the Vegetation Management Plan (Exhibit D).

If further site evaluation determines that it is not practical to comply with any of these recommendations, or preferred species are unavailable or cost prohibitive at the time of procurement, the Applicant will consult with the ODNR on a suitable alternative.

Attachment 1

Jordan Rofkar

From: Ohio, FW3 <ohio@fws.gov>
Sent: Friday, March 25, 2022 2:31 PM
To: Jordan Rofkar
Cc: nathan.reardon@dnr.state.oh.us; Parsons, Kate
Subject: Chipmunk Solar, Deer Creek, Monroe, and Jackson Twp. Pickaway County, Ohio

Follow Up Flag: Flag for follow up
Flag Status: Completed

UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994

Project Code: 2022-0018911

Dear Ms. Rofkar,

The U.S. Fish and Wildlife Service (Service) has received your recent correspondence requesting information about the subject proposal. We offer the following comments and recommendations to assist you in minimizing and avoiding adverse impacts to threatened and endangered species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq), as amended (ESA).

Federally Threatened and Endangered Species: The endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*) occur throughout the State of Ohio. The Indiana bat and northern long-eared bat may be found wherever suitable habitat occurs unless a presence/absence survey has been performed to document absence. Suitable summer habitat for Indiana bats and northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and breed that may also include adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, woodlots, fallow fields, and pastures. Roost trees for both species include live and standing dead trees ≥3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities. These roost trees may be located in forested habitats as well as linear features such as fencerows, riparian forests, and other wooded corridors. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet of other forested/wooded habitat. Northern long-eared bats have also been observed roosting in human-made structures, such as buildings, barns, bridges, and bat houses; therefore, these structures should also be considered potential summer habitat. In the winter, Indiana bats and northern long-eared bats hibernate in caves, rock crevices and abandoned mines.

Seasonal Tree Clearing for Federally Listed Bat Species: The proposed project is in the vicinity of one or more confirmed records of Indiana bats. Should the proposed project site contain trees ≥3 inches dbh, we recommend avoiding tree removal wherever possible. If any caves or abandoned mines may be disturbed, further coordination with this office is requested to determine if fall or spring portal surveys are warranted. If no caves or abandoned mines are present and trees ≥3 inches dbh cannot be avoided, we recommend removal of any trees ≥3 inches dbh only occur between October 1 and March 31. Seasonal clearing is recommended to avoid

adverse effects to Indiana bats and northern long-eared bats. While incidental take of northern long-eared bats from most tree clearing is exempted by a 4(d) rule (see http://www.fws.gov/midwest/endangered/mammals/nleb/index.html), incidental take of Indiana bats is still prohibited without a project-specific exemption. Thus, seasonal clearing is recommended where Indiana bats are known or assumed present. Please note that, because Indiana bat presence has already been confirmed in the project vicinity, any additional summer surveys would not constitute presence/absence surveys for this species.

Section 7 Coordination: If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), then no tree clearing should occur on any portion of the project area until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. We recommend the federal action agency submit a determination of effects to this office, relative to the Indiana bat and northern long-eared bat, for our review and concurrence. This letter provides technical assistance only and does not serve as a completed section 7 consultation document.

Stream and Wetland Avoidance: Over 90% of the wetlands in Ohio have been drained, filled, or modified by human activities, thus is it important to conserve the functions and values of the remaining wetlands in Ohio (https://epa.ohio.gov/portals/47/facts/ohio_wetlands.pdf). We recommend avoiding and minimizing project impacts to all wetland habitats (e.g., forests, streams, vernal pools) to the maximum extent possible in order to benefit water quality and fish and wildlife habitat. Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the U.S. Army Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. Disturbed areas should be mulched and revegetated with native plant species. In addition, prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, or proposed species, or proposed or designated critical habitat. Should the project design change, or additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, coordination with the Service should be initiated to assess any potential impacts.

Thank you for your efforts to conserve listed species and sensitive habitats in Ohio. We recommend coordinating with the Ohio Department of Natural Resources due to the potential for the proposed project to affect state listed species and/or state lands. Contact Mike Pettegrew, Acting Environmental Services Administrator, at (614) 265-6387 or at mike.pettegrew@dnr.state.oh.us.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

Patrice Ashfield
Field Office Supervisor

cc: Nathan Reardon, ODNR-DOW
Kate Parsons, ODNR-DOW

Summary: Response Response to Staff's Second Data Request electronically filed by Ms. Anna Sanyal on behalf of Chipmunk Solar LLC