

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Yellow)
Wood Solar Energy, LLC for a Certificate of)
Environmental Compatibility and Public Need) Case No: 20-1680-EL-BGN
to Construct a Solar-Powered Electric)
Generation Facility in Clinton County, Ohio.)

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Yellow Wood Solar Energy, LLC (“Applicant”), the Ohio Power Siting Board’s (“Board”) Staff (“Staff”), and the Ohio Farm Bureau Federation (“OFBF”) (jointly referred to herein as “Signatory Parties”) submit this Joint Stipulation and Recommendation (“Stipulation”) for adoption by the Board. Ohio Adm.Code 4906-2-24(A) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below, and to jointly recommend that the Board approve and adopt this Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters pertinent to the certification and construction of the solar-powered electric generation facility and a battery energy storage system in Clark and Jefferson townships, Clinton County, Ohio as proposed in this proceeding.

The Clinton County (“County”) Commissioners (“County Commissioners”) filed a motion to intervene in this proceeding on June 15, 2021. OFBF filed a motion to intervene in this proceeding on September 29, 2021. Brad Cochran Farms LLC, Brad Cochran (its sole member), Brian and Janet Collins, Margaret and Stephen Elam, Robert and Joyce Griffith, Alan and Deborah Hertlein (in their personal capacity and as trustees for the Hertlein Family Revocable Living Trust), Brett Hertlein, JWP Family Farms LLC, Darla and Matthew Long, Benjamin and K. Nicole

Oberrecht, Diane Rhonemus, Jamie and Matthew Roberts, Janice Rowlands, Charles Simpson, Jr. and Pamela McConnell, and Charles W. Thompson (“Petitioners”), filed a motion to intervene in this proceeding on September 30, 2021. The Report of Investigation was issued by the Staff on October 4, 2021 (“Staff Report”). The local public hearing was held on October 20, 2021. The evidentiary hearing commenced on November 17, 2021, and was called and continued.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process to resolve all of the issues in this proceeding. This Stipulation represents the culmination of these discussions, and the Signatory Parties acknowledge that this agreement is amply supported by the record and, thus, entitled to careful consideration by the Board. Accordingly, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the facility.

II. JOINT RECOMMENDATIONS OF THE SIGNATORY PARTIES

A. Recommended Conditions

The proposed facility is located in Clinton County, Ohio and its total generating capacity will not exceed 300 megawatts alternating current (“MW”). Construction of the facility is expected to begin as early as the first quarter of 2023.

The Signatory Parties recommend that the Board issue the Certificate of Environmental Compatibility and Public Need requested by the Applicant subject to the following conditions:

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (2) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, the Applicant, Engineer of Record, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference, a representative designated by the County may also attend. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for Staff and County review and shall file a copy of the agenda on the case docket. The Applicant may conduct in the same manner as provided above separate preconstruction conferences for each stage of construction.
- (3) Construction and operation of the project shall include measures to prevent where possible, and to mitigate where prevention is not possible, damage to soils including soil compaction and contamination. Construction and operation of the project shall further include measures to prevent where possible, and to mitigate where prevention is not possible, disturbance to woodland and wetlands. To achieve these objectives, the Applicant shall submit to the Clinton County Soil and Water District ("County Soil and Water District") for review, the construction and operations plans.
- (4) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff, the County, and the County Soil and Water District a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (5) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design for that phase of construction and mapping in the form of PDF, which the Applicant shall also file on the docket of this case and provide a copy to the County, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in

conformance with the certificate. The Applicant shall include the manufacturers, models, specifications, and material safety data sheets for all solar panels, inverters, and racking system components selected for construction of the facility. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from the siting detailed in the application. The detailed engineering drawings of the final project design for each phase of construction shall account for geological features and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final project design to Staff and the County.

- (6) Test pits shall be dug in order to further characterize the site soil suitability.
- (7) Prior to developing the final structural design, a corrosion analysis shall be performed in order to determine potential steel loss over the projected life of the pile structures and such analysis shall be submitted to Staff and the County Soil and Water District for review.
- (8) At least 30 days prior to the preconstruction conference, the Applicant shall provide to Staff, for review and acceptance, the final geotechnical engineering report. This shall include a summary statement addressing both the geologic and soil suitability.
- (9) Should karst features be identified during additional geotechnical exploration or during construction, the Applicant shall avoid construction in these areas when possible. Should the Applicant intend to pursue remedial measures, such proposal shall be submitted to Staff for review and concurrence prior to implementation. The Applicant shall file a copy of the final proposal on the public docket.
- (10) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate unless the Board grants a waiver or extension of time.
- (11) As the information becomes known, the Applicant shall file on the public docket the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation. The Applicant shall also send notice of these dates to the County and, by certified mail, to adjacent non-participating property owners.

- (12) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff and to the County within seven days of issuance or receipt by the Applicant and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference(s).
- (13) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.
- (14) The facility shall be operated in such a way as to assure that no more than 300 megawatts would be injected into the Bulk Power System at any time.
- (15) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, LLC, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (16) Prior to commencement of construction, the Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both small-wildlife permeable and aesthetically fitting for a rural location. The fence shall have wooden posts and a woven metal mesh with mesh openings larger than 2 inches, which is larger than common residential chain link mesh. In addition, openings at least 16 inches wide and at least 7 inches high shall be maintained in the bottom row of that fencing at intervals of no more than 500 feet apart to allow the passage of wildlife. No barbed wire shall be incorporated into the fencing, except at the substation. The Applicant shall install a fence that has the lowest height allowed by applicable electrical codes. Following Staff approval, the Applicant shall file details of this solar panel perimeter fence on the public docket. This condition shall not apply to substation fencing.
- (17) Prior to commencement of any construction, the Applicant shall prepare a

landscape and lighting plan in consultation with a landscape architect licensed by the Ohio Landscape Architects Board that addresses the aesthetic and lighting impacts of the facility with an emphasis on any locations where an adjacent non-participating parcel contains a residence with a direct line of sight to the project area. The plan shall also address potential aesthetic impacts to nearby communities, the travelling public, and recreationalists by incorporating appropriate landscaping measures such as shrub plantings or enhanced pollinator plantings. The plan shall include measures such as fencing, vegetative screening, or good neighbor agreements. Unless alternative mitigation is agreed upon with the owner of any such adjacent, non-participating parcel containing a residence with a direct line of sight to the fence of the facility, the plan shall provide for the planting of vegetative screening designed by the landscape architect to enhance the view from the residence and be in harmony with the existing vegetation and viewshed in the area. The Applicant shall maintain vegetative screening for the life of the facility and the Applicant shall replace any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. The Applicant shall maintain all fencing along the perimeter of the project in good repair for the term of the project and shall promptly repair any damage as needed. All lights in the Facility's solar array shall narrowly focus light inward toward the solar equipment, be downlit and shielded, be motion-activated, and result in a maximum horizontal illuminance level of 1 foot-candle. All substation lights shall narrowly focus light inward toward the solar equipment, be downlit and fully shielded, be motion-activated, and result in a maximum horizontal illuminance level of 1 foot-candle, except at times of necessary or emergency maintenance to the degree necessary to comply with applicable regulations such as Occupational Safety and Health Administration, National Electrical Code, and the National Electrical Safety Code. The Applicant shall provide the plan to Staff and file it on the public docket for review and confirmation that it complies with this condition.

- (a) The Applicant shall incorporate additional screening for the observations points OP 4 (Grove Road location), OP 5 (Townsend Road location), and OP 7 (Gladys Road location) in order to provide suitable concealment of the project site and mitigate any predicted glare at those locations.
- (18) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to Indiana bats, Northern Long-eared bats, Little Brown bats, and Tricolored bats, unless coordination with the Ohio Department of Natural Resources ("ODNR") and the U.S. Fish and Wildlife Service ("USFWS") allows a different course of action. If coordination with these agencies allows tree clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.

- (19) The Applicant shall contact Staff, the ODNR, and the USFWS within 24 hours if state or federally listed species is encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff and the appropriate agencies.
- (20) If the Applicant encounters any state or federal listed plant or animal species or suitable habitat of these species prior to construction, the Applicant shall include the location in the final engineering drawings and associated mapping, as required in Condition 5. The Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.
- (21) The Applicant shall construct the facility in a manner that fully incorporates all construction and operations phase requirements of the construction stormwater management permit OHC00005 in accordance with the Ohio Environmental Protection Agency's ("OEPA") requirements, including the supplemental Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays. Furthermore, the Applicant shall: 1) hold an in-progress design review meeting with the County Soil and Water District to solicit design feedback and commentary of the project's Civil Engineering design and the Landscape Architect design components; 2) include qualified local drainage and earthwork contractors on solicitations for bids on applicable project scopes of work to be performed; and 3) in addition to engagement with the OEPA, and third party inspectors. The Applicant shall also engage with the County Soil and Water District periodically throughout construction to ensure conformance with the design documents.
- (22) The Applicant shall conduct no in-water work in perennial streams from April 15 through June 30 to reduce impacts to aquatic species and their habitat unless coordination with the ODNR reflects a different course of action. If coordination with the ODNR allows in-water work in perennial streams from April 15 through June 30, the Applicant shall file proof of such coordination on the case docket prior to conducting such in-water work in perennial streams.
- (23) Construction in upland sandpiper preferred nesting habitat types shall be avoided during the species' nesting period of April 15 through July 31. If present, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows a different course of action. If coordination with the ODNR allows a different course of action, the Applicant shall file proof of such coordination on the case docket prior to conducting construction in such habitats.

- (24) Construction in Northern Harrier preferred nesting habitat types shall be avoided during the species' nesting period of April 15 through July 31. If present, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates, unless coordination with the ODNR allows a different course of action. If coordination with the ODNR allows a different course of action, the Applicant shall file proof of such coordination on the case docket prior to conducting construction in such habitats.
- (25) The Applicant shall take steps to prevent the establishment and/or further propagation of invasive plant species and noxious weeds identified in Ohio Adm.Code Chapters 901:5-30-01 and 901:5-37 or successive rules during implementation of any pollinator-friendly plantings, as well as during construction, operations, and decommissioning activities. This would be achieved through appropriate seed selection and annual vegetative surveys. If noxious and invasive weeds are found to be present, the Applicant shall remove and treat them with herbicide as necessary and allowed by law.
- (26) Prior to commencement of construction activities that require transportation permits, the Applicant shall obtain all such permits. The Applicant shall coordinate with the appropriate authority regarding any temporary road closures, road use and maintenance agreements with the County and applicable townships, as the case may be, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the county engineer, the Ohio Department of Transportation, local law enforcement, and health and safety officials. The Applicant shall detail this coordination as part of a final transportation management plan submitted to Staff prior to the preconstruction conference for review and confirmation by Staff that it complies with this condition. The Applicant shall update the transportation management plan with any transportation permits received after the pre-construction conference.
- (27) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify of such milestones via certified mail affected property owners and tenants including those individuals who were provided notice of the public informational meeting, residences located within one mile of the project area, parties to this case, County Commissioners, township trustees, emergency responders, airports, schools, and libraries, as well as anyone who has requested updates regarding the project. These notices shall provide information about the project, including contact information and a copy of the complaint resolution plan. The start of construction notice shall

include written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as a timeline for construction and restoration activities. The start of facility operations notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate, as well as a timeline for the start of operations. The Applicant shall file a copy of these notices on the public docket. During the construction and operation of the facility, the Applicant shall submit to Staff a complaint summary report by the fifteenth day of April, July, October, and January of each year through the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution process, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved. The Applicant shall file a copy of these complaint summaries on the public docket. The Applicant shall also have complaint resolution plan and contact information posted via project signage near construction entrance or office areas.

- (28) General construction and decommissioning activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m. Impact pile driving shall be limited to the hours between 9:00 a.m. and 6:00 p.m.. Hoe ram operations, if required, shall be limited to the hours between 10:00 a.m. and 4:00 p.m., Monday through Friday. Construction and decommissioning activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (29) The Applicant shall operate a facility that limits sound levels emitted to nonparticipating receptors to no higher than the closest Long-Term Monitoring Station's area ambient Leq level plus five decibels ("dBA") as referenced in Application Exhibit K Table 4-3. If the facility is found to be above these limits, the Applicant shall install additional noise mitigation measures to maintain compliance with this provision. If the inverters or substation transformer chosen for the project have a higher sound power output than the models used in the noise model, the Applicant shall show that sound levels will not exceed the daytime ambient level plus five dBA at any non-participating sensitive receptor and shall submit a report making this demonstration at least 30 days prior to construction. If noise data is not available from the inverter or transformer manufacturer, an operational noise test may be performed to comply with this condition. The test must be performed on a sunny day between 10 a.m. and 2 p.m. in the months of May-August, at a distance equal to the minimum distance from an inverter to a non-participating residence. If the test shows the operational noise level is greater than project area ambient Leq level plus five

dba additional noise mitigation will be required. This condition is complied with if the test shows the operational noise level is equal or less than project area ambient Leq level plus five dba. The Applicant shall file a report on the public docket that shows either 1) for the chosen inverter and substation transformer that sound levels will not exceed the daytime ambient level plus five dba at any non-participating sensitive receptor or 2) results of the operational noise test showing that sound levels will not exceed the daytime ambient level plus five dba at any non-participating sensitive receptor.

- (30) The Applicant shall not adversely impact the drainage on any non-participating parcel. The Applicant shall consider any disturbance or improvement made to a project parcel, as a function of the project, to result in the acceptance of responsibility for that parcel's potential drainage configuration changes from project improvements. With the acceptance of this responsibility, the Applicant can only incorporate existing known or unknown drainage infrastructure as a part of the project to meet the obligation to not adversely change the drainage on adjacent parcels if:
- (a) In the case of ditch or tile infrastructure that is protected or within the County maintenance program or via County easement: The Applicant shall obtain design approvals and rights to construct or modify that ditch or tile infrastructure, from the County Soil and Water District; or
 - (b) In the case of private infrastructure that may or may not cross parcel boundary lines, that is not protected via County easement or maintenance program: The Applicant shall fully map and take survey of the condition of any existing infrastructure. As the Applicant's project improvements require the need for the Applicant to provide new drainage systems associated with these improvements, the Applicant can only incorporate existing infrastructure in its design calculations if the system is fully mapped, shown to be in good condition (e.g., visual inspection), and is calculated to produce the same levels of inflows and outflows. If functioning infrastructure is discovered during construction, that was previously unknown and not taken into account by the Engineer of Record in the final design of the project, the Applicant shall notify the Engineer of Record and the Engineer of Record shall issue information as to how this infrastructure affects the final drainage properties of the project area. For purposes of clarity: the Applicant's Engineer of Record shall have drainage experience or education and will be the entity that holds a state license and professional design liability with regard to the issuance of stamped construction documents that the Applicant is obligated to follow in the construction of the project. If it is deemed that the final drainage properties of the project will need to rely on this newly discovered infrastructure, the Applicant shall retroactively perform all survey and inspection duties of this

provision, obtain concurrence from the Applicant's Engineer of Record regarding the acceptable use of this infrastructure, and make any repairs for any potential damage that may have occurred during discovery or other construction activities. Furthermore, if, functioning, non-project related infrastructure is damaged during construction or operations, the Applicant shall promptly repair such damage at Applicant's expense.

- (31) As a function of the Applicant's design and complaint resolution plan, with regard to drainage, the Applicant shall:
- (a) Incorporate benchmark conditions of surface and subsurface drainage systems prior to construction, including the location of laterals, mains, grassed waterways, and county maintenance/repair ditches into the civil design calculations for the project. The Applicant will make efforts to conduct a perimeter dig utilizing a tile search trench and consult with owners of all parcels adjacent to the property, the County Soil and Water District, and the County to request drainage system information over those parcels. The Applicant shall consult with the County engineer for tile located in a county maintenance/repair ditch;
 - (b) For the first 5 years of operations, the Applicant shall set aside a fund of \$50,000.00 for the purpose of investigating such claims. This fund represents an initial commitment and shall not be construed as a cap. In the instance a claim is filed into the complaint resolution plan regarding potentially modified drainage properties on to an adjacent, non-participating parcel, the Applicant shall utilize this fund to hire a civil engineer that has done previous work in Clinton County, or an adjacent county, and who is not the Engineer of Record for the project, to assess the validity of the claim. If it is deemed that the design or improvements of the project have adversely modified drainage properties to the detriment of the non-participating landowner, then the Applicant shall immediately correct the drainage configuration and agree to compensate parcel owners affected for any damage to crops or other agricultural activities within 30 days of the completed correction.
- (32) At least 30 days prior to the preconstruction conference, the Applicant shall submit an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value on the public docket, and to the County that includes: (a) a provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company is the surety, and the Ohio Power Siting Board is the obligee; (b) a timeline of up to one year for removal of the equipment, with all decommissioning to be finished within 18 months after the facility ceases operations; (c) a provision to monitor the site for at least one additional year

after completion of decommissioning to ensure successful revegetation and rehabilitation; (d) a provision where the performance bond is posted prior to the commencement of construction; (e) a provision that the performance bond is for the total decommissioning cost and excludes salvage value; (f) a provision to coordinate with the County, and providing for the Applicant's or Applicant's successor's, repair, at the sole expense of Applicant or Applicant's successor, of public roads damaged or modified during the decommissioning and reclamation process; (g) a provision that the decommissioning plan be prepared by a professional engineer registered with the state board of registration for professional engineers and surveyors; and (h) a provision stating that the bond shall be recalculated every five years by an engineer retained by the Applicant.

- (33) The Applicant is committing to using only solar panels that pass the Toxicity Characteristic Leaching Procedure ("TCLP") test. The Applicant further commits that at the time of project decommissioning and removal, retired panels and their components that are not recycled or repurposed, which are then marked for disposal, shall be sent to an engineered landfill with various barriers and methods designed to prevent leaching of materials into soils and groundwater.
- (34) All plans, notices, and other documents submitted to Staff pursuant to the conditions of the Certificate shall be filed on the public docket within 48 hours of submittal to Staff.

B. Exhibits

Subject to the terms and conditions of this Stipulation, the Applicant, Staff, and the OFBF, agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding:

- 1. Applicant Exhibit 1: Application filed on February 24, 2021.
- 2. Applicant Exhibit 2: First Supplement to the Application filed on June 17, 2021.
- 3. Applicant Exhibit 3: Second Supplement to the Application filed on August 19, 2021.
- 4. Applicant Exhibit 4: Third Supplement to the Application filed on September 3, 2021.

5. Applicant Exhibit 5: Fourth Supplement to the Application filed on October 8, 2021.
6. Applicant Exhibit 6: Response to First Data Request filed on April 9, 2021
7. Applicant Exhibit 7: Response to Second Data Request filed on April 20, 2021
8. Applicant Exhibit 8: Supplemental Response to First Data Request filed on April 21, 2021
9. Applicant Exhibit 9: Response to Third Data Request filed on August 23, 2021.
10. Applicant Exhibit 10: Response to Fourth Data Request filed on September 24, 2021.
11. Applicant Exhibit 11: Response to Fifth Data Response filed on June 7, 2022.
12. Applicant Exhibit 12: Response to Sixth Data Response filed on July 26, 2022.
13. Applicant Exhibit 13: Certificate of Service of the December 17, 2020 Public Information Meeting, notice on property owners and entities filed on November 25, 2020, in accordance with Ohio Adm.Code 4906-3-03.
14. Applicant Exhibit 14: Proof of Publication of the December 17, 2020 Public Information Meeting in the *Wilmington News Journal* filed on December 10, 2020, in accordance with Ohio Adm.Code 4906-3-03.
15. Applicant Exhibit 15: Certificate of Service of the accepted, complete application on local public officials and libraries filed on April 29, 2021, in accordance with Ohio Adm.Code 4906-3-07.
16. Applicant Exhibit 16: Proof of Service and Proof of Publication in the *Wilmington News Journal* of the procedural schedule, in accordance with the ALJ's August 17, 2021 Entry, filed on August 24, 2021.
17. Applicant Exhibit 17: Proof of Second Service and Proof of Second Publication in the *Wilmington News Journal* of the procedural schedule, in accordance with the ALJ's August 17, 2021 Entry, filed on October 18, 2021.
18. Joint Exhibit 1: The August 8, 2021, Stipulation signed on behalf of the Applicant, Staff, and the OFBF.

C. Other Terms of the Stipulation

1. This Stipulation is expressly conditioned upon its adoption by the Board without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Board's approval of this Stipulation constitutes a "material modification" thereof. If the Board rejects or materially modifies all of any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without material modification upon rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within 30 days of the Board's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board ("Notice of Withdraw"). No Signatory Party shall file a Notice of Withdraw without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for the Board's review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford the Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after hearing if necessary.
2. The Signatory Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that this Stipulation carries no factual or legal precedent on any issue. The parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the parties in entering into this Stipulation.

III. RECOMMENDED FINDINGS

The Signatory Parties agree that the record in this case, provided the Board approves the conditions in this Stipulation, contains sufficient probative evidence for the Board to find and determine, as findings of fact and conclusions of law, that:

A. Recommended Findings of Fact

1. The Applicant is an affiliate of Invenergy Solar Project Development, LLC, and is licensed to do business in the state of Ohio.
2. The facility qualifies as a major utility facility as defined in R.C. 4906.01(B)(1).
3. On November 25, 2020, the preapplication notification letter was filed informing the Board of the public information meeting in this proceeding. Notice of the public information meeting was served on county and township officials and agencies, property owners, local first responders, the local school district, and the local library, and published in the *Wilmington News Journal*. The public information meeting was held, as scheduled, on December 17, 2020.
4. The Applicant formally submitted its application for a Certificate of Environmental Compatibility and Public Need on February 24, 2021.
5. The County Commissioners filed a motion for intervention on June 15, 2021.
6. The OFBF filed a motion for intervention on September 29, 2021.
7. Petitioners filed a motion for intervention on September 30, 2021.
8. On April 23, 2021, the Staff filed a letter stating that it had received sufficient information to begin its review of the Application as supplemented.
9. On May 4, 2021, the Applicant filed notice that the Application fee had been submitted.
10. On April 29, 2021, the Applicant filed a certificate of service indicating that a copy of the Application was served on local public officials and libraries.
11. By entry issued on August 17, 2021, the ALJ established the procedural schedule and scheduled the local public and evidentiary hearings for October 20 and November 17, 2021, respectively.
12. On August 24 and October 18, 2021, the Applicant filed proof that the first and second notices of the procedural schedule were served and published in the *Wilmington News Journal*.
13. The Staff Report was filed on October 4, 2021.
14. The public hearing was held on October 20, 2021.

15. On August 8, 2021, the Applicant, Staff, and the OFBF filed the Stipulation.
16. The adjudicatory hearing commenced on November 17, 2021, and was call and continued.
17. The basis of need, as specified under R.C. 4906.10(A)(1), is not applicable to this generating facility project.
18. Adequate data on the project has been provided to determine the nature of the probable environmental impact, as required by R.C. 4906.10(A)(2).
19. Adequate data on the project has been provided to determine that the facility described in the application represents the minimum adverse environmental impact, considering the available technology and nature and economies of the various alternatives, and other pertinent considerations, as required by R.C. 4906.10(A)(3).
20. Adequate data on the project has been provided to determine that, because the project is an electric generation facility, the proposed electric generating facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and that the facility will serve the interests of electric system economy and reliability, and the requirements of R.C. 4906.10(A)(4) are met.
21. Adequate data on the project has been provided to determine that, to the extent that any of them are applicable, the solar-powered generation facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
22. Adequate data on the project has been provided to determine that the facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
23. Adequate data on the project has been provided to determine what the facility's impact will be on the viability as agricultural land of any land in an existing agricultural district established under R.C. Chapter 929 that is located within the site of the proposed facility, as required by R.C. 4906.10(A)(7).
24. Adequate data on the project has been provided to determine that the facility as proposed incorporates maximum feasible water conservation practices

considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).

25. The record evidence in this matter provides sufficient factual data to enable the Board to make an informed decision.

B. Recommended Conclusions of Law

1. The Applicant is a "person" under R.C. 4906.01(A).
2. The proposed facility is a major utility facility as defined in R.C. 4906.01(B)(1).
3. The application complies with the requirements of Ohio Adm.Code Chapter 4906-3.
4. The requirement for the need for the facility under R.C. 4906.10(A)(1) is inapplicable.
5. The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the facility under R.C. 4906.10(A)(2).
6. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations under R.C. 4906.10(A)(3).
7. The record establishes that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving the state of Ohio and interconnected utility systems, and will serve the interests of electric system economy and reliability, as required by R.C. 4906.10(A)(4).
8. The record establishes, as required by R.C. 4906.10(A)(5), that, to the extent that any of them are applicable, construction of the proposed facility will comply with the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the R.C.
9. The record establishes that the facility, if conditioned in the certificate as recommended by the Signatory Parties, will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
10. The facility's impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).

11. The record establishes that the facility would incorporate maximum feasible water conservation practices under R.C. 4906.10(A)(8).
12. Based on the record, the Signatory Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the facility, which includes the conditions in the Staff Report, as presented and modified by this Stipulation

The undersigned hereby stipulate and agree and they represent that they are authorized to enter into this Joint Stipulation and Recommendation.

Respectfully submitted on behalf of,

THE STAFF OF THE OHIO POWER SITING BOARD

By: /s/ Jodi Bair by CMTP per 4/15/22 email

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Summary: Stipulation - Joint Stipulation and Recommendation electronically filed
by Christine M.T. Pirik on behalf of YELLOW WOOD SOLAR ENERGY LLC,
INVENERGY SOLAR PROJECT DEVELOPMENT LLC VP