

# THE OHIO POWER SITING BOARD

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

CASE NO. 21-823-EL-BGN

## OPINION, ORDER, AND CERTIFICATE

Entered in the Journal on August 18, 2022

### I. SUMMARY

{¶ 1} The Ohio Power Siting Board issues a certificate of environmental compatibility and public need to Wild Grains Solar, LLC for the construction, operation, and maintenance of the solar-powered electric generation facility, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate.

### II. PROCEDURAL BACKGROUND

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 3} Wild Grains Solar, LLC (Wild Grains or Applicant) is a person as defined in R.C. 4906.01.

{¶ 4} Pursuant to R.C. 4906.04, no person shall construct a major utility facility without first having obtained a certificate from the Board. In seeking a certificate, applicants must comply with the filing requirements outlined in R.C. 4906.04, as well as Ohio Adm.Code Chapters 4906-2 through 4906-4.

{¶ 5} On July 27, 2021, Applicant filed a preapplication notification letter with the Board regarding the proposed solar facility. In the letter, Wild Grains explained that construction of the proposed 150 megawatt solar-powered electric generation facility (Facility) is estimated to begin no earlier than the third quarter of 2022, resulting in commercial operations by December 31, 2023.

{¶ 6} On August 26, 2021, Wild Grains filed proof of its compliance with Ohio Adm.Code 4906-3-03(B)(1), requiring notice of the public information meeting to be published in a newspaper of general circulation in the project area.

{¶ 7} On September 1, 2021, Wild Grains filed proof of its compliance with Ohio Adm.Code 4906-3-03(B)(2), in sending the required notification to each property owner and affected tenant within the project area. An in-person public information meeting was held at the Van Wert Fairgrounds on August 18, 2021.

{¶ 8} On November 16, 2021, Wild Grains filed an application (Application) with the Board for a certificate of environmental compatibility and public need to construct the Facility.

{¶ 9} Also on November 16, 2021, Wild Grains filed a motion for waivers of Ohio Adm.Code 4906-4-08(D)(2)-(4) to allow for a reduced study area regarding the review of cultural resources, landmarks, recreation areas, and visual impacts and Ohio Adm.Code 4906-3-14(D) to allow an interim Interconnection Service Agreement (ISA) be in place prior to the start of construction. On February 7, 2022, Board Staff (Staff) filed a letter stating that it does not oppose Applicant's motion for waivers. The motion for waivers was granted on March 3, 2022.

{¶ 10} Also on November 16, 2021, Applicant filed a motion for a protective order to keep limited portions of Exhibit H, which assesses the socioeconomic impact of the Facility, and the entire Exhibit U, which is a survey of archeological resources, confidential and not part of the public record. Additionally, Wild Grains notes that Application Section 4906-4-06(B)-(E) incorporates, without reproducing, Exhibit H with respect to financial data and seeks to keep this information confidential and not part of the public record. On February 7, 2022, Staff filed a letter stating that it does not oppose Applicant's motion for a protective order. The motion for protective order was granted on March 3, 2022.

{¶ 11} 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 January 18, 2022, the Board notified Wild Grains that its Application is 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 January 18, 2022 letter directed Applicant 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 Wild Grains to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 12} On February 10, 2022, Wild Grains filed a certificate of service of its accepted and complete Application and proof that it submitted its application fee to the Treasurer of the State of Ohio as required by Ohio Adm.Code 4906-3-07.

{¶ 13} Pursuant to R.C. 4906.021(C)(1), the Van Wert County Commissioners filed a resolution appointing Commissioner Todd Wolfrum as an ad hoc Board member on February 22, 2022. Additionally, the Board of Trustees of Hoaglin Township filed a resolution appointing Trustee Alfred Osting as an ad hoc Board member on February 23, 2022.

{¶ 14} On March 3, 2022, the administrative law judge (ALJ) issued an Entry establishing the procedural schedule for this case. Specifically, the Entry stated that the effective date of the Application is March 3, 2022, the local public hearing will be held on May 3, 2022, and the adjudicatory hearing will be held on May 25, 2022. The ALJ further directed Wild Grains to issue public notices of the Application and hearings pursuant to Ohio Adm.Code 4906-3-09 indicating that petitions to intervene would be accepted by the Board up to 30 days following service of the notice or by April 14, 2022, whichever was later.

{¶ 15} Wild Grains filed proof of publication of a description of the accepted, complete Application, published on March 16, 2022 and April 20, 2022 in *The Times Bulletin* in accordance with R.C. 4906.06(C). Proof of publication was filed in the docket on March 25, 2022, and April 27, 2022. The published notice also contained information regarding the scheduled hearing dates.

{¶ 16} On April 13, 2022, the Ohio Farm Bureau Federation (OFBF) timely filed a motion to intervene. No memoranda contra were filed. The motion was granted on May 2, 2022.

{¶ 17} On April 18, 2022, Staff filed its report of investigation (Staff Report).

{¶ 18} On May 3, 2022, the ALJ conducted the public hearing at the Van Wert County Fairgrounds, 1055 S. Washington Street, Van Wert, Ohio 45891. Nine people provided testimony during the hearing.

{¶ 19} On May 24, 2022, Wild Grains, OFBF, and Staff filed a joint stipulation and recommendation (Stipulation) through which the parties intend to resolve all matters pertinent to the certification and construction of the proposed Facility. In support of the Stipulation, Wild Grains filed the supplemental direct expert testimony of Jeffrey Reinkemeyer on May 24, 2022.

{¶ 20} On May 25, 2022, the evidentiary hearing was held as scheduled. On behalf of Wild Grains, Mr. Reinkemeyer presented his direct testimony in support of the Application (Applicant Exs. 11, 16) and the Stipulation (Joint Ex. 1). On behalf of Staff, Mark Bellamy presented his direct testimony in support of the Stipulation (Staff Ex. 5) and the Staff Report (Staff Ex. 1).

### III. PROJECT DESCRIPTION

{¶ 21} Wild Grains seeks certification to build a 150 megawatt (MW) solar-powered electric generation facility in Van Wert County, Ohio. The Facility would consist

of large arrays of photovoltaic panels, commonly referred to as solar panels, which will be ground-mounted on a tracking system. The Facility would include associated support facilities, such as access roads, a collection substation, and laydown yards.

#### IV. CERTIFICATION CRITERIA

{¶ 22} Pursuant to R.C. 4906.10(A), the Board shall not grant a certificate for the construction, operation, and maintenance of a major utility facility, either as proposed or as modified by the Board, unless it finds and determines all of the following:

- 1) The basis of the need for the facility if the facility is an electric transmission line or a gas or natural gas transmission line;
- 2) The nature of the probable environmental impact;
- 3) That the facility 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;
- 4) In the case of an electric transmission line or generating facility, that the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the facility will serve the interests of electric system economy and reliability;
- 5) That the facility will comply with R.C. Chapters 3704, 3734, and 6111, as well as all rules and standards adopted under those chapters and under R.C. 4561.32;
- 6) That the facility will serve the public interest, convenience, and necessity;
- 7) The impact of the facility 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 and alternate site of any proposed major facility; and

- 8) That the facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of various alternatives.

## V. SUMMARY OF EVIDENCE

{¶ 23} The Board will review the evidence presented with regard to each of the eight criteria by which we are required to evaluate applications. Any evidence not specifically addressed herein has nevertheless been considered and weighed by the Board in reaching its final determination.

### A. *Local Public Hearing*

{¶ 24} On May 3, 2022, the local public hearing was conducted at the Van Wert County Fairgrounds, where nine witnesses elected to provide testimony. Six individuals, Kipton Siesel, Ellen Girod Dove, Murlen Feasby, Barry Thatcher, Jeff Snyder, and Kari Casto, testified in a personal or representative capacity indicating that they support the proposed Facility, noting the landowners' right to utilize property how they choose, employment opportunities, energy security, and the tax payments that would support the school district and local government. (Pub. Tr. at 11-23, 32-39.)

{¶ 25} Three individuals testified in opposition to the proposed Facility. Bob Barker, Keaton Brenneman, and Bradley Maunz testified with concerns about property values, wildlife concerns, and aesthetics. (Pub. Tr. at 23-32, 39-47.)

{¶ 26} In addition to the testimony provided at the public hearing, the Board received written comments regarding the proposed Facility. Some of these public comments include concerns about property values, health issues, traffic, noise, drainage issues, aesthetics, and food supply issues. Other public comments express support for the proposed Facility, noting the importance of developing clean energy resources in the state, tax payments that would support the local government and schools, rights of landowners, and employment opportunities the Facility would provide.

**B. Staff Report**

{¶ 27} Pursuant to R.C. 4906.07(C), Staff completed an investigation into the Application, which included recommended findings regarding R.C. 4906.10(A). The following is a summary of Staff's findings.

**1. BASIS OF NEED**

{¶ 28} R.C. 4906.10(A)(1) requires an applicant for an electric transmission line or gas pipeline to demonstrate the basis of the need for such a facility. Because the Facility is a proposed electric generation facility, Staff recommends that the Board find this consideration is inapplicable (Staff Ex. 1 at 9).

**2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT**

{¶ 29} R.C. 4906.10(A)(2) requires that the Board determine the nature of the probable environmental impact of the proposed facility. As a part of its investigation, Staff reviewed the nature of the probable impact of the solar farm and the following is a summary of Staff's findings:

**a. Socioeconomic Impacts**

{¶ 30} Staff notes that in the project five-mile study area, there are two counties, one city, three villages, and nine townships. In the study area, Paulding County is the only jurisdiction that has adopted a land use plan, which is the Ohio Community Development Plan 2018 (Land Use Plan). Staff notes that the Facility will not be located within Paulding County, but the Facility is not expected to conflict with the Land Use Plan. Staff finds that the proposed Facility will aid regional development by increasing local tax revenues. Staff notes that the Facility would provide supplemental income to farmers and the land can be returned to agricultural production upon decommissioning. Staff also notes that the only land use type that would be impacted by this project is agricultural land. Staff states that the closest non-participating residence to a panel would be 222 feet away, and the closest non-participating residence to a facility component is 104 feet from a collection line. Staff

adds that the Facility layout precludes residences from being surrounded by more than one quadrant in its vicinity. Staff also notes that six recreation areas have potential visibility to the Facility, and visibility may be alleviated by existing vegetative screening. Staff adds that the number of panels potentially visible diminishes quickly at distances more than 1.5 miles. (Staff Ex. 1 at 10-11; Tr. at 18.)

{¶ 31} As to aesthetics, Staff reports that traffic volume on roads surrounding the project area is typically light, and the project area is primarily rural in nature, thus reducing the potential number of viewers. Additionally, the highest elevation of the solar panels would be 12 feet above ground level. According to the Applicant's visual resources report, the panels are not likely to be visible from locations beyond one and a half-mile distance from the Facility's perimeter, and existing landscape features would screen the panels from approximately 47 percent of the viewshed. The Applicant included with its visual impact analysis a mitigation plan that proposed to plant shrubs and pollinator plantings to address impacts to residences, the traveling public, nearby communities, and recreationalists. The Applicant also stated that it will provide a landscaping allowance to non-participating landowners that are either adjacent to or within 300-feet of the Facility and have a direct-line-of-sight of the Facility. The Applicant states the landscaping allowance will provide residences with the options to install their preferred screening due to feedback it has received from these residents. Additionally, the landscaping allowance means landowners will plant landscaping on their own land rather than in the project area, which will make it easier to return the project area to agricultural use after decommissioning the Facility. Staff recommends that the Applicant incorporate design features to reduce impacts in areas where an adjacent non-participating parcel contains a residence with a direct line of sight to the Facility's infrastructure. Additionally, Staff recommends that the Applicant select fencing that would be less aesthetically intrusive, more suitable to agricultural land use, and small-wildlife permeable. Staff finds that with the implementation of its landscape and fencing conditions, the overall expected aesthetic impact would be minimal. (Staff Ex. 1 at 11-12.)



{¶ 32} Wild Grains commissioned a cultural resources records review of the area. Applicant's consultant identified 102 archaeological sites, but only 20 of those sites were recommended as potentially eligible for listing in the National Register of Historic Places (NRHP), which was confirmed by the Ohio Historic Preservation Office (OHPO). The Applicant has agreed to avoid all 20 sites, and the Applicant will also ensure if archaeological resources are discovered during construction, the resources are evaluated to determine the need to preserve the resource. In the historic architecture survey, Applicant's consultant identified 21 historic resources within the area of potential effect. Of those, only six historic resources are potentially eligible for listing on the NHRP, and those resources will not experience an adverse effect from the Facility, as confirmed by OHPO. Staff determines that, based on the work performed by the Applicant and confirmed by the OHPO, minimal adverse environmental impacts to cultural resources would be achieved. (Staff Ex. 1 at 12-13.)

{¶ 33} Wild Grains is in the process of securing the necessary leases and agreements for all land within the project area. Staff also confirms that the estimated capital costs and operation and maintenance costs for Wild Grains would not be substantially different from those incurred by similar facilities. Wild Grains also stated that delays could prevent the Facility from meeting federal Investment Tax Credit deadlines resulting in the loss of those benefits. According to Staff, Applicant's characterization of the estimated costs of delays appears reasonable. Applicant estimates that the proposed Facility would create 675 construction-related jobs and 6 long-term operational jobs for the state of Ohio. During the construction period, wages would produce \$84.6 million in local output for the state of Ohio, and operations would add an annual impact of \$1 million for the state of Ohio. Based upon a Payment in Lieu of Taxes (PILOT) plan, the Applicant estimates that the Facility will produce PILOT revenues between \$1,050,000 and \$1,350,000 annually for the Van Wert County taxing districts. (Staff Ex. 1 at 14-15.)

{¶ 34} According to Staff, as opposed to subjective aesthetic concerns, glare is an objective phenomenon where sunlight reflects from the solar panels to create a duration of

bright light. The potential impacts from solar panel glare include a possible brief loss of vision, afterimage, a safety risk to pilots, and a perceived nuisance to neighbors. The Applicant found that no glare from the Facility is predicted to vehicles using the roadways or nearby residences, and Staff agrees with those findings. Staff notes that aesthetic impact mitigation measures that include vegetative plantings may also further reduce potential impacts as part of a landscape and lighting plan, which Staff has recommended for this Facility. (Staff Ex. 1 at 15.)

{¶ 35} As explained by Staff, Wild Grains estimates that the Facility can operate for 35 years or more. Applicant has prepared a decommissioning plan according to which it will decommission the Facility at the end of its useful life and return the land to its current use as agricultural land. Wild Grains states that, prior to the start of decommissioning the Facility, it will obtain all applicable federal, state, and local permits. Applicant will remove electrical lines to a depth of at least 42 inches below grade and will remove all solar components constructed above ground. Access roads or fences on private property at landowner request will be left in place. Lastly, Wild Grains would restore land to its pre-construction condition, to the extent practicable. Applicant anticipates that most Facility components would be removed within 50 weeks. Wild Grains states that it will provide for financial security to ensure that funds are available for decommissioning/land-restoration. Applicant calculates that the total decommissioning costs would be approximately \$7,523,841. Staff recommends that Wild Grains post a performance bond where the Applicant is the principal, the insurance company is the surety, and the Board is the obligee. The decommissioning plan and costs would be reviewed by the Board every five years after the commercial operations date. (Staff Ex. 1 at 15-17.)

{¶ 36} Staff states that the Applicant provided hourly wind speed data for years 1997-2020 and found the maximum wind speed was 41 mph, and the average wind speed was 10.3 mph. Staff notes that the Facility would use a minimum design wind load of 100 mph, and Facility components would be designed including a safety factor of 1.5 above the anticipated loads to accommodate these loads and resulting stresses. Additionally, wind

sensors, communication systems, battery backups for these systems, and power supplies would be used to support weather stations to provide information and updates to prevent catastrophic failure during extreme wind and snow events. Staff states that conventional heavy equipment, which does not require special permitting, would make up the majority of construction traffic. Wild Grains expects to enter into a Road Use Agreement with Van Wert County. Further, any damaged public roads and bridges would be repaired by the Applicant under the guidance of the appropriate regulatory authority. (Staff Ex. 1 at 17-18.)

{¶ 37} Staff avers that minimum adverse noise impacts are expected. Although many of the construction activities would generate significant noise levels, the activities would be limited to the construction period. Moreover, the construction noise would be temporary and intermittent, would occur away from most residential structures, and would be limited to daytime working hours. During operation, noise impacts would be minimal and occur most often during the day. Operation noises would include inverters and tracking motors. Wild Grain's noise level study showed that operation noise impacts would be less than ambient noise levels, and no nonparticipating receptors were modeled to receive noise impacts greater than the ambient noise level plus five dBA. The Facility, therefore, is expected to have minimal adverse noise impacts on the adjacent community. (Staff Ex. 1 at 18.)

*b. Site Geology*

{¶ 38} Staff asserts that the proposed Facility site includes several Wisconsinan age glacial features. Glacial drift throughout the majority of the project area ranges from approximately 8 feet up to 28 feet in thickness. Staff states that there are no mapped suspected or field verified karst features in Van Wert or surrounding counties, and the nearest documented karst feature is 48 miles southeast of the Facility. Ohio Department of Natural Resources (ODNR) records indicate there are no existing oil and gas wells within the project area. The nearest oil and gas related well is a former saltwater injection well 1.6 miles east of the project area. Additionally, no active mining occurs in the project area, and the nearest mine is a limestone quarry three miles south of the project area. Staff states that

Van Wert County is at low risk for seismicity caused by earthquakes as only one small magnitude earthquake has been documented in the county. A Geotechnical Report was created by the Applicant, which included a variety of tests to recommend the appropriate design of the subsurface solar equipment. The Geotechnical Report recommends that a certified corrosion engineer be retained to evaluate the Facility design for corrosion protection needs. Staff concludes that there appears to be no soil or geology related conditions that would suggest the project area is incompatible with construction and operation of the proposed Facility. Staff recommends that the detailed engineering drawings of the final Facility design shall account for geological features and shall include the identity of the registered professional engineer or engineer firm licensed to practice engineering in the state of Ohio who reviewed and approved the designs. Staff also proposes a condition that a corrosion engineer be part of the final design team to account for the potentially corrosive soils identified. (Staff Ex. 1 at 19-22.)

*c. Ecological Impacts*

{¶ 39} According to Staff, ODNR identified ten water wells within the project area. The Applicant committed to a 50-foot setback for all wells not avoided in the final layout design. The closest well is 165 feet from the fence line in the current Facility layout design. Staff states that the Facility may use existing water wells for construction activities, but no Facility components will use significant quantities of water or discharge significant quantities of wastewater. Two drinking water supply source water protection areas are located near the Facility, which are located approximately 1,650 feet and 2,650 feet from the project area. Staff states that construction and operation of solar power facilities is not a restricted activity that would impact groundwater quality. Staff concludes that construction and operation of the Facility would pose no unreasonable risk to public and private drinking water supplies. (Staff Ex. 1 at 22-23.)

{¶ 40} The Applicant noted three forested wetlands, nine stream segments, nine ditches, and four ponds in the project area. However, the Applicant clarified that no wetland or pond impacts are proposed. Up to six stream crossings are proposed and, the

Applicant states that it will utilize horizontal directional drilling (HDD) techniques to install collection lines underneath surface waters. Staff recommends the Applicant have an environmental specialist on site during construction activities where HDD activities may impact surface waters. The Applicant would obtain an Ohio National Pollutant Discharge Elimination System (NPDES) construction stormwater general permit through the Ohio Environmental Protection Agency (Ohio EPA) prior to the start of construction. The Applicant would also develop a Stormwater Pollution Prevention Plan (SWPPP). Staff recommends the Applicant also apply Ohio EPA published Guidance on Post-Construction Storm Water Control for Solar Panel Arrays during Facility construction. The Facility does not fall within a 100-year floodplain. (Staff Ex. 1 at 23-24.)

{¶ 41} Staff asserts that the project area is within range of the Indiana bat, a state and federal endangered species; the northern long-eared bat, a state endangered species and a federal threatened species; the little brown bat, a state endangered species; and the tri-colored bat, which is a state endangered species. In order to avoid impacts to these bat species, Staff recommends that Wild Grains adhere to seasonal tree cutting dates of October 1 through March 31 as recommended by the ODNR and the U.S. Fish and Wildlife Service (USFWS). (Staff Ex. 1 at 25-26.)

{¶ 42} Staff explains that the project area is within range of the northern harrier, a state endangered bird species, and the upland sandpiper, which is a state endangered bird species. Staff states that impacts to these species are not anticipated due to lack of habitat. (Staff Ex. 1 at 25-26.)

{¶ 43} Finally, according to Staff, the project area is also within range of the pugnose minnow, which is a state endangered species. Staff states that critical habitat for the pugnose minnow was identified in the project area. ODNR recommended that no in-water work in perennial streams be conducted from March 15 and June 30, and the Applicant has committed to this recommendation. (Staff Ex. 1 at 25-26).

{¶ 44} In the project area, Staff notes that most of the land is agricultural land, and the remaining acreage consists of forest, developed land, grassland, and wetlands. According to Staff, permanent vegetative impacts will occur primarily within agricultural lands. The estimated forestland impact is estimated to total approximately two acres and consist of clearing hedgerows rather than woodlots. Staff notes that Wild Grains proposes the implementation and maintenance of native pollinator-friendly plantings in consultation with the recommendations of the Ohio Pollinator Habitat Initiative. This habitat would enhance the visual appeal of the proposed Facility, enrich local wildlife habitat, benefit the local farming community, increase plant diversity, and discourage invasive species. The Applicant committed to applying the final seed mix to all areas within the fence line as well as a buffer area outside the fence line, encompassing an acreage of approximately 800 acres or 35 percent of the leased project area. The Facility is expected to represent a reduced environmental impact as compared to the current agricultural use due to the reduction of frequent tilling and reduced fertilizer and pesticide application. Staff recommends that the Applicant prepare an updated vegetation management plan in consultation with ODNR, with a goal to follow the Ohio Solar Site Pollinator Habitat Planning and Assessment Form with a minimum score of 80 points. Staff also recommends that the Applicant take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code 901:5-37 et seq. during implementation of any pollinator-friendly plantings. (Staff Ex. 1 at 26-27.)

{¶ 45} In sum, Staff recommends that the Board find that Wild Grains has determined the nature of the probable environmental impact for the proposed Facility and, therefore, complies with the requirements specified in R.C. 4906.10(A)(2), provided that any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 1 at 27).

### **3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT**

{¶ 46} Pursuant to R.C. 4906.10(A)(3), the proposed facility must represent the minimum adverse environmental impact, considering the state of available technology and

the nature and economics of the various alternatives, along with other pertinent considerations.

{¶ 47} Staff states that minimal adverse impacts to cultural resources would be achieved, as the Applicant agreed to avoid all sites potentially eligible for the NRHP and plans for additional vegetative screening. Staff states that the proposed Facility would have an overall positive impact on the state and local economy due to the increase in construction spending, wages, purchasing of goods and services, annual lease payments to the local landowners, increased tax revenues, and PILOT revenue. Staff also finds that the geology of the Facility site does not appear to present conditions that would limit or negatively impact the construction and future operation of the proposed Facility, but the Applicant should develop an unanticipated discovery plan to account for conditions or features discovered during construction. To the extent that impacts to the project area and surrounding areas were identified, Staff believes that the Facility is unlikely to pose a significant adverse impact. For example, any stream crossings would be done via HDD to avoid impacting streams; impacts on wildlife and habitat can be avoided or abated by following seasonal construction restrictions; noise impacts would be primarily limited to the construction phase and would be temporary and intermittent; and traffic impacts would also be temporary. Given the low profile of the Facility and existing vegetation in the area, visual impacts would be most prominent to landowners in the immediate vicinity of the Facility, and such effects will be mitigated by the landscape and lighting plan to address potential impacts. Additionally, Wild Grains has committed to take steps to address potential impacts to farmland, including repairing all drainage tiles damaged during construction and restoring temporarily impacted land to its original use upon decommissioning. (Staff Ex. 1 at 28-29.)

{¶ 48} Overall, Staff recommends that the Board find that the proposed Facility represents the minimum adverse environmental impact and, therefore, complies with the requirements of R.C. 4906.10(A)(3), provided that any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 1 at 29-30).

#### 4. ELECTRIC POWER GRID

{¶ 49} Pursuant to R.C. 4906.10(A)(4), the Board must determine that the proposed facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems. Under the same authority, the Board must also determine that the proposed facility will serve the interest of the electric system economy and reliability.

{¶ 50} Staff evaluated the impact of integrating the proposed Facility into the existing regional electric transmission grid. As proposed, the solar-powered electric generation Facility would be capable of producing 150 MW and would interconnect from the Facility substation to a newly proposed gen-tie connection to the existing American Electric Power's Maddox Creek 345 kilovolt substation. (Staff Ex. 1 at 31.)

{¶ 51} According to Staff, Wild Grains is subject to compliance with various North American Electric Reliability Corporation reliability standards. The Applicant submitted a generation interconnection request for the proposed Facility to PJM Interconnection, LLC (PJM), which is the regional transmission organization responsible for planning upgrades and administering the generation queue for the regional transmission system in Ohio. PJM has completed the feasibility and system impact study and is processing the facilities study. PJM studied energy delivery impacts and found three network impacts that may impact deliverability. PJM would require a merchant transmission interconnection request if the Applicant wishes to proceed with network upgrades, but the upgrades are not required in order for the Facility to be operational. (Staff Ex. 1 at 31-32.)

{¶ 52} Staff concludes that the Facility would be consistent with plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and would serve the interests of electric system economy and reliability. Accordingly, Staff recommends that the Board find that the Facility complies with the requirements of R.C. 4906.10(A)(4) so long as any certificate issued for the proposed Facility includes the conditions specified in the Staff Report. (Staff Ex. 1 at 32-33.)



## 5. AIR, WATER, SOLID WASTE, AND AVIATION

{¶ 53} Pursuant to R.C. 4906.10(A)(5), the facility must comply with Ohio law regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous wastes, and air navigation.

{¶ 54} Although the proposed Facility will not require any air quality permits, Staff states fugitive dust rules may be applicable to its construction. Accordingly, Wild Grains would need to control and localize fugitive dust by using best management practices such as using water to wet soil to minimize dust. (Staff Ex. 1 at 34.)

{¶ 55} Staff states that Wild Grains would mitigate potential water quality impacts associated with aquatic discharges by obtaining NPDES construction storm water general permit from the Ohio EPA along with a SWPPP for stormwater discharge related to construction activities. If necessary, Wild Grains will seek a water protection permit under Section 404 of the federal Clean Water Act, a Water Quality Certification from the Ohio EPA, and an Ohio Isolated Wetland Permit. (Staff Ex. 1 at 34-35.)

{¶ 56} As explained by Staff, debris from construction activities would consist of items such as plastic, wood, cardboard, metal packing/packaging materials, construction scrap, and general refuse. Wild Grains stated that all construction-related debris would be disposed of by a contractor. During operation, the Facility could generate small amounts of similar solid waste, which would be disposed of through a local solid waste disposal service. Staff states that Wild Grain's solid waste disposal plans comply with the requirements set forth in R.C. Chapter 3734. (Staff Ex. 1 at 35.)

{¶ 57} Staff notes that the height of the tallest structures, the lightning protection structures, would be approximately 65 feet tall. That height is under the height requirement in the Federal Aviation Administration's (FAA) regulations. According to the Applicant, there is one public use airport within five miles of the Facility, which is the Van Wert County Airport (VNW) that is approximately 4.5 miles from the proposed Facility substation, as

confirmed by the FAA. In a coordinated review of the proposed Facility's potential impacts on local airports, no concerns have been identified by Staff or the Ohio Department of Transportation's Office of Aviation. (Staff Ex. 1 at 35-36.)

{¶ 58} Based on these findings, Staff recommends that the Board find that the proposed Facility complies with the requirements specified in R.C. 4906.10(A)(5), provided that any certificate issued for the Facility include the conditions specified in the Staff Report (Staff Ex. 1 at 36).

#### **6. PUBLIC INTEREST, CONVENIENCE, AND NECESSITY**

{¶ 59} Pursuant to R.C. 4906.10(A)(6), the Board must determine that the facility will serve the public interest, convenience, and necessity.

{¶ 60} Public interest, convenience, and necessity should be examined through a broad lens. For example, this factor should consider the public's interest in energy generation that ensures continued utility services and the prosperity of the State of Ohio. At the same time, this statutory criterion regarding public interest, convenience, and necessity must also encompass the local public interest, ensuring a process that allows for local citizen input, while taking into account local government opinion and impact to natural resources. As part of the Board's responsibility under R.C. 4906.10(A)(6) to determine that all approved projects will serve the public interest, convenience, and necessity, we must balance projected benefits against the potential negative impacts on the local community. As discussed below, the parties assert that the Application, as supplemented and modified by the Stipulation and supported by record evidence, benefits the public in multiple ways.

{¶ 61} Staff asserts that the Applicant would use reliable and certified equipment compliant with applicable standards, and components would be inspected regularly for safe and reliable operation. Wild Grains would use warning signs, fencing, and gates to restrict access to the potential hazards within the project area and implement setbacks between

certain equipment and the public. The Applicant stated that it intends to restrict public access to the Facility by enclosing the project area with fencing. Further, the Applicant also intends to develop and implement an emergency action/response plan and consult with potentially affected emergency response personnel. (Staff Ex. 1 at 37.)

{¶ 62} Wild Grains has worked with the community by way of hosting a public informational meeting. In this public informational meeting, attendees were provided the opportunity to review information about the Facility, ask questions, and provide written comments. Staff notes that Wild Grains has already developed a draft complaint resolution plan to handle complaints during the construction and operation of the Facility. Staff recommends that a final version of this plan be filed in the case docket no later than 30 days prior to the start of construction. Wild Grains has committed to notify affected property owners and tenants no later than seven days prior to the start of construction. Staff recommends that a similar notice be mailed to the same recipients prior to the start of Facility operations. Staff also recommends that Wild Grains file in this case docket a quarterly complaint summary report during construction and the first five years of operation of the Facility. Additionally, Van Wert County Commissioner Todd Wolfrum and Hoaglin Township Trustee Alfred Osting were appointed as ad hoc board members for this Application in accordance with Senate Bill 52. (Staff Ex. 1 at 37-38.)

{¶ 63} In all, Staff recommends that the Board find that the proposed Facility would serve the public interest, convenience, and necessity and, therefore, complies with the enumerated requirements of R.C. 4906.10(A)(6), provided that any certificate issued by the Board includes the conditions specified in the Staff Report (Staff Ex. 1 at 39).

## **7. AGRICULTURAL DISTRICTS**

{¶ 64} Pursuant to R.C. 4906.10(A)(7), the Board must determine the facility's impact on the agricultural viability of any land in an existing agricultural district within the project area of the proposed utility facility.

{¶ 65} Staff states that approximately 818 acres of agricultural land would be disturbed by the proposed Facility, of which 37 acres is agricultural district land. The Applicant states the repurposed land could be restored for agricultural use when the Facility is decommissioned. Wild Grains has committed to take steps to address potential impacts to farmland, including repairing all drainage tiles damaged during construction. Wild Grains' decommissioning plan for the proposed Facility calls for returning the affected land to original or similar conditions, and the plan includes restoring topsoil. (Staff Ex. 1 at 40.)

{¶ 66} Staff recommends that the Board find that the impact of the proposed Facility on the viability of existing agricultural land in an agricultural district has been determined and, therefore, the requirements of R.C. 4906.10(A)(7) are satisfied, so long as any certificate issued by the Board include the conditions specified in the Staff Report (Staff Ex. 1 at 40).

#### 8. WATER CONSERVATION PRACTICE

{¶ 67} Pursuant to R.C. 4906.10(A)(8), the proposed facility must incorporate maximum feasible water conservation practices, considering available technology and the nature and economics of the various alternatives.

{¶ 68} Staff states that the Facility may require some water use during construction for dust suppression and control, but operation of the proposed Facility would not require the use of significant amounts of water. Staff explains that the Facility would use the existing O&M building from the Blue Creek Wind Farm so no appreciable additional water or wastewater would be generated. Staff notes that the Applicant stated that rain and snowfall should sufficiently clean the panels, so they expect to clean the panels no more than once every five years, which would use approximately 120,000 gallons of water. (Staff Ex. 1 at 41.)

{¶ 69} In all, Staff believes that the Facility would incorporate maximum feasible water conservation practices as specified in R.C. 4906.10(A)(8) (Staff Ex. 1 at 41).

## 9. RECOMMENDATIONS

{¶ 70} In addition to making various findings throughout its report, Staff recommended that 32 conditions be made part of any certificate issued by the Board for the proposed Facility (Staff Ex. 1 at 42-47). The recommended conditions found within the Staff Report were adopted in the parties' May 24, 2022 Stipulation. (Joint Ex. 1.) The conditions are discussed below.

## VI. STIPULATION AND CONDITIONS

{¶ 71} At the evidentiary hearing, Wild Grains presented the Stipulation executed by Applicant, OFBF, and Staff (Joint Ex. 1). Pursuant to the Stipulation, the parties recommend that the Board issue the certificate requested by Applicant, subject to 32 conditions. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the actual Stipulation. The parties stipulate that:

- (1) Wild Grains 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.
- (2) Wild Grains shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, Wild Grains, and representatives of the primary contractor and all subcontractors for the Facility shall attend. The attendees shall discuss the measures to be taken by Wild Grains and contractors to ensure compliance with all conditions of the certificate and the procedures for on-site investigations by Staff during construction.
- (3) Within 60 days after the commencement of commercial operation, Wild Grains shall submit to Staff a copy of the as-built specifications for the entire Facility. If Wild Grains 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. Additionally, Wild Grains shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.

- (4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to the preconstruction conferences, Wild Grains shall provide Staff, for review and acceptance, detailed engineering drawings of the final Facility design and geographically referenced data to confirm that the final design conforms with the certificate. The engineering drawings shall account for geological features and shall include the identity of the registered professional engineer or engineer firm licensed to practice engineering in the state of Ohio who reviewed and approved the designs.
- (5) At least 30 days prior to the preconstruction conference, Wild Grains shall provide Staff, for review and acceptance, the final geotechnical engineering report, which shall include a summary statement addressing the geologic and soil suitability.
- (6) If changes are made to the Facility layout after submission of the final engineering drawings, Wild Grains shall provide changes to Staff, and changes are subject to Staff review.
- (7) At least 30 days prior to the preconstruction conference, Wild Grains shall provide Staff, for review and acceptance, a final Unanticipated Discovery Plan to address the processes that would be followed by the Applicant in the event any previously unknown contaminated material or other potential hazards are discovered during construction.
- (8) Wild Grains' final Facility design shall include input from a qualified corrosion engineer to account for potentially corrosive soils.

- (9) The certificate shall become invalid if Wild Grains 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.
- (10) As the information becomes known, Wild Grains shall file in this proceeding the date on which construction will begin, the date on which construction was completed, and the date on which the Facility begins commercial operation.
- (11) Prior to the commencement of construction activities, Wild Grains shall obtain transportation permits. Further, Wild Grains shall coordinate with the appropriate authority regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control. Lastly, Wild Grains shall provide a final transportation management plan to Staff prior to the preconstruction conference.
- (12) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, Wild Grains shall obtain and comply with such permits or authorizations. Further, Wild Grains shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by Wild Grains. Lastly, Wild Grains shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conferences.
- (13) The certificate authority provided in this case shall not exempt Wild Grains 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) Wild Grains shall not commercially operate the Facility until it has executed an ISA and Interconnection Construction Service Agreement (ICSA) with PJM, which includes construction, operation, and maintenance of system upgrades necessary to

integrate the proposed generating Facility into the regional transmission system reliably and safely. Wild Grains shall docket in the case record a letter stating that the agreement has been signed or a copy of the executed ISA and ICSA.

- (15) Wild Grains shall not commence construction of the Facility until it has executed either an ISA or ICSA with PJM. Wild Grains shall docket in the case record a letter stating that such agreement has been signed or a copy of the executed ISA or ICSA.
- (16) The Facility shall be operated in such a way as to assure that no more than 150 MW would at any time be injected into the bulk power system.
- (17) Prior to commencement of construction, Wild Grains 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 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. Wild Grains shall maintain vegetative screening for the life of the Facility. Wild Grains shall maintain all fencing along the perimeter of the Facility in good repair for the term of the Facility and shall promptly repair any damage as needed. Lights shall be motion-activated and designed to narrowly focus light inward toward the Facility. Wild Grains shall provide the plan to Staff for review and confirmation that it complies with this condition and file it on the public docket.
- (18) Prior to commencement of construction, Wild Grains 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. This condition shall not apply to substation fencing.

- (19) General construction 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 activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary. Wild Grains 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.
- (20) Operational sound levels shall not exceed 47 dBA plus five dBA, at non-participating receptors. If the inverters and/or substation transformer used have a higher sound power level than that used in the sound assessment, Wild Grains shall submit an updated noise study. The updated noise study shall show that sound levels will not exceed the 47 dBA plus five dBA at any non-sensitive receptor.
- (21) Wild Grains shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems and soils resulting from the construction, operation, and/or maintenance of the Facility in agricultural areas. Damaged field tile systems shall be promptly repaired to at least original conditions or modern equivalent at Wild Grains' expense. However, if the affected landowner agrees to not having the damaged field tile system repaired, they may do so only if the field tile systems of adjacent landowners remain unaffected by the non-repair of the landowner's field tile system. Wild Grains shall design the Facility to ensure that nearby parcels are protected from unwanted drainage problems due to construction and operation of the Facility.

- (22) At least 30 days prior to the preconstruction conference, Wild Grains shall submit an updated decommissioning plan and total decommissioning cost estimate on the public docket 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 for removal of the equipment; (c) a provision to monitor the site for at least one additional year 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 repair 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; (h) a provision stating that the bond shall be recalculated every five years by an engineer retained by the Applicant; and (i) a provision that underground equipment will be removed to the extent that allows for future drain tile repairs and installation to be completed.
- (23) At the time of solar panel end of life disposal, any panel material that is not recycled shall be sent to an engineered landfill with barriers and methods designed to prevent leaching of materials into soils and groundwater, or another appropriate disposal location at the time of decommissioning approved by Staff.
- (24) All water wells within the project area shall be “ground-truthed” to determine the exact locations prior to construction. Wild Grains shall adhere to a minimum Facility infrastructure setback of 50 feet from any existing domestic use water supply well. Wild Grains must obtain concurrence from the landowner before plugging any water wells in the project area.

- (25) Wild Grains shall adhere to a minimum setback of ten feet between Facility infrastructure and any plugged and abandoned water wells.
- (26) Wild Grains shall construct the Facility in a manner that incorporates post construction stormwater management in accordance with the Ohio EPA's Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays.
- (27) If Wild Grains encounters any state or federal listed species during construction activities, Wild Grains shall contact Staff, the ODNR, and the USFWS within 24 hours. 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 Wild Grains, Staff, and the appropriate agencies.
- (28) Prior to commencement of any construction, Wild Grains shall prepare an updated vegetation management plan in consultation with ODNR. The goals of the plan shall include planting approximately 800 acres in beneficial vegetation and to follow the Ohio Solar Site Pollinator Habitat Planning and Assessment Form with a minimum score of 80 points. The plan shall include mapping of the areas where pollinator habitat would be established and maintained. The plan shall include that routine mowing would be limited to fall/spring seasons to allow for natural reseeding of plantings and reduce impacts to ground nesting birds.
- (29) Wild Grains shall take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 during implementation of any pollinator-friendly plantings. If noxious weeds are found to be present, Wild Grains shall remove and treat them with herbicide.
- (30) Wild Grains shall coordinate with the ODNR, USFWS, and Staff if final site designs necessitate temporary or permanent impacts to surface waters.
- (31) Wild Grains shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. The environmental specialist

shall have authority to stop construction to assure that unforeseen environmental impacts do not progress. A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present.

- (32) At least 30 days prior to the start of construction, Wild Grains 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, Wild Grains shall notify via mail affected property owners and tenants; all residents, airports, schools, and libraries located within one mile of the project area; parties to this case; county commissioners, township trustees, and emergency responders; and any other person who requests updates regarding the Facility. These notices shall provide information about the Facility, including contact information and a copy of the complaint resolution plan. During the construction and operation of the Facility, Wild Grains 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 Wild Grains' 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. These complaint summaries shall also be filed by Wild Grains on the public docket.

(Joint Ex. 1 at 2-8.)

## VII. CONSIDERATION OF THE STIPULATION

{¶ 72} Pursuant to Ohio Adm.Code 4906-2-24, parties before the Board are permitted to enter into stipulations concerning issues of fact, the authenticity of documents, or the proposed resolution of some or all of the issues in a proceeding. In accordance with Ohio Adm.Code 4906-2-24(D), no stipulation is binding on the Board. However, the Board affords the terms of the stipulation substantial weight. The standard of review for considering the reasonableness of a stipulation has been discussed in numerous Board

proceedings. See, e.g. *In re Hardin Wind, LLC*, Case No. 13-1177-EL-BGN (Mar. 17, 2014); *In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN (Dec. 16, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB (Sept. 30, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA (May 1, 2013); *In re American Transm. Systems Inc.*, Case No. 12-1727-EL-BSB (Mar. 11, 2013). The ultimate issue for the Board's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Board has used the following criteria:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (b) Does the settlement, as a package, benefit ratepayers and the public interest?
- (c) Does the settlement package violate any important regulatory principal or practice?

{¶ 73} Upon review, the Board finds that the Stipulation is reasonable as judged by this three-part test and should be approved. Initially, the Board finds that the Stipulation is the product of serious bargaining among capable, knowledgeable parties. The parties agree that the Stipulation is a product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process (Joint Ex. 1 at 1-2). Wild Grains witness Jeff Reinkemeyer testified that all parties participated in negotiations and the agreement is the product of serious bargaining among capable knowledgeable parties (Applicant Ex. 16 at 4). The Board further notes that OFBF and Staff have extensive experience in Board matters and that all parties involved were represented by counsel with similar significant experience.

{¶ 74} The Board also concludes that the second prong of the test is satisfied. The record evidence supports the conclusion that the Stipulation, as a package, benefits ratepayers and the public interest. In his testimony, Mr. Reinkemeyer represents that the

Facility will garner positive economic impact on the local economy through construction spending, job creation, and an annual service PILOT plan (Applicant Ex. 16 at 5-6). Specifically, Staff found that the PILOT plan would generate between \$1,050,000 and \$1,350,000 for the local community annually (Staff Ex. 1 at 14). Mr. Reinkemeyer also notes that the Facility would help meet the demand for in-state carbon free energy resources and a more diverse national energy portfolio (Applicant Ex. 16 at 6). Wild Grains states that the proposed Facility would aid regional development by generating employment opportunities and providing economic benefits to the school district (Applicant Ex. 1 at 89-90). Furthermore, Mr. Reinkemeyer states that the Stipulation ensures that the Facility will represent the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations (Applicant Ex. 16 at 5). Wild Grains has committed to take steps to prevent the establishment and/or further propagation of noxious weeds during its pollinator-friendly plantings (Joint Ex. 1 at 7). Additionally, no local government entities oppose the Facility.

{¶ 75} Finally, the Board finds that the record supports the conclusion that the Stipulation observes and promotes regulatory practices and principles. Consistent with our recent findings in similar cases, the evidence demonstrates that the Application, as modified by the Stipulation, satisfies each of the necessary statutory components enumerated in R.C. 4906.10(A) (Staff Ex. 1 at 9-41; Joint Ex. 1 at 12-13). The record is devoid of any evidence to contradict this conclusion. As such, we find the third facet of our analysis has been met.

{¶ 76} In conclusion, and based on the record in this proceeding, the Board finds that all relevant required elements of R.C. Chapter 4906 are satisfied for the construction, operation, and maintenance of the solar-powered electric generation Facility described in Wild Grains' Application, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. The Board clarifies that all required information submitted to Staff in support of the conditions addressed in the Stipulation should be filed on the docket of this case. Based on the record in this case, the Board thus approves and

adopts the Stipulation and hereby issues a certificate to Wild Grains in accordance with R.C. Chapter 4906.

### **VIII. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**{¶ 77}** Wild Grains is a person under R.C. 4906.01(A).

**{¶ 78}** The proposed solar-powered electric generation Facility is a major utility facility as that term is defined in R.C. 4906.01(B).

**{¶ 79}** On July 27, 2021, Wild Grains filed a pre-application notification letter informing the Board of its proposed 150 MW solar-powered electric generation Facility in Van Wert County, Ohio.

**{¶ 80}** On September 1, 2021, Wild Grains filed its confirmation of notification to property owners and affected tenants of the dates and formats of the public informational meetings in accordance with Ohio Adm.Code 4906-3-03.

**{¶ 81}** Applicant held a public informational meeting regarding the proposed Facility on August 18, 2021.

**{¶ 82}** On November 16, 2021, Wild Grains filed its Application for a certificate of environmental compatibility and public need to construct the Facility. Wild Grains also filed a motion for protective order to keep portions of its Application confidential and a motion for waivers to allow for a reduced study area regarding the review of cultural resources, landmarks, recreation areas, and visual impacts and to allow an interim ISA to be in place prior to the start of construction.

**{¶ 83}** By Entry dated March 3, 2022, the ALJ granted Applicant's motion for a protective order and motion for waivers.

{¶ 84} By letter dated January 18, 2022, the Board notified Wild Grains that its Application had been found to be sufficiently complete pursuant to Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 85} On February 10, 2022, Wild Grains filed a certificate of service of its accepted and complete Application and proof that it submitted its application fee to the Treasurer of the State of Ohio as required by Ohio Adm.Code 4906-3-07.

{¶ 86} On March 3, 2022, the ALJ established the effective date of the Application as March 3, 2022, and adopted a procedural schedule, which included the date of the local public hearing and the adjudicatory hearing.

{¶ 87} On March 16, 2022 and April 20, 2022, Wild Grains filed proof of publication, in *The Times Bulletin*, of a public notice regarding the date and time of the scheduled hearings, including the process to participate in the public hearing.

{¶ 88} On April 13, 2022, OFBF filed a motion to intervene, which was granted on May 2, 2022.

{¶ 89} The Staff Report was filed on April 18, 2022.

{¶ 90} On May 3, 2022, the public hearing was conducted at the Van Wert County Fairgrounds, 1055 S. Washington Street, Van Wert, Ohio 45891.

{¶ 91} On May 24, 2022, Wild Grains, OFBF, and Staff filed a Stipulation resolving all issues in the case.

{¶ 92} On May 25, 2022, the evidentiary hearing was conducted, as scheduled.

{¶ 93} Sufficient information regarding the proposed generation Facility has been provided to make the applicable determinations required by R.C. 4906.10(A). The record evidence in this matter provides sufficient factual evidence to enable the Board to make an informed decision.



{¶ 94} The record establishes that the Facility is not an electric transmission line or gas pipeline and, therefore, R.C. 4906.10(A)(1) is not applicable.

{¶ 95} The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the Facility, consistent with R.C. 4906.10(A)(2).

{¶ 96} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations, consistent with R.C. 4906.10(A)(3).

{¶ 97} The record establishes that the Facility, an electric generation facility, is consistent with regional plans for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems and that the Facility will serve the interests of electric system economy and reliability consistent with R.C. 4906.10(A)(4).

{¶ 98} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will comply with R.C. Chapters 3704, 3734, and 6111; R.C. 4561.32; and all rules and regulations thereunder, to the extent applicable, consistent with R.C. 4906.10(A)(5).

{¶ 99} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate, will serve the public interest, convenience, and necessity, consistent with R.C. 4906.10(A)(6).

{¶ 100} The record establishes the impact of the Facility on agricultural lands and agricultural district land consistent with the requirements of R.C. 4906.10(A)(7).

{¶ 101} The record establishes that the Facility incorporates maximum feasible water conservation practices considering available technology and the nature and

economics of the various alternatives. Accordingly, the Facility meets the requirements of R.C. 4906.10(A)(8).

{¶ 102} The evidence supports a finding that all of the criteria in R.C. 4906.10(A) are satisfied for the construction, operation, and maintenance of the Facility as proposed by Wild Grains, subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

{¶ 103} Based on the record, the Board should issue a certificate of environmental compatibility and public need to Wild Grains, pursuant to R.C. Chapter 4906, for the construction, operation, and maintenance of the solar-powered electric generation Facility subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate.

#### IX. ORDER

{¶ 104} It is, therefore,

{¶ 105} ORDERED, That the Stipulation be approved and adopted. It is, further,

{¶ 106} ORDERED, That a certificate be issued to Wild Grains for the construction, operation, and maintenance of the solar-powered electric generation facility subject to the conditions set forth in the Stipulation and consistent with this Opinion, Order, and Certificate. It is, further,

{¶ 107} ORDERED, That a copy of this Opinion, Order, and Certificate be served upon all parties and interested persons of record.

BOARD MEMBERS:

*Approving:*

Jenifer French, Chair  
Public Utilities Commission of Ohio

Jack Christopher, Designee for Lydia Mihalik, Director  
Ohio Department of Development

W. Gene Phillips, Designee for Bruce T. Vanderhoff, M.D., Director  
Ohio Department of Health

Drew Bergman, Designee for Laurie Stevenson, Director  
Ohio Environmental Protection Agency

Sarah Huffman, Designee for Dorothy Pelanda, Director  
Ohio Department of Agriculture

Gregory Slone  
Public Member

Al Osting, Trustee  
Hoaglin Township

Todd Wolfrum, Commissioner  
Van Wert County

JWS/dmh

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**Case No(s). 21-0823-EL-BGN**

Summary: Opinion & Order issuing a certificate of environmental compatibility and public need to Wild Grains Solar, LLC for the construction, operation, and maintenance of the solar-powered electric generation facility, subject to the conditions set forth in the stipulation and consistent with this Opinion, Order, and Certificate electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board