

# THE OHIO POWER SITING BOARD

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

CASE NO. 21-41-EL-BGN

## OPINION AND ORDER

Entered in the Journal on April 20, 2023

### I. SUMMARY

{¶ 1} The Ohio Power Siting Board issues a certificate of environmental compatibility and public need to Palomino Solar, LLC for the construction, operation, and maintenance of a 200 megawatt solar-powered electric generation facility in Dodson and Union townships, Highland County, Ohio, subject to the conditions set forth in the stipulation and consistent with this Opinion and Order.

### 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} Palomino Solar, LLC (Palomino 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 January 14, 2021, Palomino filed a motion seeking a limited waiver of Ohio Adm.Code 4906-3-03(B) to allow for the public information meeting to be held virtually. By Entry issued on January 29, 2021, the administrative law judge (ALJ) granted Palomino's motion for waiver to conduct a virtual public informational meeting.

{¶ 6} On February 19, 2021, Palomino filed a pre-application notification letter with the Board. In the letter, Palomino explained that for its proposed 200 megawatt (MW) solar-powered electric generation facility in Dodson and Union townships, Highland County, Ohio (Facility), construction is estimated to begin in mid-2022 and to commence operations in late 2023.

{¶ 7} On March 24, 2021, Palomino filed proof of notice of its virtual public informational meeting, which was held on March 9, 2021.

{¶ 8} On April 2, 2021, Palomino filed a motion requesting a waiver of the requirement in Ohio Adm.Code 4906-3-03(B)(2)(b). Through its waiver, Palomino sought permission to remedy an inadvertent omission that occurred with respect to its February 5, 2021 notification letter.

{¶ 9} On April 21, 2021, the ALJ determined that Palomino failed to show good cause for its request and that the motion for partial waiver of the requirements in Ohio Adm.Code 4906-3-03(B)(2)(b) should be denied. Although Palomino indicated that the error was unintentional, the ALJ found that the exclusion of 49 property owners or tenants was nonetheless significant and that Palomino's proposed remedial plan did not constitute substantial compliance with the rule's requirements. Accordingly, Palomino was directed to schedule and conduct a second public informational meeting and provide a notification letter to each property owner and affected tenant in accordance with Ohio Adm.Code 4906-3-03.

{¶ 10} Palomino filed a second pre-application notification letter on June 11, 2021.

{¶ 11} On July 12, 2021, Palomino filed proof of notice of its in-person and virtual public informational meeting, which was held on June 28, 2021.

{¶ 12} On September 24, 2021, and as supplemented on January 14, 2022, January 18, 2022, and April 8, 2022, Palomino filed an application (Application) with the

Board for a certificate of environmental compatibility and public need to construct the Facility.

{¶ 13} On the same date, Palomino filed a motion for waivers of Ohio Adm.Code 4906-4-08(D)(2) and (D)(4) to allow for a reduced study area regarding the review of landmarks and visual impacts of the Facility. No party opposed the motion for waivers. By Entry issued on April 18, 2022, the ALJ granted the motion for waivers.

{¶ 14} 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.

{¶ 15} By letter dated October 18, 2021, the Board notified Palomino that its Application had been found not to comply with Ohio Adm.Code Chapters 4906-01, et seq., and lacked sufficient detail for Board Staff (Staff) to begin its investigation and make recommended findings.

{¶ 16} Palomino supplemented its Application on January 14, 2022, and January 18, 2022.

{¶ 17} By letter dated March 15, 2022, the Board notified Palomino 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 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 Palomino to submit its application fee pursuant to R.C. 4906.06(F) and Ohio Adm.Code 4906-3-12.

{¶ 18} On March 16, 2022, Palomino filed a certificate of service of its accepted and complete Application as required by Ohio Adm.Code 4906-3-07. In further compliance with

that rule, on March 30, 2022, Palomino filed proof that it submitted its application fee to the Treasurer of the State of Ohio.

{¶ 19} On April 18, 2022, the ALJ issued an Entry establishing the procedural schedule for this case. Specifically, the Entry stated that the effective date of the Application is April 18, 2022, the local public hearing would be held on June 29, 2022, and the adjudicatory hearing would be held on July 13, 2022. The ALJ further directed Palomino 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 May 27, 2022, whichever was later. The Entry also provided deadlines for all parties to file testimony, as well as for the filing of any stipulation.

{¶ 20} On various dates, motions for intervention were filed by Robert and Laurie Banks (the Banks), Highland County Board of Commissioners (Highland County Commissioners), Ohio Farm Bureau Federation (OFBF), and Sarah Rogers (Ms. Rogers). No memoranda contra were filed. By Entry issued on June 29, 2022, the ALJ granted the motions to intervene.

{¶ 21} On April 5, 2022, Palomino filed initial proof of publication of a description of the accepted, complete Application, published on March 29, 2022, in the *Hillsboro Times Gazette* and on April 2, 2022, in *The Highland County Press*, in accordance with R.C. 4906.06(C). Since this notice was published prior to the issuance of the April 18, 2022 Entry, the notice did not contain specific information regarding the scheduled hearing dates.

{¶ 22} On May 2, 2022, Palomino filed another initial proof of publication of a description of the accepted, complete Application, published on April 23, 2022, in the *Hillsboro Times Gazette*, and published on April 30, 2022, in *The Highland County Press* in accordance with R.C. 4906.06(C). Further, Palomino declared that written notice of the accepted, complete application to local officials, libraries, and affected property owners and tenants, pursuant to Ohio Adm.Code 4906-3-09(A)(1), was provided on April 25, 2022. The published notices also contained information regarding the scheduled hearing dates.

{¶ 23} On June 14, 2022, Staff filed its report of investigation (Staff Report).

{¶ 24} On June 21, 2022, Applicant filed proof of publication of the second public notice in the *Hillsboro Times Gazette* on June 10, 2022, in the *Wilmington News Journal* on June 10, 2022, and in *The Highland County Press* on June 11, 2022, in compliance with Ohio Adm.Code 4906-3-09(A)(2). In addition, Palomino stated that written notice of the accepted, complete application to local officials, libraries and affected property owners and tenants, pursuant to Ohio Adm.Code 4906-3-09(A)(2), was provided on June 10, 2022. As did the initial public notice, the second public notice included information regarding the date, time, and process to participate in the public hearing, as well as the date and time of the adjudicatory hearing.

{¶ 25} On June 29, 2022, the ALJs conducted the public hearing in person at the Wharton Building at the Highland County Fairgrounds in Hillsboro, Ohio. Twenty-two people provided testimony during the public hearing.

{¶ 26} On June 30, 2022, the parties filed a joint motion to call and continue the adjudicatory hearing and extend procedural deadlines. By Entry issued the same day, the ALJ granted the parties' joint motion.

{¶ 27} On July 13, 2022, the ALJ called and continued the scheduled adjudicatory hearing.

{¶ 28} On various dates, the ALJ granted additional joint motions to suspend the procedural schedule and reschedule the adjudicatory hearing.

{¶ 29} On October 11, 2022, the Banks and Ms. Rogers filed notice of their withdrawal as parties of record from the proceeding.

{¶ 30} On November 10, 2022, Palomino, OFBF, Highland County Commissioners, 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, Palomino filed the direct expert testimony of Madison Walsh on November 10, 2022. Additionally, Staff filed the testimony of Matthew Butler on the same date.

{¶ 31} On November 16, 2022, the adjudicatory hearing was reconvened at the Board's offices. On behalf of Palomino, Ms. Walsh presented her direct testimony in support of the Application (Applicant Ex. 19), the Stipulation (Joint Ex. 1), and numerous other exhibits (Applicant Exs. 1 - 18). On behalf of Staff, James O'Dell sponsored the Staff Report and, with no objections from the parties, sponsored Mr. Butler's direct testimony due to Mr. Butler being unable to attend the hearing (Staff Exs. 1 and 2; Tr. at 23-24).

### III. PROJECT DESCRIPTION

{¶ 32} Palomino seeks certification to build a 200 MW solar-powered electric generation facility in Union and Dodson townships in Highland 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, weather stations, a collection substation, inverters and transformers, and an operations and maintenance building. Further, the Facility would be secured by perimeter fencing. Palomino is proposing to begin construction in the spring of 2023 and to complete construction in summer of 2024.

### IV. CERTIFICATION CRITERIA

{¶ 33} 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

{¶ 34} 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*

{¶ 35} On June 29, 2022, the local public hearing was conducted in person at the Wharton Building at the Highland County Fairgrounds in Hillsboro, Ohio, where 22 witnesses elected to provide testimony. Twenty-one individuals testified in a personal or representative capacity indicating that they support the proposed Facility, noting employment opportunities the Facility would garner, the economic boost the Facility would provide to businesses in the area, the tax payments that would support the school district and local government, and the benefit that participating landowners would experience from the income generated by leasing their property to the Applicant (Pub. Tr. at 10, 13-14, 16, 18-19, 21-24, 27-30, 32-34, 36, 39-40, 42-43, 50, 57-64, 65, 78, 87-99). Certain witnesses emphasized the environmental benefits related to solar farms and that the Applicant's commitments are wildlife friendly, such as Palomino agreeing not to use chain-link perimeter fencing (Pub. Tr. at 25-26, 41-42, 48, 50-51, 75, 86-88). Witnesses also emphasized the importance of landowner rights along with their personal decision to include their property in the project (Pub. Tr. at 19, 54-55, 65, 79). For various reasons, many of the witnesses in support of the Facility testified that they would prefer that the fence-line and solar panel setbacks remain as proposed in the Application and not be revised as recommended by Staff in the Staff Report. Witnesses primarily testified that increasing the setbacks, as Staff recommended, would result in strips of unused land around their property that would increase the size of the Facility's footprint, would result in an increase in untamed weeds on the unused portion of the land, and would decrease the payments owed by the Applicant to the participating landowners. (Pub. Tr. at 17, 19-21, 25-26, 30, 37-38, 52-53, 55-56, 76-77, 79-84.)

{¶ 36} One individual testified in opposition to the proposed Facility. David A. Mayer testified that he does not trust the political process surrounding renewable energy, that he does not believe the new jobs will have a significant impact on individuals or the



local community, and that energy generated from solar farms is too costly especially considering the public is currently burdened by high energy prices (Pub. Tr. at 67-74.)

{¶ 37} In addition to the testimony provided at the public hearing, the Board received 244 written comments regarding the proposed Facility, many in support of the Facility and many opposing its approval. Some of these public comments include concerns about the Applicant's willingness to be a good neighbor in the community, the loss of agricultural fields, aesthetics, and other viewshed impacts. 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 local government and schools, rights of landowners, and employment opportunities the Facility would provide.

#### ***B. Staff Report***

{¶ 38} 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**

{¶ 39} 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 10.)

##### **2. NATURE OF PROBABLE ENVIRONMENTAL IMPACT**

{¶ 40} 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 following is a summary of Staff's findings:

*a. Socioeconomic Impacts*

{¶ 41} Staff notes that the predominant land use within the project area is agricultural. Staff asserts that, according to the Application, agricultural land use is the only land use directly impacted by the Facility's construction and operation. Staff states that it agrees with this analysis, but it believes indirect impacts, such as viewshed impacts and others discussed below also exist. Impacts caused by construction would be temporary and contained to participating landowners' properties. Staff reports that the Applicant intends to remove one residence and two associated uninhabited farm buildings for construction of the Facility. Staff does not anticipate significant overall impacts to commercial, industrial, residential, recreational, and institutional land uses. Further, Staff does not anticipate the Facility will conflict with nearby community land use plans nor will it adversely affect long-term regional development for Dodson and Union townships and Highland County, which do not have formal land use plans. Staff also asserts that the Facility is consistent with agricultural industry support since the Facility would provide supplemental income to farmers, and the land could be returned to agricultural production upon decommissioning. Additionally, Staff notes that construction and operation of the Facility would not physically impact any recreational areas and that the two wildlife areas immediately adjacent to the Facility would be screened by the presence of extensive woodlots. (Staff Ex. 1 at 11-12.)

{¶ 42} Regarding aesthetics, Staff reports that traffic volume on roads surrounding the project area is typically light, and the project area is primarily surrounded by agricultural land, thus reducing the potential number of viewers. Additionally, the highest elevation of the solar panels would be 15 feet above ground level. According to the Applicant's visual resources report, the panels are not likely to be visible from locations beyond a two-mile distance from the Facility's perimeter. Included with its visual impact analysis, the Applicant provided a mitigation plan that proposes to install various planting modules along the Facility fence line to soften viewshed impacts and to blend the Facility into existing vegetation. The mitigation plan also calls for planting numerous, varying plant species to mitigate the viewshed impacts of sensitive receptors. Staff recommends that

Palomino incorporate a landscape and lighting plan to reduce impacts in areas where an adjacent non-participating parcel contains a residence with a direct line of sight to the project area. Staff further recommends that aesthetic impact mitigation measures include native vegetative plantings, alternate fencing, good neighbor agreements, and other methods in consultation with affected landowners and subject to Staff review. Staff also notes its concern about the aesthetic impacts related to the Facility's proposed perimeter fencing, a chain-link fence with barbed wire on top. According to Staff, this type of fencing has garnered many negative public comments and concerns from adjacent residents. In response to community members' concerns about the fencing, Staff states that Palomino committed to installing Facility perimeter fence that is more aesthetically fitting for a rural location and that is small-wildlife permeable provided, however, that this type of fencing does not apply to the Facility's substation fencing. (Staff Ex. 1 at 12-13.)

{¶ 43} Regarding Facility setbacks, Staff reports that the Applicant proposes the following setbacks: 100 feet from a non-participating residence to solar panels, 40 feet from the property line of any non-participating property to the solar project's perimeter fence, and 40 feet from the edge of a public road to the Facility fence. To mitigate visual impacts to neighboring parcels, Staff recommends that the Applicant implement a minimum setback from the Facility's solar modules of at least 150 feet from non-participating parcel boundaries, at least 300 feet from non-participating residences, and at least 150 feet from the edge of any state, county, or township road within or adjacent to the project area. With the implementation of Staff's aesthetic, fencing, and setback conditions, Staff expects the overall aesthetic impact of the Facility to be minimal. (Staff Ex. 1 at 13.)

{¶ 44} Palomino commissioned a cultural resources records review of the area. Applicant's consultant engaged in a literature review and a field survey. Applicant's consultant identified 83 new archaeological sites. Of those sites, three were deemed to be potentially eligible for the National Register of Historic Places (NRHP). The Ohio Historic Preservation Office (OHPO) agreed with the Applicant that these sites would be eligible for the NRHP and recommended for additional testing and avoidance. Staff notes that

Applicant subsequently confirmed that two of the archeological sites would be fully avoided, as they are 1.70 miles from the project boundary and the remaining site would be fully avoided by the Facility's design. The Applicant's historical survey identified 208 properties. Of those identified, two of the resources were deemed to be potentially eligible for the NRHP. According to Staff, the Applicant has since confirmed that the nearest above-ground Facility component is more than 1,000 feet away from the closest site, and the Applicant has agreed to implement vegetative screening around the Facility in accordance with the landscape plan to preserve the traditional visual landscape for the second site. Staff determines that, based on the memorandum of understanding that has been executed, as well as the research and field work performed by the Applicant and confirmed by the OHPO, minimal adverse environmental impacts to cultural resources would be achieved. (Staff Ex. 1 at 14.)

{¶ 45} Staff asserts that, economically, Palomino would be responsible for the ownership, construction, and operation of the proposed Facility. According to Staff, the Applicant plans to acquire all necessary permissions, permits, and voluntary lease agreements. Also, all structures and affiliated equipment that are built for the Facility will be the property of the Applicant. Staff also confirms that the estimated capital costs for Palomino are consistent with the average capital costs for utility-scale solar farm projects. Staff states that Palomino's estimated operation and maintenance costs are below the average of those incurred by the average utility-scale solar operation facility. And, according to Staff, the Applicant's characterization of its estimated costs of delay appears reasonable. (Staff Ex. 1 at 14-15.)

{¶ 46} Palomino estimates that the proposed Facility would create 564 construction-related jobs and 18 long-term operational jobs for the state of Ohio. During the construction period, wages would produce \$60.1 million in local output for the state of Ohio; operations would add an annual impact of \$2.1 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 approximately \$1.4 million and \$1.8 million annually for the Highland County taxing districts. (Staff Ex. 1 at 15-16.)

{¶ 47} 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's consultant conducted a glint and glare analysis to identify any potential impacts along roads, nearby residents, and to area airports. The analysis found that the proposed Facility would not impact airplane pilots landing at regional airports. The analysis also showed that glare from the Facility is not predicted to impact drivers of vehicles on roadways that are adjacent to the proposed Facility nor for nearby neighbors. Staff concurs with Applicant's analysis and notes that aesthetic impact measures, such as vegetative screening, may further reduce potential impacts as part of a landscape and lighting plan. (Staff Ex. 1 at 16.)

{¶ 48} As explained by Staff, Palomino estimates that the Facility can operate for 30 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 or to another economical land use desired by the landowner. Applicant's total decommissioning cost estimate is \$19,876,400. Palomino states that, prior to the start of decommissioning the Facility, it will obtain all applicable federal, state, and local permits. Applicant will remove any below-ground structures to a depth of at least 42 inches below grade and will remove all solar components constructed above ground with few exceptions. The solar arrays would be de-energized, and Palomino would dismantle panels, racking, inverters, and transformers. Palomino would also remove access and internal roads and grade the site unless a landowner requests to retain the road. Palomino would restore land to its pre-construction condition, to the extent practicable. Palomino anticipates that decommissioning activities and restoration to be completed within in an 18-month period. Applicant has clarified that it anticipates that revegetation, including

monitoring of the seeding and re-establishment of drainage features back to preconstruction conditions may occur after one year. Also, Staff reports that Applicant would repurpose, salvage, recycle, or haul offsite all solar components to a licensed solid waste disposal facility. Palomino also commits to using solar panels that comply with the United States Environmental Protectional Agency's (U.S. EPA) toxicity characteristics leachate procedure test and meet the U.S. EPA's definition of non-hazardous waste. During construction, Applicant would perform grading and topsoil addition to bring the ground elevations up to the designed finished grade elevations of the proposed solar facility. Staff recommends that Applicant submit a final grading plan which demonstrates, in compliance with the decommissioning condition, that the Facility would not obstruct future agricultural land use or a land use otherwise specified by the landowner. Applicant also states that it will provide for financial security to ensure that funds are available for decommissioning/land-restoration. Applicant would employ a surety bond active during the life of the Facility and renewed annually. (Staff Ex. 1 at 16-18.)

{¶ 49} Staff notes that, prior to construction, Applicant would retain an independent and registered professional engineer to calculate the net decommissioning costs for the Facility and that such costs would be recalculated every five years. Staff recommends that the updated total decommissioning cost estimate without regard to salvage value and updated decommissioning plan be filed at least 30 days prior to the preconstruction conference, with such plan including: (a) a provision that the decommissioning financial assistance mechanism includes a performance bond where the Applicant 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 the 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. (Staff Ex. 1 at 18.)

{¶ 50} According to Staff, Palomino stated that the proposed Facility would be designed and installed to withstand typical high-wind occurrences. Staff found that the components of the proposed Facility are generally not susceptible to damage from high winds except for those of tornado-force strength. (Staff Ex. 1 at 18-19.)

{¶ 51} According to Staff, Applicant stated that there will be increases in traffic on routes leading to the project area, with most of these increases occurring during the construction phase. Facility-related traffic would be minimal during operation and limited to routine maintenance. Palomino may enter into a road use maintenance agreement with Highland County and has committed to repair any damaged public road or bridge under the guidance of the appropriate regulatory authority. (Staff Ex. 1 at 19-20.)

{¶ 52} 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 months of construction. 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. Operational noises would include inverters, the transformer at the substation, and tracking motors. According to Staff, the step-up transformer at the new substation and the inverters may operate at night, but the noise impact would be relatively minor. Palomino's noise level study showed that operation noise impacts would be less than ambient noise levels, and no non-participating receptors were modeled to receive noise impacts greater than the daytime ambient noise level plus

five decibels (dBA). The Facility, therefore, is expected to have minimal adverse noise impacts on the adjacent community. (Staff Ex. 1 at 20.)

*b. Site Geology*

{¶ 53} Staff asserts that the proposed project site includes several Illinoian-age glacial features. Glacial drift throughout the majority of the project area ranges from approximately 0 to 78 feet in thickness. Staff notes that the shallow bedrock could cause difficulties during construction but is not suspected of having a significant impact. According to Staff, conditions typically necessary for the formation of karst geology features do exist within the project area. Staff notes that the nearest documented sinkhole is approximately 0.10 miles outside of the project area. Ohio Department of Natural Resources' (ODNR) records indicate there is one existing oil and gas well located within one mile of the project area, but records show that it has been plugged and abandoned. The proposed project area abuts an active limestone quarry, Martin Marietta Aggregates, though construction and operation of the solar facility is not expected to impact the mining operation. ODNR records indicate that Highland County is at low risk for seismicity caused by earthquakes and that only two earthquakes have been documented in the county. Also, with the soil types present within the project area, low to moderate risk of shrink-swell potential exists. A geotechnical report was created by the Applicant, which included a variety of tests relating to the subsurface conditions within the project area. Staff notes that it is unclear if bedrock was encountered during the preliminary geotechnical boring study; however, shallow bedrock may present the need for pre-drilling pile foundations versus conventional pile-driving construction techniques. Further, Staff states that additional borings are planned to further assess the depth to the bedrock. Staff states that should karst be discovered during further geotechnical studies or during construction, the Applicant's primary mitigation should be avoidance measures. In the unlikely event karst features are found to be extensive, thereby rendering avoidance unfeasible, additional mitigation options would be evaluated by the geotechnical engineer of record at the time and submitted to Staff for review and concurrence. Staff recommends that the final 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 recommends that the Applicant provide a final geotechnical engineering report to Staff at least 30 days prior to the preconstruction conference. Additionally, Staff recommends that Applicant conduct additional pile load testing and additional borings as part of the final design study and recommends a final Unanticipated Discovery Plan be submitted prior to the pre-construction meeting. Staff concludes that, with implementation of its recommended conditions, 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 Ex. 1 at 21-24.)

*c. Ecological Impacts*

{¶ 54} According to Staff, Palomino identified two private water wells within the project area. The Applicant consulted with the landowners to update the location of these wells and found that they would be at least 80 feet away from the proposed solar panels and outside of the proposed solar facility perimeter fence. The Applicant does not anticipate adverse impacts to the nearest water wells. Also, Staff notes that there are no public drinking water source protection areas located within the project area. (Staff Ex. 1 at 24-25.)

{¶ 55} Palomino has committed to implement a Stormwater Pollution Prevention Plan (SWPPP) and a Spill Prevention Control and Countermeasure (SPCC) plan during construction to minimize and prevent potential discharges to surface waters in the project area and surrounding area (Staff Ex. 1 at 25).

{¶ 56} The Applicant delineated 59 wetlands within the project area. All wetlands are Category 1 and 2 wetlands. The Applicant anticipates 0.5 acres of temporary wetland impacts during construction, with 0.06 acres of permanent wetland impacts. The Applicant noted 68 streams, including 35 intermittent streams, 20 ephemeral streams, and 13 perennial streams within the project area. The Applicant delineated 7 ponds within the project area

and anticipates 0.6 acres of temporary impacts to streams during construction with 0.005 acres of permanent impacts. The Applicant has designed the Facility to avoid all remaining streams and ponds during and after construction. The Applicant states that stream crossings by underground collection lines may be accomplished by horizontal directional drilling (HDD) techniques. The Applicant will submit a frac-out contingency plan prior to the start of HDD construction activities. Staff also recommends that Applicant have an environmental specialist on site during construction activities where HDD activities may impact surface waters. Also, to avoid impacts to mussel and fish species, Staff recommends the avoidance of all impacts to perennial streams through facility design, HDD, or other methods. Further, Staff recommends that streams and wetlands within and immediately adjacent to the construction limits of disturbance be flagged, staked, or fenced prior to construction, as well as depicted on construction drawings. (Staff Ex. 1 at 25-26.)

{¶ 57} The Applicant would obtain a National Pollutant Discharge Elimination System (NPDES) construction stormwater general permit through the Ohio Environmental Protection Agency (Ohio EPA) prior to the start of construction. Staff also recommends that the Applicant implement Ohio EPA published Guidance on Post-Construction Storm Water Control for Solar Panel Arrays during Facility construction and operation. Also, the Facility would not cross any portion of a 100-year floodplain. (Staff Ex. 1 at 26.)

{¶ 58} Staff asserts that the United States Fish and Wildlife Service (USFWS) identified a bald eagle nest within the project area. Staff notes that the bald eagle is not a threatened or endangered species but is protected by the Bald and Golden Eagle Protection Act. Accordingly, Staff recommends the Applicant adhere to the USFWS's recommended guidelines to avoid negatively impacting this species, including not clearing trees within 660 feet of known nests, or within the woodlots supporting the nest trees, and working in proximity to the nests only between August 1 and January 14. (Staff Ex. 1 at 26-27.)

{¶ 59} Staff asserts that the project area is within range of the Indiana bat, a state and federal endangered species; the northern long-eared bat, which is listed as a state and

federal threatened species; the little brown bat, which is listed as a state endangered species; and the tricolored bat, which is listed as a state endangered species. The project would not impact any bat hibernacula. In order to avoid impacts to these bat species, Staff recommends that Applicant adhere to seasonal tree cutting dates of October 1 through March 31 for all trees three inches or greater in diameter, unless coordination with ODNR and the USFWS recommends a different course of action. (Staff Ex. 1 at 27-28.)

{¶ 60} Staff reports that suitable habitat exists within the project area for the king rail and the loggerhead snake. In order to avoid impacts to these species, Staff recommends that Applicant adhere to ODNR's recommendations of avoiding construction in suitable habitats during each species' nesting period, May 1 through August 1 for the king rail and April 1 through August 1 for loggerhead snakes. (Staff Ex. 1 at 28.)

{¶ 61} According to Staff, the project area is also within range of several endangered or threatened species of mussels and fish; however, Staff determined that impacts to these aquatic species would not occur as no in-water work is planned for the Facility. Also, Staff determined that impacts to other listed species would be avoided due to a lack of proposed impacts to suitable habitats. Consequently, impacts to these species would be minimal. (Staff Ex. 1 at 28.)

{¶ 62} In the project area, Staff notes that most of the land is agricultural lands, and the remaining acreage consists of forestland, hay/pasture, and wetlands. According to Staff, permanent vegetative impacts will occur primarily within agricultural lands. Staff notes that Applicant has developed a vegetation management plan that incorporates pollinator-friendly habitat 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. Staff recommends that the Applicant prepare an updated vegetation management plan in consultation with ODNR, to which Applicant has committed. To further assure that these benefits are realized, Staff recommends that the

Applicant takes steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code 901:5-37 during implementation of any pollinator-friendly plantings. (Staff Ex. 1 at 28-29.)

{¶ 63} In sum, Staff recommends that the Board find that Palomino 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 29).

### 3. MINIMUM ADVERSE ENVIRONMENTAL IMPACT

{¶ 64} 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.

{¶ 65} 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. To the extent that impacts to the project and surrounding areas were identified, Staff believes that the Facility is unlikely to pose a significant adverse impact. For example, 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, would be temporary and intermittent, and would occur away from most residential structures; 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, with such effects being mitigated by the landscape and lighting plan proposed by Staff, the recommendation from Staff regarding setbacks, and Palomino's commitment to perimeter fencing that would be wildlife friendly to small animals. Palomino has committed to avoid certain identified cultural resources sites that are potentially eligible for NRHP, which would minimize

adverse impacts to cultural resources in the area. Additionally, Palomino 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 30-31.)

{¶ 66} 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 31).

#### 4. ELECTRIC POWER GRID

{¶ 67} 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.

{¶ 68} 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 200 MW and would connect to the regional transmission grid through a gen-tie line into a new 138 kilovolt (kV) three circuit breaker switchyard constructed at the project site and operated as a ring bus. Further, the interconnection will be made with the American Electric Power transmission system using the new switching station and joining the Hillsboro-Middleboro Switch section of the Hillsboro-Hutchings 138 kV circuit. (Staff Ex. 1 at 32.)

{¶ 69} According to Staff, Palomino is subject to compliance with various North American Electric Reliability Corporation reliability standards. The Applicant submitted two generation interconnection requests 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 studies. Through its analysis, PJM found that Queue ID AG1-107, when modeled with a 2024 summer peak case, may result in one breaker that could slightly overload. The Applicant has indicated that corrective actions in the manner of network upgrades identified in the PJM Facility Study would be incorporated. PJM's analysis of potential congestion due to local energy deliverability identified operational restrictions for Queue ID AG1-107. PJM's analysis revealed no other reliability impacts or circuit breaker problems. (Staff Ex. 1 at 32-34.)

{¶ 70} 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 34.)

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

{¶ 71} 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.

{¶ 72} Although the proposed Facility will not require any air quality permits, Staff states that fugitive dust rules may be applicable to its construction. Accordingly, the Applicant would need to control and localize fugitive dust by using best management practices, such as using water to wet soil to minimize dust during periods of high heat. (Staff Ex. 1 at 35.)

{¶ 73} Staff states that Palomino would mitigate potential water quality impacts associated with aquatic discharges by obtaining NPDES construction storm water general permit from the Ohio EPA as part of its submission of a SWPPP for stormwater discharge

related to construction activities. If necessary, Palomino will seek environmental permits. Also, Applicant has committed to develop an SPCC plan to manage the storage and mitigate the unlikely release of hazardous substances. Staff concludes that, with these measures, construction and operation of the Facility would comply with the requirements of R.C. Chapter 6111, et seq. (Staff Ex. 1 at 35-36.)

{¶ 74} As explained by Staff, the amount of solid waste to be generated is estimated to be approximately 7,300 cubic yards. Palomino states that all construction-related debris will be disposed of at an authorized solid waste disposal facility. During operation, the Facility could generate small amounts of similar solid waste, which would be disposed of in accordance with federal, state, and local requirements. Staff recommends that retired solar panels marked for disposal be sent to an engineered landfill with various barriers and methods designed to prevent leaching of materials into soils and groundwater. Staff states that Palomino's solid waste disposal plans comply with the requirements set forth in R.C. Chapter 3734. (Staff Ex. 1 at 36.)

{¶ 75} Staff notes that the height of the tallest structure, the lightning mast at the collector substation, would be approximately 40 to 45 feet tall. The structure is under the height requirement in the Federal Aviation Administration's (FAA) regulations. According to the Applicant, there are no public use airports within five miles of the project area. The Applicant identified one privately owned private-use airfield located approximately two miles south of the project area. Staff notes that an aircraft would need permission prior to landing at that private-use airfield. Staff confirmed through the FAA that the closest public-use airports are the Wilmington Airpark and Highland County airport, which are between 10 and 11 miles from the proposed Facility. 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 36-37.)

{¶ 76} 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 37).

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

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

{¶ 78} 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 magnitude of potential negative impacts on the local community. As discussed below, the parties assert that the Application, as modified by the Stipulation and supported by record evidence, benefits the public in multiple ways.

{¶ 79} Staff asserts that, for reasons of public safety, the Applicant would use reliable and certified equipment compliant with applicable standards. Palomino will use warning signs, fencing, and gates to restrict access to potential hazards within the project area and implement setbacks between certain equipment and the public. Staff has recommended additional setbacks, as noted above. The Applicant stated that it intended to restrict public access to the Facility by enclosing the project area with a seven-foot chain-link fence but is now considering alternative fencing around the panel areas such as small-wildlife permeable fencing that complies with applicable electrical code requirements. The Applicant plans to construct fencing around the substation that is approximately six-feet tall and topped with a one-foot tall bared wired stand. Staff recommends that, as described



earlier, except for the substation's perimeter fencing, the solar panel perimeter fence type should be both wildlife permeable and aesthetically fitting for a rural location. Further, the Applicant also intends to develop and implement an emergency action plan and consult with potentially affected emergency response personnel. (Staff Ex. 1 at 38.)

{¶ 80} Palomino has worked with the community by way of hosting a public informational meeting. At this public informational meeting, attendees were provided the opportunity to review a presentation about the project, ask questions, and provide written comments to the Applicant. Staff notes that Palomino 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. Palomino has committed to notify affected property owners and tenants about the Facility prior to the start of construction, as well as prior to the start of Facility operations. Staff notes that it recommends expanding the distribution of these notices, as outlined in one of Staff's conditions. Staff recommends that Palomino submit to Staff a quarterly complaint summary report during construction and the first five years of operation of the Facility. (Staff Ex. 1 at 38-40.)

{¶ 81} Staff further describes participation by intervenors, including the Highland County Commissioners, OFBF, the Banks, and Sarah Rogers. Further, Staff indicates that 234 public comments were filed in the case docket as of the date of the Staff Report, which included: opposition comments filed by area residents and other members of the public, comments in support from areas residents and members of the public, and a letter of concern filed by the Board of Trustees of Dodson township. Staff further notes that comments filed in the case were consistent with those that are generally expressed in support of and in opposition to solar projects, such as the one at issue in this case. (Staff Ex. 1 at 39-40.)

{¶ 82} 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 40).

#### **7. AGRICULTURAL DISTRICTS**

{¶ 83} 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.

{¶ 84} Staff states that approximately 1,410 acres of agricultural land and agricultural district land would be taken out of service by the proposed Facility. The Applicant states that the repurposed land could be restored for agricultural use when the Facility is decommissioned. Palomino has committed to taking steps to address potential impacts to farmland, including repairing all drainage tiles damaged by construction of the Facility and restoring temporarily impacted land to its original use. Palomino has also committed to returning the affected land to original or similar conditions, as well as committed to restore, de-compact, and seed topsoil upon decommissioning. (Staff Ex. 1 at 41.)

{¶ 85} 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 41).

#### **8. WATER CONSERVATION PRACTICE**

{¶ 86} 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.

{¶ 87} Staff states that the Facility may require some water use during construction for dust suppression and control. The operation of the proposed Facility would not require

the use of significant amounts of water. Palomino does not anticipate using water for solar panel cleaning. The Applicant intends to comply with modern industry standards and the Ohio Building Code for water fixtures and usage at the operation and maintenance building. The Applicant anticipates obtaining water through local municipal sources. (Staff Ex. 1 at 42.)

{¶ 88} 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 42).

## 9. RECOMMENDATIONS

{¶ 89} In addition to making various findings throughout its report, Staff recommended that 43 conditions be made part of any certificate issued by the Board for the proposed Facility (Staff Ex. 1 at 43-51). The recommended conditions found within the Staff Report were adopted and re-enumerated in the parties' November 10, 2022 Stipulation, with only minor revisions and with the Stipulation containing one additional condition, Condition No. 44. (Joint Ex. 1; Applicant Ex. 19 at 6, 14-16.) The conditions are discussed below.

## VI. STIPULATION AND CONDITIONS

{¶ 90} At the adjudicatory hearing, Palomino presented the Stipulation executed by Applicant, Highland County Commissioners, OFBF, and Staff (Joint Ex. 1). Pursuant to the Stipulation, the parties recommend that the Board issue the certificate requested by Applicant, subject to 44 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) 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.

- 2) Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. Staff, Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend. The attendees shall discuss the measures to be taken by Applicant and contractors to ensure compliance with all conditions of the certificate and the procedures for on-site investigations by Staff during construction. Prior to the conference, Applicant shall provide a proposed conference agenda for Staff review and file a copy of the agenda on the case docket.
- 3) Within 60 days after the commencement of commercial operation, Applicant shall submit to Staff a copy of the as-built specifications for the entire Facility. If 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. Additionally, Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- 4) At least 30 days prior to the preconstruction conference, Applicant shall provide Staff, for review and acceptance, the final Unanticipated Discovery Plan.
- 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, Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final Facility design and mapping. 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 Facility design shall account for geological features and include the identity of the engineers who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final Facility design to Staff.

- 6) At least 30 days prior to the preconstruction conference, Applicant shall provide to Staff, for review and acceptance, the final geotechnical engineering report.
- 7) Additional design level geotechnical investigation shall be conducted to include but not be limited to additional borings, soil laboratory testing, and pile load testing.
- 8) If any changes are made to the Facility layout after the submission of final engineering drawings, Applicant shall provide all such changes to Staff in hard copy and as geographically referenced data. All changes are subject to Staff review for compliance with all conditions of the certificate, prior to construction in those areas.
- 9) Should karst features be identified during additional geotechnical exploration or during construction, Applicant shall avoid construction in these areas when possible. If avoidance is not feasible, Applicant shall propose any alternative recommendations to Staff for its review and concurrence.
- 10) At least 30 days prior to the preconstruction conference, Applicant shall provide the formal engineering analysis of high wind velocities for the project area to Staff for review and acceptance.

- 11) At least 30 days prior to the preconstruction conference, Applicant shall submit its emergency response plan.
- 12) At least seven days prior to the preconstruction conference, Applicant shall submit to Staff, for review and acceptance, copies of all NPDES permits, including its SWPPP, the SPCC, and its erosion and sediment control plan. Applicant must address any erosion related issues through proper design and adherence to the Ohio EPA's best management practices related to erosion and sedimentation control.
- 13) The certificate shall become invalid if 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.
- 14) As the information becomes known, Applicant 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.
- 15) Prior to commencement of construction activities that require transportation permits, Applicant shall obtain all such permits. Applicant shall coordinate with the appropriate authority regarding any temporary road closures, road use agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed Facility. 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.

- 16) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, Applicant shall obtain and comply with such permits or authorizations. Further, Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by Applicant and file such permits or authorizations on the public docket. Lastly, Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference. Any permit violation received by the Applicant shall be provided on the case docket within seven days of receipt.
- 17) At least 30 days prior to the preconstruction conference, the Applicant shall file a final grading plan which demonstrates, in compliance with the decommissioning condition, that the Facility would not obstruct future agricultural land use or a land use otherwise specified by the land owner, and such plan should contain other specific details as set forth in the Stipulation.
- 18) Subject to the application of R.C. 4906.13(B), the certificate authority provided in this case shall not exempt the Applicant 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.
- 19) The Facility shall be operated in such a way as to assure that no more than 200 MW would at any time be injected into the Bulk Power System.
- 20) Applicant shall not commence any construction of the Facility until it has executed an Interconnection Service Agreement (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. Additionally, Applicant shall docket in the case record a letter stating that the agreement has been signed or a copy of the executed ISA and ICSA.

- 21) Prior to commencement of construction, 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. Additionally, 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. Applicant shall maintain vegetative screening for the life of the Facility and shall replace or substitute any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. Applicant 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 except in certain circumstances and designed to narrowly focus light inward toward the



Facility, such as being downward-facing and/or fitted with side shields. Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition.

- 22) Prior to the commencement of construction, 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. This condition shall not apply to substation fencing.
- 23) 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. 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.
- 24) Operational sound levels shall not exceed 43 dBA during the daytime hours and 40 dBA during nighttime hours at non-participating receptors. If the inverters or substation transformer chosen for the Facility have a higher sound power output than the models used in the noise model, Applicant shall show that sound levels will not exceed the levels above and such results will be submitted at least 30 days prior to construction. If noise data is not available from the inverter or transformer manufacturer, an operational noise test must be performed to comply with this condition. The updated noise study shall show that sound levels will not exceed the above thresholds.

- 25) Applicant 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 a modern equivalent at Applicant's expense. However, if the affected landowner agrees to not have 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 and the damaged field tile does not route directly onto or into an adjacent parcel. To accomplish the foregoing, Applicant along with an independent tile and drainage consultant must follow specific procedures set forth in this condition. A map of discovered and repaired drain tile systems shall be filed in the case docket once construction is complete.
- 26) At least 30 days prior to the preconstruction conference, Applicant shall submit an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value on the public docket that includes: (a) a provision that the decommissioning financial assistance mechanism includes a performance bond where the Applicant 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.

- 27) When solar panels reach end of life disposal, retired solar panels 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.
- 28) Applicant 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.
- 29) Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff and shall include, but are not limited to, wetlands and streams and locations of threatened or endangered species. Among other requirements, the environmental specialist shall have authority to stop construction to assure that unforeseen environmental impacts do not progress and to recommend procedures to resolve the impact.
- 30) Thirty days prior to the first preconstruction conference, Applicant shall file on the case docket an ecologically sensitive resource impact avoidance/minimization plan. The plan shall include mapping of ecologically sensitive resources, including streams, wetlands, and

suitable habitats of state and federal listed animal and plant species, as well as facility components including access roads, laydown areas, and limit of disturbance. Sensitive resources in proximity to the limits of disturbance shall be demarcated in the field. The plan shall explain how impacts to all sensitive resources will be avoided or minimized during construction. Those working onsite shall be provided with training to remain in compliance with this plan.

- 31) If Applicant encounters any new listed plant or animal species or suitable habitat of these species prior to construction, Applicant shall include the location in the final engineering drawings and associated mapping, as required in Condition No. 4. Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.
- 32) Applicant shall contact Staff, ODNR, and the USFWS within 24 hours if state or federal listed species are 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 Applicant, Staff, and the appropriate agencies. Applicant shall also keep a running list of and notify Staff and ODNR if any wildlife mortality or entrapment is discovered in the Facility during operation.
- 33) 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 listed bat species, unless coordination with ODNR and the USFWS allows a different course of action. If these agencies allow tree clearing between April 1 and September 30, Applicant shall docket

proof of completed coordination on the case docket prior to clearing trees.

- 34) Construction in king rail preferred nesting habitat types shall be avoided during the species' nesting period of May 1 through August 1, unless coordination with ODNR allows a different course of action during that period. Coordination with ODNR may allow for alternate impact avoidance measures. If ODNR allows for alternate impact avoidance measures for construction, Applicant shall follow those recommendations and file proof of such coordination on the docket. Absent such coordination with ODNR mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates.
- 35) Construction in loggerhead shrike preferred nesting habitat types shall be avoided during the species' nesting period of April 1 through August 1, unless coordination with ODNR allows a different course of action during that period. Coordination with ODNR may allow for alternate impact avoidance measures. If ODNR allows for alternate impact avoidance measures for construction, Applicant shall follow those recommendations and file proof of such coordination on the docket. Absent such coordination with ODNR, mapping of these habitat areas shall be provided to the construction contractor along with instructions to avoid these areas during the restricted dates.
- 36) Applicant shall adhere to the USFWS's recommended guidelines to avoid negatively impacting the bald eagle, including not clearing trees within 660 feet of known nests, or within the woodlots supporting the nest trees, and working in proximity to the nests only between August 1 and January 14.

- 37) Prior to the commencement of any construction, Applicant shall prepare an updated vegetation management plan in consultation with ODNR. The condition specifies other various requirements related to this plan.
- 38) Applicant 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, as well as during construction, operation, and decommissioning. Such steps would be achieved through appropriate seed selection and annual vegetative surveys. If noxious weeds are present, Applicant shall remove and treat them with herbicides if necessary.
- 39) Prior to construction, the Applicant shall install orange snow fence or other easily identifiable materials around wetlands and streams regulated by a state or federal agency adjacent to proposed Facility infrastructure to avoid accidental impacts from constructions vehicles.
- 40) Applicant shall avoid all impacts beyond those otherwise allowed by law or permit to perennial streams through facility design, HDD, or other methods.
- 41) Prior to HDD, Applicant shall provide Staff with a frac-out contingency plan detailing monitoring, environmental specialist presence, containment measures, cleanup, and restoration.
- 42) At least seven days before the start of construction and seven days before the start of facility operations, Applicant shall notify via mail affected property owners and tenants, residences located within one mile of the project area, anyone who requested updates regarding the project, parties to the case, certain government officials, emergency responders, and certain other entities. These notices must provide

information about the project, including contact information and a copy of the complaint resolution plan. The pre-construction notices shall include written confirmation that the Applicant has complied with all pre-construction-related conditions of the certificate, a timeframe for project construction, and a schedule for restoration activities. The pre-operation notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate and must contain a timeline for the start of operation. Applicant shall file a copy of these notices in the case docket.

- 43) At least 30 days prior to the start of construction, Applicant shall file a copy of the final complaint resolution plan on the public docket. During the construction and operation of the Facility, Applicant shall file on the public docket 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 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.
- 44) Unless an alternative setback is agreed to by the Applicant and a non-participating landowner, Applicant shall implement a minimum setback of at least (a) 150 feet from the Facility's solar modules to non-participating parcel boundaries, (b) 300 feet from the Facility's solar modules to non-participating residences, (c) 100 feet from the Facility's fence line to the centerline of any state, county, or township road within or adjacent to the project area.

(Joint Ex. 1 at 6-13.)

## VII. CONSIDERATION OF THE STIPULATION

{¶ 91} 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, Opinion, Order, and Certificate (Mar. 17, 2014); *In re Northwest Ohio Wind Energy, LLC*, Case No. 13-197-EL-BGN, Opinion, Order, and Certificate (Dec. 16, 2013); *In re AEP Transm. Co., Inc.*, Case No. 12-1361-EL-BSB, Opinion, Order, and Certificate (Sept. 30, 2013); *In re Rolling Hills Generating LLC*, Case No. 12-1669-EL-BGA, Order on Certificate Amendment (May 1, 2013); *In re American Transm. Systems Inc.*, Case No. 12- 1727-EL-BSB, Opinion, Order, and Certificate (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?

{¶ 92} 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 6). Palomino witness Madison Walsh testified that all parties participated in negotiations, and the agreement is the product of serious bargaining among capable knowledgeable parties, as well as testified that the parties heavily negotiated certain items, such as including Condition No. 44 concerning setbacks, and were able to achieve compromise to reach a settlement. (Applicant Ex. 19 at 14.)

{¶ 93} 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 her testimony, Ms. Walsh represents that the Facility will garner positive economic impact on the local economy through job creation, as well as through an annual service PILOT plan (Applicant Ex. 19 at 14-16). Notably, the Facility's PILOT plan would generate between \$1.4 million and \$1.8 million for the local community annually (Staff Ex. at 16). Ms. Walsh testifies that the Stipulation benefits the public interest by requiring the Facility to meet certain requirements during construction and operation designed to minimize the Facility's impact, such as commitments related to the operational noise of the Facility and a commitment to hire a drain tile consultant and to work with both participating and adjacent landowners regarding drain tile issues. Further, Ms. Walsh highlights Condition No. 44, noting that it will allow participating landowners to sell and lease most of the land they originally intended to the Applicant, a concern highlighted by witnesses at the local public hearing, while also ensuring that certain setbacks are maintained to create distance between specific features and the Facility. Furthermore, Ms. Walsh testifies that the Facility, as contemplated by the Application and modified by the Stipulation, will represent the minimum adverse environmental impact for both construction and operation (Applicant Ex. 19 at 8-9; 14-16).

{¶ 94} Finally, the Board finds that the record supports the conclusion that the Stipulation observes and promotes regulatory practices and principles (Applicant Ex. 19 at 16). 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 10-42; Joint Ex. 1 at 6-13; Applicant Ex. 19 at 7-16). The record is devoid of any evidence to contradict this conclusion. As such, we find the third facet of our analysis has been met.

{¶ 95} 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 Palomino's Application, as supplemented, subject to the conditions set forth in the Stipulation and consistent with this Opinion and Order. 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 Palomino in accordance with R.C. Chapter 4906.

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

{¶ 96} Palomino is a person under R.C. 4906.01(A).

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

{¶ 98} On February 19, 2021, Palomino filed a pre-application notification letter informing the Board of its proposed 200 MW solar-powered electric generation facility in Dodson and Union townships and Highland County, Ohio.

{¶ 99} Applicant held a virtual public informational meeting regarding the proposed Facility on March 9, 2021.

{¶ 100} On March 24, 2021, Palomino filed proof of notice of its virtual public informational meeting, which was held on March 9, 2021, in accordance with Ohio Adm.Code 4906-3-03.

{¶ 101} On June 11, 2021, Palomino filed a second pre-application notification letter.

{¶ 102} Applicant held another virtual public informational meeting regarding the proposed Facility on June 28, 2021.

{¶ 103} On July 12, 2021, Palomino filed proof of notice of its in-person and virtual public informational meeting, in accordance with Ohio Adm.Code 4906-3-03.

{¶ 104} On September 24, 2021, and as supplemented on January 14, 2022, January 18, 2022, and April 8, 2022, Palomino filed its Application for a certificate of environmental compatibility and public need to construct the Facility.

{¶ 105} On September 24, 2021, Palomino filed a motion for waiver of certain Board rules. On April 18, 2022, the ALJ issued an Entry granting Applicant's motion for waiver.

{¶ 106} By letter dated October 18, 2021, the Board notified Palomino that its Application had been found not to comply with Ohio Adm.Code Chapters 4906-01, et seq., and lacked sufficient detail for Staff to begin its investigation and make recommended findings.

{¶ 107} Palomino supplemented its Application on January 14, 2022, and January 18, 2022.

{¶ 108} By letter dated March 15, 2022, the Board notified Palomino that its Application had been found to be sufficiently complete pursuant to Ohio Adm.Code Chapter 4906-1, et seq.

{¶ 109} On March 16, 2022, Palomino filed a certificate of service of its accepted and complete Application as required by Ohio Adm.Code 4906-3-07.

{¶ 110} On March 30, 2022, Palomino filed proof that it submitted its application fee to the Treasurer of the State of Ohio pursuant to Ohio Adm.Code 4906-3-07(A).

{¶ 111} On April 18, 2022, the ALJ issued an Entry establishing the effective date of the Application as April 18, 2022, and adopted a procedural schedule, which included the date of the local public hearing and the adjudicatory hearing.

{¶ 112} On various dates, motions for intervention were filed by the Banks, Highland County Commissioners, OFBF, and Ms. Rogers. No memoranda contra were filed. By Entry issued on June 29, 2022, the ALJ granted the motions to intervene.

{¶ 113} On April 5, 2022, Palomino filed proof of initial publication, in the *Hillsboro Times Gazette* on March 29, 2022, and in *The Highland County Press* on April 2, 2022, with a description of the accepted, complete Application.

{¶ 114} On May 2, 2022, Palomino filed another proof of initial publication, in the *Hillsboro Times Gazette* on April 23, 2022, and *The Highland County Press* on April 30, 2022, of a public notice regarding the date and time of the scheduled hearings, including the process to participate in the public hearing.

{¶ 115} The Staff Report was filed on June 14, 2022.

{¶ 116} On June 21, 2022, Applicant filed proof publication of the second public notice in compliance with Ohio Adm.Code 4906-3-09(A)(2). The second public notice was published in the *Hillsboro Times Gazette* on June 10, 2022, in the *Wilmington News Journal* on June 10, 2022, and in *The Highland County Press* on June 11, 2022.

{¶ 117} The public hearing was held on June 29, 2022, at the Wharton Building at the Highland County Fairgrounds in Hillsboro, Ohio.

{¶ 118} On June 30, 2022, the parties filed a joint motion to call and continue the adjudicatory hearing and extend procedural deadlines. By Entry issued the same day, the ALJ granted parties' joint motion.

{¶ 119} On July 13, 2022, the ALJ called and continued the scheduled adjudicatory hearing.

{¶ 120} On October 11, 2022, the Banks and Ms. Rogers filed notice of their withdrawal as parties of record from the proceeding.

{¶ 121} On November 10, 2022, Palomino, OFBF, Highland County Commissioners, and Staff filed a Stipulation resolving all issues in the case.

{¶ 122} On November 16, 2022, the adjudicatory hearing was reconvened at the Board's offices.

{¶ 123} 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.

{¶ 124} 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.

{¶ 125} 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).

{¶ 126} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion and Order, 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).

{¶ 127} 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

servicing 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).

{¶ 128} The record establishes that the Facility, subject to the conditions set forth in the Stipulation and consistent with this Opinion and Order, 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).

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

{¶ 130} 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).

{¶ 131} 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).

{¶ 132} 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 Palomino, subject to the conditions set forth in the Stipulation and consistent with this Opinion and Order.

{¶ 133} Based on the record, the Board should issue a certificate of environmental compatibility and public need to Palomino, 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 and Order.

**IX. ORDER**

{¶ 134} It is, therefore,

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

{¶ 136} ORDERED, That a certificate be issued to Palomino 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 and Order. It is, further,

{¶ 137} ORDERED, That a copy of this Opinion and Order 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

Damian Sikora, Designee for Mary Mertz, Director  
Ohio Department of Natural Resources

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

Drew Bergman, Designee for Anne Vogel, Director  
Ohio Environmental Protection Agency

Sarah Huffman, Designee for Brian Baldrige, Director  
Ohio Department of Agriculture

Gregory Slone  
Public Member

Julie Bolender, Ad Hoc Member  
Highland County Board of Commissioners

*Dissenting:*

Ty Smith, Ad Hoc Member  
Dodson Township Trustees

MJS/dr



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**in**

**Case No(s). 21-0041-EL-BGN**

Summary: Opinion & Order issuing a certificate of environmental compatibility and public need to Palomino Solar, LLC for the construction, operation, and maintenance of a 200 megawatt solar-powered electric generation facility in Dodson and Union townships, Highland County, Ohio, subject to the conditions set forth in the stipulation and consistent with this Opinion and Order. electronically filed by Ms. Mary E. Fischer on behalf of Ohio Power Siting Board.