

BEFORE  
THE OHIO POWER SITING BOARD

In the Matter of the Application of Frasier	)	
Solar, LLC for a Certificate of Environmental	)	Case No. 23-796-EL-BGN
Compatibility and Public Need	)	

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**PETITION FOR LEAVE TO INTERVENE OF PRESERVE KNOX COUNTY  
OHIO, LLC, BETH BARTLEY, CONNIE AND JAMES BOESHART, BENJAMIN  
AND SARAH DEAN, TINA HOOVER, RHONDA NOBLE, CHARLES AND  
EMILY ROWLEY, KAREN AND STEPHEN SCHMITT, AND KOEY AND KARI  
THOMAS**

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Pursuant to R.C. 4906.08(A)(3) and Ohio Administrative Code ("OAC") § 4906-2-12,  
this Motion to Intervene is submitted by the following Petitioners:

Preserve Knox County Ohio, LLC  
P.O. Box 812  
Mount Vernon, OH 43050

Beth Bartley  
19026 Arrington Road  
Utica, OH 43080

Connie and James Boeshart  
4750 Possum Street  
Mount Vernon, OH 43050

Benjamin and Sarah Dean  
6041 Sharp Road  
Mount Vernon, OH 43050

Tina Hoover  
4800 Possum Street  
Mount Vernon, OH 43050

Rhonda Noble  
4465 Possum Street  
Mount Vernon, OH 43050

Charles and Emily Rowley  
5224 Lafayette Road  
Mount Vernon, OH 43050

Karen and Stephen Schmitt  
5952 Rangeline Road  
Mount Vernon, OH 43050

Joey and Kari Thomas  
4379 Possum Street  
Mount Vernon, OH 43050

A memorandum in support of this petition is provided below.

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**MEMORANDUM IN SUPPORT OF  
PETITION FOR LEAVE TO INTERVENE**

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OAC 4906-2-12(B) provides that the Ohio Power Siting Board (“Board”) or administrative law judge may consider the following criteria when considering petitions to intervene:

- (a) The nature and extent of the person’s interest;
- (b) The extent to which the person’s interest is represented by existing parties;
- (c) The person’s potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

For the following reasons, there is good cause under these criteria to grant intervenor status to the Petitioners in these proceedings.

**Nature and extent of interest:**

The primary purpose of Preserve Knox County Ohio, LLC (“Preserve Knox County”) is to address issues related to energy, agriculture, and economic development affecting Knox County and adjacent counties of Ohio by educating the public and communicating concerns to public officials and others and by engaging in legal action such as intervention in cases before

the Ohio Power Siting Board so as to promote the safety of the citizens of the community and to further the betterment of the community. In particular, Preserve Knox County is concerned about the industrial solar project (“Project”) proposed by Frasier Solar, LLC (“Frasier”) in this proceeding. Preserve Knox County’s members will be directly and adversely affected by the Project, which will be constructed and operated near their homes and properties.

All of the Petitioners except for Preserve Knox County own properties that are adjacent to the project area (“Project Area”) for the Project. All of the individual Petitioners own and/or reside on the property adjacent to the Project Area. Preserve Knox County has standing to participate as an intervenor through associational standing, because all of the individual Petitioners are members of Preserve Knox County who have standing to participate as intervenors. See *Fraternal Order of Police v. City of Columbus*, 10 Ohio App.3d 1 (10<sup>th</sup> Dist. 1983) (ruling that an association has the right to bring legal action on behalf of its members).

The Project will have a serious adverse impact on the Petitioners’ homes and properties that will spoil the enjoyment of living and working there. In that regard, the Petitioners will present evidence about the issues described below, among others, with respect to which the design and application (“Application”) for the Project fails to protect their properties and their enjoyment of living and working there.

1. The Petitioners’ views of hundreds of acres of solar panels surrounding and/or adjacent to their properties and the public roads near the Petitioners’ properties will spoil their visual and aesthetic enjoyment of living and working there. The Application does not provide adequate commitments for planting vegetation barriers between the Project structures and equipment and Petitioners’ properties to minimize visual impacts. In particular, the Application reveals that Frasier Solar does not intend to provide a complete screen to block the view of

unsightly solar facilities, even in locations in which the facilities are most likely to impair the community's aesthetics and quality of life. The Application admits that "in some areas landscape mitigation cannot eliminate the visibility and visual effects resulting from the Facility." Application Exh. , p. 50.

2. Noise, dirt tracked on the public roads, damaged roads, airborne dust, and traffic will be intrusive during the Project's construction.

3. Frasier failed to conduct an adequate study of the Project's adverse effects on wildlife. The applicant's study also failed to evaluate the adverse effects of the Project's fences on wildlife species that currently travel from their places of residence inside and outside of the Project Area throughout the Project Area to forage and hunt. The study failed to evaluate the adverse effects on wildlife that will no longer be able to travel from one pocket of wildlife-friendly habitat to another due to the obstructions from the Project's fences.

4. The Application fails to identify reasonable measures that are necessary to protect birds and other wildlife. The proliferation of fencing in the Project, by preventing wildlife movement, will congregate and cause the overpopulation of wildlife on the Petitioners' land, and other habitat areas inside and outside of the Project Area. The crowding of wildlife, such as deer, in smaller areas will increase adverse impacts such as grazing on the crops and plants in Petitioners' fields and yards.

5. The Application does not sufficiently provide for the protection and repair of drainage tiles that are damaged by the Project's construction.

6. The Application does not protect the existing storm water drainage patterns that protect the Petitioners' land from being polluted and flooded by runoff from the Project Area.

7. The Application fails to identify and commit to the specific locations for the solar panels, night lights, and other Project components, leaving this task to a day subsequent to the certificate's issuance. This failure deprives the Board and the Petitioners of the opportunity to determine whether the panels and other components will displace or injure streams, wildlife habitat, and other natural resources, whether the night lights will be an annoyance to the Petitioners, and whether the Project's components will be in the line of sight from the Petitioners' land and home.

8. The economic impact study in the Application is incomplete and marred with flaws. The study does not identify or quantify the adverse economic impacts of the Project, such as the adverse economic impact of the proposed facility on local commercial and industrial activities, thus violating OAC 4906-4-06(E)(4).

9. The setbacks proposed between the neighboring properties (including the Petitioners') and the Project's fences and components are too short to protect the neighboring properties, yards, and homes.

10. The Application fails to identify measures to protect the solar panels from high wind, hail, lightening, fire, and other natural disasters, as well as to protect Petitioners from flying debris and toxic materials that could be released by these disasters.

11. The Application does not account for or provide for adequate emergency services to address emergencies at the Project.

12. The Application fails to adequately and accurately evaluate, and fails to protect the neighbors from, the noise impacts of Project construction and operation.

13. The Application fails to provide the information necessary for the Board to examine the nature and economics of the various alternatives to the Project as required by R.C. 4906.10(A)(3).

14. The Application fails to describe the necessary coordination with appropriate authorities for temporary or permanent road closures, lane closures, road access restrictions, and traffic control necessary for construction of the Project as required by OAC 4906-4-06(F)(4).

15. The Application does not contain the information on water quality required by OAC 4906-4-07(C)(1)(b), (1)(d), (1)(e), (2)(a), (2)(b), (2)(c), 2(d), 2(e), 3(a), 3(b), and 3(d).

16. The Application does not describe how the proposed facility incorporates maximum feasible water conservation practices considering available technology and the nature and economics of the various alternatives that is required by OAC 4906-4-07(C)(3)(e).

17. The Application fails to comply with OAC 4906-4-08(A)(1)(e), because it does not describe the fire protection, safety, and medical emergency plan(s) to be used during construction and operation of the facility and the Application does not describe how such plan(s) will be developed in consultation with local emergency responders.

18. The Application does not contain descriptions of equipment and procedures that will mitigate the effects of noise emissions from the proposed facility during construction and operation as required by OAC 4906-4-08(A)(3)(d).

19. The Application fails to provide the adequate and accurate preconstruction background noise study of the Project Area required by OAC 4906-4-08(A)(3)(e).

20. The Application does not contain the field surveys of plant and animal life within the Project Area and within one-fourth mile of the Project Area that are required by OAC 4906-4-08(B)(1)(d).

21. The Application does not provide information regarding potential impacts to ecological resources such as deer and other animals during operation and maintenance of the facility as required by OAC 4906-4-08(B)(3).

22. The Application fails to provide much of the information required by OAC 4906-4-08(D)(4) about the Project's visual impacts. The Application does not comply with the mandate in OAC 4906-4-08(D)(4) to "[p]rovide photographic simulations or artist's pictorial sketches of the proposed facility from public vantage points that cover the range of landscapes, viewer groups, and types of scenic resources found within the study area. For example, the Application fails to include photographic simulations or artist sketches of the proposed substation.

23. While OAC 4906-4-08(D)(4)(f) requires Frasier to describe measures that will be taken to minimize any adverse visual impacts created by the facility, including but not limited to visual screening, the Application provides inadequate visual screening or other minimization measures to reduce the neighbors' and the public's views of solar equipment.

24. The Application fails to evaluate the visual impact of the Project's lighting as required by OAC 4906-4-08(D)(4) and fails to commit to implementing measures required by OAC 4906-4-08(D)(4)(f) to minimize adverse visual impacts of the Project's lighting.

25. Because the Application lacks the information required by the Board's rules, as described above, the Application is incomplete and the Staff should not conclude that it is complete. The Staff should return the Application to Frasier with instructions to complete it.

26. The Project will not serve the public interest, convenience, and necessity, nor does it represent the minimum adverse environmental impact, considering the state of available

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

The Petitioners should be granted intervention so that they can address these and other problems with the Project.

**Extent to which interests are represented by existing parties and potential contribution to the just and expeditious resolution of these proceedings:**

No other party represents, or can represent, the Petitioners' interests in protecting themselves and their properties from the impacts of the Project. As adjacent landowners surrounded by and near the Project Area, their participation in the case is necessary to the just and expeditious resolution of this proceeding.

**Potential for undue delay or unjust prejudice:**

Granting intervenor status to the Petitioners will not unduly delay the proceedings or cause unjust prejudice to the Applicant. The Petitioners will comply with whatever case management schedule that the Board establishes. Moreover, the Petitioners will be represented in these proceedings by counsel experienced in practice before the Board.

For the foregoing reasons, the Petitioners request the Board to grant this Petition for Leave to Intervene.

Respectfully submitted,

/s/ Jack A. Van Kley  
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**CERTIFICATE OF SERVICE**

The Ohio Power Siting Board's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, I hereby certify that, on October 21, 2023, a copy of the foregoing document also is being served by electronic mail on the following:

Michael J. Settineri at [mjsettineri@vorys.com](mailto:mjsettineri@vorys.com) and Anna Sanyal at [aasanyal@vorys.com](mailto:aasanyal@vorys.com).

/s/ Jack A. Van Kley \_\_\_\_\_  
Jack A. Van Kley

**This foregoing document was electronically filed with the Public Utilities  
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**in**

**Case No(s). 23-0796-EL-BGN**

Summary: Petition to Intervene electronically filed by Mr. Jack A. Van Kley on behalf of Preserve Knox County and Members.