

**BEFORE
THE OHIO POWER SITING BOARD**

In The Matter of The Application of Scioto)
Ridge Solar LLC, for a Certificate of)
Environmental Compatibility and Public Need)
For The Construction of a Solar Powered Electric)
Generation Facility in Lynn, McDonald, and)
Taylor Creek Townships, Hardin County)

Case No. 23-0146-EL-BGN

JOINT STIPULATION AND RECOMMENDATION

I. INTRODUCTION

Applicant Scioto Ridge Solar LLC (“Scioto Ridge” or “Applicant”), Ohio Farm Bureau Federation (“OFBF”), and Staff of the Ohio Power Siting Board (“OPSB Staff”) who represent the parties to this proceeding, submit this Joint Stipulation and Recommendation (“Joint Stipulation”) for adoption by the Ohio Power Siting Board (“Board” or “OPSB”). Ohio Administrative Code (“O.A.C.” or “Ohio Adm. Code”) 4901-1-30 provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below (“Parties” or in the singular “Party”), and to recommend that the Board approve and adopt this Joint Stipulation as part of its Opinion, Order, and Certificate in this proceeding, resolving all matters raised by the OPSB Staff, OFBF, and Intervenors pertinent to the approval and construction of Scioto Ridge Solar Project, of an up to 110 megawatt (“MW”) solar-powered electric facility with a 20 MW battery energy storage system (“BESS”) located in Lynn, McDonald, and Taylor Creek Townships, Hardin County, Ohio and its associated facilities (“Project” or “Facility”).

This Joint Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties in a cooperative process to resolve all of the issues in this proceeding.

The Parties have engaged in settlement discussions related to the topics raised in this proceeding. This Joint Stipulation represents the culmination of these discussions, and the Parties acknowledge that this agreement is amply supported by the record and thus entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the Facility.

II. JOINT STIPULATION AND RECOMMENDATION

A. Recommended Conditions

The Parties recommend that the Board approve Scioto Ridge's Application subject to the conditions listed below.

GENERAL CONDITIONS

- (1) The Applicant shall install the facility, utilize equipment and construction practices, and implement mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in this Staff Report of Investigation. Post-certification changes to specified equipment, construction practices, mitigation measures, or facility layout shall be coordinated with Staff. Staff cannot approve changes but may provide confirmation that it does not object to changes that are consistent with a Board certificate. The Applicant shall make Staff aware of the changes prior to the applicable construction by providing mapping, and a narrative of nature of the change(s) and impact quantifications associated with the change. Changes which do not constitute an amendment to the certificate shall be documented on the case docket and shall include applicable mapping and an explanation of how the change conforms with the terms of the certificate. Nothing in this condition supersedes the Board's authority as to amendment applications.
- (2) Prior to the preconstruction conference, the Applicant shall provide to Staff the primary address of the facility.
- (3) The certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate unless the Board grants a waiver or extension of time.

- (4) As the information becomes known, the Applicant shall file on the public docket the date on which construction will begin, the date on which construction was completed, and the date on which the facility begins commercial operation.
- (5) The certificate authority provided in this case shall not exempt the facility from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control.

PRECONSTRUCTION CONDITIONS

- (6) The Applicant shall only use solar panel modules that do not exhibit the characteristic of toxicity verified through analysis or documentation with the USEPA's Toxicity Characteristics Leaching Procedure test. Prior to the preconstruction conference, the Applicant shall file confirmation that panels were analyzed through the USEPA's Toxicity Characteristics Leaching Procedure test.
- (7) At least seven days before the preconstruction conference, the Applicant shall submit to Staff, for review, a copy of all NPDES permits including its approved SWPPP, and approved Spill Prevention, Control, and Countermeasure procedures. The Applicant must address any erosion related issues through proper design and adherence to Ohio EPA best management practices related to erosion and sedimentation control.
- (8) The Applicant shall conduct a preconstruction conference prior to the commencement of any construction activities. The Applicant may conduct separate preconstruction conferences for each stage of construction. Notice of the date and location of the preconstruction conference shall be provided to Staff at least 30 days in advance. Staff, the Applicant, and representatives of the primary contractor and all subcontractors for the project shall attend the preconstruction conference. The conference shall include a presentation of planned phase of construction and the conditions of the certificate, measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, discussion of the procedures for on-site investigations by Staff during construction, summary of additional studies and surveys not specified by conditions, and a summary of work done for previous phases of construction. At least 30 days prior to the conference, the Applicant shall provide Staff with a summary of the status of deliverables required within the conditions, and if the conference is for a phase of construction, the Applicant shall provide Staff with a list of the conditions which would apply to that phase. 14 days prior to the conference, the Applicant shall provide a proposed conference agenda for Staff review and shall file a copy of the agenda on the case docket.
- (9) The Applicant shall coordinate with the appropriate authorities regarding traffic and transportation requirements necessary for construction and operation of the proposed facility. To assure compliance with this condition, prior to the preconstruction conference, the Applicant shall file a final transportation management plan, this plan shall include (but not be limited to) the following:
 - a) A summary of coordination with appropriate authorities regarding traffic and transportation requirements, including 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.

- b) Documentation of this coordination, with copies of applicable permits or authorizations, or schedule for obtaining permits or authorizations not yet applicable.
 - c) A description of best management practices that would be implemented to maintain clean roads free of construction debris and excess mud.
 - d) Details summarizing signage and other best management practices that would ensure construction vehicles only use designated transportation routes.
 - e) Mapping of roads to be used for construction. This shall include identifying any anticipated permitting/authorization requirements in their respective locations.
- (10) Prior to the commencement of construction activities in areas that require permits or authorizations by federal, state, or local laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference(s). Any permit violation received by the Applicant from the permitting agency shall be provided on the case docket within seven days of receipt.
- (11) The Applicant shall not commence any construction of the facility until it has executed an Interconnection Service Agreement and Interconnection Construction Service Agreement with PJM Interconnection, which includes construction, operation, and maintenance of system upgrades necessary to integrate the proposed generating facility into the regional transmission system reliably and safely. The Applicant shall docket in the case record a letter stating that the Agreement has been signed or a copy of the executed Interconnection Service Agreement and Interconnection Construction Service Agreement.
- (12) Prior to commencement of construction, the Applicant shall file 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. The plan shall include that any 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, unless alternative mitigation measures are agreed to with the property owner. Alternative mitigation measures would include items such as alternative fencing or vegetative screening, or good neighbor agreements. The plan shall also incorporate plantings or design features or measures to address aesthetic impacts to the traveling public, nearby communities, sensitive institutional land uses and recreationalists. Plantings described in the plan shall be installed within 6 months of completion of construction of the facility. The Applicant shall maintain vegetative screening for the life of the facility. The Applicant shall promptly replace any failed plantings so that, after five years, at least 90 percent of the vegetation has survived. Lights shall be motion activated and designed to narrowly focus light inward toward the facility, such as being downward-facing and/or fitted with

side shields. The Applicant shall provide the plan to Staff for review and confirmation that it complies with this condition. At least 30 days prior to the preconstruction conference, the Applicant shall provide proof that the solar panels used for the project utilize an anti-reflective coating.

- (13) At least 30 days prior to the preconstruction conference, the Applicant shall demonstrate that it has a complete copy of the solar panel, inverter, and battery energy storage system manufacturer's safety manual or similar document and has incorporated any recommended setbacks from those manufacturers into its final design site plan.
- (14) At least 30 days prior to the preconstruction conference, the Applicant shall file on the docket for Staff's review and acceptance the emergency services and response plan, which it shall develop in consultation with the local fire and emergency services.
- (15) At least 30 days prior to the preconstruction conference, the Applicant shall file on the docket its plan to address issues relating to high winds, including the ability of the trackers to move to the stow position when needed. The plan shall include a post installation check plan and annual testing of high wind sensors.
- (16) The Applicant shall provide documentation to Staff, and file on the docket in this case, the fire protection engineering review of the BESS facility at least 30 days prior to the preconstruction conference for the BESS. This documentation shall address at least, but is not limited to, the following: source or supply of water for perimeter protection defensive firefighting coordinated with the local fire and emergency response departments, compliance with current Ohio Fire Code, BESS specific guidance of the International Fire Code 2021 (Chapter 12), the National Fire Protection Association "NFPA" 855 (2023), NFPA 69, 70, 70E, Underwriters Laboratory ("UL") test methods 1642, UL 1973, UL 9540, and UL 9540A. The documentation shall also include a list of the firefighting and rescue equipment necessary to respond to emergencies or extinguish a fire at the BESS.
- (17) Prior to construction of the BESS, the Applicant shall provide training to and equip the fire and emergency responders with proper firefighting equipment as reasonably required to enable them to respond to emergency situations at the BESS. The Applicant shall provide and document in the case docket: (1) training at least once per calendar year unless waived by the local fire and emergency services and (2) any specialized firefighting equipment that becomes necessary for future emergency response as determined by Applicant and emergency responders or Staff.
- (18) Prior to the preconstruction conference, the Applicant shall file drawings with dimensions of the solar panel perimeter fence type. Fencing shall be both small-wildlife permeable and aesthetically fitting for a rural location. Fencing around panels should incorporate gaps or spaces of at least six inches by six inches to allow passage of small mammals. The Applicant shall maintain all fencing along the perimeter of the project in good repair for the term of the project and shall promptly repair any damage as needed. Barbed wire shall not be utilized for the perimeter fence. This condition shall not apply to substation or BESS fencing.
- (19) The Applicant shall avoid, where possible, or minimize to the extent practicable, any damage to functioning field tile drainage systems resulting from the construction,

operation, and/or maintenance of the facility. To assure that impacts are minimized, 30 days prior to the preconstruction conference, the Applicant shall docket a field tile avoidance and repair plan including the following:

- a) Documentation of benchmark conditions of surface and subsurface drainage systems prior to construction, including the location of laterals, mains, grassed waterways, and county-maintained ditches.
 - b) The Applicant shall review and consult with the following to request locations of drainage systems.
 - i. publicly accessible county records
 - ii. the county engineer
 - iii. the local soil and water conservation district
 - iv. owners of all parcels adjacent to the property
 - v. any other sources known to the Applicant to have this information
 - c) Results of this consultation shall be mapped in the plan and avoided to the extent practicable
 - d) Damaged field tile systems shall be promptly repaired or rerouted to at least original conditions or modern equivalent at the Applicant's expense to ensure proper drainage. In areas of pile installation, drain tile repair shall occur as damaged. If damage is not known immediately, repairs shall occur upon signs of flooding within the area. Documentation of repairs shall be maintained by the Applicant. However, if the affected landowner(s) agrees to not having the damaged field tile system repaired, they may do so only if:
 - i. the field tile systems of adjacent landowners remain unaffected by the nonrepair of the landowner's field tile system; and
 - ii. the damaged field tile does not route directly onto or into an adjacent parcel. The Applicant shall design the project to ensure that nearby parcels are protected from unwanted drainage problems due to construction and operation of the project.
 - e) Mapping of discovered and repaired or rerouted drain tile systems shall be filed in the case docket once construction is complete. This mapping shall also be provided to Staff in the form of georeferenced electronic data.
 - f) Avoid installing new drain tile systems that may drain or impede replenishment of nearby wetlands or significantly increase drainage into adjacent waterways during precipitation events.
- (20) At least 60 days prior to the preconstruction conference, the Applicant shall file an agricultural protection plan that is designed to minimize impacts to agricultural land use during construction, operation, maintenance, and decommissioning. The plan shall be

comprised of a narrative and detailed mapping that includes, but is not limited to, the following:

- a) Implements a program for the collection of baseline data establishing preconstruction soil conditions for the production of row crops for the agricultural areas within the project area. The program shall establish the relevant characteristics of both topsoil (defined as the upper most part of the soil commonly referred to as the plow layer, the A layer, or the A horizon, which typically is 5 to 10 inches in depth in Ohio) and subsoil (defined as the soil material that starts at the bottom of the topsoil, which typically is approximately 36 inches in depth in Ohio, unless fractured or hard bedrock is encountered first). The baseline data shall be derived from field and laboratory testing of soil conditions; including depth, density, and quality from representative locations. Laboratory testing shall be conducted by an accredited laboratory. Parameters for assessing soil quality shall include, at a minimum, the following: infiltration rate, bulk density, water holding capacity, pH, percent organic matter, cation exchange capacity, Phosphorous/Phosphate (P), Nitrogen (N), and Potassium/Potash (K). After 30 years of operation and again after 35 years of operation, soil conditions shall be determined for the same sampling locations using the same parameters and the results used to plan soil restoration activities. After equipment is removed as part of decommissioning, soil conditions shall be determined for the same sampling locations using the same parameters. Soil restoration activities shall be performed as necessary to return soil conditions to at least baseline conditions. Staff will be provided with data of soil conditions within 30 days after the receipt of the results.
- b) The Applicant shall seek to achieve a goal of grading no more than 5 percent, but firmly limits grading to no more than 20 percent, of the agricultural lands within the Project Area, as defined in the application. The plan shall minimize grading to the extent practicable and economically feasible, specify the percentage of agricultural lands within the Project Area for which grading is anticipated and, if applicable, provide the reason(s) that the 5-percent goal is not practicable or economically feasible for the Project Area. For purposes of this condition only, grading is defined as earth-moving activities incidental to building roads, equipment pads, substations, and laydown yards, installing buried electric lines and excavating stormwater basins, performing soil removal activities, soil filling activities, and cut-and-fill activities, but shall not include routine ground disturbance incidental to installing piles, drain tile, fences, poles for electric lines, vegetation, landscaping, and temporary erosion and sediment controls, performing soil sampling, geotechnical investigations, and archeological investigations, disking topsoil to promote the growth of vegetation, and raking, smoothing ruts, or otherwise creating a smooth and safe work surface.
- c) Map(s) and geospatially referenced electronic data including the following:
 - i. Planned areas of grading.
 - ii. Agricultural lands within the project area.
 - iii. Planned locations for topsoil storage or stockpile areas.

- d) Follows best management practices for preserving agricultural land that include, but may not be limited to, the following:
 - i. Prior to starting grading in a particular location, topsoil shall be removed and stockpiled separate from subsoil.
 - ii. No stockpiles shall be located in or near drainage ways. Stockpiles shall be stabilized in accordance with the Ohio EPA's NPDES Construction Storm Water General Permit.
 - iii. Topsoil shall remain in the project area.
 - iv. Topsoil shall not be re-applied to the surface in excessively wet/moist conditions.
 - v. For cut-and-fill activities, a profile of the depth and density of the topsoil and subsoil for each area shall be established using representative sampling locations prior to the start of the activity, and a similar profile shall be reestablished upon completion of such activity. Topsoil will be removed from the area for which activity is to be performed and separately stockpiled, the subsoil will be excavated and redistributed to lessen the slope, the subsoils will be de-compacted, and then the topsoil will be redistributed over the area.
 - vi. Existing grassed waterways shall be preserved to the extent practicable. In instances where grassed waterways are to be significantly altered, the Applicant shall submit an analysis that demonstrates how the alteration will not adversely affect drainage of both the project area and neighboring parcels.
 - vii. Shall sequence construction such that access roads are constructed prior to other grading activities.
 - viii. Shall instruct construction workers to utilize established access roads and laydown areas for equipment and vehicular traffic, rather than agricultural land, unless installing equipment in the immediate area or as necessary to safely pass other equipment or vehicles.
- (21) At least 30 days prior to the preconstruction conference, the Applicant shall submit an updated decommissioning plan and total decommissioning cost estimate without regard to salvage value on the public docket that includes:
- a) provision that the decommissioning financial assurance mechanism include a performance bond where the company is the principal, the insurance company is the surety, and the Ohio Power Siting Board is the obligee;
 - b) a timeline for removal of the equipment;
 - c) a provision to monitor the site for at least one additional year to ensure successful revegetation and rehabilitation;
 - d) a provision where the performance bond is posted prior to the commencement of construction;

- e) a provision that the performance bond is for the total decommissioning cost and excludes salvage value;
 - f) a provision to coordinate repair of public roads damaged or modified during the decommissioning and reclamation process;
 - g) a provision that the decommissioning plan be prepared by a professional engineer registered with the state board of registration for professional engineers and surveyors;
 - h) a provision stating that the bond shall be recalculated every five years by an engineer retained by the Applicant; and
 - i) a provision that underground equipment will be removed to the extent that allows for future drain tile repairs and installation to be completed. The Applicant shall implement and comply with the decommissioning plan as approved by Staff.
- (22) Prior to commencement of any construction, the Applicant shall prepare an updated vegetation management plan in consultation with the ODNR. The goals of the plan shall include planting a minimum of 70 percent of the impacted project area in beneficial vegetation, utilizing plant species listed in Attachment A of ODNR Recommended Requirements for Proposed Solar Energy Facilities in Ohio, or other suitable species as approved by the ODNR and shall follow the Ohio Solar Site Pollinator Habitat Planning and Assessment Form with a minimum score of 80 points. The plan shall include a narrative on how the project proposes to establish and maintain beneficial vegetation and pollinator habitat in accordance with the guidelines provided above. The plan shall include mapping of the areas where pollinator habitat would be established and maintained. The plan shall include that routine mowing occur a minimum of three times a year except in areas of pollinator habitat, which would be limited to fall/spring seasons, as needed, to allow for natural reseeding of plantings and reduce impacts to ground nesting birds. To assure land stabilization and to the extent that it does not conflict with the Applicant's ability to comply with other requirements of the certificate, the plan shall also specify that seeding be applied to graded areas, excluding access and laydown areas, and other unvegetated areas subject to infrastructure installation prior to further soil disturbance.
- (23) At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for Staff records, detailed engineering drawings of the final project design for the applicable phase of construction. The engineering drawings shall be provided electronically, and on a USB drive. The engineering drawings shall include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. The Applicant shall also submit to Staff geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings, for Staff records. A PDF map of the final layout based on the engineering drawings shall be filed on the docket of this case prior to construction. 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. All applicable geotechnical study results shall be included in the submission of the final project design to Staff.

- (24) At least 30 days prior to the initial preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the final geotechnical engineering report. This report shall include the results and analyses of any additional geotechnical investigation studies. This would include conducting geotechnical investigations at project infrastructure areas not explored as part of the preliminary investigation. This report shall include a final summary statement addressing the geologic and soil suitability addressing any inadequacies found and proposed remedies if applicable.
- (25) The Applicant shall adhere to the access road construction and maintenance recommendations provided in the geotechnical report. This includes the maximum rut depth tolerance of three inches.
- (26) At least 30 days prior to the preconstruction conference, the Applicant shall provide Staff, for review and acceptance, the final Unanticipated Discovery Plan.
- (27) The Applicant shall have a Staff-approved environmental specialist on site during construction activities that may affect sensitive areas. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction. Approval of the environmental specialist(s) is determined through submittal of a resume(s) showing applicable experience and/or credentials, which shall be submitted at least 14 days prior to the preconstruction conference. The environmental specialist shall have authority to stop construction to assure that unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. Sensitive areas may include, but are not limited to, wetlands and streams, and locations of threatened or endangered species. At least 14 days prior to the preconstruction conference, a map and narrative shall be provided to Staff focusing on sensitive areas which would be impacted during construction with information on the construction activities and when the environmental specialist would be present.
- (28) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan for construction and operation of the project on the public docket.
- (29) At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify via mail all affected property owners and tenants who were provided notice of the public informational meeting and OPSB hearings; local officials who received a copy of the application; residences located within one mile of the certificated boundary; schools, libraries, and emergency responders that serve residents in the project area; and any other person who has requested updates regarding the project. These notices shall provide information about the project, including contact information and a copy of the complaint resolution program. The start of construction notice shall include written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as a timeline for construction and restoration activities. The start of facility operations notice shall include written confirmation that the Applicant has complied with all construction-related conditions of the certificate, as well as a timeline for the start of operations. The Applicant shall file a copy of these notices on the public docket.

- (30) The Applicant shall incorporate into the solar farm layout a setback of at least 541 feet from the wind turbines at Scioto Ridge wind farm to the Applicant's equipment specifically the solar modules, inverter, transformer, battery containers, gen-tie line, or buildings.

CONSTRUCTION CONDITIONS

- (31) The Applicant shall prepare a quarterly complaint summary report about the nature and resolution of all complaints received in that quarter and file these reports on the public docket during the first five years of operation. The Applicant shall file on the public docket a complaint summary report by the last day of April, July, October, and January of each year during construction and through the first five years of operation. The report shall include a list of all complaints received through the Applicant's complaint resolution program, a description of the actions taken toward the resolution of each complaint, and a status update if the complaint has yet to be resolved.
- (32) If the project scope changes or newly identified cultural resources are discovered during construction, the Applicant shall notify OHPO and Staff concerning the need for mitigation or avoidance. The Applicant shall implement a memorandum of understanding to memorialize the screening required for the historic resource, Field Site no. 170. In addition, the Applicant shall avoid or further study and get OHPO concurrence on the recovery or mitigation of the archaeological sites 33-HR-0626 and 33-HR-0693.
- (33) The Applicant shall construct the facility in a manner that incorporates post construction stormwater management under OHC00006 (Part III.G.2.e, pp. 19-27) in accordance with the Ohio Environmental Protection Agency's Guidance on Post-Construction Storm Water Controls for Solar Panel Arrays.
- (34) The Applicant shall contact Staff, the 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 the Applicant, Staff, and the appropriate agencies.
- (35) If the Applicant encounters any new listed plant or animal species or suitable habitat of these species prior to construction, the Applicant shall include the location in the final engineering drawings and associated mapping. The Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction.
- (36) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid impacts to listed bat species, unless coordination with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.
- (37) The Applicant shall conduct no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat, unless coordination efforts with the Ohio Department of Natural Resources allows a different course of action.

- (38) The Applicant shall take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 and invasive plant species identified in Ohio Adm.Code 901:5-30-01, during construction, operation, and decommissioning. This would be achieved through appropriate seed selection, and a minimum of annual vegetative surveys throughout the project area during the growing season. If noxious weeds and/or invasive plants are found to be present, the Applicant shall remove or treat them with herbicide pursuant to Ohio Revised Code (“R.C.”) Section 921.06 as necessary, and shall follow all applicable state laws regarding noxious weeds and invasive plant species. For both construction and maintenance, the Applicant shall limit, to the greatest extent possible, the use of herbicides in proximity to surface waters. Individual treatment of tall-growing woody plant species is preferred, while general, widespread use of herbicides should only be used where no other options exist, and with prior approval from the Ohio EPA and Staff. The Applicant shall provide annual documentation of weed control for the first four years of operation, with the goal of weed eradication significantly completed by year three of operation.
- (39) 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. Impact pile driving may occur between 7:00 a.m. and 9:00 a.m., and after 6:00 p.m. or until dusk when sunset occurs after 6:00 p.m., if the noise impact at non-participating receptors is not greater than daytime ambient Leq plus 10 dBA. If impact pile driving is required between 7:00 a.m. and 9:00 a.m., and after 6:00 p.m. or until dusk when sunset occurs after 6:00 p.m., the Applicant shall install a noise monitor in a representative location to catalog that this threshold is not being exceeded. 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 or light pollution at sensitive receptors are permitted outside of daylight hours when necessary. The Applicant shall notify property owners or affected tenants within the meaning of Ohio Adm.Code 4906-3-03(B)(2) of upcoming construction activities including potential for nighttime construction.
- (40) Following commencement of construction, the Applicant shall file on the case docket a bi-annual report containing the following information:
- a) Any modifications to the facility, equipment, construction practices, and mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report of Investigation.
 - b) A list of state and/or federal listed species encountered during construction and documentation of coordination with the appropriate agencies as needed.
 - c) Dates and noise monitor results when impact pile driving was required between 7:00 a.m. and 9:00 a.m., and after 6:00 p.m. or until dusk when sunset occurs after 6:00 p.m.
 - d) Any notifications sent to 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.

- e) If the facility is found to be above the daytime ambient Leq sound level limit level plus five dBA, what additional noise mitigation measures were implemented to maintain compliance with the certificate.
- f) The Applicant shall file a final report within 60 days of completion of construction and cease any further reporting in accordance with this condition.

POST CONSTRUCTION/OPERATION CONDITIONS

- (41) Within 60 days after the commencement of commercial operation, the Applicant shall submit to Staff a copy of the as-built specifications for the entire facility in both hard copy and as geographically referenced electronic data. The as-built specifications shall be provided electronically and on a USB drive. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications.
- (42) The Applicant shall operate the facility that limits sound levels emitted to nonparticipating receptors to no higher than the daytime ambient Leq sound level limit level plus five dBA, as listed in the updated sound report filed on January 5, 2024. If the facility is found to be above these limits, the Applicant shall install additional noise mitigation measures to maintain compliance with this provision.
- (43) At the time of solar panel end of life disposal, any retired panel material that is not recycled and that is 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, or another appropriate disposal location at the time of decommissioning approved by Staff.
- (44) The facility shall be operated in such a way as to assure that no more than 130 megawatts would be injected into the Bulk Power System at any time.
- (45) The Applicant shall file an annual operational compliance report for at least 5 years following completion of construction. Annual reports shall contain the following information:
 - a) Any modifications to the facility, equipment, construction practices, and mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the Staff Report of Investigation.
 - b) A list of any wildlife mortality or entrapment discovered within the facility fence during operation.
 - c) Documentation of weed control for the first four years of operation, with the goal of weed eradication significantly completed by year three of operation.
 - d) Documentation of compliance with the landscape and lighting plan, including efforts to maintain vegetative screening to at least a 90 percent vegetation survival rate.

- e) If the facility is found to be above the daytime ambient Leq sound level limit level plus five dBA, what additional noise mitigation measures were implemented to maintain compliance with the certificate.

B. Exhibits

Subject to the terms and conditions of this Joint Stipulation, the Applicant, OFBF, and OPSB Staff agree, stipulate, and recommend that the following exhibits submitted to this docket be marked and admitted into the record of this proceeding, and that cross-examination is waived thereon:

1. Applicant Exhibit 1, Application filed August 15, 2023; *Erratum* filed September 19, 2023; Draft Unanticipated Discovery Plan filed December 4, 2023; Preliminary Design for the Battery Energy Storage System filed December 5, 2023; and Updated Preliminary Site Plan filed January 5, 2024 (collectively “Application”);
2. Applicant Exhibit 2, Responses and Supplement Responses to Staff’s data requests filed to docket on:
 - 09/11/2023 Response to Staff’s Data Request dated August 08/31/2023;
 - 10/03/2023 Response to Staff’s Data Request dated 09/12/2023;
 - 10/03/2023 Response to Staff’s Data Request dated 09/14/2023;
 - 10/11/2023 Response to Staff’s Data Request dated 09/20/2023;
 - 10/12/2023 Response to Staff’s Data Request dated 09/21/2023;
 - 12/04/2023 Supplemental Response to Staff’s Data Request dated 09/12/2023;
 - 12/26/2023 Response to Staff’s Data Request dated 11/16/2023;
 - 12/26/2023 Response to Staff’s Data Request dated 12/18/2023;
 - 12/26/2023 Supplemental Response to Staff’s Data Request dated 08/31/2023;
 - 01/05/2024 Supplemental Response to Staff’s Data Request dated 09/21/2023;
 - 01/05/2024 Supplemental Responses to Staff’s Data Request dated 08/31/2023, 09/12/2023, 09/20/2023, and 12/18/2023;
 - 01/10/2024 Supplemental Response to Staff’s Data Request dated 01/04/2024; and
 - 01/24/2024 Response to Staff’s Data Request dated 01/19/2024;
3. Applicant Exhibit 3, Proof of Service of the Application on local public officials and libraries as filed on November 7, 2023;
4. Applicant Exhibit 4, Copy of the letter sent to property owners and tenants within the plan site or contiguous to the plan site on February 23, 2023 announcing that

the first Public Informational Meetings would be held on March 16, 2023, filed to docket on March 6, 2023;

5. Applicant Exhibit 5, Proof of Publication filed to docket on March 7, 2023 (publication for the first public information meeting) in accordance with O.A.C. 4906-3-03(B) published on February 27, 2023 in *The Kenton Times*;
6. Applicant Exhibit 6, of the letter sent to property owners and tenants within the plan site or contiguous to the plan site on April 26, 2023 announcing that the second Public Informational Meetings would be held on May 25, 2023;
7. Applicant Exhibit 7, Proof of Publication filed to docket on June 1, 2023 (publication for the second public information meeting) published on May 4, 2023 in *The Kenton Times*;
8. Applicant Exhibit 8, Proofs of Publication in accordance with the administrative law judge entry on November 21, 2023 for first publication of the description of the application and hearing dates published in *The Kenton Times* on November 30, 2023 (filed on December 13, 2023); and the second publication of the description of the application and hearing dates published in *The Kenton Times* on January 25, 2024 (filed February 21, 2024);
9. Applicant Exhibit 9, Direct Testimony of J. Kevin Cole in Support of the Application filed March 1, 2024;
10. Applicant Exhibit 10, Direct Testimony of Kim Cantano in Support of the Application filed March 1, 2024;
11. Applicant Exhibit 11, Supplemental Testimony of J. Kevin Cole in Support of the Joint Stipulation and Recommendation filed March 12, 2024;
12. Joint Exhibit 1, “Joint Stipulation and Recommendation” signed on behalf of the Applicant, OFBF, Intervenors, and OPSB Staff filed March 12, 2024.
13. OPSB Staff Exhibit 1, “Staff Report of Investigation,” issued January 29, 2024; and
14. OPSB Staff Exhibit 2, Prefiled Testimony of Robert Holderbaum filed March 7, 2024.

C. Other Terms and Conditions

This Stipulation is conditioned upon adoption of the Stipulation by the Board in its entirety and without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Board’s approval of this Stipulation constitutes a “material modification” thereof. If the Board rejects or materially modifies all or any part of this Stipulation, any Signatory Party shall have the right to apply for rehearing. If the Board does not adopt the Stipulation without

material modification upon rehearing, or if the Board makes a material modification to any Order adopting the Stipulation pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within thirty (30) days of the Board's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Stipulation by filing a notice with the Board (“Notice of Withdraw”). No Signatory Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Board review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Board will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Stipulation by presenting evidence through witnesses, to cross examine witnesses, to present rebuttal testimony, and to brief all issues that the Board shall decide based upon the record and briefs. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are successful, then some or all of the Signatory Parties shall submit the amended Stipulation to the Board for approval after a hearing if necessary.

III. FINDINGS

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

A. Findings of Fact

1. The Facility qualifies as a “major utility facility” defined in R.C. 4906.01(B)(1)(a).
2. Applicant formally submitted its Application for Certificate of Environmental Compatibility and Public Need on filed August 15, 2023; along with an *Erratum* filed September 19, 2023; Draft Unanticipated Discovery Plan filed December 4, 2023; a Preliminary Design for the Battery Energy Storage System filed December

5, 2023; and an Updated Preliminary Site Plan filed January 5, 2024 (collectively “Application”).

3. On November 7, 2023, Applicant filed a copy of the Proof of Service of the accepted complete application on local public officials and libraries.
4. On December 13, 2023 (first publication of the description of the application and hearing dates); and February 21, 2024 (second publication of the description of the application and hearing dates) Applicant filed Proofs of Publication in accordance with Ohio Revised Code (“R.C.”) 4906.06(C) and O.A.C. 4906-3-10(B) for the first and second publications of the description of the application and the hearing dates, published on November 30, 2023 and January 25, 2024 in *The Kenton Times*.
5. The Staff Report was filed on January 29, 2024.
6. Adequate data on the project has been provided to determine the nature of the probable environmental impact as required by R.C. 4906.10(A)(2).
7. Adequate data on the project has been provided to determine that the Facility described in the Application represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations as required by R.C. 4906.10(A)(3).
8. Adequate data on the project has been provided to determine 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, as required by R.C. 4906.10(A)(4).
9. Adequate data on the project has been provided to determine that the Facility will either comply with, or is not subject to, the requirements in the R.C. regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all regulations thereunder, as required by R.C. 4906.10(A)(5).
10. Adequate data on the project has been provided to determine that the Facility will serve the public interest, convenience, and necessity, as required by R.C. 4906.10(A)(6).
11. Adequate data on the project has been provided to determine what the Facility’s impact will be on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the R.C. that is located within the site of the proposed Facility, as required by R.C. 4906.10(A)(7).
12. Adequate data on the project has been provided to determine that the facility incorporates maximum feasible water conservation practices as determined by the Board, considering available technology and the nature and economics of the various alternatives, as required by R.C. 4906.10(A)(8).

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

B. Conclusions of Law

- (1) Scioto Ridge Solar LLC is a “person” under R.C. 4906.01(A).
- (2) The proposed Facility is a major utility facility as defined in R.C. 4906.01(B)(1).
- (3) The Application complies with the requirements of O.A.C. Chapter 4906-4.
- (4) The record establishes the nature of the probable environmental impact from construction, operation, and maintenance of the Facility under R.C. 4906.10(A)(2).
- (5) The record establishes 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 under R.C. 4906.10(A)(3).
- (6) The record establishes, as required by R.C. 4906.10(A)(4), 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.
- (7) The record establishes, as required by R.C. 4906.10(A)(5), that to the extent that any of them are applicable, construction of the proposed Facility will comply with the requirements in the Ohio Revised Code regarding air and water pollution control, withdrawal of waters of the state, solid and hazardous waters, and air navigation, and all rules and standards adopted under the relevant Chapters of the Ohio Revised Code.
- (8) The record establishes that the Facility will serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6).
- (9) The Facility’s impact on the viability as agricultural land of any land in an existing agricultural district has been determined under R.C. 4906.10(A)(7).
- (10) The record establishes that the Facility incorporates maximum feasible water conservation practices, as determined by the Board, considering available technology and the nature and economics of the various alternatives consistent with R.C. 4906.10(A)(8).
- (11) Based on the record, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation and maintenance of the Facility which includes the conditions in the Staff Report of Investigation, as presented and modified, by the Joint Stipulation and Recommendation.

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

Respectfully submitted on behalf of,

**STAFF OF THE OHIO POWER SITING
BOARD**

OHIO FARM BUREAU FEDERATION

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Summary: Text Joint Stipulation and Recommendation electronically filed by Teresa Orahod on behalf of Dylan F. Borchers.