

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF FLEMING	)	
SOLAR, LLC FOR A CERTIFICATE OF	)	
CONSTRUCTION FOR AN APPROXIMATELY	)	CASE NO.
80 MEGAWATT MERCHANT ELECTRIC	)	2020-00370
SOLAR GENERATING FACILITY IN FLEMING	)	
COUNTY, KENTUCKY PURSUANT TO KRS	)	
278.700 AND 807 KAR 5:110	)	

ORDER

On May 28, 2021, Fleming Solar, LLC (Fleming Solar or Applicant) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) seeking a Certificate of Construction to construct an approximately 80-megawatt alternating current (MWac) photovoltaic electricity generation facility (Project). There are no intervenors in this matter. Pursuant to a procedural schedule entered on July 1, 2021, Fleming Solar responded to two rounds of discovery. Siting Board consultants, Harvey Economics, reviewed Fleming Solar's Site Assessment Report<sup>1</sup> (SAR). A site visit was held on July 28, 2021, and the Harvey Economics consultant's report was filed on August 31, 2021<sup>2</sup> (Harvey Economics Report). Fleming Solar submitted its response to the Harvey Economics Report on September 13, 2021. A formal evidentiary hearing was held on September 29, 2021. Fleming Solar filed responses to

---

<sup>1</sup> Application, Materials Part 2, Exhibit I, Site Assessment Report.

<sup>2</sup> Harvey Economics' Review and Evaluation of the Fleming Solar, LLC Site Assessment Report (filed Aug. 31, 2021).

Siting Board's Post-Hearing Request for Information on October 11, 2021. The Siting Board received a total of nine public comments in writing, three comments in favor of the Project and six in opposition to the Project. The Siting Board also heard four public comments at the beginning of the September 29, 2021 formal evidentiary hearing; each public comment was in favor of the Project.<sup>3</sup> The matter now stands submitted for a decision.

### PROPOSED FLEMING SOLAR FACILITY

The proposed solar facility is to be located northwest of the city of Flemingsburg, north of Old Convict Road at approximate coordinates 38°26'33.8"N 83°45'54.6"W.<sup>4</sup> The proposed Fleming Solar Project will be located on approximately 830 acres.<sup>5</sup> The proposed site has been primarily used for agriculture.<sup>6</sup> Fleming Solar states that the Project will consist of the following components: solar panels that range in height from six to ten feet as they track the sun throughout the day; inverters; racking system; associated wiring and balance of system; substation; and operations and maintenance (O&M) building.<sup>7</sup> The solar facility has a rated capacity of 80 MWac, and the Project will be interconnected to the electric transmission grid via the existing Flemingsburg-Spurlock 138-kilovolt (kV) line that crosses the Project area.<sup>8</sup> Fleming Solar intends to build a Project substation near the O&M building and the utility substation East Kentucky Power

---

<sup>3</sup> Hearing Video Transcript of the September 29, 2021 Hearing at 09:13:53 a.m.

<sup>4</sup> Application Pleading at 1.

<sup>5</sup> Application, Materials Part 1, at 2.

<sup>6</sup> *Id.*

<sup>7</sup> Application, Materials Part 1, at 3.

<sup>8</sup> *Id.*

Cooperative (EKPC) plans to build for the Project's interconnect.<sup>9</sup> The Project substation will be located on the south side of the site adjacent to the main entrance, and the equipment located in the Project substation will include protective circuit breakers and the generator step-up transformer that will raise the voltage of the power to match the 138 kV utility line voltage.<sup>10</sup>

Pursuant to KRS 278.706(2)(c), Fleming Solar sent letters on May 13, 2021, providing notice that it intended to file this application to 42 landowners whose property border the proposed site. On May 19, 2021, Fleming Solar published notice of the project application in the *Flemingsburg Gazette*, a newspaper of general circulation in Fleming County, Kentucky.<sup>11</sup>

In addition, Fleming Solar also engaged in public involvement program activities as required by KRS 278.706(2)(f) prior to the filing of its application. A public meeting was held at 6 p.m. on December 11, 2020, to inform the public about the Project and receive comments from the public. The meeting was also made available for public participation through a digital "virtual" meeting. The digital meeting was available through Cisco WebEx, which could be accessed through a web browser, and was also accessible through a call-in number. A notice announcing the public meeting was printed in the *Flemingsburg Gazette* on November 25, 2020. Fleming Solar also mailed letters to all adjoining landowners notifying them of the public meeting.<sup>12</sup> In response to some

---

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Application, Materials Part 1, at 4.

<sup>12</sup> Application, Materials Part 1, at 7.

concerns within the broader community related to the solar project, Fleming Solar updated the Project website to include a list of Frequently Asked Questions and additional Project resources, such as the preliminary site layout, photo simulations, and the public meeting presentation.<sup>13</sup>

Fleming Solar expanded the Project area to include a portion of one additional parcel in early 2021, creating two new adjoining property owners to the Project. A primary reason for expanding the Project area was to allow for increased setbacks from nearby residences and roads. As a result, Fleming Solar held an additional public meeting to provide these new neighboring property owners an opportunity to participate. The second public meeting was held at 6 p.m. on March 25, 2021, at the Fleming County Fiscal Court Meeting Room. A notice announcing the second public meeting was printed in the *Flemingsburg Gazette* on March 10, 2021. Fleming Solar also mailed letters to the new adjoining landowners notifying them of the public meeting.<sup>14</sup>

## DISCUSSION

### **I. Requirements Under KRS 278.708 – Site Assessment Report**

KRS 278.704(1) states that “[n]o person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the [Siting] [B]oard.” KRS 278.708 requires a Site Assessment Report be prepared and filed with an application. The SAR should provide (1) a detailed description of the proposed site; (2) an evaluation of the compatibility of the facility with scenic surroundings; (3) potential changes in property values and land use

---

<sup>13</sup> Application, Materials Part 1, at 8.

<sup>14</sup> *Id.*

resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility; (4) evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; (5) the impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility; and (6) any mitigating measures to be implemented by the applicant to minimize or avoid adverse effects identified in the site assessment report.

#### Detailed Site Description

Core Solar, LLC (Core Solar) the parent company for Fleming Solar, submitted a SAR with the application in Exhibit I. Harvey Economics conducted a review and evaluation of the SAR for the Siting Board. The most recent Site Plan (Detailed Preliminary Layout) was submitted on July 23, 2021, in response to Siting Board Staff's First Request for Information.<sup>15</sup> The Site Plan (see Appendix B of this Order) shows the location of solar panels (as 81 or 54 module trackers), 22 inverters, 20-foot-wide site access roads, security fencing, the project substation, an O&M building, underground medium voltage collector route between parcels, and a 15-foot vegetative buffer.<sup>16</sup> The project boundary and potential project footprint are also shown. The Project site encompasses 830 acres of rural agricultural land with a potential footprint of approximately 725 acres. The Project fenced area is 578 acres and the substation-fenced

---

<sup>15</sup> Fleming Solar's Response to Siting Board's First Request for Information (filed July 23, 2021) (Response to Siting Board's First Request), Exhibit C at unnumbered page 6–9.

<sup>16</sup> *Id.*

area is 6 acres.<sup>17</sup> Existing overhead electric transmission and distribution lines, nearby residential properties, public roads, and potentially non-jurisdictional aquatic resources are also shown on the Detailed Preliminary Layout.<sup>18</sup>

Surrounding land use, defined by land use on parcels adjoining the proposed project as a percentage of the total surrounding acres, is 48 percent agricultural, 49 percent agricultural/residential, and 3 percent residential.<sup>19</sup> The legal descriptions of the participating properties are provided in Appendix B of the SAR, and the parcels are depicted in Figure 1 of the SAR.<sup>20</sup> Site access will be controlled during construction with dedicated guards or with electronic gate systems.<sup>21</sup> During the operation phase, the entrance gates will have access control systems, including cameras. Site managers for both construction and operations will have contact information for local law enforcement and emergency agencies.<sup>22</sup> Internal roadways will be gravel. Although there is an abandoned rail line on the site, there are no active nearby railroads.<sup>23</sup> The two public roads which border the site, Kentucky (KY) Route 559 (Old Convict Road) and KY Route 1200 (Helena Road) are narrow rural roads.<sup>24</sup>

---

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> SAR at 1.

<sup>20</sup> *Id.*, SAR, Appendix B at unnumbered page 2, and SAR, Figure 1

<sup>21</sup> SAR at 2.

<sup>22</sup> *Id.* SAR at 2.

<sup>23</sup> *Id.* at 3.

<sup>24</sup> *Id.* at 12.

Electricity generated by the Project will be sold through the PJM Interconnection, Inc. (PJM) Regional Transmission Organization.<sup>25</sup> The Project will interconnect to the transmission system via the existing EKPC Flemingsburg-Spurlock 138 kV transmission line.<sup>26</sup> The Fleming Solar substation will connect with a new Point of Interconnection (POI) to be constructed and operated by the EKPC.<sup>27</sup> Electric power will be needed for construction contractor trailers and the O&M building; that service will be provided by either Fleming-Mason Energy Cooperative or Kentucky Utilities Company, which both serve different parts of the Project area. The Applicant will evaluate whether water and sewer utilities are needed for the O&M building and coordinate with appropriate providers, if necessary.<sup>28</sup>

Harvey Economics evaluated the data contained in the SAR and concluded that Fleming Solar has complied with the requirements for describing the facility and a site development plan, as required by KRS 278.708. However, Harvey Economics has mitigation measures and recommendations related to the description of the facility and the proposed site development plan. The Harvey Economics Report recommends the following mitigation measures:

1. A final site layout plan should be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout plan, which formed the basis for Harvey Economics' review, should be clearly indicated on the revised

---

<sup>25</sup> Application, Materials Part 1, at 12.

<sup>26</sup> SAR at 2.

<sup>27</sup> Harvey Economics Report at II-1.

<sup>28</sup> *Id* at II-2.

graphic. Those changes would include, but are not limited to, the location of solar panels, inverters, substations, O&M building or other Project facilities or infrastructure.

2. Any change in Project boundaries from the information that formed this evaluation should be submitted to the Siting Board for review.

3. The Siting Board will determine whether any deviation in the boundaries or site development plan is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required, but if yes, the Applicant will support the Siting Board's effort to revise its assessment of impacts and mitigation requirements.

4. A final Project-specific construction schedule, including revised estimates of on-site workers and commuter vehicle traffic, should be submitted to the Siting Board. Deviations from the preliminary construction schedule should be clearly indicated.

5. The Siting Board will determine whether any deviation to the construction schedule or workforce estimates is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required. If yes, the Applicant will support the Siting Board's effort to revise its assessment of impacts and mitigation requirements.

6. The Applicant or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

7. The Applicant's access control strategy should also include appropriate signage to warn potential trespassers. The Applicant must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents and business owners.



8. According to National Electrical Safety Code regulations, the security fence must be installed prior to any electrical installation work. The substation will have its own separate security fence installed.

Having reviewed the information and data contained in the SAR, the Siting Board finds that Fleming Solar has complied with the requirements for describing the facility and a site development plan, as required by KRS 278.708. However, the Siting Board finds it necessary to impose certain mitigation measures and requirements related to the description of the facility and the proposed site development plan. Specifically, the Siting Board will require that Fleming Solar keep the Siting Board apprised of changes throughout the development of the Project, and as such will order Fleming Solar to provide the final site plan before the commencement of construction. This plan shall clearly indicate and highlight any changes, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of this matter. Additionally, based on the concerns and proposals of Harvey Economics, the Siting Board further finds that the mitigation measures outlined in Appendix A to this Order, and in particular, mitigation measures 1 through 8, shall be adhered to.

#### Compatibility with Scenic Surroundings

Fleming Solar states the Project is to be located northwest of the city of Flemingsburg, north of Old Convict Road at approximate coordinates 38°26'33.8"N 83°45'54.6"W<sup>29</sup> The proposed Project will be located on approximately 830 acres.<sup>30</sup> The

---

<sup>29</sup> Application Pleading at 1.

<sup>30</sup> Application, Materials Part 1, at 2.

proposed site has been primarily used for agriculture.<sup>31</sup> The topography of the area surrounding and within the project site is relatively flat with gently rolling hills, and there are several surface-water ponds and drainage features; there are also forested areas, including scrub-shrub vegetation, which are primarily located along surface-water features as well as property boundaries and fence lines. Land use is primarily pasture and agricultural, and adjacent properties similarly consist of cultivated cropland, pastureland, and rural residences.<sup>32</sup> Fleming Solar advises 48 percent is zoned agricultural, 49 percent is zoned agricultural/residential, and 3 percent of the adjoining acres is zoned residential.<sup>33</sup>

The Project is located within a rural and residential area, which is typical of utility-scale solar projects. Per the Fleming Solar Property Value Impact Study, the adjoining properties are well set back from the proposed solar panels and most of the site has good existing landscaping for screening the proposed solar farm; additional supplemental vegetation is proposed to supplement the areas where the existing trees are insufficient to provide a proper screen.<sup>34</sup> Fleming Solar commissioned a Visual Assessment study that reviewed all possible scenarios where visual impacts could have been made by the community from the adjacent residences and along the right-of-way surrounding the project site. Ultimately, the Visual Assessment states that the proposed facility is well screened by existing and proposed vegetation, as well as structures associated with the

---

<sup>31</sup> *Id.*

<sup>32</sup> Application, Materials Part 1, at 2.

<sup>33</sup> SAR at 1.

<sup>34</sup>SAR, Appendix A, Property Value Impact Study at 1.

development.<sup>35</sup> Lastly, per the Solar Glare Hazard Report commissioned by Fleming Solar, no potential for glare is predicted anywhere on the Potential Project Footprint.<sup>36</sup>

In its Review and Evaluation of the Fleming Solar SAR, Harvey Economics notes that there are three primary areas where the proposed solar facility will be visible: (1) Old Convict Road (KY 559) on the south side of the Project site, (2) along Helena Road (KY 1200) on the eastern side of the Project, and (3) the northern portion of the Project on Maysville Road (KY 11).<sup>37</sup> However, Harvey Economics advises that the Applicant has prepared a specific plan for establishing vegetative buffers in areas of high visibility around the Project site and those vegetative buffers would partially shield the Project from nearby roads and residences and reduce any negative visual impacts.<sup>38</sup> Harvey Economics also points to Fleming Solar's commitment to working with neighboring homeowners and business owners to address concerns related to visual impacts of the Project.<sup>39</sup> Lastly, Harvey Economics points to the Applicant's own glare study and its conclusion that there was no potential for glare on or from the Project site.<sup>40</sup>

Harvey Economics stated that existing vegetation and the vegetative buffers proposed for specific locations surrounding the Project site will shield the panels from view for nearby residents and drivers, and that proposed setbacks between homes and

---

<sup>35</sup> *Id.*, Appendix D, Visual Assessment at 2–3.

<sup>36</sup> *Id.*, Appendix E, Solar Glare Hazard Report.

<sup>37</sup> Harvey Economics Report t at II-3.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

the Project footprint will also reduce viewshed.<sup>41</sup> The Harvey Economics Report states that the existing and proposed vegetative buffers, the Applicant's stated commitment to working with neighboring homeowners and business owners to address concerns regarding visual impacts, and the Project's use of anti-glare panels will keep the visual impacts associated with the Project facilities to a minimum.<sup>42</sup>

The Harvey Economics Report recommends the following mitigation measures:

1. The Applicant will not remove any existing vegetation unless the existing vegetation needs to be removed for placement of solar panels.
2. Existing vegetation between the solar arrays and the residences will be left in place, to the extent practicable, to help screen the Project and reduce visual impacts from the nearby homes and roadways.
3. The Applicant will work with homeowners and business owners to address concerns related to the visual impact of the Project on its neighbors.
4. The Applicant should provide a visual buffer between Project infrastructure and residences or other occupied structures with a line of sight to the facility to the satisfaction of the affected property owners. If vegetation is used, plantings should reach eight feet high within four years. To the extent that an affected property owner indicates to the Applicant that such a buffer is not necessary, the Applicant will obtain that property owner's written consent and submit such consent in writing to the Siting Board.
5. The Applicant will follow through on its commitment to providing vegetative buffers at the locations indicated on the Preliminary Site Layout map included in the

---

<sup>41</sup> Harvey Economics Report at V-7.

<sup>42</sup> *Id.*

application materials. If the final site layout plan deviates from the preliminary plan with regard to the locations of solar panels, inverters, substation or other Project infrastructure, an additional evaluation of the need for vegetative buffers will be conducted and reviewed by the Siting Board.

6. Landscape screening will extend and connect to existing site vegetation, to help create a more natural transition between existing vegetation and developed.

7. The Applicant will develop a vegetation management plan that describes the approach and procedures for maintaining or replacing vegetative buffers as needed.

8. Applicant will cultivate a minimum of six acres of native pollinator-friendly species on-site.

9. The Applicant has committed to using anti-glare panels and operating the panels in such a way that glare from the panels is minimized or eliminated. The Applicant will immediately adjust solar panel operations upon any complaint about glare from those living, working, or traveling in proximity to the Project. Failing this, the Applicant will cease operations until the glare is rectified.

10. The Applicant should work with the Siting Board regarding the timing of construction activities in relation to those of the AEUG Fleming Project in order to minimize or eliminate any potential for cumulative impacts to the viewshed during construction, especially along KY 559.

Having reviewed the records of the proceeding, including Fleming Solar's responses to the Harvey Economics Report, the Siting Board finds that the passive characteristics of the proposed solar facility combined with current vegetation and the proposed vegetative buffers, along with other mitigation measures proposed by Fleming

Solar will minimize the effects the proposed facility will have on the scenic surroundings of the site. The physical characteristics of the proposed solar facility also do not pose any adverse impact to the scenic surroundings given the location of the solar facility components and the proposed and current vegetative buffering. However, to ensure the continued compatibility of scenic surrounding, mitigation measures addressing obligations to maintain or further develop vegetative buffers and keep the Siting Board informed of potentially material changes to the site plan are necessary. As such, and based on the record, additional mitigation measures regarding scenic compatibility are outlined in Appendix A to this Order, and in particular, mitigation measures 9 through 14.

#### Impact on Property Values

With respect to impact on property values, Fleming Solar submitted a Property Value Impact Study from a certified real estate appraiser that found that, based upon a comparative analysis, the solar facility will have no impact on the property values of abutting or adjacent residential or agricultural properties.<sup>43</sup> The study indicates that the solar facility would function in a harmonious manner with the nearby surroundings, which is mostly agricultural, and that operation of the solar facility would not generate the level of noise, odor, or traffic impacts to negatively impact the nearby surroundings as compared to a fossil fuel generating facility or other industrial facility.

The Harvey Economics Report evaluated the impacts to property values by reviewing relevant existing literature related to solar facility impacts; prepared further analysis of the data provided in Fleming Solar's Property Value Impact Study. Among the literature reviewed by Harvey Economics was a 2020 study completed by economists

---

<sup>43</sup> SAR, Appendix A, Property Value Impact Study at 119.

at the University of Rhode Island, which found that in areas of high population density, houses within a one-mile radius depreciate by about 1.7 percent following construction of a solar array. However, the Harvey Economics Report states that the University of Rhode Island study performed additional analysis focused on impacts in more rural areas found that the effect in rural areas were effectively zero and that the negative externalities of solar arrays are only occurring in non-rural areas. Harvey Economics also reviewed a 2019 article produced by the American Planning Association, which indicates that the impact of utility scale solar facilities is typically negligible on neighboring property values. Additionally, Harvey Economics also reviewed a 2018 University of Texas study, which included a geospatial analysis and a survey of residential property assessors to determine the potential for property value impacts related to solar projects. The results of the University of Texas study showed that a majority of survey respondents estimated a value impact of zero and geospatial analysis showed that relatively few homes would be impacted. Additional materials reviewed by Harvey Economics included several independent appraisal reports related to property value impacts for solar companies. The Harvey Economics Report states that overall conclusions of these independent appraisal reports were that solar facilities do not negatively impact property values.

In addition to reviewing the methodology and underlying matched pair analysis used in Fleming Solar's Property Value Impact Study, Harvey Economics also examined more closely the data provided in the matched pair sets to determine the likelihood of a positive impact, negative impact, or no impact. It was determined that about 87 percent of matched pair comparisons reflected a sales price differential of between negative 5 percent and positive five percent, with almost 18 percent of comparisons showing no price

differential at all. About 23 percent of all comparisons showed a negative impact on home prices, as compared with almost 59 percent of comparisons indicating a positive effect.<sup>44</sup> Harvey Economics concludes that the majority of matched pair comparisons resulted in no sales price difference or an increase in sales price due to adjacency to the solar facility property.

Harvey Economics also interviewed the Fleming County Property Valuation Administrator and a local real estate professional both of whom were familiar with property valuation and real estate in Fleming County. Both of the individuals interviewed expanded on the current property value market in Fleming County, stating that the County is experiencing a strong real estate market with rising home prices and shorter sales time than in the past.<sup>45</sup> This is mainly due in part to the effects of the pandemic with people moving away from densely packed areas for remote work and the currently low interest rates.

The Fleming County Property Valuation Administrator (Fleming County PVA) expressed concerns about the possible negative impact to property values of nearby homes due to the visual aspects of a solar facility such as solar panels and other infrastructure being visible from nearby residences. Harvey Economics spoke with the Fleming County PVA in an additional interview to discuss the potential for cumulative property value impacts from the presence of both the AEUG Fleming<sup>46</sup> and Fleming Solar

---

<sup>44</sup> Harvey Economics Report at V14-V15.

<sup>45</sup> Harvey Economics Report at V-14.

<sup>46</sup> Case No. 2020-00208, *Electronic Application of AEUG Fleming Solar, LLC for a Certificate of Construction for an Approximately 188 Megawatt Merchant Electric Solar Generating Facility in Fleming County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. PSC May 24, 2021).



Projects located in Fleming County. The Fleming County PVA believes that property values will decline in areas adjacent to solar facilities and that the existence of multiple facilities will have a greater impact; but acknowledges that time will tell whether or not that will be the case in Fleming County. The local real estate agent indicated that a solar facility could have a negative effect on property desirability and sales price and that those effects would likely be tied to visibility of a solar site.

The Harvey Economics Report concludes that the current research indicates that the existence of solar facilities does not, in general, negatively influence property values for adjacent landowners. The Harvey Economics Report notes that its own research points to a conclusion of no discernible impacts to property values, although there is a small risk of negative impacts. The Harvey Economics Report acknowledges that local residents and governmental officials are concerned about property values, but concludes that property values in Fleming County are unlikely to be affected by the siting of the Fleming Solar facility.

Having reviewed the record, the Siting Board finds that there is sufficient evidence to conclude that the proposed Fleming Solar facility will, more than likely, not have any adverse impact on nearby property values. As noted earlier, the characteristics of the solar facilities operations is passive in nature in that it does not produce any air, noise, waste, or water pollution nor does it create any traffic issues during operations.

#### Impact on Roads, Railways, and Fugitive Dust

With respect to the impact on roads, railways, and fugitive dust, Fleming Solar's Noise and Traffic Report as part of its SAR notes the proposed solar site will be located around one-mile northwest of Flemingsburg. The Project will be constructed north of KY

Route 559 (Old Convict Road), west of KY Route 1200 (Helena Road), and west of KY Route 11 (Maysville Road).<sup>47</sup> There will be a total of four construction entrances, two site entrance driveways and two additional temporary construction entrances.<sup>48</sup> The Main Plant Entrance will be along KY Route 559 (Old Convict Road), and it will remain open once construction is completed. The Construction Laydown Entrance will be along KY Route 559 (Old Convict Road) east of the Main Entrance. It will provide access to the construction laydown area and thus will be used for general construction deliveries. This driveway will be closed once construction has been completed. The Northern Construction Access Easement will be along KY Route 11 (Maysville Road), consistent with an existing driveway. The Northern Plant Entrance will be constructed along KY Route 11 (Maysville Road), and it will remain open once construction is completed.<sup>49</sup> Fleming Solar confirms the Project will have no impact on railroad traffic as there are no railroads, spurs, or other rail facilities in the Project area.<sup>50</sup>

Fleming Solar provides that construction of the Project is expected to take approximately twelve months, while EKPC's substation may take up to 15 months.<sup>51</sup> The Noise and Traffic Report assumes that on-site workers will perform one daily 10-hour shift each working day, five to six construction days per week, and Fleming Solar states employee headcounts are expected to be below 100 for six of the twelve months, between 100 and 200 for three of the twelve months, and between 200 and 250 for the other three

---

<sup>47</sup>SAR, Appendix C, Noise and Traffic Report at 9.

<sup>48</sup> *Id.* at 10.

<sup>49</sup> *Id.* at 10-11.

<sup>50</sup> *Id.* at 15.

<sup>51</sup> *Id.* at 11

months.<sup>52</sup> Should the substation take 15 months and elongate the schedule, employee headcounts would be expected to be below 100 for seven of the twelve months, between 100 and 200 for four of the twelve months, and between 200 and 250 for the remaining four months.<sup>53</sup> The contractor will work with local property owners to establish an off-site remote parking location(s). Up to two shuttle bus round trips per hour are anticipated from remote parking to the site on average, though during periods of peak employment there may be as many as five shuttle bus round trips for employee arrival and departure peaks.<sup>54</sup> The shuttle will reduce the potential for traffic impacts. An on-site parking area holding approximately 50 vehicles will be located near the O&M building along the laydown area identified on the site plan. Access will be through the Construction Laydown Entrance. This parking area will hold around 25 visitor spaces and around 25 company vehicles for on-site transporting of personnel, tools, equipment, etc. Employee housing will not be provided.<sup>55</sup>

Site construction deliveries are anticipated to average five deliveries per day with an expected maximum of ten deliveries per day. Typical deliveries will be made on 40 ton (max weight) semi-trailers and flatbed trailers. Deliveries of larger site construction components, such as work trailers and larger cranes, will occur infrequently. Equipment deliveries for Project installation will occur from months five through twelve (assuming a twelve-month schedule) once the site has been prepared.<sup>56</sup> Oversized trucks will be

---

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

required infrequently. These trucks will be permitted separately and will adhere to their permitting conditions by the transport contractor. The largest of these permit loads is anticipated to be the site transformer, weighing approximately 140 tons. This delivery will use the KY Route 559 (Old Convict Road) Construction Laydown Entrance.<sup>57</sup>

To mitigate the potential construction traffic impacts, the Project contractor will provide adequate traffic control signs and devices that are compliant with Manual on Uniform Traffic Control Devices. These will include work zone signage and KYTC-certified flaggers to facilitate safe construction deliveries.<sup>58</sup> Due to its narrow width, the contractor will need to conduct traffic stoppages on KY Route 559 (Old Convict Road) during construction to accommodate larger trucks. Fleming Solar contends that with an expected 147 vehicles per day and a peak hour traffic volume of approximately 18 vehicles per hour, traffic impacts will be temporary in nature and will be minor. There may also be temporary stoppages along KY Route 559 (Old Convict Road), KY Route 1200 (Helena Road), and KY Route 11 (Maysville Road) to facilitate deliveries in and out of site driveways. But disruptions to local property owners will be coordinated during construction.<sup>59</sup> Additionally, the construction contractor will document roadway conditions in accordance with all applicable transportation permits obtained from state and local road authorities before construction commences and will be responsible for restoring impacted roadway to pre-construction conditions as required through the

---

<sup>57</sup> *Id.* at 12.

<sup>58</sup> *Id.* at 13.

<sup>59</sup> *Id.* at 13.

permitting process.<sup>60</sup> Lastly, consideration will be given to coordinating delivery schedules to minimize the need for trucks to pass each other on KY Route 559 (Old Convict Road), and no improvements are anticipated to be required to existing roadways for Project construction.<sup>61</sup>

The Harvey Economics Report states that traffic increases during the peak hour of the peak construction period will be significant for KY 559 and considerable for other roads, and that traffic congestion will likely occur in several areas and be annoying to local drivers, but will be limited to short periods of the day over the six-week peak construction period.<sup>62</sup> However, the Harvey Economics Report also states development and use of off-site remote parking areas and the use of a shuttle for workers from that site will help to reduce Project traffic on local roads, especially on KY 559.<sup>63</sup> Harvey Economics also finds that road degradation may occur during construction, citing that the delivery of the 140-ton main transformer and multiple truck trips using oversized 60-ton Class 21 trucks.<sup>64</sup>

During the operation of the Fleming Solar facility, a maximum of four employees may be on-site at any one time, requiring as many as four vehicles to enter and four vehicles to exit the Project site every eight hours (one shift). Total daily trips are estimated to be a maximum of 20.<sup>65</sup> Neither Harvey Economics nor the Siting Board has any

---

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Harvey Economics Report at V-37.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at V-38.

<sup>65</sup> SAR, Appendix C, Noise and Traffic Report at 14.

mitigation measures or conditions to control traffic during the operations phase of the Project.

The Harvey Economics Report recommends the following mitigation measures to ensure that impacts to roadways will be kept to a minimum:

1. The Applicant should work with the Kentucky Transportation Cabinet (KYTC) and the Fleming County Road Department (FRCRD) to perform road surveys, before and after construction activities, on all roads to be used by construction vehicles.

2. The Applicant should fix or fully compensate the appropriate transportation authorities for any damage or degradation to roads that it causes or to which it materially contributes to, regardless of its status as a KY Route or local road.

3. The Applicant will consult with the KYTC regarding truck and other construction traffic and obtain necessary permits from the KYTC.

4. The Applicant will consult with the FCRD regarding truck and other construction traffic and obtain necessary permits from the FCRD.

5. The Applicant should develop special plans and obtain necessary permits before bringing the very heavy loads, especially the substation transformer, onto Kentucky or county roads.

6. The Applicant will comply with any road use agreement executed with the FCRD. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits and bridge weight limits.

7. The Applicant should develop and follow a traffic management plan to minimize the impacts of any traffic increases and keep traffic and people safe.

8. The Applicant will comply with all laws and regulations regarding the use of roadways.

9. Prior to establishment of the remote parking location(s), the Applicant will provide the Siting Board with detailed information about the development and use of those locations, including, but not limited to location; size; required land improvements; use of specific access roads; traffic management and safety measures; and postconstruction land restoration activities.

10. The Applicant and its contractors should establish and maintain a relationship with AEUG Fleming staff to ensure a common understanding of development and construction schedules and to discuss mitigation measures for traffic, dust, and related impacts.

11. The Applicant should work with the Siting Board regarding the timing of construction activities in relation to those of the AEUG Fleming Project in order to minimize or eliminate any potential for cumulative traffic or dust impacts during construction, especially along KY 559 (Old Convict Road).

Having reviewed the records of the proceedings, the Siting Board finds that traffic impacts will require mitigation during construction of the solar facility and will be minimal during its operation. Mitigation measures required for the project, including those related to Fleming Solar's obligations regarding traffic and road degradation, as well as related permits, are necessary based on the concerns and evidence provided by the SAR and Harvey Economics Report. As such, Mitigation measures related to traffic and roads are outlined in Appendix A, and in particular, mitigation measures 15 through 22.

With respect to fugitive dust impacts, Fleming Solar acknowledges that land disturbance from Project construction may create fugitive dust emissions. However, Fleming Solar contends that impacts are anticipated to be minor in nature due to the large size of the site and the low-density of housing and rural character of the area, and because control measures will be used to mitigate fugitive dust emissions as part of a dust control plan that will be developed and implemented by the Project contractor. Measures will include using compacted gravel at all site driveway entrances and at the laydown yard, and internal roadways will either have compacted gravel or be watered periodically for dust suppression using water trucks.<sup>66</sup> Once the Project is operational, with only 20 daily employee trips occurring along the compacted, gravel-surfaced main entrance to the O&M building, fugitive dust impacts are not anticipated.<sup>67</sup>

Harvey Economics states that fugitive dust should not be an issue given the Applicant's proposed best practices for construction and operational activities.

Harvey Economics further states that Fugitive dust should not be an issue given the Applicant's proposed best practices for construction and operational activities.

The Harvey Economics Report recommends the following mitigation measures to ensure that fugitive dust impacts will be kept to a minimum.

1. The Applicant will develop a fugitive dust control plan and follow best practices to suppress fugitive dust emissions. The Applicant will monitor dust emissions occurring during construction or operations and adjust activities, if necessary, to minimize dust emissions.

---

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*



The Siting Board also believes that fugitive dust should not be an issue given the Applicant's proposed best practices for construction and operational activities. To ensure fugitive dust meets the expectation of not being an issue during the construction phase or operational phase of the solar project, the Siting Board will require Fleming Solar to implement mitigation measure 23 outlined in Appendix A to this Order.

#### Anticipated Noise Level

Fleming Solar's Noise and Traffic Studies Report indicates that the surrounding area use can be defined as agricultural, residential, or agricultural/residential area with several Residential Neighborhoods.<sup>68</sup>

According to Fleming Solar's Noise and Traffic Studies Report,<sup>69</sup> the nearest non-participating residence is approximately 326 feet from the project boundary at the closest point.<sup>70</sup> Fleming Solar's proposed minimum setbacks for the substation GSU transformer/HVAC unit will be 300 feet from the project boundary.<sup>71</sup> Fleming Solar in its application proposed setback for central inverters of 300 feet from the project boundary adjacent to non-participating parcels with residence and 150 feet from the property boundaries adjacent to non-participating parcels without residences.<sup>72</sup> Fleming Solar Solar's proposed minimum setbacks for all other equipment will be 300 feet from the

---

<sup>68</sup> SAR, Appendix C, Noise and Traffic Report, Section 2.0, at 21.

<sup>69</sup>SAR, Appendix C, Noise and Traffic Report at 3.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 11.

<sup>72</sup> *Id.*

project boundary adjacent to non-participating parcels with residence and 50 feet from the property boundaries adjacent to non-participating parcels without residences.<sup>73</sup>

The loudest source from construction is anticipated to be pile driving equipment. The anticipated noise produced by pile driving equipment will be 85.0 dBA at 300 feet.<sup>74</sup> The maximum anticipated sound level impact for any residence during construction will be approximately 85.0 dBA due to pile driving activity.<sup>75</sup> Fleming Solar proposes to lessen the impact of construction activity by limiting pile driving activity to 9 a.m. through 5 p.m. when within 1,000 feet of a non-participating residence or business and no heavy construction activity will occur prior to noon on Sundays.<sup>76</sup>

When the solar facility is operating, there will be noise associated with the inverters, and the substation HVAC system. Fleming Solar asserts that with the non-participating residence proposed setbacks the ambient sound level environment would not be significantly impacted. The ambient sound level is anticipated to be approximately 1.0 dBA at 300 feet away, which is below the average human ear's sensitivity to sound level change.<sup>77</sup>

The Harvey Economics Report likewise notes that noise issues stem from construction activities and operational components of the solar facility. During construction, noise will include pile drivers, graders, bulldozers, dump trucks and other

---

<sup>73</sup> *Id.* at 2.

<sup>74</sup> *Id.* at 4.

<sup>75</sup> Response to Siting Board's First Request, item 5.

<sup>76</sup> Fleming Solar's Response to Harvey Economics' First Request for Information, Item F.

<sup>77</sup>SAR, Appendix C, Noise and Traffic Report at 9.

equipment.<sup>78</sup> The Harvey Economics Report states that the application submitted is substantially in compliance with the intent of the Kentucky Revised Statutes.<sup>79</sup> During operation of the proposed solar facility, noise will be emitted from inverters, substation transformers, and the tracking motors that rotate the panels to track the sun. The Harvey Economics Report states that the anticipated noise from construction will be intermittent and will not be permanently impactful to nearby residence. The noise from operational components will only add a small increase, if any, to the local sound environment, will only occur during daylight hours and should not annoy any residents.<sup>80</sup>

The Harvey Economics Report recommends the following mitigation measures to address any potential noise impacts:

1. The Applicant should notify residents and businesses within 2,400 feet of the Project boundary about the construction plan, the noise potential, and the mitigation plans at least one month prior to the start of construction.

2. The Applicant should remain in contact with nearby residents to confirm that noise levels are not unduly high or annoying after the pounding and placement of the solar panel racking begins. If the noise levels are unduly high or annoying, the Applicant should mitigate those effects as needed.

3. If pile driving activity occurs within 1,500 feet of a noise sensitive receptor, the Applicant should implement a construction method that will suppress the noise

---

<sup>78</sup> Harvey Economics Report at V-20.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at II.

generated during the pile driving process (i.e., semi-tractor and canvas method; sound blankets on fencing surrounding the Project site; or any other comparable method).

4. Pile driving activities should cease by 6 p.m. each day, except for pile driving locations within 1,500 of noise receptors, in which case, pile driving should begin no earlier than 9 a.m. and cease by 5 p.m. Since the area is largely rural, a constant pounding during evening hours has the potential to upset the natural tranquility of the area and severely annoy residents.

5. The Applicant should limit the construction activity, process, and deliveries to the hours of 8 a.m. to 6 p.m., Monday through Saturday. No construction work should be conducted on Sundays. These hours represent a reasonable timeframe to ensure that nearby property owners are not unduly impacted by construction activities.

6. The Applicant and its contractors should establish and maintain a relationship with AEUG Fleming staff to ensure a common understanding of development and construction schedules and to discuss mitigation measures to reduce noise impacts.

7. The Applicant should work with the Siting Board regarding the timing of construction activities in relation to those of the AEUG Fleming Project in order to minimize or eliminate any potential for cumulative noise impacts during construction or operations.

The Siting Board finds that noise from construction will be intermittent and temporary, and as provided by both the Applicant and Harvey Economics, that construction noise will be loudest during the pile driving portion of the construction process. Accordingly, the construction noise will not be permanently impactful to nearby residences, while the operational noise from the Project components should have little

effect on nearby residents. Nevertheless, the impact of construction noise on nearby residents will be significant, albeit transitory. To ensure the impact of construction noise does not unduly impact nearby residents, the Siting Board will require Fleming Solar to implement mitigation measures designed to limit the impact of construction noise by controlling the hours of construction in general, as well as the time and manner in which pile driving activities can occur. Further, the Siting Board will mandate that noise suppression measures be utilized by Fleming Solar during the pile driving process, similar to those required by other recent applicants for construction certificates. These mitigation measures are outlined in Appendix A to this Order, and in particular, mitigation measures 24 through 28.

#### Mitigation Measures Proposed by Fleming Solar

The Fleming Solar SAR contained the following proposed mitigation measures:

1. Fleming Solar will limit the placement of generating equipment, including panels and inverters to the Potential Project Footprint, which was established using a setback of 300 feet from the Project boundary if there is a nearby residence and 50 feet from the Project boundary if there is no nearby residence. For the purpose of establishing the Potential Project Footprint, residences are considered “nearby” if they are located within 300 feet of the Project boundary. Any change in the Potential Project Footprint from what was submitted in the permitting application will be submitted to the Siting Board for review.

2. Fleming Solar will submit the site layout plan that goes to project financing to the Siting Board. Deviations from the preliminary site layout plan submitted during the permitting process, will be indicated on the revised site plan. Those changes would

include, but are not limited to, location of solar panels, inverters, transformer, substation, operations and maintenance building, or other project facilities or infrastructure.

3. Fleming Solar and its engineering, procurement, construction (EPC) contractor will follow best safety practices during the project construction and operation. Per National Electrical Safety Code regulations, Fleming Solar or its EPC contractor will install a security fence prior to any electrical installation work. This will control access to the site and ensure community safety. All construction entrances will be gated and locked when not in use. The substation will have its own separate security fences installed. Appropriate signage will be installed at all site entrances to warn potential trespassers.

4. Existing vegetation between perimeter of the solar arrays and the residences will be left in place, to the extent practicable, to help screen the Project and reduce visual impacts from the adjacent homes.

5. Existing field vegetation will be left in place to the extent possible, so no extensive disturbances occur for the development of the proposed facility. Where construction clears the site, the vegetative cover will be restored following construction in that area to allow vegetation to take root prior to operating the facility.

6. To the extent practicable, a solar pollinator seed mix will be used in areas where vegetative disturbance takes place during site construction. A minimum of six acres will be maintained as pollinator habitat.

7. Landscape screening will extend and connect to existing site vegetation, to help create a more natural transition between existing vegetation and developed areas.

8. The proposed vegetative screen will be planted with evergreen shrubs and small trees (such as cedar or arborvitae) to limit the view of the solar photovoltaic facility from the roadway or adjacent properties.

9. Evergreen trees planted as part of the vegetative screen will be a minimum of 8 feet tall within four years of planting. Vegetation will be maintained or replaced as needed.

10. The landscape screen placement will be adapted in consultation with GAI Consultants, Inc. (or another consultant with similar experience) if panel placement varies in final design.

11. Fleming Solar will continue to work with homeowners and business owners to address concerns related to the visual impact of the Project on its neighbors.

12. Fleming Solar or its EPC contractor will utilize anti-reflective coated panels to minimize glare.

13. Construction activities are anticipated to be transient in nature and of a limited duration, ending once construction has been completed, and taking place daily between 7:30 a.m. to 7:00 p.m., with two exceptions: (1) pile driving activities within 1,000 feet of a non-participating landowners will be restricted to the hours of 9 a.m. to 5 p.m., and (2) no heavy construction activities (including pile driving) will take place prior to noon on Sundays. Fleming Solar or its EPC contractor will provide the opportunity to meet with a church representative on a quarterly basis during construction to accommodate any additional special events (holidays, weddings, baptisms, etc.).

14. Fleming Solar will notify residents and businesses within 2,400 feet of the Project boundary about the construction plan, noise potential, and mitigation plans at least one month prior to the start of construction.

15. Fleming Solar will establish a dedicated voicemail and email prior to construction of the Project. This information will be provided to city and county officials, emergency responders, schools, public libraries, and neighboring residents within the Project area. This information will also be posted on the Project website. To register a complaint or concern, individuals may either call the voicemail, send an email, or submit a form on the website.

16. All complaints and concerns will be responded to within five business days.

17. Fleming Solar will comply with the following minimum setbacks for Project equipment:

- a. Substation GSU transformer/HVAC:
  - i. 300 feet from the Project Boundary
- b. Inverters:
  - i. 300 feet from the Project Boundary adjacent to non-participating parcels with nearby residences
  - ii. 150 feet from the Project Boundary adjacent to non-participating parcels without nearby residences.
- c. All other equipment:
  - i. 300 feet from the Project Boundary adjacent to non-participating parcels with nearby residences
  - ii. 50 feet from the Project Boundary adjacent to non-participating parcels without nearby residences
  - iii. 50 feet from adjacent roads

18. The EPC contractor will provide adequate traffic control signs and devices that are compliant with Manual on Uniform Traffic Control Devices. These will include work zone signage and KYTC-certified flaggers to facilitate safe construction deliveries. Due to its narrow width, the contractor will need to conduct traffic stoppages on KY Route



559 (Old Convict Road) during construction to accommodate larger trucks. With an annual average daily traffic of 147 vehicles per day and a peak hour traffic volume of approximately 18 vehicles per hour, traffic impacts will be temporary in nature and will be minor. There may also be temporary stoppages along KY Route 559 (Old Convict Road), KY Route 1200 (Helena Road), and KY Route 11 (Maysville Road) to facilitate deliveries in and out of site driveways. Disruptions to local property owners will be coordinated during construction.

19. The construction contractor will document roadway conditions in accordance with all applicable transportation permits obtained from state and local road authorities before construction commences and will be responsible for restoring impacted roadway to preconstruction conditions as required through the permitting process. Consideration will be given to coordinating delivery schedules to minimize the need for trucks to pass each other on KY Route 559 (Old Convict Road). No improvements are anticipated to be required to existing roadways for Project construction.

20. Fleming Solar will properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process. This should keep dust impacts off-site to a minimal level.

21. Fleming Solar will attempt to hire local workers and contractors to the extent they are qualified to perform the construction and operations work.

22. Fleming Solar will develop an explicit decommissioning plan.

23. As applicable to individual lease agreements, the Applicant, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners as described in each signed lease agreement.

## II. Requirements under KRS 278.710(1)

In addition to the evaluation of the factors contained in the SAR, KRS 278.710(1) directs the Siting Board to consider the following additional criteria in rendering its decision:

- Economic impact on the affected region and state;
- Existence of other generation facilities;
- Local planning and zoning requirements;
- Potential impact on the electricity transmission system;
- Compliance with statutory setback requirements; and
- History of environmental compliance.

### Economic Impact on Affected Region and the State

The Economic Impact Report (EI Report) was prepared by Strategic Economic Research, LLC using National Renewable Energy Laboratory's (NREL) Jobs and Economic Development Impacts Model (JEDI).<sup>81</sup> According to the EI Report, the Fleming Solar project is expected to have significant impacts on the economies of Fleming County and Kentucky as a whole, bringing new employment, spending, and taxes to the areas. For this analysis, the impacts to Kentucky were inclusive of the impacts of Fleming County.<sup>82</sup>

There will be two phases of the project, (1) the construction phase, and (2) the operation phase, and an economic impact analysis was performed separately for each phase. The construction phase is estimated to last approximately 12 to 15 months, with the majority of economic impact occurring in the construction sector.<sup>83</sup> Other sectors are

---

<sup>81</sup> Application, Materials Part 1, Exhibit H at 14.

<sup>82</sup> *Id.* at 16.

<sup>83</sup> *Id.* at 16, 17, and 18.

expected to be affected as contractors purchase supplies and materials from businesses in the area and workers spend a portion of their incomes at local businesses.<sup>84</sup> The operation phase stands to bring less, but long-term, economic impacts to a variety of businesses in the areas and is estimated to last 25 to 35 years.<sup>85</sup>

The EI Report analyzes the direct, indirect, and induced impacts to both Kentucky and to Fleming County. Direct impacts refer to any construction or maintenance-related employment, wages, and spending associated specifically with the project.<sup>86</sup> Indirect impacts refer to secondary employment and wages that occur outside the project, but support the completion and operation of the solar site, such as materials and supplies purchased from local businesses.<sup>87</sup> Induced impacts refer to employment and wages, unrelated to the project, that result from the increase in business and household spending, stemming from the direct and indirect impacts.<sup>88</sup> Lastly, total impact refers to the combination of the direct, indirect, and induced impacts. Tax revenues will also contribute to the overall economic impact of the project.

During the project's construction phase, Fleming Solar estimates a direct impact of up to 62 full-time equivalent workers (FTE) in Fleming County over the 12 to 15 month construction period with a direct payroll of \$6.5 million.<sup>89</sup> Core Solar, parent company of Fleming Solar, estimated the percentages of project materials and labor that will be

---

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at 15.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 16, 17 and 18.

acquired within Fleming County and the Commonwealth of Kentucky based on its own business practices and knowledge of the project.<sup>90</sup> The total impact to the county alone is estimated to be 80 FTE jobs with a new payroll of around \$7.1 million.<sup>91</sup> A full analysis for Kentucky estimated that 62 additional FTE jobs would be created for an estimated total impact of 142 jobs and a payroll of 12.5 million.<sup>92</sup>

For the operation phase of the project, Fleming Solar estimated approximately 6.6 FTE jobs to support continued operation of the site over the 25 to 35 year project life.<sup>93</sup> The operation phase will have an additional combined indirect and induced impact of 4.3 and 7.1 FTE jobs throughout the county and state, respectively.<sup>94</sup> Total payroll is expected to be \$1.0 million for Kentucky, yearly.<sup>95</sup>

The EI Report additionally measured the expected output of the proposed solar facility. Output refers to economic activity or the value of production in the state or local economy, including that spent on labor.<sup>96</sup> Output is also measured on a direct (project development and job impacts), indirect (module and supply chain impacts), and induced

---

<sup>90</sup> *Id.* at 16; see also Response to Siting Board's First Request, item 18c and item 19.

<sup>91</sup> Application, Materials Part 1, Exhibit H at 16 and 18.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.* at 16 and 17.

<sup>94</sup> *Id.* at 16.

<sup>95</sup> *Id.* at 18.

<sup>96</sup> *Id.*

basis.<sup>97</sup> The new local total output during construction is expected to total over \$8.8 million for Fleming County and over \$17 million for Kentucky.<sup>98</sup>

Fleming Solar has sought an Industrial Revenue Bond (IRB) agreement with Fleming County.<sup>99</sup> The IRB agreement would exempt project assets from owned-property taxes, and Fleming Solar would make contractual payments to Fleming County over the bond term; Fleming Solar would only make local and state tax payments for leased land.<sup>100</sup> The EI Report estimates the increased state and local real property taxes from the increased taxable value of the leased land to be \$2.0 million over 35 years.<sup>101</sup> For IRB contractual payments, negotiated amounts are expected to be between \$835 thousand and \$1.7 million.<sup>102</sup>

Having reviewed the record, the Siting Board finds that the Fleming County Solar facility will have a positive economic impact on the region.

#### Existence of Other Generating Facilities

Fleming Solar advises that prior to selecting this location for solar development, it evaluated locations near existing generating facilities and confirmed transmission capability to be inadequate for new generation. Additionally, it argues that it is difficult to find an existing generation site with enough land available to install a large utility-scale solar facility. Therefore, with the support of the local landowners, Fleming Solar

---

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.* at 19.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

determined to build the Project along the existing Flemingsburg-Spurlock 138 kV line owned by EKPC. Fleming Solar would be responsible for building a new interconnection to this line.<sup>103</sup>

KRS 278.710(1)(d) provides that the Siting Board must consider whether a merchant plant is proposed for a site upon which facilities capable of generating 10 MW or more of electricity are currently located. Although the site upon which the Fleming Solar facility will be located does not contain any other generating facilities, the Siting Board notes the selected site will encompass an existing Flemingsburg-Spurlock 138 kV transmission line owned by EKPC, and Fleming Solar will be able to directly interconnect its solar facility to that of the existing transmission line building a new interconnection to this line.<sup>104</sup> Also, as previously determined, the generally passive characteristics of the solar facility will be compatible with the surrounding area.

#### Local Planning and Zoning Requirements

Fleming Solar states the Project is located in an unincorporated portion of Fleming County. The County has not enacted any planning, zoning, or permitting requirements for the Project location. There are no setback requirements established by a planning and zoning commission for the Project location and no noise control ordinance applicable to the Project. Fleming Solar certifies that the Project will follow all local ordinances and regulations concerning noise control, and with any applicable local planning and zoning ordinances.<sup>105</sup>

---

<sup>103</sup> Application, Materials Part 1, at 10.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 5.

The Siting Board finds that Fleming Solar's certification that the proposed solar facility will meet all local planning and zoning requirements that existed on the date the application was filed satisfies the requirements of KRS 278.710(1)(e).

#### Impact on Transmission System

Fleming Solar advises the Project is located within the PJM territory. PJM is the Regional Transmission Organization for several states, including portions of Kentucky. PJM is therefore managing Project interconnection in coordination with EKPC, who owns the Flemingsburg-Spurlock 138 kV line to which the Project would interconnect.<sup>106</sup>

Fleming Solar further advises that its PJM interconnection study process is composed of three parts: (1) Feasibility Study, (2) System Impact Study, and (3) Facilities Study. The Feasibility Study for the Project was completed in January 2020 and was submitted with the application.<sup>107</sup> Per the Feasibility Study, Fleming Solar will be responsible for the upgrading of attachment facilities, a direct connection network upgrade, and a non-direct connection network upgrade for a total cost of approximately \$7,760,000.<sup>108</sup> The System Impact Study for the Project was also completed in August 2020 and was provided with Fleming Solar's application; a revised System Impact Study is underway to update assumptions and was expected August 2021. The Facilities Study currently is in progress, and a final report was anticipated to be issued in August 2021.<sup>109</sup>

---

<sup>106</sup> Application, Materials Part 1, at 12.

<sup>107</sup> *Id.*

<sup>108</sup> Application, Materials Part 1, Exhibit F, Feasibility Study Report at 6.

<sup>109</sup> Application, Materials Part 1, at 12.

Having reviewed the record, the Siting Board finds that the proposed Project will not adversely impact the reliability of service provided by retail electric utilities under the PSC's jurisdiction. Because of Fleming Solar's commitment to the interconnection process and protocols detailed above and because Fleming Solar is responsible for all costs resulting from the interconnection process as required by KRS 278.212, the Siting Board finds that Fleming Solar has satisfied the requirements of KRS 278.710(f).

#### Compliance with Setback Requirements

Fleming Solar's application acknowledges that KRS 278.706(2)(e) requires all proposed structures or facilities used for generation of electricity to be at least 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility subject to a certain exception that is not applicable in this instance.<sup>110</sup> KRS 278.700(6) defines "residential neighborhood" as a populated area of five or more acres containing at least one residential structure per acre.<sup>111</sup> Fleming Solar filed a motion, pursuant to KRS 278.704(4), seeking a deviation from the 2,000-foot setback requirement, and is seeking approval for a 300-foot setback from six residential neighborhoods that lie within 2,000 feet of the Project site.<sup>112</sup> In its motion for deviation from setback requirements, Fleming Solar states that there are six residential neighborhoods (Neighborhoods A through F), as defined in KRS 278.700(6), within 2,000 feet of the Project. Pursuant to KRS 278.704(4), the Board may grant a deviation from the 2,000-foot setback requirements if it is determined that the proposed facility as designed and as located would meet the

---

<sup>110</sup> *Id.* at 6.

<sup>111</sup> Fleming Solar's Motion for Deviation from Setback Requirements (filed May 28, 2021) at 3.

<sup>112</sup> *Id.* at 2.



goals of in KRS 224.10-280 (Cumulative Environmental Assessment), KRS 278.010 (definitions), KRS 278.212 (costs of upgrading existing grid), KRS 278.214 (curtailment of service), KRS 278.216 (site assessment report), KRS 278.218 (transfer of ownership), and KRS 278.700 to KRS 278.716 (Siting Board requirements) at a distance closer than the required 2,000 feet.

KRS 224.10-280 provides that no person shall commence to construct a facility to be used for the generation of electricity unless that person has submitted a cumulative environmental assessment (CEA) to the Energy and Environment Cabinet (Cabinet). In its motion, Fleming Solar advises it prepared a CEA that will be submitted to the Cabinet prior to construction, and that the CEA shows that the Fleming Solar Project will have limited negative environmental impacts.<sup>113</sup> KRS 224.10-280(3)(a) requires that the CEA for the Project evaluate the types and quantities of air pollutants that will be emitted by the Project and a description of the methods that will be used to control those emissions. Per Fleming Solar's motion, the CEA identified that the Project will generate only temporary air pollution emissions during construction activities, arising primarily from the staging of equipment and supplies and the operation of vehicles, heavy machinery, and personal automobiles.<sup>114</sup> The CEA also stated equipment will be equipped with required emissions control equipment. Further, though construction activities will produce fugitive dust, the Project contractor will develop a dust control plan with mitigation measures including the use of crushed gravel and dust suppression using water trucks.<sup>115</sup> Lastly,

---

<sup>113</sup> Fleming Solar's Motion for Deviation from Setback Requirements at 13.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

during the operation phase of the Project, the power generating equipment will produce no air emissions; the only emissions will be from worker vehicles, landscaping maintenance equipment, and Project maintenance.<sup>116</sup> Accordingly, Fleming Solar contends the potential impacts to air quality from construction-related activities and operation of the Project will be minimal.

KRS 224.10-280(3)(b) requires that the CEA for the Project describe the type and quantity of water pollutants that will be discharged to the waters of the Commonwealth and the methods that will be used to control those discharge. Fleming Solar advises that prior to construction, it will obtain coverage under the Kentucky Pollutant Discharge Elimination System permit for Stormwater Discharges Associated with Construction Activities. This permit requires the development and implementation of a stormwater pollution prevention plan that will implement best management practices during construction.<sup>117</sup> In addition to the stormwater pollution prevention plan, Fleming Solar has advised it will seed the disturbed areas with non-invasive species of groundcover for stabilization and erosion minimization.<sup>118</sup> Fleming Solar also states that during the operational phase of the Project it will store small quantities of petroleum fuels, lubricants, and grounds-keeping chemicals for use in maintenance and repair of equipment; however, these will be stored with best management practices.<sup>119</sup> Ultimately, the CEA

---

<sup>116</sup> *Id.* at 13–14.

<sup>117</sup> *Id.* 14.

<sup>118</sup> *Id.* 14.

<sup>119</sup> *Id.* at 14–15.

states that the construction, operations, and maintenance of the Project facilities will have little impact on surface waters.<sup>120</sup>

KRS 224.10-280(3)(d) requires that the CEA for the Project identify the source and volume of water withdrawal necessary for the construction and operation of the Project and methods to be used for managing such withdrawals. Fleming Solar advises that it does not anticipate requiring water withdrawals for Project construction or operation. Fleming Solar states that it will likely utilize water trucks to provide supplementary water if necessary, and that if a well is necessary during the operational phase of the Project, Fleming Solar will obtain all necessary approvals and comply with the Safe Drinking Water Act. Ultimately, the CEA states that even if required, water withdrawal for the Project should not have an adverse impact on regional water resources.<sup>121</sup>

KRS 278.010 is the definition section that applies to KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and 278.990. Fleming Solar contends that it has met the goal of KRS 278.010 by filing a complete application pursuant to the applicable statutes utilizing the definition of any applicable term defined in KRS 278.010.<sup>122</sup>

KRS 278.212 requires the filing of plans and specifications for electrical interconnection with merchant electric generating facility and imposes the obligation upon a merchant electric generating developer for any costs or expenses associated with upgrading the existing electricity transmission grid because of the additional load caused

---

<sup>120</sup> *Id.* at 15.

<sup>121</sup> *Id.* at 16.

<sup>122</sup> *Id.* at 16.

by a merchant electric generating facility. Fleming Solar advises it will comply with this requirement through its compliance with the PJM interconnection process. Additionally, Fleming Solar states it will be responsible for the appropriate costs resulting from interconnecting with the electric utility, and thus the Project meets the goals of KRS 278.212.<sup>123</sup>

KRS 278.214 governs the curtailment of service and establishes the progression of entities whose service may be interrupted or curtailed pursuant to an emergency or other event. Fleming Solar advises that it will comply with the requirements of KRS 278.214, and argues that, accordingly, the Project meets the goals of KRS 278.214.<sup>124</sup>

KRS 278.216 requires a jurisdictional utility, as defined by KRS 278.010(3), to obtain a site compatibility certificate and to submit a SAR before beginning construction of an electric generating facility. An application for a site compatibility certificate should include the submission of a SAR as prescribed in the applicable Siting Board statutes. Fleming Solar argues that is not a utility as defined in KRS 278.010(3) and that KRS 278.216 does not apply, but by submitting its application to the Siting Board and complying with similar requirements in KRS 278.700 to KRS 278.716, the Project meets the goals of KRS 278.216.<sup>125</sup>

KRS 278.218 requires Public Service Commission approval prior to the transfer of ownership or control of assets owned by a utility as defined in KRS 278.010(3). Fleming Solar states that it is not a utility as that term is defined in KRS 278.010(3), but to the

---

<sup>123</sup> *Id.* at 17.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

extent Siting Board approval may at some time be required for change of ownership or control of assets owned by Fleming Solar, it will abide by the applicable statutory and regulatory requirements.<sup>126</sup> Given this assurance Fleming Solar argues the Project meets the goals of KRS 278.218.<sup>127</sup>

KRS 278.700 to KRS 278.716 are the statutory provisions governing the application for and grant of construction certificates to merchant electric generating facilities. The Siting Board has described the goals of these provisions as ensuring the proposed facility will be constructed and operated in a way that will not intrude upon or unnecessarily disrupt other surrounding land uses, including hospitals, nursing homes, residential areas, schools, and parks or otherwise have adverse environmental impacts, which are not otherwise regulated.<sup>128</sup> Fleming Solar contends that it has met the goals set forth in these provisions as evidenced by the application in its entirety and that it has provided a comprehensive application with a detailed discussion of all criteria applicable to its proposed facility under KRS 278.700 to 278.716.<sup>129</sup>

Having reviewed the record and being otherwise sufficiently advised, the Siting Board finds that Fleming Solar has demonstrated the proposed facility as designed and as located would meet the goals of the various statutes set forth in KRS 278.704(4) at a distance closer than the required 2,000 feet and is therefore permitted to deviate from the 2,000 foot setback requirement, contingent on Fleming Solar adhering to the setbacks

---

<sup>126</sup> *Id.* at 18.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 18–19.

it committed to throughout this proceeding, including those related to the six neighborhoods described therein. Nevertheless, Fleming Solar shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church or school, 25 feet from non-participating adjoining parcels, and 50 feet from adjacent roadways. Fleming Solar shall not place a central inverter, and, if used, energy storage systems closer than 450 feet from a residence, church or school. The Siting Board notes that the mitigation requirements imposed in the Compatibility with Scenic Surroundings and Noise and Anticipated Noise Level sections will also provide some level of protection for persons occupying a property adjacent to the proposed solar facility with respect to noise, obstruction of views, and traffic. Further, additional mitigation measures outlined in Appendix A will further serve to provide protection for residents of the general area.

#### History of Environmental Compliance

Fleming Solar states that neither it, the Applicant and sole owner of the Project, nor Core Solar, which is the parent and sole owner of Fleming Solar, has violated any state or federal environmental laws or regulations. Fleming Solar also states that there are no such pending actions against it or its parent, Core Solar.<sup>130</sup>

KRS 278.710(1)(i) directs the Siting Board to consider whether the applicant has a good environmental compliance history. In light of Fleming Solar's verified statement and no evidence to the contrary, the Siting Board finds that Fleming Solar has satisfied the requirements of KRS 278.710(1)(i). Nevertheless, the Applicant shall seek approval for any change in control or ownership so the Siting Board can ensure ongoing compliance with the law that no entity with a proposed ownership interest in the Project,

---

<sup>130</sup> Application, Materials Part 1, at 14.

has violated any state or federal environmental laws or regulations, and that there are no pending actions against any entity with a proposed ownership interest in the Project.

### Decommissioning

The proposed solar facility would have an expected useful life of 35 years.<sup>131</sup> Fleming Solar has not yet prepared a formal decommissioning plan; however, Fleming Solar has described decommissioning as including the removal of all aboveground and belowground structures and site restoration activities, and its lease agreements with participating landowners include commitments regarding component removal and land restoration.<sup>132</sup> Fleming County is seeking assurances that a decommissioning plan be explicit and that all facility components be removed from the County, and Fleming Solar has stated that it would develop an explicit decommissioning plan in its SAR.<sup>133</sup> According to supplemental information provided by the Applicant, the decommissioning and restoration processes include the removal of aboveground structures and underground wiring; grading to the extent necessary; restoration of topsoil (if needed) and seeding.<sup>134</sup> The components and materials will be transported to the appropriate facilities for reconditioning, salvage, recycling, or disposal.<sup>135</sup> Temporary erosion and best management practices for sedimentation control will be used during the decommissioning phase of the Project, and the Noise and Traffic Study submitted with the SAR states that

---

<sup>131</sup> Harvey Economics Report at II-5.

<sup>132</sup> *Id.*

<sup>133</sup> Harvey Economics Report at II-5, and SAR at 12.

<sup>134</sup> Harvey Economics Report at V-46.

<sup>135</sup> *Id.*

the decommissioning process would occur over a period of about 12 months.<sup>136</sup> Finally, the Applicant is willing to issue a decommissioning bond prior to construction. The amount of the bond would encompass all decommissioning and restoration activities and would be adjusted over time to account for changes in costs. The beneficiaries of the bond would be the Project landowners.<sup>137</sup>

The Harvey Economics Report recommends the following mitigation measures to ensure the commitments to decommissioning are met:

1. The Applicant, its successors, or assigns shall decommission the entire site if the Project ceases producing electricity for a period of more than 12 months. Decommissioning shall involve the removal of all solar panels, racking, and equipment including concrete pads and trenched electrical wiring.

2. The Applicant should develop an explicit decommissioning plan. This plan shall be filed with the Siting Board or its successors. This plan should commit the Applicant to removing all facility components from the Project site and Fleming County at the cessation of operations. Internal access roads shall also be removed unless the landowner states in writing that they prefer internal roads to remain in place.

3. The Applicant will file a decommissioning bond equal to the amount necessary to complete site decommissioning and restoration activities, naming Fleming County as a third-party beneficiary of that bond, so that Fleming County will have the authority to draw upon the bond to effectuate the decommissioning plan. The bond shall be in place by the commencement of operations.

---

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*



4. The amount of the decommissioning bond should be reviewed and updated every five years at the expense of the Applicant to determine and update the cost of facility removal.

5. As applicable to individual lease agreements, the Applicant, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each signed lease agreement.

6. If the Applicant proposes to retrofit the current proposed facility, it shall demonstrate to the Siting Board that the retrofit facility will not result in a material change in the pattern or magnitude of impacts compared to the original project. Otherwise, a new SAR will be submitted for Siting Board review.

7. The Applicant shall also prepare a new SAR for Siting Board review if the Applicant intends to retire the currently proposed facility and employ a different technology.

The Siting Board finds mitigation measures beyond what are recommended by the consultant are necessary to ensure that all parties are protected from potential nonperformance of the decommissioning obligation. The Siting Board will require Fleming Solar to implement mitigation measures that require Fleming Solar and its successors and assigns to meet all land restoration requirements in the leases with participating landowners, as well as mitigation measures that require a decommissioning plan specific to the Project. These mitigation measures are outlined in Appendix A to this Order.

#### CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Fleming Solar has presented sufficient evidence to support the issuance of a deviation from the setback requirements of KRS 278.704(2) and a Certificate to Construct the proposed merchant solar facility. The Siting Board conditions its approval upon the full implementation of all mitigation measures described herein and listed in Appendix A to this Order. A map showing the location of the proposed solar generating facility is attached hereto as Appendix B.

IT IS THEREFORE ORDERED that:

1. Fleming Solar's application for a Certificate to Construct an approximately 80 MWac merchant solar electric generating facility in Fleming County, Kentucky, is conditionally granted subject to full compliance with the mitigation measures and condition prescribed in Appendix A.

2. Fleming Solar's motion for deviation from the 2,000-foot setback requirement is granted in part, such that a 300-foot setback requirement shall apply to each of the six neighborhoods that lie within 2,000 feet of the Project site: Neighborhood A at 362 feet from the Project, Neighborhood B at 426 feet from the Project, Neighborhood C at 415 feet from the Project, Neighborhood D at 800 feet from the Project, Neighborhood E at 1,800 feet from the Project, and Neighborhood F at approximately 2,000 feet from the Project. In addition, the setbacks and requirements listed in Appendix A, mitigation measure 28 apply.

3. Fleming Solar shall fully comply with the mitigation measures and conditions prescribed in Appendix A.

4. In the event mitigation measures within the body of this Order conflict with those prescribed in Appendix A, the mitigation measures in Appendix A shall control.

5. This case is closed and removed from the commission's docket.

By the Kentucky State Board on Electric  
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bridwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director  
Public Service Commission  
*on behalf of* the Kentucky State  
Board on Electric Generation  
and Transmission Siting

Case No. 2020-00370

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2020-00370 DATED NOV 24 2021

#### MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Fleming Solar, LLC (Fleming Solar) to ensure that the facilities proposed in this proceeding are constructed as ordered.

1. A final site layout plan shall be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout provided in the Fleming Solar's Responses to Siting Board Staff's First Request for Information, Exhibit C, should be clearly indicated on the revised graphic. Those changes could include, but are not limited to, location of solar panels, inverters, transformers, substation, operation and maintenance building or other Project facilities and infrastructure.

2. Any change in the Project boundaries from the information that formed this evaluation shall be submitted to the Siting Board for review.

3. The Siting Board will determine whether any deviation in the boundaries or site layout plan is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required, but if yes, the application will support the Siting Board's effort to revise its assessment of impact and mitigation requirements.

4. A final Project-specific construction schedule, including revised estimates of on-site workers and commuter vehicle traffic, shall be submitted to the Siting Board. Deviations from the preliminary construction schedule provided in this matter should be clearly indicated.

5. The Siting Board will determine whether any deviation to the construction schedule or workforce estimates is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required, but if yes, the Applicant will support the Siting Board's effort to revise its assessment of impacts and mitigation requirements.

6. The Applicant or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

7. The Applicant's access control strategy shall also include appropriate signage to warn potential trespassers. The Applicant must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

8. The Applicant shall follow all National Electrical Safety Code regulations, including those related to the installation and maintenance of a security fencing. The substation shall have its own separate security fence and locked access installed.

9. Existing vegetation between solar arrays and nearby roadways and homes shall be left in place to the extent feasible to help minimize visual impacts and screen the project from nearby homeowners and travelers.

10. Fleming Solar shall implement planting of native evergreen species as a visual buffer to mitigate viewshed impacts, particularly in areas directly adjacent to the Project without existing vegetation.

11. Fleming Solar shall carry out visual screening consistent with the plans proposed in its application, Site Assessment Report, and the maps included as Exhibit C

of Fleming Solar's Response to Siting Board Staff's First Request for Information, and ensure proposed new vegetative buffers are successfully established and develop as expected over time. Should vegetation used as buffers die over time, Fleming Solar shall replace them as appropriate.

12. The Applicant shall provide a visual buffer between Project infrastructure and residences or other occupied structures with a line of sight to the facility to the reasonable satisfaction of the affected adjacent property owners. If vegetation is used, plantings should reach eight feet high within four years. To the extent that an affected adjacent property owner indicates to the Applicant that such a buffer is not necessary, Fleming Solar will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

13. Fleming Solar shall cultivate at least six acres of native pollinator-friendly species onsite.

14. Fleming Solar will not remove any existing vegetation except to the extent it must remove such vegetation for the construction and operation of Project components.

15. Fleming Solar shall fix or pay for damage resulting from any vehicle transport to the project site. For damage resulting from vehicle transport in accordance with all permits, those permits will be controlling.

16. Fleming Solar shall comply with all laws and regulations regarding the use of roadways.

17. Fleming Solar shall implement ridesharing between construction workers when feasible, use appropriate traffic controls or allow flexible working hours outside of peak hours to minimize any potential delays during AM and PM peak hours.

18. The Applicant shall consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

19. The Applicant shall consult with the Fleming County Road Department (FCRD) regarding truck and other construction traffic and obtain necessary permits from the FCRD.

20. The Applicant shall develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

21. Fleming Solar shall comply with any road use agreement executed with FCRD. Such an agreement might consider special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

22. Fleming Solar shall develop and implement a traffic management plan to minimize the impacts on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any noise concerns during the construction phase and develop measures that would address those noise concerns.

23. Fleming Solar shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process. Dust impacts shall be kept at a minimal level. The Siting Board expects the Applicant's compliance with 401 KAR 63:010.

24. Fleming Solar is required to limit the construction activity, process, and deliveries to the hours between 8 a.m. and 6 p.m. Monday through Saturday. Non-noise-causing and non-construction activities can take place on the site between 7 a.m. and



10 p.m., Monday through Sunday, including field visits, arrival, departure, planning meetings, mowing, surveying, etc.

25. Fleming Solar shall notify residents and businesses within 2,400 feet of the project boundary about the construction plan, the noise potential and mitigation plans one month prior to the start of construction.

26. If the pile driving activity occurs within 1,500 feet of a noise sensitive receptor, Fleming Solar shall implement a construction method that will suppress the noise generated during the pile driving process (i.e., semi-tractor and canvas method; sound blankets on fencing surrounding the solar site; or any other comparable method).

27. Fleming Solar shall implement a Customer Resolution Program to address any complaints from surrounding landowners. Fleming Solar shall also submit annually a status report associated with its Customer Resolution Program, providing, among other things, the individual complaints, how Fleming Solar addressed those complaints, and the ultimate resolution of those complaints, identifying whether or not the resolution was to the complainant's satisfaction.

28. Fleming Solar shall place panels, inverters, and substation equipment consistent with the distances to noise receptors indicated in Fleming Solar's noise and traffic report and with its proposed setbacks, as amended herein. Nevertheless, Fleming Solar shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church or school; 25 feet from non-participating adjoining parcels; and 50 feet from adjacent roadways. Fleming Solar shall not place a central inverter, and, if used, energy storage systems closer than 450 feet from a residence, church or school. These setbacks shall not be required for residences owned by landowners involved in the project

that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of what the standard setback required by the order is. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of construction of the Project.

29. As applicable to individual lease agreements, Fleming Solar, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each executed lease agreement.

30. Fleming Solar shall file a full and explicit decommissioning plan with the Siting Board upon completion. This plan shall commit Fleming Solar to removing all facility components, aboveground and belowground, regardless of depth, from the project site. Upon its completion, this plan shall be filed with the Siting Board or its successors. The decommissioning plan shall be completed at least one month prior to construction of the Project.

31. Fleming Solar shall be required to file a bond with the Fleming County Fiscal Court, equal to the amount necessary to effectuate the explicit or formal decommissioning plan naming Fleming County as an obligee or third-party (or secondary, in addition to individual landowners) beneficiary, in addition to the lessors of the subject property insofar as the leases contain a decommissioning bonding requirement, so that Fleming County will have the authority to draw upon the bond to effectuate the decommissioning plan. For land in which there is no bonding requirement otherwise, Fleming County shall be the primary beneficiary of the decommissioning bond for that portion of the Project. The bond(s) shall be filed with the Fleming County Treasurer or with a bank, title company or

financial institution reasonably acceptable to the County. The acceptance of the County of allowing the filing the bond(s) with an entity other than the Fleming County Fiscal Court, through the Fleming County Treasurer, can be evidenced by a letter from the Fleming County Judge Executive, the Fleming County Fiscal Court, or the Fleming County Attorney. The bond(s) shall be in place at the time of commencement of operation of the Project. The bond amount shall be reviewed every five years at Fleming Solar's expense to determine and update the cost of removal amount. This review shall be conducted by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities. Certification of this review shall be provided to the Siting Board or its successors and the Fleming County Fiscal Court. Such certification shall be by letter and shall include the current amount of the anticipated bond and any change in the costs of removal or decommissioning.

32. If any person shall acquire or transfer ownership of, or control, or the right to control the Project, by sale of assets, transfer of stock, or otherwise, or abandon the same, Fleming Solar or its successors or assigns shall request explicit approval from the Siting Board with notice of the request provided to the Fleming County Fiscal Court. In any application requesting such abandonment, sale or change of control, the Applicant shall certify its compliance with KRS 278.710(1)(i).

33. Fleming Solar or its assigns must provide notice to the Siting Board if during any two-year (730 day) period, it replaces more than twenty percent of its facilities. Fleming Solar shall commit to removing the debris and replaced facility components from the Project site and Fleming County upon replacement. If the replaced facility components are properly disposed of at a permitted facility, they do not have to be

physically removed from Fleming County. However, if the replaced facility components remain in Fleming County, Fleming Solar must inform the Siting Board where the disposal site is located.

34. Any disposal or recycling of Project equipment, during operations or decommissioning of the Project, shall be done in accordance with applicable laws and requirements.

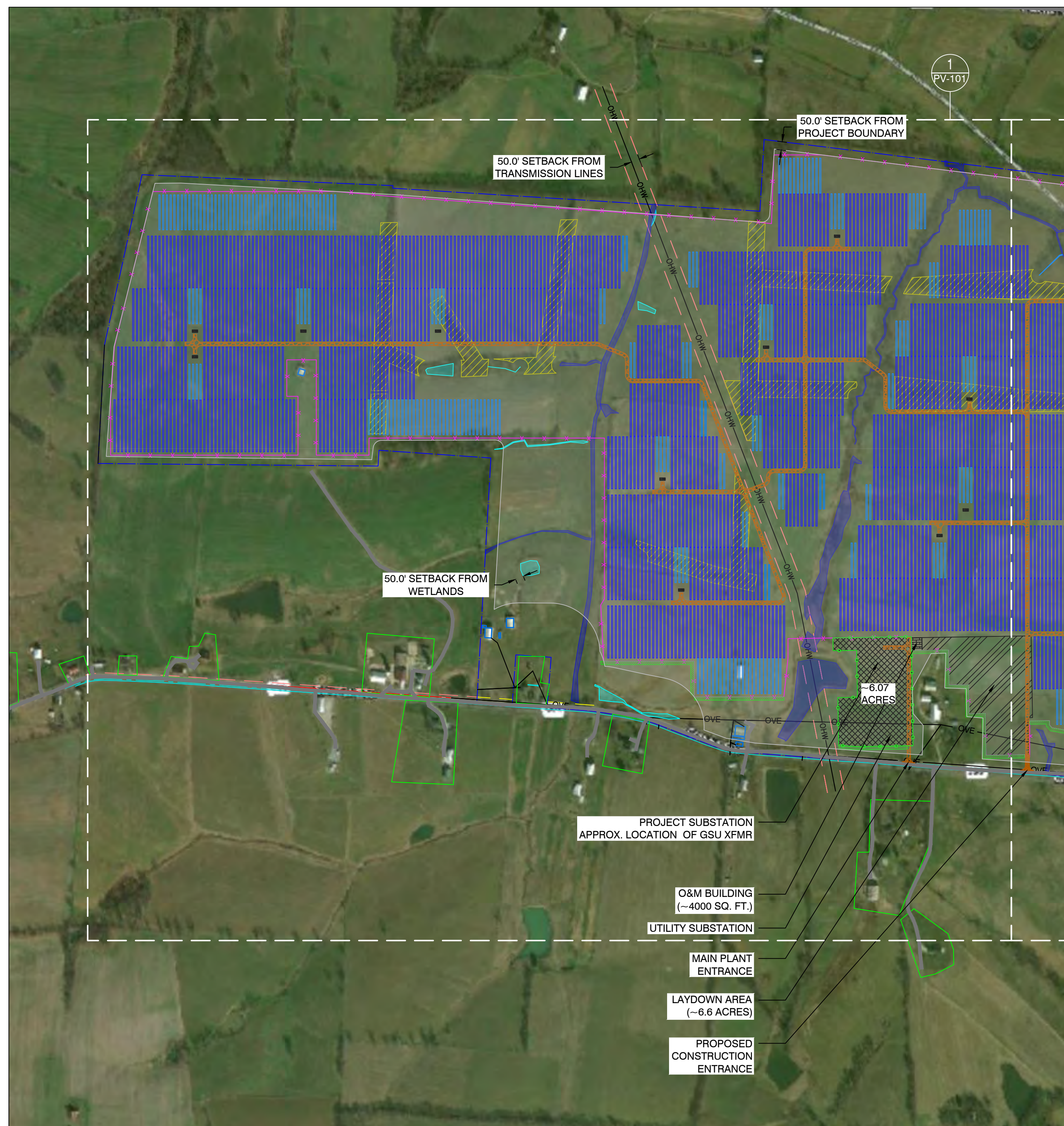
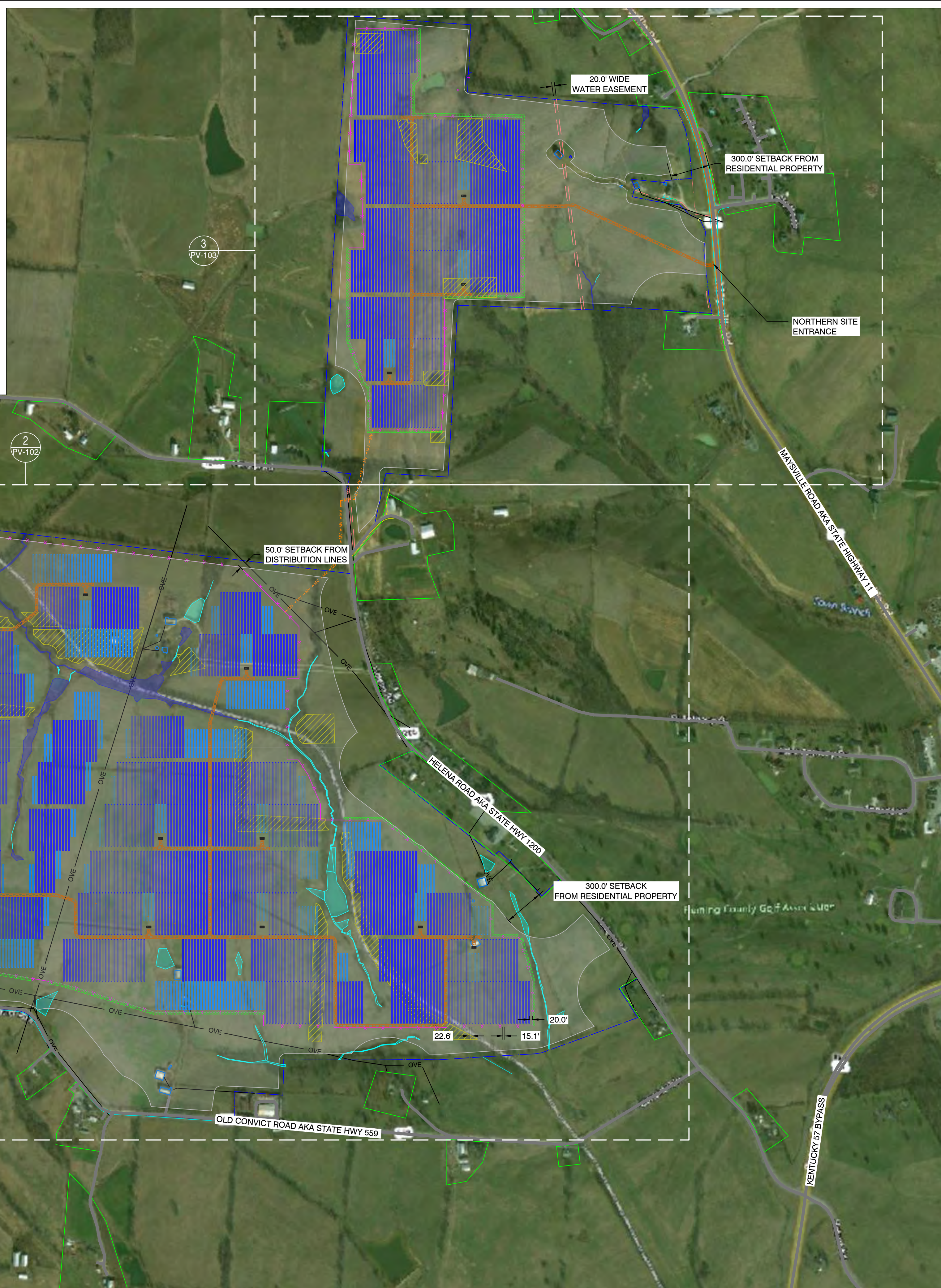
APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON  
ELECTRIC GENERATION AND TRANSMISSION SITING IN  
CASE NO. 2020-00370 DATED NOV 24 2021

ONE PAGE TO FOLLOW

LEGEND	
EXISTING	NEW
81 MODULE TRACKER ROW	
54 MODULE TRACKER ROW	
INVERTER	
PROJECT BOUNDARY	
PUBLIC ROAD	
20' WIDE SITE ACCESS ROAD	
POTENTIAL PROJECT FOOTPRINT	
POTENTIALLY NON-JURISDICTIONAL AQUATIC RESOURCE	
NEARBY RESIDENTIAL PROPERTY	
UNDERGROUND PV SYSTEM MEDIUM VOLTAGE COLLECTOR ROUTE BETWEEN PARCELS	
SECURITY FENCE	
UTILITY SUBSTATION SECURITY FENCE	
15' WIDE LANDSCAPE BUFFER	
— OVE —	OVERHEAD DISTRIBUTION LINE
— OHW —	OVERHEAD TRANSMISSION LINE

SYSTEM SPECIFICATIONS	
SYSTEM SIZE DC	104,247.00 kW
SYSTEM SIZE AC @ POI	80,000.00 kW
DC/AC RATIO	1.30
MODULE MANUFACTURER	JINKO SOLAR
MODULE MODEL	JKM540M-72HL4-TV
MODULE RATING	540 W
TOTAL MODULE QTY	193,050
MODULES PER STRING	27
TOTAL NO. OF STRINGS	7,150
INVERTER MODEL	SMA SC4600 UP
INVERTER RATING	4,186 kW
INVERTER QTY	22
# OF 81 MODULE RACKS	2,048
# OF 54 MODULE RACKS	503
STEP-UP TRANSFORMER	(22) 4600 KVA, 34.5KV/0.69KV
RACKING TYPE	HSAT
TRACKING LIMIT ANGLES	+/- 52°
AZIMUTH	180°
INTER-ROW SPACING	15.1'
PITCH	22.6°
GCR	33%
PROJECT FENCED AREA	578.36 Ac
SUBSTATION FENCED AREA	6.07 Ac



**NOT FOR CONSTRUCTION**

PROJECT OWNER:  
**FLEMING SOLAR, LLC**  
 1221 S. MOPAC EXPY  
 AUSTIN, TX 78746

PROJECT:  
**FLEMING SOLAR**

PROJECT LOCATION:  
 1258 OLD CONVICT RD,  
 FLEMINGSBURG, KY 41041  
 LAT: 38.443844°  
 LON: -83.764725°

REV. NO.	DESCRIPTION	DATE
0	PRELIMINARY LAYOUT	07/22/21

SHEET TITLE:

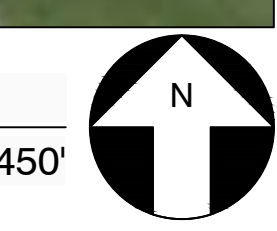
**PRELIMINARY SITE LAYOUT**

DRAWING NO.:  
**PV-100**

DRAWN BY:	LR
REVIEWED BY:	
DATE:	07/22/21
SCALE:	AS SHOWN
PROJECT NO.:	

1 SITE PLAN  
 PV-100

Scale: 1"=450'



\*Audrey Bohorquez  
Core Solar LLC 1221 South Mopac Expressway  
Suite 225  
Austin, TEXAS 78746

\*Dominic Salinas  
Core Solar LLC 1221 South Mopac Expressway  
Suite 225  
Austin, TEXAS 78746

\*Larry H Foxworthy  
Fleming County Judge Executive  
201 Court Square  
Flemingsburg, KENTUCKY 41041

\*John C. Price  
Resident Representative  
183 Joshua St.  
Flemingsburg, KENTUCKY 41041

\*Kenneth Gish  
K&L Gates  
300 South Tryon Street  
Suite 1000  
Charlotte, NORTH CAROLINA 28202