

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF SONG)	
SPARROW SOLAR LLC FOR CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
104-MEGAWATT MERCHANT ELECTRIC SOLAR)	2023-00256
GENERATING FACILITY IN BALLARD COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
807 KAR 5:110)	

ORDER

On September 1, 2023, Song Sparrow Solar, LLC (Song Sparrow Solar) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) seeking a construction certificate to construct an approximately 104-megawatt, ground-mounted solar photovoltaic electric generating facility (Project) comprising of approximately 655 acres of land and an approximately 200 feet in nonregulated transmission line in Ballard County, Kentucky.

There are no intervenors in this matter. Pursuant to a procedural schedule established on September 15, 2023, Song Sparrow Solar responded to two rounds of discovery. A site visit was held on November 2, 2023. Siting Board consultant BBC Research and Consulting (BBC) filed its report (BBC Report) on December 15, 2023. Song Sparrow Solar submitted its response to the BBC Report on January 8, 2024. A formal hearing was held on January 23, 2024. Song Sparrow Solar filed its responses to post hearing requests for information on February 2, 2024. The matter now stands submitted for a decision.

LEGAL STANDARD

The filing requirements and standard of review for requests to construct a merchant generating facility are set forth in KRS 278.700–.718.¹ KRS 278.704(1) requires that an application be filed and approved by the Siting Board before the construction of a merchant electric generating facility can commence. KRS 278.706 requires that the application include evidence of public notice and compliance with local planning and zoning ordinances.

KRS 278.708(2) requires Song Sparrow Solar to prepare a site assessment report (SAR) that includes (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 resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the site; (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 suggested by Song Sparrow Solar to minimize or avoid adverse effects identified in the SAR.

KRS 278.710(1) delineates the criteria on which the Siting Board will grant or deny the certificate, which includes (1) impact on scenic surroundings, property values, and surrounding roads; (2) anticipated noise levels during construction and operation of the

¹ On June 29, 2023, the Kentucky General Assembly enacted modifications to KRS 278.704–KRS 278.710. The modifications to the statutes were not made retroactive by the General Assembly, so this application was reviewed under the laws as of the filing date.

facility; (3) economic impact on the region and state; (4) whether the proposed facility will meet all local planning and zoning requirements existing on the date the application was filed; (5) impact of the additional load on the reliability of jurisdictional utilities; (6) setback requirements; (7) efficacy of mitigation measures proposed by Song Sparrow Solar; and (8) whether Song Sparrow Solar has good environmental compliance history.

PROPOSED FACILITY

The Project will be located on 655 acres near Kevil, Ballard County, Kentucky. The project will contain 246,146² solar photovoltaic panels with associated ground mounted racking, 27 inverters, and a substation transformer.³ The project will interconnect to the existing Louisville Gas and Electric Company and Kentucky Utilities Company (LG&E/KU) Grahamville-to-Wickliffe 161 kV transmission line.⁴

DISCUSSION AND FINDINGS

I. KRS 278.708: SAR Filing Requirements and Mitigation Measures

Mitigation Measures Proposed by Song Sparrow Solar and Siting Board Consultant

As required by KRS 278.708(4), Song Sparrow Solar proposed various mitigation measures consistent with the statutes regarding traffic, noise, roadway preservation, permitting, setbacks, public safety, glare, and scenic preservation.⁵ In accordance with KRS 278.708(5), BBC recommended mitigation measures in the following areas: site development planning; compatibility with scenic surroundings; noise levels during

² Application Attachment H at 4.

³ Application, Attachment H at 4.

⁴ Application at 4.

⁵ Application, Section 2, SAR at 8–11.

construction and operation; road traffic and degradation; economic impacts; decommissioning; public outreach; and complaint resolution programs.⁶ Song Sparrow Solar generally agreed with the mitigation measures recommended by the BBC Report, but stated it felt that Song Sparrow Solar cannot guarantee that evergreen trees or shrubs will reach eight feet in height. Also, Song Sparrow Solar stated that it is not necessary to impose both time limitations for pile driving and additional noise suppression methods.⁷

The Siting Board has reviewed the mitigation measures proposed by Song Sparrow Solar and in the BBC Report, and finds that, in addition to those Song Sparrow Solar initially proposed, the mitigation measures set forth in Appendix A and discussed throughout this Order are appropriate and reasonable because they achieve the statutory purpose of mitigating the adverse effects identified in the SAR and the BBC Report in accordance with KRS 278.708.

Detailed Site Description

KRS 278.708(3)(a)(1–6) requires that the detailed site description in the SAR include a description of (1) surrounding land uses for residential, commercial, agricultural, and recreational purposes; (2) the legal boundaries of the proposed site; (3) proposed access control to the site; (4) the location of facility buildings, transmission lines, and other structures; (5) location and use of access ways, internal roads, and railways; and (6) existing or proposed utilities to service the facility.

⁶ BBC Report at Section B at 7.

⁷ Song Sparrow's Response to the Consultant's Report (filed Jan. 8, 2024).

Song Sparrow Solar submitted the required SAR with its application.⁸ The SAR contained a preliminary site plan.⁹ The proposed site plan included property lines, proposed fence lines, proposed roads, existing roads, existing overhead electrical lines, gas lines, rights-of-way, setbacks, exclusion areas, access points, site entrances, proposed solar arrays, proposed substation location, proposed switchyard location, and proposed operations and maintenance facility location.¹⁰ Supplemental maps were provided which depicted wetland features and updated project infrastructure locations.¹¹ A vegetative screening plan was also provided as part of the application.¹² Approximately 98 acres of vegetation will have to be cleared for construction.¹³ Several barns and a grain silo will be demolished during construction.¹⁴ Multiple studies were submitted as part of the application, including a Traffic Impact Study,¹⁵ a Glare Study,¹⁶ and a Geotechnical report.¹⁷ The proposed facility would have a fenced footprint of approximately 655 acres out of a total 900 acres of land for which Song Sparrow Solar has secured leases with

⁸ Application, SAR, Exhibit 2.

⁹ Application, SAR, Appendix B.

¹⁰ Application, SAR, Appendix B.

¹¹ Song Sparrow Solar's Responses to Siting Board Staff's First Request for Information (Staff's First Request) (filed Oct. 5, 2023), Items 10 and 11.

¹² Application, SAR, Appendix B.

¹³ Song Sparrow Solar's Responses to Staff's First Request, Item 9.

¹⁴ Song Sparrow Solar's Responses to Staff's First Request, Item 16.

¹⁵ Application, SAR, Appendix F.

¹⁶ Application, SAR, Appendix G.

¹⁷ Song Sparrow Solar's Responses to Staff's First Request, Item 18.

eight landowners.¹⁸ The legal boundaries of the proposed site were described in the application and in maps of tax parcels.¹⁹

Arrays of photovoltaic modules will be mounted on single access trackers arranged in rows.²⁰ Power conversion systems will be distributed throughout the Project.²¹ The equipment will connect via underground electrical wiring to a Project substation and switchyard proposed to interconnect to the existing Grahamville-to-Wickliffe 161 kV transmission line located in the southwest corner of the Project area north of Mosstown Road.²² A perimeter fencing will enclose the modules and associated infrastructure, and a separate fence will enclose the substation.²³ Song Sparrow Solar stated that the Project will comply with the National Electrical Safety Code (NESC) and American National Standards Institute (ANSI) Z535 Safety Sign Standards for Electric Utility Power Plants and Substations to guide the placement of safety signage around the facility.²⁴ In addition, Song Sparrow Solar stated it or its contractor will control access to the site during construction and operation.²⁵ According to Song Sparrow Solar, all construction entrances will be gated and locked when not in use.²⁶ If the Project requires auxiliary electrical

¹⁸ BBC Site Assessment Review, Section C at 2–3.

¹⁹ Application, SAR, Appendix C – Property Legal Boundaries.

²⁰ Application at 4.

²¹ Application at 4.

²² Application at 4.

²³ Application, Section 2.

²⁴ Application, Section 2.

²⁵ Application, Section 2.

²⁶ Application, Section 2.

service, Song Sparrow Solar has arranged to procure it from the certified electric provider Jackson Purchase Energy Corporation.²⁷ Similarly, if retail water service is needed, Song Sparrow Solar stated that it would be requested from the nearest provider with adequate service.²⁸ Song Sparrow Solar listed the following utilities may provide water service in the area: La Center Municipal Water Co, Wickliffe Municipal Water System, and Kevil Water Department.²⁹ Song Sparrow Solar identified a Trunkline Gas Company 30-inch pipeline outside of the Project boundary, and stated that no Project infrastructure will be installed above this pipeline.³⁰

Song Sparrow Solar provided that agricultural land comprises 79 percent of adjoining acres, while 16 percent is zoned agricultural/residential, and about 5 percent is solely residential.³¹ Measured by the number of properties rather than acreage, Song Sparrow Solar averred that 48 percent of adjoining parcels are used for agricultural purposes, while 8 percent of adjoining parcels are agricultural/residential, and 44 percent are residential.³² The Project is not proposed to be located on the site of a former coal processing plant, nor will it use any waste coal as a fuel source.³³ No existing electricity generating facilities are on-site at the Project location.³⁴ According to Song Sparrow Solar

²⁷ Application, SAR, Section 1, page 3.

²⁸ Application, SAR, Section 1, page 3.

²⁹ Song Sparrow Solar's Responses to Staff's First Request, Item 28.

³⁰ Song Sparrow Solar's Responses to Staff's First Request, Item 20.

³¹ BBC Site Assessment Review, Section C, page 6.

³² BBC Site Assessment Review, Section C, page 6.

³³ Application, Section 5.

³⁴ Application, Section 5.

there are no residential neighborhoods, schools, hospitals, or nursing home facilities within 2,000 feet of the Project.³⁵

Compatibility with Scenic Surroundings

Song Sparrow Solar indicated that the Project site is generally agricultural and rural residential area of Ballard County.³⁶ According to the SAR, the view will be impacted primarily by solar panels on the site.³⁷ Song Sparrow Solar indicated that it will mitigate the visual impacts of the facility by utilizing the topography of the land and the addition of vegetative buffers.³⁸ BBC reviewed the effect on the surroundings and concluded the facility would be compatible with scenic surroundings by adding vegetative buffers and other proposed mitigation.³⁹

Having reviewed the record, the Siting Board finds that, while there will always be an impact on the scenery of neighboring properties, the impact of this Project will be minimal. The proposed vegetative buffer, along with other mitigation measures proposed by Song Sparrow Solar and BBC, will minimize the effect that the proposed facility will have on the scenic surroundings of the site. However, the Siting Board will require mitigation measures in addition to those proposed by Song Sparrow Solar. Those are set forth in Appendix A to this Order, specifically mitigation measures 10 through 14.

³⁵ Application, Section 5.

³⁶ Application, SAR at 4.

³⁷ Application, SAR at 4.

³⁸ Application, SAR at 4.

³⁹ BBC, Report, Detailed Findings and Conclusions, C-28.

Impact on Property Values

Song Sparrow Solar submitted a property value impact report conducted by Kirkland Appraisals (Kirkland Report), a certified real estate appraiser.⁴⁰ The Kirkland Report found that, based upon a comparative analysis the solar facility will have no impact on the property values of abutting or adjoining residential or agricultural properties.⁴¹ The report indicated that the solar facility would function in a harmonious manner with the nearby surroundings, which is mostly agricultural, and that operation of the Project would not generate the level of noise, odor, or traffic to negatively impact the nearby surroundings as compared to a fossil fuel generating facility or other industrial facilities.⁴²

The BBC Report concluded that, because the Project area is predominantly rural and the Project's proposed vegetative buffers will help conceal the physical view of the Project from nearby residences, the proposed Project is unlikely to have measurable adverse impact on the property values of most adjacent properties.⁴³ The BBC Report stated that the property values of some adjacent residential properties with small lots in closest proximity to the solar panels, might be a risk of a reduction in value.⁴⁴

Having reviewed the record, the Siting Board finds sufficient evidence to conclude that the proposed Song Sparrow Solar facility will not have a significant adverse impact on nearby property values as long as proper mitigation measures are implemented. The characteristics of the solar facility's operations are passive, and the facility will be

⁴⁰ Application, Section 2, SAR, Appendix A.

⁴¹ Application, Section 2, SAR, Appendix A at 2.

⁴² Application, Section 2, SAR, Appendix A at 2 and 105.

⁴³ BBC Report, Detailed Findings and Conclusions at C-34.

⁴⁴ BBC Report, Detailed Findings and Conclusions at C-34.

temporary, with the land returned to its natural state after a few decades of operation. The facility does not produce any air, noise, waste, or water pollution, nor does it create any traffic issues during operations.

Anticipated Noise Level

Song Sparrow Solar's Acoustic Assessment was completed by Stantec.⁴⁵ Stantec used typical construction equipment sound emission levels from the Federal Highway Administration Roadway Construction Noise Model database as representative noise levels this project.⁴⁶ Stantec estimated maximum equipment noise levels during construction will occur during pile driving and is estimated to be of 64 to 70 dBA at the nearest noise receptor.⁴⁷ Construction related activities are expected to occur during daylight hours, Monday through Saturday (6:00 a.m. to 7:00 p.m. or dusk if sunset occurs after 7:00 p.m.).⁴⁸

Stantec found operational noise will emanate from project solar inverters and the substation transformer.⁴⁹ Based on Stantec's operational sound modeling, the highest expected daytime sound level at nearby sensitive receptors was 46 dBA.⁵⁰ Stantec stated that nighttime operation will result in lower sound emissions than daytime, as power will not be generated.⁵¹ Stantec concluded that construction activities will be audible to nearby

⁴⁵ Application, Section 2, SAR, Appendix D.

⁴⁶ Application, Section 2, SAR, Appendix D at 5.

⁴⁷ Application, Section 2, SAR, Appendix D at 10.

⁴⁸ Application, Section 2, SAR, Appendix D at 9.

⁴⁹ Application, Section 2, SAR, Appendix D at 8.

⁵⁰ Application, Section 2, SAR, Appendix D at 9.

⁵¹ Application, Section 2, SAR, Appendix D at 9.

residences or other sensitive receptors; however, not all equipment will be operating at the same time, and activities will be temporary in duration and spread throughout the Project area.⁵² BBC evaluated the Acoustic Assessment conducted by Stantec and concluded that the Project's construction phase will produce the highest noise levels, especially during pile driving activity.⁵³

The Siting Board finds that noise from the construction phase will be intermittent and temporary but will be significant to the nearest residences. As indicated by Song Sparrow Solar and Stantec, the noise will be loudest during the construction phase but will not be permanently damaging to nearby residents. The Siting Board further finds that the operational noise from inverters and the main transformer should have little to no effect on residences in the area.

Based on the case record, the Siting Board finds that Song Sparrow Solar's application is in compliance with the statutory requirements in disclosing noise levels. However, the Siting Board further finds that based on the entire record, to ensure the impact of construction noise does not unduly impact nearby residents, Song Sparrow Solar will be required to implement specific mitigation measures to ensure the impact of construction noise does not unduly impact nearby residents. The mitigation measures implemented by the Siting Board are designed to limit the effects of construction noise by controlling the hours of construction in general, as well as the time and manner in which pile driving can occur. The Siting Board will require Song Sparrow to mitigate construction noise up to 1,000 feet to ensure the surrounding community is not negatively impacted by

⁵² Application, Section 2, SAR, Appendix D at 9.

⁵³ BBC Report at 5.

the construction noise. Song Sparrow Solar may forego noise suppression if it employs a panel installation method that does not involve pile driving, so long as the method does not produce noise levels similar to pile driving. These mitigation measures are further outlined in Appendix A to this Order, specifically mitigation measures 15 through 17.

Impact on Road, Roadways, Railways, and Fugitive Dust

Construction is anticipated to take between 12 and 16 months.⁵⁴ During the construction phase there will be additional traffic in the project area. Roadways near the proposed site include five with entrances to the project: Mosstown Road, Davis Road, KY-473/Gage Road, Bondurant Road, KY-2532/County Line Road/Kevil-Lovelaceville Road and KY 358/Hinkelville Road, Steel Road and Buchanan Lane.⁵⁵ Stantec conducted a Traffic Impact Study and concluded that there will not be significant changes in road and traffic during the construction.⁵⁶ The study further concluded that no railways will be impacted during construction or operations.⁵⁷ BBC also found that there will be minimal traffic impacts on the roads near the project, but this will be alleviated with mitigation measures.⁵⁸

⁵⁴ Nick Benjamin Hearing Video Testimony (HVT) of the January 23, 2024 Hearing at 13:17:17–13:17:27.

⁵⁵ BBC Report at C-43.

⁵⁶ Application, Appendix F at

⁵⁷ SAR at 7.

⁵⁸ SAR at 9.

The study also noted that during the operational phase of the project, a few permanent employees would be on the project site for inspections and repairs.⁵⁹ Little to no impact on traffic is expected during operations.⁶⁰

The Siting Board finds that traffic and road degradation issues can be addressed with Song Sparrow Solar's mitigation measures, the additional measures proposed by BBC, and mitigation measures set forth in Appendix A to this Order, specifically mitigation measures 19 through 27.

The Siting Board anticipates some fugitive dust from the construction phase. Song Sparrow stated it will follow best management practices including proper construction equipment maintenance and use of water trucks.⁶¹ Dust will not be a factor during the operations phase. The Siting Board requires additional mitigation measures to reduce any potentially harmful effects on the area, which are outlined in Appendix A to this Order. The Siting Board will require Song Sparrow Solar to inform the Siting Board and the Energy and Environment Cabinet (EEC) of the date construction will commence, 30 days prior, to ensure the proper permits have been obtained and whether proper steps have been taken to comply with the mitigation measures set forth in Appendix A to this Order.

II. **KRS 278.710(1) – Criteria**

Economic Impact on Affected Region and the State

According to Song Sparrow Solar's economic impact report, the proposed solar facility will invest over \$157 million in Ballard County, including land acquisition, site

⁵⁹ SAR at 8.

⁶⁰ SAR, Appendix F at 9.

⁶¹ BBC Report at C-45.

preparation, solar panel and electrical equipment installation, landscaping and security fencing.⁶² Song Sparrow Solar stated that the Project is expected to generate significant positive economic and fiscal impacts to Ballard County including the creation of hundreds of construction jobs, expansion of the local tax base, and the benefits of having a long-term employer and corporate citizen in the region. The Project will be conducted in two phases: a construction phase and an operation phase.⁶³

Song Sparrow Solar utilized the IMPLAN model for the economic impact analysis focused on Ballard County only because of the lack of industrial linkages in the region.⁶⁴ During the project construction phase, Song Sparrow Solar estimated that approximately 250 temporary, full time jobs will be created during the construction phase with a direct payroll of approximately \$15.1 million factoring in fringe benefits.⁶⁵ Song Sparrow Solar estimated that the average wage per construction job would be \$60,700 as compared to the 2021 annual average annual wages for all occupations in Ballard County which totaled \$53,241.⁶⁶ Song Sparrow Solar estimated indirect and induced economic impacts of another 48 jobs with an additional \$2.9 million in payroll.⁶⁷ Song Sparrow Solar concluded that the total construction phase economic impact is estimated to be 298 total full-time

⁶² Application, Attachment G at 1–2.

⁶³ Application, Attachment G at 1.

⁶⁴ Application, Attachment G at 9 and 13.

⁶⁵ Application, Attachment G at 10–11.

⁶⁶ Application, Attachment G at 11–12.

⁶⁷ Application, Attachment G at 12 (calculated by subtracting direct jobs and payroll from total jobs and payroll: 298 Total Jobs minus 250 Direct Jobs equals 48 Induced Jobs; 18.0 million Total Payroll minus \$15.1 million Direct Payroll equals \$2.9 million Induced Payroll)

equivalent jobs in Ballard County with a new payroll of \$18.0 million.⁶⁸ The vast majority of these jobs will be filled by skilled workers and contractors such as fencers, electricians, panel installers, equipment operators and construction managers.⁶⁹ Song Sparrow Solar stated it intends to hire as many local workers as permitted by the subcontractors it chooses for the project.⁷⁰

Song Sparrow Solar estimated that the ongoing economic impact from the project's operational phase to be very small relative to the one-time impacts from the construction phase, approximately supporting 3.3 jobs.⁷¹ However, Song Sparrow Solar plans to enter into an Engineering, Procurement, and Construction (EPC) contract with an EPC firm so it is impossible to ascertain precisely the economic impact, jobs created, wages paid, and the commitment of the EPC to utilize local subcontractors until such time that an EPC firm is selected by Song Sparrow Solar and a contract is entered into.⁷²

Song Sparrow Solar and Ballard County have finalized negotiating an Industrial Revenue Bond (IRB) and a Payment in Lieu of Taxes (PILOT) Agreement.⁷³ With the IRB and PILOT in place, Song Sparrow Solar stated that it will pay \$3.6 million total in annual payments to Ballard County over the 40 year life of the project consisting of \$120,000 for

⁶⁸ Application, Attachment G at 12.

⁶⁹ Application, Attachment G at 11.

⁷⁰ Song Sparrow Solar's Response to Staff's First Request for Information, Items 1-40.

⁷¹ Application, Attachment G at 13.

⁷² Application, Attachment G at 10.

⁷³ Application, Attachment G at 14–15 and Supplemental Response to Staff's First Request, Items 1–38.

the first 20 years, with \$16,000 going to School Districts and \$60,000 for the last 20 years, with \$8,000 going to School Districts.⁷⁴

BBC evaluated the economic impact of the project. The BBC Report agreed with the overall findings of the economic impact study but stated that additional information could have been provided that would have presented a more complete picture.⁷⁵ The BBC report noted that including the direct, indirect, and induced impacts from current land use would reduce the economic impact of the project, while including the potential induced economic benefits from the additional income received by the participating landowners would slightly increase the economic impact.⁷⁶ However, the BBC Report concluded that the net effect of the additional information would likely not have a material effect on the overall estimate.⁷⁷

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

Existence of Other Generating Facilities

Song Sparrow Solar indicated there are no existing facilities near the proposed site that generate electricity.⁷⁸ Song Sparrow Solar stated that the Project will interconnect with an existing Grahamville-to-Wickliffe 161 kV transmission line located in the southwest corner of the project site.⁷⁹

⁷⁴ Supplemental Response to Staff's First Request for Information, Items 1–38.

⁷⁵ BBC Report, Section B at 6.

⁷⁶ BBC Report, Section B at 6.

⁷⁷ BBC Report, Section B at 6

⁷⁸ Application at 12.

⁷⁹ Application at 4.

Local Planning and Zoning Requirements

Ballard County does not have planning and zoning.⁸⁰ However, Ballard County Fiscal Court has adopted a resolution governing setbacks for solar facilities.⁸¹ Song Sparrow Solar stated it will comply with the setback resolution and any other local ordinances that are applicable.⁸²

Impact on Transmission System

This project is located within the territory of LG&E/KU.⁸³ Song Sparrow Solar applied for interconnection with LG&E/KU.⁸⁴ A Feasibility Study, System Impact Study and a Facilities Study were completed.⁸⁵ The connecting transmission line will be approximately 200 feet in length and will be located entirely within the project's footprint.⁸⁶ According to the agreement, Song Sparrow Solar will be responsible for any costs associated with interconnection prior to LG&E/KU completing any of the upgrades.⁸⁷

Based upon the case record, the Siting Board finds that Song Sparrow Solar has satisfied the requirements of KRS 278.710(f) and that the additional load imposed upon the electricity transmission system by the generation of electricity at the Song Sparrow Solar facility will not adversely affect the reliability of service for retail customers of electric

⁸⁰ Song Sparrow Notice of Intent (filed July 28, 2023).

⁸¹ Application at 6.

⁸² Application at 6.

⁸³ Application at 14.

⁸⁴ Application at 14.

⁸⁵ Application at 14. See Application, Attachment G for the complete Feasibility Study, System Impact Study and Facilities Study.

⁸⁶ Application at unnumbered page 2.

⁸⁷ Application at 14.

utilities regulated by the Kentucky Public Service Commission. This finding is based upon Song Sparrow Solar's commitment to the interconnection process and protocols consistent with the requirements of KRS 278.212.

Song Sparrow Solar did not file a separate application for a nonregulated transmission line but is seeking a certificate of construction of a transmission line.⁸⁸ Song Sparrow Solar stated that the transmission line will be approximately 200 feet and will from the project's substation to a utility switchyard.⁸⁹ Based on the case record, the Siting Board finds Song Sparrow Solar is approved for a construction certificate for a transmission line. The transmission line is minimal in length and is contained within the Project's boundaries. The transmission line will have minimal effects on the scenic surroundings and Song Sparrow Solar has stated it will abide by the NESC in the construction and operation of the transmission line.

Compliance with Setback Requirements

Ballard County Fiscal Court has adopted a resolution addressing setbacks.⁹⁰ Therefore, Song Sparrow Solar did not request a deviation from the statutory setback requirements described in KRS 278.704, for the Project. KRS 278.706(2)(e) requires that all proposed structures or facilities used for generation of electricity must be 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility. KRS 278.700(6) defines "residential neighborhood" as a populated area of five or more acres containing at least one residential structure per acre. This Project will not be within

⁸⁸ Application, 0_-_Song_Sparrow_Pleading.pdf at 2.

⁸⁹ Application, 0_-_Song_Sparrow_Pleading.pdf at 2.

⁹⁰ Application, Attachment C.

2,000 feet from any residential neighborhood, school, hospital, or nursing home facility thus 278.706(2)(e) does not apply.

Ballard County Resolution 2023-04-18-01 provides the setback requirements: 250 feet away from residence of a non-participating landowners; 250 feet away from any church, school, business, or park; 50 feet away and 25 feet away from centerline of primary and secondary roadways; and 100 feet from adjoining property lines.⁹¹ The resolution provides that if a property line is shared by two or more participating landowners the setbacks are not required.⁹² Song Sparrow Solar committed to the setbacks established in the Ballard County resolution.⁹³ Nevertheless, in consideration the Siting Board finds that Song Sparrow shall not place solar panels or string inverters if used, closer than 300 feet from a residence. The Siting Board approves a distance of 300 feet between any solar panel or string inverter and any residential neighborhood, church, or school; 100 feet from non-participating adjoining parcels; and 100 feet from any exterior property line. Song Sparrow shall not place a central inverter, and if used energy storage systems, closer than 450 feet from a residence, church, or school. Exceptions to these setbacks requirements for participating landowners are included in Appendix A, mitigation measure 18.

History of Environmental Compliance

In the application, Song Sparrow Solar stated that neither it, nor anyone with an ownership interest in it, has violated any environmental laws, rules or administrative

⁹¹ Application, Attachment C.

⁹² Application, Attachment C.

⁹³ Application at 6.

regulations that resulted in criminal confiscation, or a fine greater than \$5,000.⁹⁴ Further Song Sparrow Solar is not the subject of any pending judicial or administrative actions.⁹⁵

Transfer of Ownership

Solar developments are often sold to other companies during the planning, construction, and operation of projects. When a construction certificate for a solar facility is sought, the project and the developers are thoroughly evaluated to ensure that the project will comply with all statutory and regulatory requirements. After review, the construction certificate is conditionally granted on the condition of full compliance with all mitigation measures, some of which continue into the operation of the project. As noted, in the preceding section, the Siting Board not only reviews the history and abilities of the person⁹⁶ seeking the certificate, but also the entities that have an ownership interest in the Project.

Here, Song Sparrow Solar has no resources or employees of its own, and instead depends on the resources and employees of affiliates or entities with an ownership interest in it. Clearway Energy Group LLC (Clearwater Energy) will employ the persons responsible for compliance with the construction certificate during construction and the persons responsible for the continued compliance during operations.⁹⁷ Without Clearway Energy, Song Sparrow Solar would not have the managerial, technical, or financial

⁹⁴ Application at 16.

⁹⁵ Application at 12.

⁹⁶ KRS 278.700(3) defines a person as any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity.

⁹⁷ Song Sparrows Solar's Response to Staff's Post-Hearing Request, Item 9.

capability necessary to construct or operate the facility, nor to comply with the conditions required herein. As such, the Siting Board will require approval of the transfer of ownership or control of Song Sparrow Solar, the person seeking and being granted, with conditions, the construction certificate in this matter. Without knowledge of who is providing the resources and employees to Song Sparrow Solar to ensure ongoing compliance with the measures required herein, there is no way to ensure the requirements are adhered to throughout the life of the Project. To be clear, this condition does not apply to the actual transfer of the facility, but rather the transfer of ownership or control of the person holding the certificate to construct. The measures related to the transfer of ownership or control of the person holding the construction certificate are set forth more fully in Appendix A, specifically mitigation measure 28.

Decommissioning

Song Sparrow Solar submitted a decommissioning plan with the application.⁹⁸ The decommissioning plan and the applicable property leases contain covenants to remove all underground components.⁹⁹ Song Sparrow Solar indicated it will secure a bond to assure financial performance of the decommissioning obligation.¹⁰⁰

The Siting Board finds that Song Sparrow Solar must return the land to its original use, to the extent possible, at the end of the Project's life. Returning the land back to its original state and use after decades of operation is an important part of the Siting Board's finding regarding the impact of the facilities on scenic surroundings, property values, and

⁹⁸ Application, Attachment H.

⁹⁹ Application, Attachment H at 2–3 and Song Sparrow's Response to Staff's First Request, Item 1.

¹⁰⁰ Application, Exhibit I at 12.

the economy. The relatively “temporary” nature of the facilities compared to other types of more permanent development, such as thermal merchant generation facilities, industrial operations, or housing, is a prime consideration of the Siting Board in granting a certificate, with conditions, in this matter. An inability or unwillingness to return the land back to its prior state after the life of the facility, including leaving underground facilities in excess of three feet, increases the permanence of the facility. As such, the Siting Board requires the removal of all components above and below ground. Removal of all underground components and regrading or recompacting the soil for agricultural use will mitigate any damage to the land, thus returning the land to a state that provides at least as great of an economic impact as it does today. The Siting Board will also require additional mitigation measures related to decommissioning, which are outlined in Appendix A to this Order, specifically mitigation measures 29 through 32.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Song Sparrow Solar has presented sufficient evidence to support the issuance of a construction certificate to construct the proposed merchant solar facility and nonregulated electric transmission line. The Siting Board conditions its approval upon full implementing all mitigation measures and other requirements described herein and listed in Appendix A to the Order. A map showing the proposed transmission line is attached to this Order as Appendix B.

IT IS THEREFORE ORDERED that:

1. Song Sparrow Solar’s application for a construction certificate to construct an approximately 104 MW merchant solar electric generating facility in Ballard County,

Kentucky, and an approximately 200-foot nonregulated electric transmission line in Ballard County is conditionally granted subject to full compliance with the mitigation measures and conditions prescribed in Appendix A to this Order.

2. Song Sparrow Solar shall fully comply with the mitigation measures and conditions prescribed in Appendix A to this Order.

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

4. This case is closed and removed from the Siting Board's docket.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING



Chairman, Public Service Commission

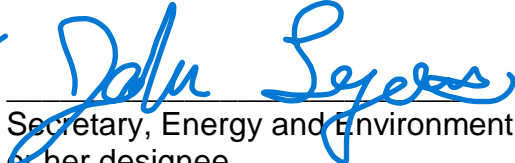


Vice Chairman, Public Service Commission

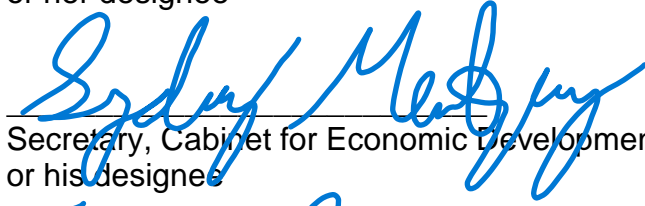


Commissioner, Public Service Commission

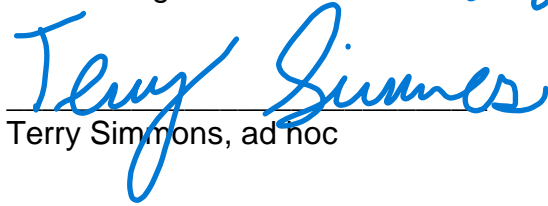
by KTC
w/permission



Secretary, Energy and Environment Cabinet,
or her designee



Secretary, Cabinet for Economic Development,
or his designee

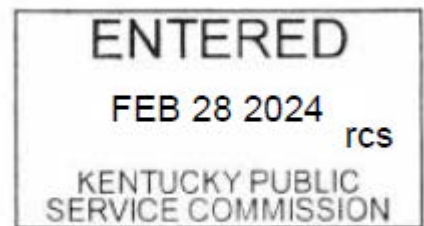


Terry Simmons, ad hoc

ATTEST:



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



APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2023-00256 DATED FEB 28 2024

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Song Sparrow Solar, LLC (Song Sparrow 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 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, transmission line route, 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.

4. Song Sparrow Solar shall provide the date construction will commence to the Siting Board and the Kentucky Energy and Environment Cabinet (EEC) 30 days prior to that date.

5. Song Sparrow Solar shall comply with all requirements in KRS 278.710 for monitoring by EEC.

6. Prior to construction, Song Sparrow Solar shall provide a finalized Emergency Response Plan to the local fire district, first responders, and any County Emergency Management Agency. Song Sparrow Solar shall provide site specific training

for local emergency responders at their request. Access for fire and emergency units shall be set up after consultation with local authorities.

7. Song Sparrow Solar 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.

8. Song Sparrow Solar access control strategy shall also include appropriate signage to warn potential trespassers. Song Sparrow Solar must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

9. The security fence must be installed prior to activation of any electrical installation work in accordance with NESC standards. The substation shall have its own separate security fence and locked access installed in accordance with NESC standards.

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

11. Song Sparrow Solar shall implement planting of native evergreen species as a visual buffer to mitigate visual viewshed impacts, in areas where those viewshed impacts occur from residences or roadways directly adjacent to the Project and there is not adequate existing vegetation. If it is not adequate, then vegetation ten feet thick reaching six feet at maturity (in four years) will be added by Song Sparrow Solar 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. Planting of vegetative buffers may be done over the construction period; however, Song Sparrow Solar should prioritize vegetative planting at all periods of construction to reduce viewshed impacts. All planting shall be done prior to the operation of the facility.

12. Song Sparrow Solar shall cultivate at least two acres of native, pollinator friendly species on-site.

13. Song Sparrow Solar shall carry out visual screening consistent with the plan proposed in its application, SAR, and the maps included, and ensure that the proposed new vegetative buffers are successfully established and developed as expected over time. Should vegetation used as buffers die over time, Song Sparrow Solar shall replace plantings, as necessary.

14. To the extent that an affected adjacent property owner indicates to Song Sparrow Solar that a visual buffer is not necessary, Song Sparrow Solar will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

15. Song Sparrow Solar is required to limit construction activity, process, and deliveries to the hours between 8 a.m. and 6 p.m. local time, Monday through Saturday. The Siting Board directs that construction activities that create a higher level of noise, such as pile-driving, will be limited to 9 a.m. to 5 p.m. local time, Monday through Friday. Non-noise-causing and non-construction activities can take place on the site between 7 a.m. and 10 p.m. local time, Monday through Sunday, including field visits, arrival, departure, planning, meetings, mowing, surveying, etc.

16. If the pile-driving activity occurs within 1,000 feet of a noise-sensitive receptor, Song Sparrow 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). Song Sparrow Solar can forego using noise suppression measures if it employs a panel installation method that does not use pile driving, so long as that method does not create noise levels similar to pile driving.

17. Song Sparrow Solar shall notify residents and businesses within 2,400 feet of the project boundary about the construction plan, the noise potential, any mitigation plans, and its Complaint Resolution Program referred to in Item 33 of this Appendix, at least one month prior to the start of construction.

18. Song Sparrow shall place panels, inverters and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans. The Siting Board finds that Song Sparrow shall not place solar panels or string inverters if used, closer than 300 feet from a residence. The Siting Board approves a distance of 300 feet between any solar panel or string inverter and any residential neighborhood, church, or school, 100 feet from non-participating adjoining parcels, 100 feet from any exterior property line. Song Sparrow shall not place a central inverter, and if used energy storage systems, closer than 450 feet from a residence, church, or school. These further 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 of the setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to the commencement of the project.

19. Song Sparrow Solar shall fix or pay for repairs for damage to roads and bridges resulting from any vehicle transport to the site. For damage resulting from vehicle transport in accordance with all permits, those permits will control.

20. Song Sparrow Solar shall comply with all laws and regulations regarding the use of roadways.

21. Song Sparrow 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 traffic delays during AM and PM peak hours.

22. Song Sparrow Solar shall consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

23. Song Sparrow Solar shall consult with the Ballard County Road Department (BCRD) regarding truck and other construction traffic and obtain any necessary permits from the BCRD.

24. Song Sparrow Solar shall develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

25. Song Sparrow Solar shall comply with any road use agreement executed with BCRD. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

26. Song Sparrow Solar shall develop and implement a traffic management plan to minimize the impact on traffic flow and keep traffic safe. Any such traffic management

plan shall also identify any traffic-related noise concerns during the construction phase and develop measures that would address those noise concerns.

27. Song Sparrow Solar shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including the use of water trucks. Dust impacts shall be kept at a minimal level. The Siting Board requires Song Sparrow Solar's compliance with 401 KAR 63:010.

28. If any person as defined by KRS 278.700(3) shall acquire or transfer ownership of, or control, or the right to control Song Sparrow Solar, by sale of assets, transfer of stock, or otherwise, or abandon the same, Song Sparrow Solar or its successors or assigns shall request explicit approval from the Siting Board with notice of the request provided to the Ballard County Fiscal Court. In any application requesting such abandonment, sale, or change of control, Song Sparrow Solar and any proposed entity with an ownership interest in Song Sparrow Solar shall certify its compliance with KRS 278.710(1)(i).

29. Song Sparrow did file a decommissioning plan with the Siting Board. If this decommissioning plan should change Song Sparrow shall comply with the Energy and Environment Cabinet pursuant to KRS 278.710(9).

30. As applicable to individual lease agreements, Song Sparrow 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.

31. Song Sparrow Solar or its assigns shall provide notice to the Siting Board, if, during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Song Sparrow Solar shall commit to removing the debris and replaced facility components

from the Project site and from Ballard County upon replacement. If the replaced components are properly disposed of at a permitted facility, they do not have to be physically removed from Ballard County. However, if the replaced facility components remain in the County, Song Sparrow Solar must inform the Siting Board of the location where the components are being disposed.

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

33. Song Sparrow Solar shall initiate and maintain the Complaint Resolution Program provided to the Siting Board in the case record to address any complaints from community members. Song Sparrow Solar shall also submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Song Sparrow addressed those complaints, and the ultimate resolution of those complaints identifying whether the resolution was to the complainant's satisfaction.

34. Song Sparrow Solar shall provide the Ballard County Judge Executive contact information for individuals within the company that can be contacted with concerns. This shall include contact information for the general public to reach individuals that can address their concerns. Song Sparrow Solar shall update this contact information yearly, or within 30 days of any change in contact information.

35. Within 30 days of entry, Song Sparrow Solar shall send a copy of this Order to all the adjoining landowners who previously were required to receive notice of this Project.

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00256 DATED FEB 28 2024

ONE PAGE TO FOLLOW

RE VAMP

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428 EHS
Oakhurst, CA 94821
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ENGINEER'S STAMP

PRELIMINARY - NOT FOR CONSTRUCTION



SONG SPARROW SOLAR
PROJECT NAME
SRT LOCATION
BALLARD COUNTY, KY
37.017164° -88.912536°

DRAWING ISSUE
1. 05/17/2023
100% TOTAL
2. SUPPLEMENT

REVISION ISSUE

DRAWN BY: S. CHECKED BY: T.
PROJECT NO.: 21007
DRAWING TITLE
OVERALL SITE PLAN

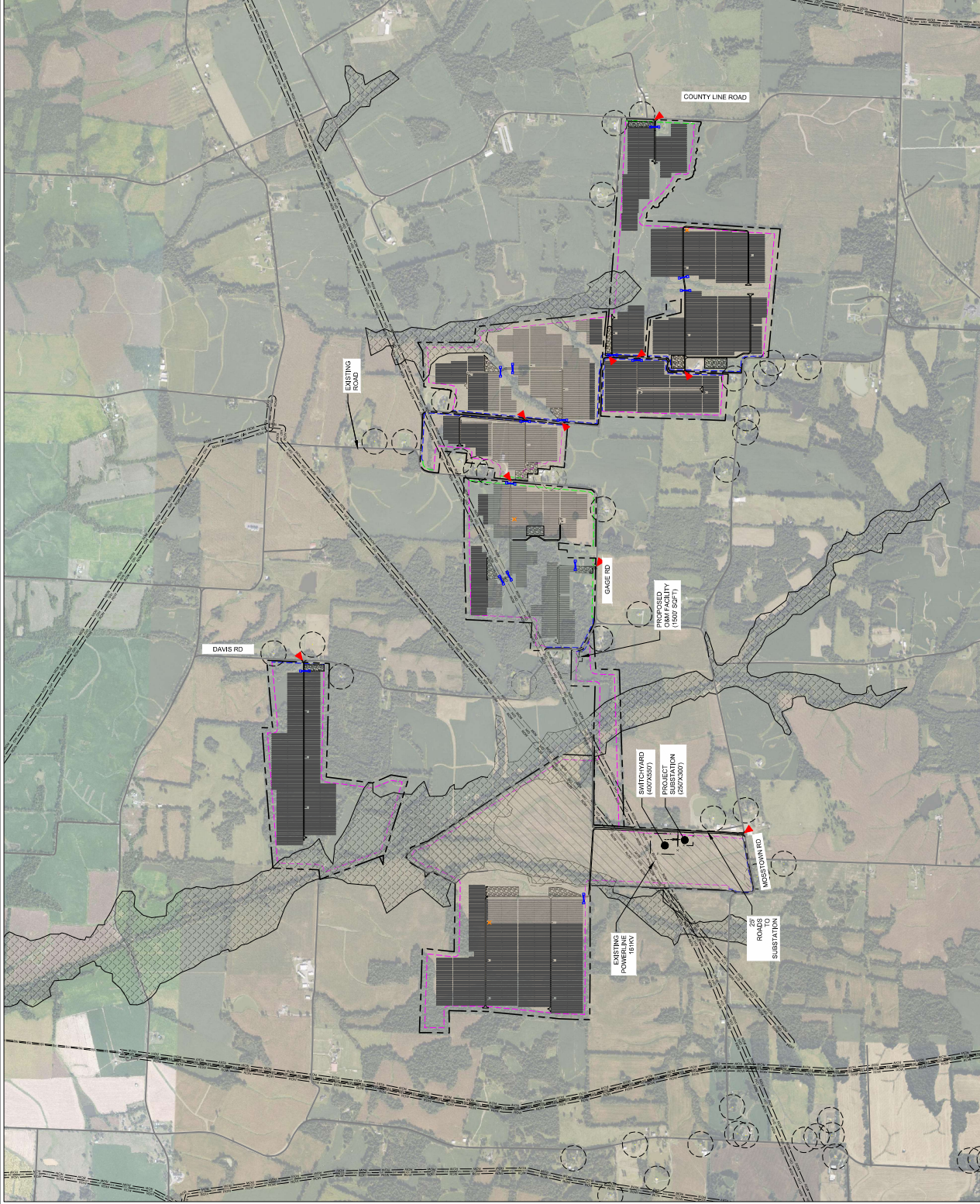
DRAWING NUMBER
C102

- SHEET NOTES:**
- LOCATIONS SHOWN ARE FOR GENERAL GUIDANCE ONLY. SLOPES OF THE SITE ARE NOT DERIVED AND LOCATIONS MUST BE VERIFIED BY THE ENGINEER.
 - FINAL STAKING SHALL BE OBTAINED BY ENGINEER-OF-RECORD. CROSSING LOCATIONS INDICATE APPROXIMATE ROAD AND DC LOCATIONS. THE ENGINEER'S SIGNATURE AND SEAL ON THESE ARE TIED AFTER ANY COLLECTION LAYOUT. ALL CROSSINGS TO BE FINALIZED BY ENGINEER OF RECORD.
 - SITE IS IN FUTURE ROAD RIGHT-OF-WAY.

- LEGEND**
- PROPERTY LINE
 - FENCE LINE
 - PROPOSED ROAD
 - EXISTING ROAD
 - EXISTING OVERHEAD ELECTRICAL
 - PROPOSED OVERHEAD ELECTRICAL
 - GAS LINE
 - SETBACK
 - 25' SECONDARY ROAD SETBACK
 - 50' PRIMARY ROAD SETBACK
 - 100' NON-PARTICIPATING LANDOWNER PROPERTY LINE SETBACK
 - RIGHT OF WAY
 - EXCLUSION AREA
 - FEMA FLOOD ZONE A
 - GATE
 - CONSTRUCTION AND OPERATION ENTRANCES
 - METEOROLOGICAL STATION
 - LAYDOWN AREA



100% - SONG SPARROW SOLAR - BALLARD COUNTY, KY - 05/17/2023



1 - OVERALL SITE LAYOUT
1" = 500'
0' 100' 200'

05/17/2023 10:52 AM

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Ballard County Courthouse Annex
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Wickliffe, KENTUCKY 42087

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