

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION  
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN	)	
BOBWHITE SOLAR, LLC FOR A CERTIFICATE	)	
OF CONSTRUCTION FOR AN	)	
APPROXIMATELY 96 MEGAWATT	)	CASE NO.
MERCHANT SOLAR ELECTRIC GENERATING	)	2020-00208
FACILITY IN MARION COUNTY, KENTUCKY	)	
PURSUANT TO KRS 278.700 AND 807 KAR	)	
5:110	)	

ORDER

On July 8, 2021, Northern Bobwhite Solar LLC (Northern Bobwhite) filed a motion requesting clarification of the Siting Board's June 18, 2021 Order that conditionally approved a certificate to construct an approximately 96-megawatt (MW) merchant solar electric generation facility (Project), subject to full compliance with the conditions prescribed in the June 18, 2021 Order. Northern Bobwhite requested clarification of 19 conditions and mitigation measures in four general areas, described below. On July 19, 2021, the Siting Board entered a *nunc pro tunc* that addressed and resolved some of the issues for which Northern Bobwhite requested clarification.

DISCUSSION AND FINDINGS

Timing of Construction Activities

Northern Bobwhite seeks clarification of contradictory time limits for construction activities. Mitigation Measures 23, 29, and 32 in the June 18, 2021 Order allow construction activities to occur only between 8:00 a.m. and 6:00 p.m., Monday through

Saturday, and allow pile-driving activities within 1,000 feet of non-participating homes to occur only between 9:00 a.m. to 5:00 p.m., Monday through Saturday. However, Mitigation Measure 36 states that construction activities will only occur between the 7:00 a.m. and 10:00 p.m. In addition to clarification of the time limits, Northern Bobwhite also asks that the Siting Board define “constructions activities” and whether the time limits regarding construction activities are limited to only noise-causing construction or whether they can have pre-shift meetings and other activities that produce no noise outside those hours.

Based upon the motion and June 18, 2021 Order, and being otherwise sufficiently advised, the Siting Board clarifies that non-noise-causing and non-construction activities can take place on the site between 7:00 a.m. and 10:00 p.m., Monday through Sunday, including field visits, arrival, departure, planning meetings, mowing, surveying, etc. The Siting Board further clarifies that construction activity, which includes process and deliveries, may only take place between 8:00 a.m. and 6:00 p.m., Monday through Saturday. Based on Northern Bobwhite’s own proposal, the Siting Board finds that pile-driving activities within 1,000 feet of non-participating homes should be limited to 9:00 a.m. to 5:00 p.m., Monday through Saturday. Finally, the Siting Board finds that Mitigation Measure 36, which is a condition proposed by Northern Bobwhite, was inadvertently included in the June 18, 2021, and that it should be stricken.

#### Setbacks of Project Components

Northern Bobwhite asks for clarification regarding conflicting setback requirements for project components. Mitigation Measure 35 established a 450-foot setback for central inverters, which conflicts with the 300-foot setback for central inverters and energy

storage systems established in Mitigation Measure 36. Additionally, because Northern Bobwhite did not reference “energy storage systems” in its application, Northern Bobwhite requests that all references to energy storage systems be removed from the conditions and mitigation measures specified in the June 18, 2021 Order.

Based upon the motion and the June 18, 2021 Order, the Siting Board finds that the June 18, 2021 Order should be clarified to reflect that Mitigation Measure 35 contains the correct setback provisions, with central inverters no closer than 450 feet to a noise receptor. As stated above, Mitigation Measure 36, which is a condition proposed by Northern Bobwhite, was inadvertently included in the June 18, 2021 Order and should be stricken. Because the references to energy storage systems are contained in Mitigation Measure 36, which will be stricken, that term will be removed as a result of Mitigation Measure 36 being stricken from the June 18, 2021 Order.

#### Decommissioning Obligations

Northern Bobwhite asks for clarification regarding decommissioning obligations established in Mitigation Measures 43 and 45. Northern Bobwhite requests clarification regarding the requirement in Measure 43 that it remove all facility components from Marion County at the cessation of operations, and whether that this requirement prohibits Northern Bobwhite from disposing project components at legal landfills within Marion County, with scrap metal recyclers within the county, or with other legal means of disposing of facility components within Marion County. Northern Bobwhite requests clarification of Mitigation Measure 45 regarding the bond Northern Bobwhite is required to file, specifically with whom or to what entity with which it must file the bond.

Based upon the motion and the June 18, 2021 Order, the Siting Board finds that the June 18, 2021 Order should be clarified that as long as the facility components are properly disposed of, they do not have to be physically removed from Marion County. Regarding the bond Northern Bobwhite is required to file, as envisioned by the template decommissioning plan attached as Exhibit D to the leases provided in Northern Bobwhite's responses to Staff's First Request for Information,<sup>1</sup> the bond should be filed with the County Treasurer or with a bank, title company or financial institution reasonably acceptable to the county. That acceptance can be evidenced by a letter from the Marion Judge Executive, the Marion Fiscal Court, or the Marion County Attorney.

#### Corrections to the June 18, 2021 Order

Northern Bobwhite notes that Mitigation Measure 34 references "Unbridled," which is a different merchant solar electric generating facility. The Siting Board acknowledges the inadvertent error and finds that the term "Unbridled" should be stricken from Mitigation Measure 34 and replaced with "Northern Bobwhite."

Next, Northern Bobwhite contended that five pairs of mitigation measures are duplicative, and requests that the following be consolidated from ten conditions into five conditions: (1) Mitigation Measures 9 and 14; (2) Mitigation Measures 11 and 15; (3) Mitigation Measures 21 and 26; (4) Mitigation Measures 27 and 30; and (5) Mitigation Measures 28 and 31. The Siting Board first notes that, in the July 19, 2021 *nunc pro tunc* Order, the Siting Board struck Mitigation Measures 9 and 11. Upon review of the motion and the June 18, 2021 Order, the Siting Board concurs that Mitigation Measures 21 and

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<sup>1</sup> Exhibit K, Responses to Board Staff and Harvey Economics First Set of Data Requests at 38.

26, 27 and 30, and 28 and 31 contain duplicative provisions, and that Mitigation Measures 21, 30, and 31 should be stricken from the June 18, 2021 Order.

Ad hoc appointees to the Siting Board, Judge Executive David Daugherty and Ms. Connie Rakes, did not participate in the decision of this Order.

IT IS THEREFORE ORDERED that:

1. Northern Bobwhite's motion for clarification is granted in part and denied in part.

2. Northern Bobwhite's motion for clarification of Mitigation Measures 23, 29, and 32 is granted. Non-noise-causing and non-construction activities shall take place on the site between 7:00 a.m. and 10:00 p.m. Monday through Sunday. Construction activities, which includes process and deliveries, shall only take place from 8:00 a.m. to 6:00 p.m., Monday through Saturday, and pile-driving activities within 1,000 feet of non-participating homes shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Saturday.

3. Northern Bobwhite's motion for clarification of Mitigation Measures 35 and 36 is granted. Mitigation Measure 36 on page 7 of Appendix A is stricken from the June 18, 2021 Order. The setback provisions in Mitigation Measure 35 shall remain in full force and effect.

4. Northern Bobwhite's motion for clarification of Mitigation Measure 43 is granted. Mitigation Measure 43 is stricken from Appendix A to the June 18, 2021 Order and replaced with the following:

The Applicant should develop an explicit decommissioning plan. This plan should commit the Application to removing all facility components from the Site at the cessation of operations. Facility components may remain in Marion County at the cessation of facility operations as long as they are properly disposed of through legal means.

5. Northern Bobwhite's motion for clarification of Mitigation Measure 45 is granted. The bond shall be filed with the Marion County Treasurer or with a bank, title company or financial institution reasonably acceptable to the County. Acceptance of the bond shall be evidenced by a letter from the Marion County Judge Executive, the Marion Fiscal Court, or the Marion County Attorney.

6. Northern Bobwhite's motion for clarification of Mitigation Measure 34 is granted. The reference to "Unbridled" in Mitigation Measure 34 of on page 6 of Appendix A to the June 18, 2021 Order is stricken and is replaced with "Northern Bobwhite".

7. Northern Bobwhite's motion for clarification of Mitigation Measures 21, 30, and 31 is granted. Mitigation Measure 21 on page 4 of Appendix A to the June 18, 2021 Order, Mitigation Measure 30 on page 5 of Appendix A to the June 18, 2021 Order, and Mitigation Measure 31 on page 6 of Appendix A to the June 18, 2021 Order are all stricken from the June 18, 2021 Order.

8. Northern Bobwhite's motion for clarification of Mitigation Measures 9 and 11 are denied as moot.

9. All other provisions of the Siting Board's June 18, 2021 Order that are not in conflict with the terms of this Order shall remain in effect.

By the Kentucky State Board on Electric  
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Bidwell". 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. 2020-00208

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