

**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) | |
| 80 MEGAWATT MERCHANT ELECTRIC) | Case No. 2020-00370 |
| SOLAR GENERATING FACILITY IN FLEMING) | |
| COUNTY, KENTUCKY PURSUANT TO) | |
| KRS 278.700 AND 807 KAR 5:110) | |

**FLEMING SOLAR, LLC'S
RESPONSE TO CONSULTANT'S REPORT**

Fleming Solar, LLC (“Fleming Solar”) provides the following response to Harvey Economics’ “Review and Evaluation of the Fleming Solar, LLC Site Assessment Report” (“Report”) filed by the Kentucky State Board on Electric Generation and Transmission Siting (“Siting Board”) on August 31, 2021. Fleming Solar appreciates the thorough review and detailed discussion included in the Report and supports the conclusions and recommendations included therein with minor clarifications. Fleming Solar respectfully responds to the Report and proposes clarifications to Harvey Economics’ mitigation recommendations as described below.

I. General Response

In addition to the comments on Harvey Economics’ proposed mitigation measures described below, Fleming Solar provides the following comments on the Report. Fleming Solar believes that the additional context provided in these comments will be helpful.

- On Page II-5 of the Report, Harvey Economics notes that Fleming Solar’s “public meetings were not well attended, and public awareness of the Project is limited.” While interest in attending public meetings may be limited, Fleming Solar has taken steps to

ensure that public awareness of the Project is not. First, Fleming Solar complied with all statutory notice and Board requirements for the public meetings. Additionally, Fleming Solar advertised its community picnic and sent invitations to all landowners within 2,400 feet of the Project Boundary. Finally, since November 2020, the Fleming Solar website has been viewed by 452 visitors from the Commonwealth of Kentucky and over 100 visitors from Flemingsburg.

- On Page V-1 of the Report, Harvey Economics notes that it is including a discussion of the potential cumulative impacts of constructing the Project in the vicinity of AEUG Fleming's proposed solar project. In order to provide context, Fleming Solar has prepared a map showing the relative locations of the two projects. This map is included as Exhibit A. This map shows the limited number of parcels in the area where the projects are the closest that are not also participating parcels in either project.
- On Page V-26 of the Report, Harvey Economics notes that the pile driver can be heard for more than a mile away. This presumably is based on the noise levels identified in Exhibit 5.5. Importantly, the noise levels identified in Exhibit 5.5 are a conservative estimate that does not account for any on the ground mitigation such as might result from atmospheric conditions, existing vegetation, line of sight obstructions, or the curvature of the earth. These mitigation effects would result in lower noise levels.
- Also on Page V-26 of the Report, Harvey Economics claims that there "will be some potential for noticeable cumulative noise effects in specific locations along KY 559." This conclusion, without reference to which locations along KY 559 may experience noticeable effects, is inconsistent with the analysis provided by Fleming Solar on the cumulative operational impacts of the Project. In the Site Assessment Report, Fleming

Solar determined that the cumulative noise impact during Project operation would be less than the average human ear's sensitivity to sound level changes.¹ Because the operational impacts of the Project will not be noticeable at the residences that neighbor the Project, the cumulative impacts of noise sources that are further away would similarly not be noticeable.

- On Page V-35 of the Report, Harvey Economics notes that KY 559 and KY 1200 are “paved, and in average condition, but are narrow.” Harvey Economics’ description of KY 559 and KY 1200 in the vicinity of the Project is inconsistent with pavement condition status reported by the Kentucky Department of Transportation which describes the pavement condition on both roads as poor.²
- In Exhibits 5-13 and 5-14 of the Report, Harvey Economics describes the increases in Average Daily and Peak Hour Traffic Volumes for Roads Surrounding the Project. These exhibits, however, overestimate in some cases and in other cases underestimate the traffic impacts. In Table 10 of the Traffic Study included as Appendix C of the Site Assessment Report, the vehicle traffic to the Project entrances was split between the Main Entrance on KY 559 and the North Entrance on KY 11. The Traffic Study identified average daily traffic to the Main Entrance as 50 vehicles and the average peak hour traffic for the Main Entrance as 20 vehicles. The Traffic Study showed 45 vehicles for the average daily traffic to the North Entrance and average peak hour as 10 vehicles. Exhibits 5-13 and 5-14 of the Report show numbers for the North Entrance that reflect the combined totals for both entrances instead of the 45 average daily and 10 average peak hour numbers. It is also important to note that Table 10 of the Traffic

¹ Site Assessment Report, Appendix C, at 9.

² See <https://maps.kytc.ky.gov/pavementconditions/> accessed on September 12, 2021.

Study does not have a total because some vehicles will be shared between the two sites. When the portion of the site accessed from the North Entrance is in operation, the same shuttles are anticipated to stop at both sites. Likewise, on-site vehicles are anticipated to go from the Main Entrance to the North Entrance and back and are not separate vehicles. Adding total volumes together for both entrances double counts these shuttles and on-site vehicles.

- Additionally, Exhibits 5-13 and 5-14 do not account for the distribution of vehicles as presented in the Figure 5 and Table 6 to the Traffic Study. Below are updated versions of Exhibits 5-13 and 5-14 that account for the split between the Main and North Entrances and the distribution of vehicles described in the Traffic Study. Because the average and maximum peak hour trips per minute are much smaller numbers, the comparison of these values has been added in a new table. Finally, a new table has been added to show trips along KY 559 to the Main Entrance along with the average and maximum daily and peak hour traffic volume increase. These tables show that during the Project maximum peak hour, an average of just over one vehicle a minute is anticipated.

Exhibit 15-13

Increases in Average and Maximum Daily Traffic Volumes for External Roads Surrounding the Fleming Solar Project Site

| Station ID | Roadway | Average Daily Baseline Traffic | Average Daily Project Traffic | % Change in Traffic Volume | Max Daily Project Traffic | % Change in Traffic Volume |
|------------|----------|--------------------------------|-------------------------------|----------------------------|---------------------------|----------------------------|
| 35770 | KY 559 | 147 | 1 | 1% | 3 | 2% |
| 35010 | KY 559 | 717 | 98 | 14% | 264 | 37% |
| 35056 | KY 559 | 1,200 | 7 | 1% | 17 | 1% |
| 35767 | KY 1200 | 361 | 2 | 1% | 6 | 2% |
| 35058 | KY 11 | 6,006 | 45 | 1% | 119 | 2% |
| 35096 | KY 11 | 7,528 | 92 | 1% | 231 | 3% |
| 35A43 | KY 11/57 | 6,914 | 42 | 1% | 110 | 2% |
| 35094 | KY 11/57 | 6,953 | 96 | 1% | 243 | 3% |
| 35102 | KY 57 | 2,147 | 13 | 1% | 35 | 2% |

Exhibit 15-14a

Increases in Peak Hour Traffic Volumes for External Roads Surrounding the Fleming Solar Project Site

| Station ID | Roadway | Peak Hour Baseline Traffic Volume | Average Peak Hour Project Traffic | % Change in Traffic Volume | Max Peak Hour Project Traffic | % Change in Traffic Volume |
|------------|----------|-----------------------------------|-----------------------------------|----------------------------|-------------------------------|----------------------------|
| 35770 | KY 559 | 18 | 1 | 6% | 1 | 6% |
| 35010 | KY 559 | 87 | 24 | 28% | 67 | 77% |
| 35056 | KY 559 | 182 | 1 | 1% | 5 | 3% |
| 35767 | KY 1200 | 47 | 1 | 2% | 1 | 2% |
| 35058 | KY 11 | 631 | 11 | 2% | 30 | 5% |
| 35096 | KY 11 | 716 | 19 | 3% | 52 | 7% |
| 35A43 | KY 11/57 | 706 | 10 | 1% | 28 | 4% |
| 35094 | KY 11/57 | 668 | 21 | 3% | 57 | 9% |
| 35102 | KY 57 | 258 | 3 | 1% | 9 | 3% |

Exhibit 15-14b

Increases in Trips per Minute for External Roads Surrounding the Fleming Solar Project Site

| Station ID | Roadway | Peak Hour Baseline Traffic Per Minute | Average Combined Vehicles per Minute | Average Increase in Vehicles per Minute | Max Combined Vehicles per Minute | Max Increase in Vehicles per Minute |
|------------|----------|---------------------------------------|--------------------------------------|---|----------------------------------|-------------------------------------|
| 35770 | KY 559 | 0.3 | 0.3 | 0 | 0.3 | 0 |
| 35010 | KY 559 | 1 | 2 | 1 | 3 | 2 |
| 35056 | KY 559 | 3 | 3 | 0 | 3 | 0 |
| 35767 | KY 1200 | 1 | 1 | 0 | 1 | 0 |
| 35058 | KY 11 | 11 | 11 | 0 | 11 | 1 |
| 35096 | KY 11 | 12 | 12 | 0 | 13 | 1 |
| 35A43 | KY 11/57 | 12 | 12 | 0 | 12 | 0 |
| 35094 | KY 11/57 | 11 | 11 | 0 | 12 | 1 |
| 35102 | KY 57 | 4 | 4 | 0 | 4 | 0 |

Exhibit 15-14c

Increases in Daily Volume along KY 559 from KY 11/57 to the Fleming Solar Project Site

| Baseline Traffic Volume | Combined Average Traffic Volume with Project | Project Average Traffic Volume Increase | Combined Max Traffic Volume with Project | Project Max Traffic Volume Increase |
|-------------------------|--|---|--|-------------------------------------|
| 147 | 247 | 100 | 417 | 270 |

Exhibit 15-14d

Increases in Peak Hour Trips along KY 559 from KY 11/57 to the Fleming Solar Project Site

| Baseline Peak Hour Traffic Volume | Combined Average Peak Hour Traffic Volume with Project | Project Average Peak Hour Traffic Volume Increase | Project Average Peak Hour Traffic Volume Increase per Minute | Combined Max Peak Hour Traffic Volume with Project | Project Max Peak Hour Traffic Volume Increase | Project Max Peak Hour Traffic Volume Increase per Minute |
|-----------------------------------|--|---|--|--|---|--|
| 18 | 43 | 25 | 0.4 | 86 | 68 | 1.1 |

- On Page V-49 of the Report, Harvey Economics references that the Fleming County Property Valuation Administrator, Ms. Michele Butler, was “concerned that conflicting or incomplete information was being discussed in different venues; she feels there has not been enough communication between the Applicant and the County regarding details of the Project.” The Report was the first time Fleming Solar has been made aware of Ms. Butler’s concerns. Through its filings with the Board and on its website, Fleming Solar has provided accurate information regarding the Project to the public. Fleming Solar will reach out to Ms. Butler to better understand her concerns and attempt to resolve any misunderstandings.

II. Response to Mitigation Recommendations

As an initial matter, Fleming Solar notes that many of Harvey Economics’ mitigation recommendations proposed that Fleming Solar work with neighbors to resolve concerns that arise during the construction and operation of the Project. Fleming Solar supports this concept and that is why Fleming Solar will implement the Complaint Resolution Program identified in the Site Assessment Report and in response to Harvey Economics’ requests for information.³ The Complaint Resolution Program will be established prior to construction and remain in place during Project operation. The process includes the following in the event of a complaint:

- Fleming Solar will coordinate with the complainant to quickly and effectively address issues such that both parties are satisfied. Complaints will be logged and the construction manager will assign an appropriate on-site construction or development staff to investigate the complaint.
- Fleming Solar will determine if complaints violate federal, state, or local laws or permit conditions, and if there are notifications or required steps to address those violations. Fleming Solar will also determine if outside resources are necessary to address issues. Once a corrective action or response has been determined, Fleming Solar will contact

³ See, Fleming Solar’s Response to Harvey Economics’ First Request for Information IX.F.1.

the complainant by telephone or return mail to inform them of the proposed corrective action, if any.

- Fleming Solar is committed to resolving reasonable complaints within 30 days, unless extenuating circumstances necessitate a longer time period, or it is determined that the complaint is unresolvable. Fleming Solar will provide an explanation to the complainant for the extended period and the timeline for addressing the complaint should complaint resolution take longer than 30 days.
- Individuals who register a complaint with Fleming Solar will receive correspondence from Fleming Solar as soon as possible, but no later than three (3) business days after registering the complaint. The intent of the initial correspondence is to gather more information to better understand the complaint.
- Within 30 days of the complaint being logged, Fleming Solar will initiate reasonable action to resolve the legitimate interference or disturbance that is a direct result of the Project.
- The logbook will also document Fleming Solar's recommended resolution, the date agreement was reached on a proposed resolution, and the date when the proposed resolution was implemented. Fleming Solar personnel will generate a quarterly report based on the information recorded in the log book about the nature and resolution of all complaints received in that quarter, and file the report at the site office during construction.

This process provides a framework under which Fleming Solar can evaluate complaints and take commercially reasonable steps to address them. References to the Complaint Resolution Program in the comments below are to this process.

A. Site Development Plan:

Mitigation Recommendation:

A.3. The Siting Board will determine if 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.

Response:

Fleming Solar supports the concept of ensuring the as-built project does not result in negative impacts that exceed those identified in the Site Assessment Report, but clarifies that the studies submitted as part of the its application were based on the Potential Project Footprint located within

the Project Boundary. As noted in the application, the Potential Project Footprint represents the furthest extent that generating equipment will be located in the Project's final design within the Project Boundary and changes to the layout within the Potential Project Footprint should not be considered material changes in the project resulting in changes to impacts for adjoining neighbors. Additionally, Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, this condition be limited to those changes in the Project's final design that are outside of the Potential Project Footprint and result in increased noise or visual impacts.

Mitigation Recommendation:

A.5. The Siting Board will determine if 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.

Response:

Fleming Solar supports the concept of ensuring the final construction schedule and workforce estimates do not result in negative impacts that exceed those identified in the Site Assessment Report. However, Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, this condition be limited to those changes in the construction schedule or workforce estimate that result in traffic impacts that are of a higher magnitude than those identified in the Site Assessment Report.

B. Compatibility with scenic surroundings:

Mitigation Recommendation:

B.1. The Applicant will not remove any existing vegetation unless the existing vegetation needs to be removed for placement of solar panels.

Response:

Fleming Solar supports this recommendation, but clarifies that it may be necessary to remove existing vegetation for Project components other than the solar panels such as Project roads, fences, collection lines, and the substation. Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, this condition be revised to state that Fleming Solar will not remove existing vegetation except to the extent it must remove such vegetation for the construction and operation of Project components.

Mitigation Recommendation:

B.3. The Applicant will work with homeowners and business owners to address concerns related to the visual impact of the Project on its neighbors.

Response:

Fleming Solar supports this recommendation, but requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify this condition to require that Fleming Solar work in conjunction with neighboring landowners to address concerns pursuant to the Complaint Resolution Program.

Mitigation Recommendation:

B.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.

Response:

Fleming Solar supports this recommendation, but requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify this condition in two ways: (1) to limit the obligation to residences or other occupied structures

within 300 feet⁴ and (2) to require that Fleming Solar use best efforts to address concerns of affected landowners. Fleming Solar included a visual assessment with its application that showed how vegetative screening would be utilized to mitigate the visual impacts of the Project on neighboring landowners. The vegetative screening method identified in the Site Assessment Report is the best method for mitigating visual impacts of the Project.

Mitigation Recommendation:

B.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 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.

Response:

Fleming Solar supports the concept of ensuring the as-built project does not result in negative impacts that exceed those identified in the Site Assessment Report. As proposed by Fleming Solar in the Site Assessment Report, the proposed vegetative screening will be adapted in consultation with GAI (or another consultant with similar experience) using the same methodology as was used in the Site Assessment Report, if panel placement varies in final design varies from the layout utilized in the Site Assessment Report.

Mitigation Recommendation:

B.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.

⁴ Order, *In the Matter of Electronic Application of AEUG Fleming Solar, LLC for a Certificate of Construction for an Approximately 188 Megawatt Merchant Solar Electric Generating Facility in Fleming County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Appendix A at 2 (Condition #10) (Case No. 2020-00206) (Ky. P.S.C., May 24, 2021).

Response:

Fleming Solar submitted a Glare Hazard Study as part of its application. The Glare Hazard Study identified no potential for glare from the Project, including from all residences within 300 feet of the Project Boundary. To the extent that a condition relating to glare is included, Fleming Solar requests that the condition be modified to require that Fleming Solar work in good faith with homeowners to address glare impacts for any residents that experience verifiable red glare for more than 60 minutes in a year⁵ pursuant to the Complaint Resolution Program. Adjusting solar panel operations following construction completion would prevent Fleming Solar from receiving financing; however, Fleming Solar will implement changes to vegetative screening that mitigate the reported and verified glare.

Mitigation Recommendation:

B.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 (Old Convict Road).

Response:

Fleming Solar intends to coordinate with the developers of the AEUG Fleming Project to minimize impacts of the Project construction on non-participating landowners. Based on Fleming Solar's understanding, there are only four parcels along KY 559 (Old Convict Road) that would not be considered participating landowners in either project. Fleming Solar notes that obligations to coordinate should apply equally to Fleming Solar and AEUG Fleming. It is unclear from Harvey Economics' proposed mitigation measure what role the Siting Board would have in this

⁵ Order, *In the Matter of Electronic Application of Northern Bobwhite Solar LLC for a Certificate of Construction for an Approximately 96 Megawatt Merchant Solar Electric Generating Facility in Marion County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*, Appendix A at 3 (Condition #12) (Case No. 2020-00208) (Ky. P.S.C., June 18, 2021).

coordination; however, Fleming Solar intends to coordinate with local authorities through completion of construction activities.

C. Potential changes in property values and land use:

Mitigation Recommendation:

C.1. No unique mitigation measures are recommended related to potential impacts to property values or adjacent land uses because other mitigation can accomplish this. However, close coordination by the Applicant with concerned homeowners, especially those located along KY 559, regarding these mitigation measures should be initiated.

Response:

Fleming Solar agrees that no specific mitigation measures are necessary to avoid potential impacts on property values or additional land uses. Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify this condition to require that Fleming Solar work in conjunction with neighboring landowners to address concerns pursuant to the Complaint Resolution Program.

D. Peak and average noise levels:

Mitigation Recommendation:

D.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.

Response:

Fleming Solar supports this recommendation, but requests that any related mitigation measure require Fleming Solar to take *commercially reasonable steps* to mitigate any noise effects. Additionally, Fleming Solar requests that any mitigation measure reference 120 dBa at the property boundary instead of the undefined "unduly high or annoying" term included in Harvey Economics' recommendation. Fleming Solar will work with impacted residents, through its Complaint Resolution Program about any complaints related to noise levels to limit the effect of

pile-driving activities, but those activities are limited in duration as construction activity moves throughout the Project site and are required for Project construction.

Mitigation Recommendation:

D.5. The Applicant should limit the construction activity, process, and deliveries to the hours of 8:00 am to 6:00 pm, 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.

Response:

Fleming Solar supports this recommendation, but requests clarification that pre- and post-shift construction meetings, arrivals and departures from the site and other non-noise intensive activities to prepare for construction or the delivery of equipment may occur outside of the 8:00 am to 6:00 pm construction time window.

Mitigation Recommendations:

D.6. The Applicant and its contractors should establish and maintain a relationship with AEUG Fleming staff to minimize cumulative noise impacts and to discuss mitigation measures to reduce noise impacts.

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

Response:

Fleming Solar notes that the potential noise impacts (if any) from the projects would be limited to construction activities and, as described above, there will be no cumulative impacts to non-participating landowners from operation. Fleming Solar intends to coordinate with the developers of the AEUG Fleming Project and plans to exercise commercially reasonable efforts to minimize impacts of the Project construction on non-participating landowners. It is unclear from Harvey Economics' proposed mitigation measure what role the Siting Board would have in this

coordination; however, Fleming Solar intends to coordinate with local authorities through completion of construction activities.

E. Road and rail traffic, dust, and road degradation:

Mitigation Recommendations:

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

E.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.

E.3. The Applicant will consult with the Kentucky Transportation Cabinet regarding truck and other construction traffic and obtain necessary permits from the KYTC. The Applicant will consult with the Fleming County Road Department regarding truck and other construction traffic and obtain necessary permits from the FCRD.

E.4. 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.

E.5. The Applicant will comply with any road use agreement executed with the Fleming County Road Department. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits and bridge weight limits.

E.6. The Applicant should develop and follow a traffic management plan to minimize the impacts of any traffic increases and keep traffic and people safe.

E.7. The Applicant will comply with all laws and regulations regarding the use of roadways.

Response:

Harvey Economics' mitigation recommendations E.1 through E.7 require Fleming Solar to comply with the laws and regulations of governmental authorities with jurisdiction over Fleming Solar's proposed use of public roads. Fleming Solar will comply with all requirements of all applicable laws and regulations regarding the use of public roads and will obtain and comply with the terms of all permits necessary for such use. Fleming Solar requests that recommendations E.1 through

E.6 not be included as mitigation measures to avoid the potential for conflicts between the mitigation measures required by the Siting Board and the requirements of applicable laws and regulations regarding the use of public roads.

Mitigation Recommendations:

E.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.

E.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).

Response:

Fleming Solar intends to coordinate with the developers of the AEUG Fleming Project and plans to exercise commercially reasonable efforts to minimize impacts of Project construction. Fleming Solar notes that it will comply with all requirements of all applicable laws and regulations regarding the use of public roads and will obtain and comply with the terms of all permits necessary for such use. It is unclear from Harvey Economics' proposed mitigation measure what role the Siting Board would have in this coordination; however, Fleming Solar intends to coordinate with local officials during the construction of the facilities

G. Decommissioning:

Mitigation Recommendation:

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

Response:

Fleming Solar supports the requirement to decommission the Project and remove all Project components at the end of the Project's operational life. Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify this condition to read:

The Applicant, its successors, or assigns shall decommission the entire site if the Project ceases producing electricity for a period of more than twelve (12) months without starting repairs of any failures causing such production outage, Applicant will provide formal written notification to the Siting Board addressing the specific reasons for the delay in resuming production. This notice will identify the anticipated timeframe within which the Project will resume production or the decommissioning process will be complete. Decommissioning shall involve the removal of all solar panels, racking, and equipment including concrete pads and trenched electrical wiring.

Mitigation Recommendation:

G.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.

Response:

Fleming Solar supports the recommendation to provide a decommissioning bond but requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify this condition to ensure that the landowner is the primary beneficiary of the bond and that the landowners' rights are fully protected.

Mitigation Recommendation:

G.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 Site Assessment Report will be submitted for Siting Board review.

Response:

Fleming Solar supports the concept of ensuring the as-built project does not result negative impacts that exceed those identified in the Site Assessment Report. Fleming Solar requests that should Harvey Economics' recommendation become a mitigation condition for the Fleming Solar Project, the Board modify the proposed condition to clarify that "retrofit" means to replace the Project components with different technologies that result in increased negative impacts.

H. Public Outreach:

Mitigation Recommendation:

H.1. It is suggested that the Applicant pursue additional public outreach and engagement activities within Fleming County.

Response:

The Application identifies the considerable public outreach performed to date by Fleming Solar. It is Fleming Solar's intent, consistent with their practices elsewhere to remain involved in the community. Additionally, Fleming Solar will implement the proposed Complaint Resolution Program to ensure that concerns and questions from community members are addressed.

II. Conclusion

Fleming Solar appreciates the opportunity to respond to Harvey Economics' Report. Fleming Solar supports the mitigation recommendations made in the Report with the clarifications described above.

Respectfully submitted,

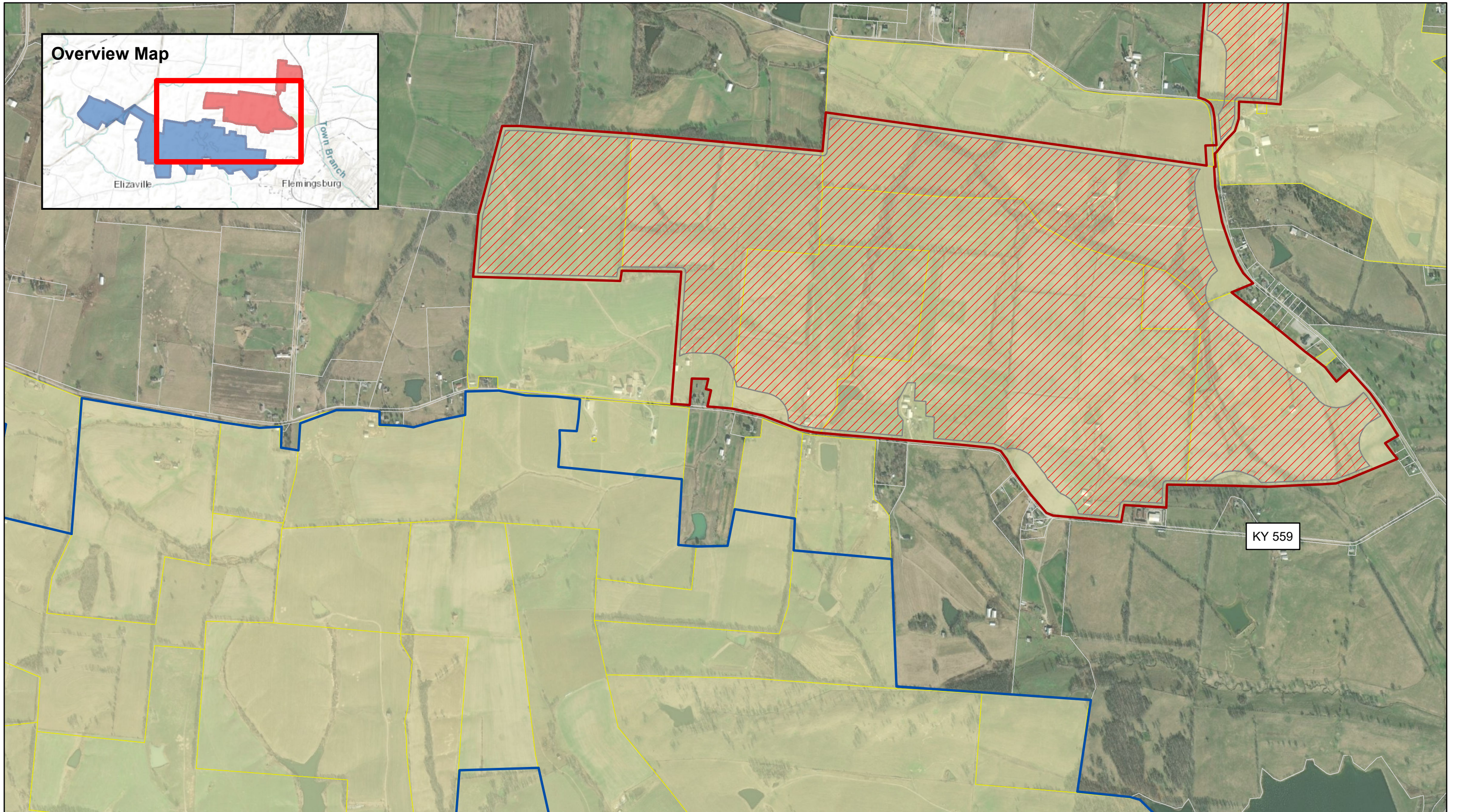
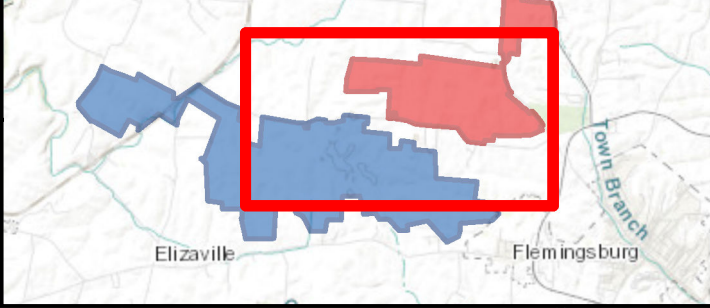
A handwritten signature in blue ink, appearing to read 'K. Gish', enclosed within a large, loopy blue oval.

Kenneth J. Gish (KBA #93970)
K&L GATES, LLP
300 South Tryon Street
Suite 1000
Charlotte, North Carolina 28202
Telephone: (704) 331-7424
Facsimile: (704) 331-7598
ken.gish@klgates.com

COUNSEL FOR FLEMING SOLAR, LLC






EXHIBIT A

Overview Map



CORE SOLAR
1221 S Mopac Expy, Ste 225
Austin, TX 78746
WWW.CORESOLARLLC.COM

Legend

-  Fleming Solar Project Boundary
-  Fleming Solar Potential Project Footprint
-  AEUG Fleming Solar Project Boundary*
-  Participating Parcel Boundary
-  Non-Participating Parcel Boundary

* AEUG Fleming Boundary digitized from paper map for illustrative purposes only

Fleming Solar and AEUG Fleming Solar Project Locations

Project Location: Fleming County, KY

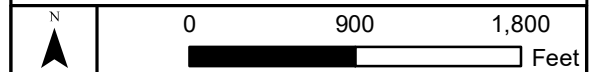


EXHIBIT A

Prepared by: A. Bohorquez

Date: 9/13/2021