

COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING
CASE NO. 2020-00417

JOHN PITT AND STEVE BALDWIN, Intervening Parties

In the Matter of:
ELECTRONIC APPLICATION OF HORUS
KENTUCKY 1 LLC FOR A CERTIFICATE
OF CONSTRUCTION FOR AN APPROXIMATELY
69.3 MEGAWATT MERCHANT ELECTRIC
SOLAR GENERATING FACILITY IN SIMPSON
COUNTY, KENTUCKY

NOTICE OF FILING ON BEHALF OF JOHN PITT AND STEVEN BALDWIN

Come now the Intervening Parties, John Pitt and Steve Baldwin, by and through counsel, and hereby provide notice of the filing of a Verified Petition for Judicial Review with the Simpson Circuit Court Clerk. A copy of the same is attached hereto.

This the 18th day of January, 2022.

Respectfully submitted,
BRODERICK & DAVENPORT, PLLC
921 College Street-Phoenix Place
Post Office Box 3100
Bowling Green, KY 42102-3100
Telephone: (270) 782-6700
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DAVID F. BRODERICK
BRANDON T. MURLEY

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing was filed electronically with the Kentucky Public Service Commission by using the Commission's eFiling system, and that a true and exact copy of the same was sent via electronic mail to:

Randall L. Saunders
Nelson Mullins Riley & Scarborough LLP
949 Third Avenue, Suite 200
Huntington, WV 25701
randy.saunders@nelsonmullins.com
*Co-Counsel for Defendants Roger Hoffman,
Summers Hodges Farm, LLC and Horus
Kentucky I, LLC*

This the 18th day of January, 2022.



DAVID F. BRODERICK
BRANDON T. MURLEY

COMMONWEALTH OF KENTUCKY
SIMPSON CIRCUIT COURT
DIVISION NO. _____
CASE NO. _____

JOHN PITT and
STEVE BALDWIN

PETITIONERS

v.

PUBLIC SERVICE COMMISSION OF KENTUCKY

Serve: Linda C. Bridwell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

and

Daniel Cameron
Kentucky Attorney General
Office of the Attorney General
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601-3449

and

COMMONWEALTH OF KENTUCKY, KENTUCKY
STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

Serve: Linda C. Bridwell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

and

Daniel Cameron
Kentucky Attorney General
Office of the Attorney General
700 Capitol Avenue, Suite 118
Frankfort, Kentucky 40601-3449

and

Kent A. Chandler, Commissioner
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

and

HORUS KENTUCKY 1, LLC

RESPONDENTS

Serve: C T Corporation System, Registered Agent
306 West Main Street, Suite 512
Frankfort, Kentucky 40601

VERIFIED PETITION FOR JUDICIAL REVIEW

Comes the Petitioners, John Pitt and Steve Baldwin, by counsel, and for their Verified Petition for Judicial Review of an Order of the Respondent, Kentucky State Board on Electric Generation and Transmission Siting, and hereby states as follows:

1. That the Petitioner, John Pitt, is a resident and owner of real property in Simpson County, Kentucky and either owns or has an interest in real property in close proximity to the proposed solar farm site at issue herein.

2. That the Petitioner, Steve Baldwin, is a resident and owner of real property in Simpson County, Kentucky and either owns or has an interest in real property in close proximity to the proposed solar farm site at issue herein.

3. That the Respondent, Public Service Commission is an administrative agency of the Commonwealth of Kentucky, with its principal place of business located at 211 Sower Boulevard, Frankfort, Kentucky 40601. The Commission is charged with enforcing the provisions of Chapter 278 of the Kentucky Revised Statutes.

4. That the Respondent, Commonwealth of Kentucky, Kentucky State Board on Electric Generation and Transmission Siting (hereinafter "Siting Board") is a public board created by KRS 278.702 that is attached to the Public Service Commission for administrative purposes. The Siting Board is located at 211 Sower Boulevard, P.O. Box 615, Frankfort, KY 40602 and may

be served with process through a member of the board, including the commissioner of the Public Service Commission.

5. That the Respondent, Horus Kentucky 1, LLC, (hereinafter “HK1”), is a foreign limited liability company registered with the Kentucky Secretary of State, having its principal office located at 222 Second Ave. S, Suite 1900, Nashville, TN 37201. Its registered agent for service of process is C T Corporation System, 306 West Main Street, Suite 512, Frankfort, KY 40601.

6. Venue is proper in the Simpson Circuit Court pursuant to KRS 278.712 as a party to a proceeding held pursuant to KRS 278.712 or any final determination pursuant to KRS 278.710 may, within thirty (30) days after service of the Siting Board’s final ruling, bring an action against the Siting Board in the Circuit Court of the county in which the facility is proposed to vacate or set aside the ruling on grounds that the ruling is arbitrary, capricious, or otherwise unlawful or unreasonable.

7. On or about December 29, 2021, the Siting Board entered an Order in Case No. 2020-00417, In the Matter of: Electronic Application of Horus Kentucky 1, LLC for a Certificate of Construction for an Approximately 69.3 Megawatt Merchant Electric Solar Generating Facility in Simpson County, Kentucky (hereinafter “HK1 Siting Board Case”) pursuant to KRS 278.700 and 807 KAR 5:110 conditionally granting HK1’s application for a Certificate to Construct (hereinafter “Order” attached as Exhibit A hereto).

8. That Petitioners John Pitt and Steve Baldwin were intervenors/intervening parties in the HK1 Siting Board Case and the Order described above granted HK1 a Certificate to Construct the proposed solar farm facility in Simpson County, Kentucky.

9. That Petitioner John Pitt and Steve Baldwin request judicial review of the Order pursuant to KRS 278.712 and request that this Court vacate or set aside the Order on the grounds that the Order is arbitrary, capricious, or otherwise unlawful or unreasonable.

10. KRS 278.710(1) requires the Siting Board to grant or deny a construction certificate, either in whole or in part, based upon the criteria set forth in KRS 278.710(1)(a) through KRS 278.710(1)(i), which set forth as follows:

(a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;

(b) Anticipated noise levels expected as a result of construction and operation of the proposed facility;

(c) The economic impact of the facility upon the affected region and the state;

(d) Whether the facility is proposed for a site upon which existing generating facilities, capable of generating ten megawatts (10MW) or more of electricity, are currently located;

(e) Whether the proposed facility will meet all local planning and zoning requirements that existed on the date the application was filed;

(f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission

(g) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in KRS 278.704(3) and except for a facility proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, whether the exhaust stack of the proposed merchant electric generating facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless a different setback has been requested and approved under KRS 278.704(4). If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as

a fuel source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5);

(h) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility; and

(i) Whether the applicant has a good environmental compliance history.

11. The proof in the record confirms that the Order granting the construction certificate herein should have not been granted for numerous reasons, including but not limited to the fact that the property around the proposed site is currently used for agricultural purposes and the solar panels will be clearly visible from the surrounding properties; the proposed site will not be in conformity with the rest of the countryside; there is no way that the solar farm can be completely concealed with vegetation; the proposed site will transform a quaint and quiet agricultural neighborhood to an industrial powerplant zone; the property value of surrounding acreage will be decreased; the existing roadways do not have sufficient space to allow construction vehicles to access the proposed solar farm site; the proposed site does not make adequate considerations for burial grounds and cemeteries; and it is still in question whether the proposed site complies with the applicable planning and zoning regulations in Simpson County, Kentucky.

12. After an evidentiary hearing, and responses were provided to document requests, on or about December 29, 2021 the Siting Board entered an Order in Case No. 2020-00417, conditionally granting the requested construction certificate in violation of, and in excess of, constitutional and statutory provisions and authority, including in consideration of the criteria set forth in KRS 278.710; said Order is arbitrary, capricious and characterized by an abuse of discretion or an unwarranted exercise of discretion; is deficient as otherwise provided by law, unreasonable and is unsupported by evidence which is both substantial and material in light of the entire record.

13. The Petitioners aver that the Siting Board did not make adequate considerations as required by law specifically as to whether the proposed site of the solar farm in question should have been granted or not in considering the criteria set forth in KRS 278.710 and whether the Order was supported by substantial evidence.

14. The Petitioners as owners and individuals who own or have interest in real property in close proximity to the proposed site of the solar farm herein have been materially prejudiced, individually injured, aggrieved, prejudiced by the grant of the Order as described herein.

WHEREFORE, the Petitioners pray for the following relief:

1. That the Respondents be required to appear and respond to this Petition as required by law.

2. That either Respondent Public Service Commission of Kentucky or Respondent Commonwealth of Kentucky, Kentucky State Board of Electric Generation and Transmission Siting certify and file with this Court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein.

3. That the decision of the Respondent Commonwealth of Kentucky, Kentucky State Board of Electric Generation and Transmission Siting to enter the Order on or about December 29, 2021 in Case No. 2020-00417, In the Matter of: Electronic Application of Horus Kentucky 1, LLC for a Certificate of Construction for an Approximately 69.3 Megawatt Merchant Electric Solar Generating Facility in Simpson County, Kentucky pursuant to KRS 278.700 and 807 KAR 5:110 conditionally granting HK1's application for a Certificate to Construct be vacated or set on grounds that the ruling is arbitrary, capricious, or otherwise unlawful or unreasonable

4. That this Court order a stay of the enforcement of the Order while this matter is under judicial review; and

5. That this Court grant the Petitioners any further general or other relief to which it may appear entitled.

This the 18th day of January, 2022.

Respectfully submitted,


BRODERICK & DAVENPORT, PLLC
921 College Street-Phoenix Place
Post Office Box 3100
Bowling Green, KY 42102-3100
Telephone: (270) 782-6700
Facsimile: (270) 782-3110



DAVID F. BRODERICK
BRANDON T. MURLEY
Counsel for Plaintiffs

VERIFICATION

I, John Pitt, acknowledge that I have read the foregoing and the statements contained herein are true and correct to the best of my knowledge and belief.

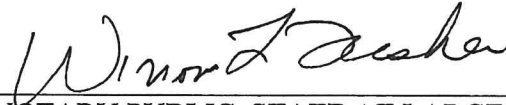


JOHN PITT
Plaintiff

COMMONWEALTH OF KENTUCKY)

COUNTY OF Simpson)§
)

ACKNOWLEDGED, SUBSCRIBED AND SWORN to before me on this 17 day of January, 2022 by John Pitt, knowingly and as his free act and deed.



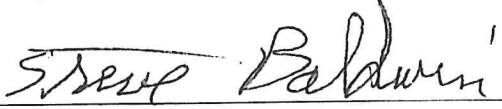
NOTARY PUBLIC, STATE AT LARGE
My Commission Expires: 10/24/2024
Notary Identification No.: 567461

WINONA L FISHER
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY
ID. # 567461
MY COMMISSION EXPIRES OCT. 24, 2020



VERIFICATION


I, Steve Baldwin, acknowledge that I have read the foregoing and the statements contained herein are true and correct to the best of my knowledge and belief.



STEVE BALDWIN
Plaintiff

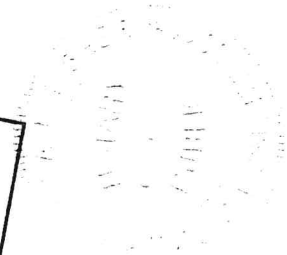
COMMONWEALTH OF KENTUCKY)
COUNTY OF Simpson) §

ACKNOWLEDGED, SUBSCRIBED AND SWORN to before me on this 17 day of January, 2022 by Steve Baldwin, knowingly and as his free act and deed.



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COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF HORUS)	
KENTUCKY 1 LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
69.3 MEGAWATT MERCHANT ELECTRIC)	2020-00417
SOLAR GENERATING FACILITY IN SIMPSON)	
COUNTY, KENTUCKY PURSUANT TO KRS)	
278.700 AND 807 KAR 5:110)	

ORDER

On July 5, 2021, Horus Kentucky 1 LLC (Horus Kentucky 1) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) requesting a Certificate of Construction to construct an approximately 69.3-megawatt alternating current (MWac) solar photovoltaic (PV) electric generating facility in Simpson County, Kentucky (Project).¹

Two individuals, John Pitt and Steve Baldwin (Intervenors), intervened in this case. Pursuant to KRS 278.708(5), the Siting Board hired Harvey Economics to review the Applicant's site assessment report (SAR). Pursuant to a procedural schedule established July 28, 2021, Horus Kentucky 1 responded to two rounds of discovery; Harvey Economics filed a Review and Evaluation² (Harvey Economics Report) of the Applicant's SAR after conducting a site visit; and Horus Kentucky 1 filed comments upon the Harvey Economics Report. A formal evidentiary hearing was held on November 15, 2021. Horus

¹ Application, Pleading at 1.

² Harvey Economics Report (filed Oct. 14, 2021).



Kentucky 1 and Intervenors filed post-hearing memoranda on November 22, 2021. Horus Kentucky 1 filed responses to post-hearing data requests on November 30, 2021. The Siting Board received one written public comment. The Siting Board received no public comments at the beginning of the November 15, 2021 formal evidentiary hearing. 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. KRS 278.704(1) requires that an application be filed with 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 the applicant 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 to be suggested by the applicant 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 include (1) impact on scenic surroundings, property values, and surrounding roads; (2) anticipated noise levels during construction and operation of the facility; (3) economic impact on the region and state; (4) whether the proposed facility meets 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 an applicant; and (8) whether the applicant has a good environmental compliance history.

PROPOSED FACILITY

The Project will be located in Simpson County, Kentucky. The Project includes approximately 550 acres of photovoltaic solar panels, associated racking, 22 inverters, and a substation transformer that will connect to the Tennessee Valley Authority's (TVA) L5402 – 161 kV transmission line near the city of Franklin in Simpson County, Kentucky.

DISCUSSION AND FINDINGS

1. KRS 278.708: SAR Filing Requirements

Mitigation Measures Proposed by Applicant and Siting Board Consultant

Pursuant to KRS 278.708(4), Horus Kentucky 1 proposed various mitigation measures consistent with the statutes regarding traffic, noise, roadway preservation, permitting, setbacks, public safety, scenic preservation, and decommissioning. Pursuant to KRS 278.708(5), the Harvey Economics Report listed numerous mitigation measures in addition to Horus Kentucky 1's proposed mitigation measures. Horus Kentucky 1's response to the Harvey Economics Report merely provided an updated Site Plan, which Horus Kentucky 1 claimed is consistent with the Simpson County Planning and Zoning setback requirements, and stated the final Development Plan will conform with the

requirements set forth within Section 9.8 of the Franklin-Simpson County Zoning Regulations.

The Siting Board has reviewed the mitigation measures proposed by Horus Kentucky 1 and Harvey Economics and finds that, in addition to those the Horus Kentucky 1 has initially proposed, the mitigation measures discussed below and set forth in Appendix A are appropriate and reasonable because they achieve the statutory purpose of mitigating the adverse effects identified in the SAR 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 (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.

Horus Kentucky 1 submitted a detailed site plan, attached as Appendix B to this Order, which displays solar panels, inverters, main access area, laydown area, fenced area, internal roads, security fencing, and the project substation.

A total of 17 residential structures, 1 commercial structure and 45 other structures (including barns, warehouses, and similar ancillary structures) are located within 1,200 feet of a proposed solar panel and one church is located within 1,500 feet of a solar panel. Four residential structures are located within 300 feet of a proposed solar panel.

Existing karst features are present at the ground surface within the Project boundary. These were identified, located, and characterized in a Karst Feature Survey

and Assessment Report (Karst Survey) submitted by Horus Kentucky 1.³ The Karst Survey contains detailed Karst Risk Maps, where surface karst features are characterized by levels of risk, and are used to evaluate the amount of risk to the project infrastructure.⁴ The existing site plan includes avoidance areas with no solar panels. No construction activities would occur within the avoidance areas and no solar equipment, facilities or infrastructure would be located within those areas. Land within the avoidance areas would not be disturbed by construction or operational activities.⁵

Intervenors presented concern that runoff from the Project will be a detriment to their property and farming operations.⁶

The Harvey Economics Report concluded that Horus Kentucky 1 has generally complied with the legislative requirements for describing the facility and site development plan.⁷ Security fencing, meeting National Electrical Safety Code (NESC) and Occupational Safety and Health Administration (OSHA) standards will be installed along the perimeter of the Project.⁸ Internal roads (approximately six miles in length) will be

³ Application, Appendix K, 3 of 10, Karst Survey.

⁴ *Id.*

⁵ Horus Kentucky 1's Response to Siting Board Staff's Second Request for Information (Staff's Second Request) (filed Sept. 30, 2021), Item 6.

⁶ Hearing Video Transcript (HVT) of Nov. 15, 2021 Hearing at 02:18:00-2:26:00, 02:26:57-2:37:09; Intervenors' Post-Hearing Memorandum (filed Nov. 22, 2021) at 4–5.

⁷ Harvey Economics Report, Section 2 at II-2. Harvey Economics did note it believed at the time of its report that Horus Kentucky 1 did not meet the Simpson County zoning regulations for setbacks from residential properties in multiple instances and recommended that Project infrastructure in proximity to those homes be moved in order to meet the County's setback requirements or a variance from the County be obtained. At the November 15, 2021 hearing, Horus Kentucky 1 explained that the revised plans for the Project infrastructure now meets the Simpson County zoning regulations.

⁸ Horus Kentucky 1's Response to Siting Board Staff's First Request for Information (Staff's First Request) (filed Sept. 2, 2021), Item 25.

constructed on the Project site. A main internal roadway will be gravel; other internal roadways will remain grass.⁹

Having reviewed the record of this proceeding, the Siting Board finds that Horus Kentucky 1 has complied with the requirements for describing the facility and a site development plan, as required by KRS 278.708. However, the Siting Board finds it necessary to impose certain mitigation measures and requirements related to the description of the facility and the proposed site development plan. Specifically, the Siting Board will require that Horus Kentucky 1 keep the Siting Board apprised of changes throughout the development of the Project and, as such, will order Horus Kentucky 1 to provide the final site plan before the commencement of construction. This plan shall clearly indicate and highlight any change, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of this matter. The Siting Board further finds it necessary to impose requirements to monitor the karst areas in the Project, as well as notification and reporting requirements when any property damage occurs due to karst subsidence. Additionally, based on the concerns of the Intervenors and proposals of the Harvey Economics Report, the Siting Board further finds that the mitigation measures outlined in Appendix A to this Order, and in particular, mitigation measures 1 through 7 shall be adhered to.

Compatibility with Scenic Surroundings

Horus Kentucky 1 indicated that the Project will be compatible with its surroundings. The area surrounding the Project is largely agricultural, with scattered rural

⁹ *Id.*, Item 30.

residential properties and some commercial structures. Horus Kentucky 1 maintained that it will adhere to the Franklin-Simpson County Planning and Zoning requirements, including setbacks of 50 feet from public road right-of-ways, 100 feet from any abutting internal or external agricultural zoned properties, and 250 feet from any abutting residential zoned properties, rural village districts, churches, cemetery, school or nursing home.¹⁰ Horus Kentucky 1 will also install a visual vegetative buffer.¹¹ Horus Kentucky 1 stated that these steps will result in a facility that is visually compatible with its surroundings.

Intervenors presented concerns regarding the compatibility of the Project with scenic surroundings, stating that the Project would significantly alter “the basic agricultural zoning character” of the leased properties, as well as the surrounding properties.¹²

Having reviewed the record of the proceeding, the Siting Board finds that, while there will always be an impact on the scenery of neighboring properties, the impact of this project is minimal. The proposed vegetative buffer, along with other mitigation measures proposed by Horus Kentucky 1, will minimize the effects that the proposed facility will have on the scenic surroundings of the site. The physical characteristics of the proposed solar facility also do not pose any adverse impact to the scenic surroundings given the location of the solar facility components, and the proposed vegetative buffering. However, to ensure the continued compatibility of scenic surrounding, as well as address

¹⁰ Application, Section 4.0, Local Ordinance and Regulations Compliance; see *also* Horus Kentucky 1’s Response to Staff’s Second Request (filed Sept. 30, 2021), Items 9, 11e.

¹¹ Application, Exhibit H, SAR, Mitigation Measures and Conditions; see *also* Horus Kentucky 1’s Response to Staff’s First Request (filed Sept. 2, 2021), Item 51.

¹² Witness List on behalf of Intervenors (filed Nov. 8, 2021) at 2–3; HVT of Nov. 15, 2021 Hearing at 02:18:00–02:26:00, 02:26:57–02:37:09; Intervenors’ Post-Hearing Memorandum (filed Nov. 22, 2021) at 4–7.

the Intervenor's concern, mitigation measures addressing obligations to maintain or further develop vegetative buffers and keep the Siting Board informed of potentially material changes to the site plan are necessary. As such, and based on the record, additional mitigation measures regarding scenic compatibility are outlined in Appendix A to this Order, and in particular, mitigation measures 8 through 12.

Impact on Property Values

With respect to impact on property values, Horus Kentucky 1 submitted a Property Value Impact Study from a certified real estate appraiser that found, based upon a comparative analysis, the solar facility will have no negative impact on the property values of abutting or adjacent residential or agricultural properties.¹³ The study indicated that the solar facility would function in a harmonious manner with the nearby surroundings, which is mostly agricultural, and that operation of the solar facility would not generate the level of noise, odor, or traffic impacts to negatively impact the nearby surroundings as compared to a fossil fuel generating facility or other industrial facility.¹⁴

The Harvey Economics Report evaluated the impacts to property values by reviewing relevant existing literature related to solar facility impacts and conducted further analysis of the data provided in Horus Kentucky 1's Property Value Impact Study. Among the literature reviewed by Harvey Economics was a 2020 study completed by economists at the University of Rhode Island, which found that in areas of high population density, houses within a one-mile radius depreciate by about 1.7 percent following construction of a solar array. However, the Harvey Economics Report stated that the University of Rhode Island study performed additional analysis focused on impacts in more rural areas found

¹³ Application, Appendix I, Property Value Impact Study.

¹⁴ *Id.*

that the effect in rural areas were effectively zero and that the negative externalities of solar arrays are only occurring in non-rural areas. Harvey Economics also reviewed a 2019 article produced by the American Planning Association, which indicated that the impact of utility scale solar facilities is typically negligible on neighboring property values. Additionally, Harvey Economics also reviewed a 2018 University of Texas study, which included a geospatial analysis and a survey of residential property assessors to determine the potential for property value impacts related to solar projects. The results of the University of Texas study showed that a majority of survey respondents estimated a value impact of zero and geospatial analysis showed that relatively few homes would be impacted. Additional materials reviewed by Harvey Economics included several independent appraisal reports related to property value impacts for solar companies. The Harvey Economics Report states that overall conclusions of these independent appraisal reports were that solar facilities do not negatively impact property values.

Harvey Economics also interviewed the Simpson County Property Valuation Administrator, who is familiar with property valuation and real estate in Simpson County. The Simpson County Property Valuation Administrator indicated that they do not believe that property values will be affected by the presence of the facility given the rural nature of the proposed Project area. The Simpson County Property Valuation Administrator further expanded on the current property value market in Simpson County, stating that the County is experiencing a very strong real estate market with high demand for homes and rising home prices. This is partly due in part to the influx of new residents from out of state, likely at least in part because of relatively low housing prices, as compared to

the surrounding states.¹⁵ Given the current high demand for homes and properties in the County, The Simpson County Value Administrator does not believe the proposed solar facility would have an adverse effect on sales prices or sales activity.

The Harvey Economics Report concluded that the current research indicates that the existence of solar facilities does not, in general, negatively influence property values for adjacent landowners. The report noted that Harvey Economics' own research point to a conclusion of no discernible impacts to property values, although there is a small risk of negative impacts. The report acknowledged that local residents and governmental officials are concerned about property values, but concluded that property values in Simpson County are unlikely to be affected by the siting of the Horus Kentucky 1 facility.

Intervenors presented testimony that their interests in properties surrounding the Project will be significantly harmed and devalued if the proposed Project is allowed.¹⁶ Intervenors specifically claim that the Project will decrease the value of their land and negatively impact their ability to sell or subdivide their property in the future.¹⁷ However, Intervenors presented no further objective evidence in support of their claim.

Having reviewed the record, the Siting Board finds that there is sufficient, objective evidence to conclude that the proposed Horus Kentucky 1 facility will, more than likely, not have any adverse impact on nearby property values. As noted earlier, the characteristics of solar facility operations are passive in nature in that they do not produce

¹⁵ Harvey Economics Report, Section 5 at 16.

¹⁶ Witness List on behalf of Intervenors (filed Nov. 8, 2021) at 2-3; HVT of Nov. 15, 2021 Hearing at 02:18:00–02:26:00, 02:26:57–02:37:09; Intervenors' Post-Hearing Memorandum (filed Nov. 22, 2021) at 4–5.

¹⁷ *Id.*

any air, noise, waste, or water pollution, nor does it create any traffic issues during operations.

Anticipated Noise Level

The northwest boundary of the Project is adjacent to I-65, and the western boundary is adjacent to a CSX transportation rail line.¹⁸ Traffic noise from I-65 and typical rural farming noise make up the ambient background area conditions.¹⁹ Horus Kentucky 1 proposed to limit construction activities to Monday through Friday from 7 a.m. to 7 p.m., with some activity occurring on weekends if necessary.²⁰ According to Horus Kentucky 1's SAR, noise from construction activities and solar panel installation as well as operational activities should have minimal impact on the nearest residential receptors.²¹

Horus Kentucky 1 indicated there are three noise receptors that will be within 300 feet of a solar panel.²² The nearest residence to a solar panel will be 95 feet, and the estimated noise level during construction is 89 dBA.²³ The nearest residence to an inverter will be approximately 269 feet away.²⁴ The nearest residence to the substation will be approximately 1,030 feet away.²⁵

¹⁸ Horus Kentucky 1's Response to Staff's Second Request, Exhibit C at 1.

¹⁹ *Id.* at 3.

²⁰ Application, Appendix H at 3.

²¹ *Id.*, at 2.

²² Horus Kentucky 1's Response to Staff's Second Request, Item 10. a.

²³ Horus Kentucky 1's Response to Staff's Second Request, Exhibit C, Table 4.

²⁴ *Id.*, Table 2.

²⁵ *Id.*

The revised Sound Level Assessment Report concluded elevated noise levels from construction activities would be temporary and intermittent, lasting a day or two to construct the solar panel array in proximity to the nearest receptor. Noise generated from the operation of the facility will be from inverters, tracker motors, and transformers, and will be contained within the property. The noise at sensitive receptors would be minimal and is not anticipated to have significant impact to the surrounding community noise levels.²⁶

The Harvey Economics Report likewise noted that noise issues stem from construction activities and operational components of the solar facility. During construction, noise will be generated by pile drivers, graders, bulldozers, dump trucks and other equipment.²⁷ The Harvey Economics Report stated that the application submitted is substantially in compliance with the intent of the Kentucky Revised Statutes.²⁸ During operation of the proposed solar facility, noise will be emitted from inverters, substation transformers, and the tracking motors that rotate the panels to track the sun. The Harvey Economics Report stated that the anticipated noise from construction may be annoying for residents for a short period. The Harvey Economics Report further stated the construction noise will be intermittent and will not be permanently impactful to the limited number of nearby residences. The noise from operational components will only add a small increase, if any, to the local sound environment and will only occur during daylight hours.²⁹

²⁶ Horus Kentucky 1's Response to Staff's Second Request, Exhibit C at 14.

²⁷ Harvey Economics Report at V-19.

²⁸ Harvey Economics Report at III-9.

²⁹ Harvey Economics Report at V-26.

The Siting Board finds noise from construction will be intermittent and temporary, and as provided by both the Applicant and Harvey Economics Report, construction noise will be loudest during the pile driving portion of the construction process. Accordingly, the construction noise will not be permanently impactful to nearby residences, while the operational noise from the Project components should have little effect on nearby residents. Nevertheless, the impact of construction noise on nearby residents will be significant, albeit transitory. To ensure the impact of construction noise does not unduly impact nearby residents, the Siting Board will require Horus Kentucky 1 to implement mitigation measures designed to limit the impact of construction noise by controlling the hours of construction in general, as well as the time and manner in which pile driving activities can occur. The Siting Board would encourage Horus Kentucky 1 to consider an alternative racking system, such as ground mounting, which would be fixed to the ground either via a ballast system or a ground screw system instead of employing traditional pile driving, in order to reduce construction noise. This would also reduce concerns regarding pile driving and the Project's location in relation to karst formations.

Further, the Siting Board will mandate that noise suppression measures be utilized by Horus Kentucky 1 during the pile driving process, similar to those required by other recent applicants for construction certificates. Should Horus Kentucky 1 employ an alternative racking system such as ground mounting, such noise suppression measures will not be required. These mitigation measures are outlined in Appendix A to this Order and, in particular, mitigation measures 13 through 17.

Impact on Roads, Railways, and Fugitive Dust

The anticipated routes for construction equipment, materials deliveries, and construction and operation crews to access the Project site consist of the existing roads

adjacent to the site.³⁰ Construction activities are expected to take 12 to 18 months. During this time, a temporary increase in traffic is anticipated near the vicinity of the proposed sites.³¹ Horus Kentucky 1 stated safety precautions including signage, signaling, flagmen, and temporary lane closures will be utilized as needed.³² Applicant further confirmed it will adhere to all local and state requirements related to repair of road infrastructures following construction.³³

Intervenors presented testimony regarding concern over construction equipment being moved on the roads surrounding the Project.³⁴ Intervenors stated that the roads as they exist are not sufficiently wide enough to allow construction vehicles to access the proposed solar farm site without causing major traffic disruption.³⁵

The Siting Board finds that traffic and road degradation issues, including Intervenors' concerns, can be addressed with Applicant's measures and those mitigation measures set forth in Appendix A, in particular, mitigation measures 18 through 25.

The Siting Board anticipates fugitive dust from the construction phase. To reduce potential dust impacts, Applicant has affirmed that construction trucks will be covered with a canopy.³⁶ Internal roadways will be constructed from compacted gravel. Due to an increase associated with dust from gravel roads and site use in general, water may be

³⁰ Application, Appendix H, SAR at 7–8.

³¹ *Id.*

³² *Id.*; Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), Appendix Part 1, Exhibit B, Transportation Effect and Route Evaluation Study at 8.

³³ Horus Kentucky 1's Response to Staff's Second Request (filed Sept. 30, 2021), Item 22d.

³⁴ HVT of Nov. 15, 2021 Hearing at 02:18:00–02:26:00, 02:26:57–2:37:09; Intervenors' Post-Hearing Memorandum (filed Nov. 22, 2021) at 5–8.

³⁵ *Id.*

³⁶ Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), Item 43.

applied to reduce dust generation as needed.³⁷ The Siting Board requires additional mitigation measures to reduce this harmful effect on the neighboring community, as outlined in Appendix A, mitigation measure 26. Dust will not be a factor during operations. The Project is bounded to the west by a CSX railway, but will not be utilizing that railway. Horus Kentucky 1 stated it will work with the county and CSX or the Kentucky Transportation Cabinet (KYTC), if necessary, to assess impacts and damage to the railroad crossings due to Project generated traffic or other activities.³⁸

2. KRS 278.710(1)-Criteria

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

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

Economic Impact on Affected Region and the State

The Economic Impact Report (EI Report) was prepared by Terracon Consultants, Inc., using the web-based version of the economic impact assessment software

³⁷ *Id.*; Horus Kentucky 1's Response to Staff's Second Request (filed Sept. 30, 2021), Item 17.

³⁸ *Id.*, Item 22g.

IMPLAN.³⁹ According to the EI Report, the Horus Kentucky 1 project is expected to have significant impacts on the economies of Simpson County and to Kentucky as a whole, bringing new employment, spending, and taxes to the areas.

There will be two phases of the project: (1) the construction phase and (2) the operation phase. The construction phase is estimated to last approximately 12 to 18 months, with the majority of economic impact and growth occurring in the construction sector.⁴⁰ The construction work will require a large labor force of solar panel installers, electricians, equipment operators, fencing installers, and general laborers.⁴¹ Horus Kentucky 1 estimated that approximately 30 percent of this labor force would originate from within Simpson County.⁴² The operation phase stands to bring smaller, long-term economic impacts to a variety of businesses and government entities in the areas and is estimated to last 30 to 40 years.⁴³ The operation phase will provide several full-time jobs to support the routine maintenance of the site, and long-term tax revenues will also contribute to the overall economic impact of the project.⁴⁴

The economic impacts were evaluated on a direct, indirect, and induced basis. Direct impacts describe the direct employment, direct labor income, and direct value added impacts (i.e., industry contribution to GDP) resulting from the economic activity

³⁹ Application, Appendix E at 2.

⁴⁰ *Id.* at 3; see also Horus Kentucky 1's Responses to Staff's Post-Hearing Request for Information (filed Nov. 30, 2021), Item 1d.

⁴¹ *Id.*

⁴² Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), Item 7 and 14a.

⁴³ Application, Appendix E at 3.

⁴⁴ *Id.* at 3–4.

generated by the solar facility.⁴⁵ Indirect impacts describe the secondary, business-to-business impacts resulting from the direct impacts such as indirect employment, indirect labor income, and indirect value added impacts (i.e., taxes on imports).⁴⁶ Induced impacts describe consequential impacts resulting from the direct and indirect impacts, including induced employment, induced labor income, and induced value added impacts (i.e., increased household spending).⁴⁷ Total impact refers to the combination of direct, indirect, and induced impacts.

The initial EI Report was revised twice throughout this proceeding.⁴⁸ In the final revision, during the project's construction phase, Horus Kentucky 1 estimated a direct impact of up to 100 full-time employees (FTE) in the region over the 12 to 18 month construction period with a direct payroll of \$8.00 million and direct value added impacts of \$19.22 million.⁴⁹ The total impact to the county alone is estimated to be 164 FTEs with a new payroll of around \$10.54 million.⁵⁰ The total estimated output (or gross margin) of the facility is estimated to be \$61.38 million.⁵¹

For the operation phase of the project, Horus Kentucky 1 estimated approximately 3 to 4 FTEs to support continued operation of the site over the 30 to 40 year project life.⁵²

⁴⁵ Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), Item 14 c; Horus Kentucky 1's Response to Staff's Post-Hearing Request (filed Nov. 30, 2021), Items 1c and 2.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Application, Appendix E; Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), item 55; Horus Kentucky 1's Response to Staff's Post-Hearing Request, Item 1.

⁴⁹ Horus Kentucky 1's Response to the Staff's Post-Hearing Request (filed Nov. 30, 2021), Item 1c.

⁵⁰ *Id.*

⁵¹ *Id.*; Horus Kentucky 1's Response to Staff's Post-Hearing Request (filed Nov. 30, 2021), Item 2.

⁵² Horus Kentucky 1's Response to Staff's First Request (filed Sept. 2, 2021), Items 8, 13, 16, and 55g.

Horus Kentucky 1 stated that the FTEs would have a weighted average salary of \$50,000 annually.⁵³ In addition, long-term operations of the site show a total impact of \$196,000 in yearly value added impacts and \$339,000 in yearly output.⁵⁴

Horus Kentucky 1 stated that both local and state governments will see a direct increase in tax revenues during construction phase due to the increase payroll and construction spending.⁵⁵ In addition, the increased employment will bring additional sales tax revenues as workers spend dollars locally on transportation, food, accommodations, and entertainment.⁵⁶ The EI Report estimates a total tax impact of \$4.77 million, accounting for the collection of local, county, state, and federal taxes.⁵⁷

The Siting Board notes that Horus Kentucky 1 revised its initial economic impact analysis twice throughout the proceeding. Horus Kentucky 1 stated that it had revised its original estimate of output downward using more precise construction cost estimates than the original \$80 million as certain aspects of the initial estimate would likely occur outside of Simpson County, Kentucky, and outside the Commonwealth.⁵⁸ In the process, Horus Kentucky 1 incorrectly transposed estimates leading to a second inaccurate analysis.⁵⁹ Final estimates were provided in the Siting Board's post-hearing data request. Despite this, elements of Horus Kentucky 1's economic impact analysis still remain unclear. The

⁵³ *Id.* at Items 13 and 55h.

⁵⁴ *Id.* at Item 13.

⁵⁵ Application, Appendix E at 4.

⁵⁶ *Id.*

⁵⁷ Horus Kentucky 1's Response to Staff's Post-Hearing Request (filed Nov. 30, 2021), Item 3a.

⁵⁸ *Id.*, Item 1a.

⁵⁹ *Id.*

Siting Board cautions Horus Kentucky 1 to provide more care when making filings with the Siting Board.

Having reviewed the record and being otherwise sufficiently advised, the Siting Board finds that the Horus Kentucky 1 Project will generally provide a positive economic impact on the region.

Existence of Other Generating Facilities

Horus Kentucky 1 investigated the feasibility of locating the proposed facility on a site where existing electric generating facilities were located. However, no such location in Simpson County was identified.⁶⁰

Local Planning and Zoning Requirements

In early 2020, the Franklin-Simpson County Planning & Zoning Board approved specific zoning regulations applicable to solar facilities greater than ten acres in size. Section 9.8 of the Franklin-Simpson Zoning Regulations addresses solar farms. That section includes the previously discussed setback requirements, which refer to the minimum distance from Project equipment, of 50 feet from any public right-of-way, 100 feet from any abutting internal or external agricultural zoned properties, and 250 feet from any abutting residential zoned properties, rural village districts, churches, cemeteries, schools, or nursing homes. A complete copy of the Franklin-Simpson County Zoning Regulations is found in Horus Kentucky 1's response to Staff's First Request, Appendix Part 2, Exhibit E.

Horus Kentucky 1 has been granted two Conditional Use Permits (CUP) for this Project, and states that both CUPs remain valid and enforceable.⁶¹ In order to exercise

⁶⁰ Application, Section 6.0, Efforts to Locate Proposed Facility Near Existing Generating Facilities

⁶¹ Horus Kentucky 1's Response to Staff's Post-Hearing Request (filed Nov. 30, 2021), Item 4.

the CUPs, Horus Kentucky 1 is required to present a Development Plan to the Simpson County Planning and Zoning Administration.⁶² Horus Kentucky 1 stated its updated Site Plan is consistent with the Simpson County regulations and it will continue to work closely with Simpson County officials to develop a mutually favorable detailed Development Plan that will conform with the requirements set forth within 9.8 of the Franklin-Simpson County Zoning Regulations.⁶³

The Siting Board finds that the Project as proposed appears to comply with the Franklin-Simpson County Zoning Regulations.

Impact on Transmission System

Horus Kentucky 1 stated the interconnection of the project will be with TVA's L5402 – 161 kV transmission line near the city of Franklin in Simpson County, Kentucky.⁶⁴ TVA Interconnection Planning & Special Studies completed its System Impact Study in February 2020.⁶⁵ The purpose of the System Impact Study is to determine any adverse system impacts on TVA's transmission system in order to maintain system reliability as a result of the Interconnection Request. In addition, the study details the proposed facility addition, modifications, and upgrades that are needed to maintain a reliable interconnection for the Project.

⁶² *Id.*

⁶³ Horus Kentucky 1's Response to Siting Board Consultant's Report (filed Oct. 28, 2021); Horus Kentucky 1's Response to Staff's Post-Hearing Request (filed Nov. 30, 2021), Item 4.

⁶⁴ Application, Pleading at 1.

⁶⁵ Application, Appendix D.

The Systems Impact Study showed that Horus Kentucky 1 will be responsible for attachment facilities, direct connection network upgrade, and non-direct connection network upgrade costs.⁶⁶

The Siting Board finds that Horus Kentucky 1 has satisfied the requirements of KRS 278.710(f) and that the additional load imposed upon the electricity transmission system by use of the Horus Kentucky 1 facility will not adversely affect the reliability of service for retail customers of electric utilities regulated by the Kentucky Public Service Commission (PSC). This is based upon Horus Kentucky 1's commitment to the interconnection process requirements and its acceptance of any cost obligations resulting from the interconnection process and protocols consistent with the requirements under KRS 278.212.

Compliance with Setback Requirements

As previously discussed, the Project is subject to a local setback requirement and, therefore, Horus Kentucky 1 has not requested a deviation, pursuant to KRS 278.704, from the statutory setback requirements for the Project.

Horus Kentucky 1 has committed to the setbacks as required by the Simpson County Planning and Zoning regulations. Nevertheless, the Siting Board finds that Horus Kentucky 1 shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church or school, 25 feet from non-participating adjoining parcels, and 50 feet from adjacent roadways. Horus Kentucky 1 shall not place a central inverter, and, if used, energy storage systems, closer than 450 feet from a residence, church or school. The only exception to these distances is allowed for parcel #62 at 1271 Tyree

⁶⁶ *Id.*

Chapel Road, for which Horus Kentucky 1 shall not place solar panels or string inverters, if used, closer than 150 feet from the residence, and shall not place a central inverter or energy storage system closer than 250 feet from the residence. Exceptions to these setbacks for participating landowners are included in Appendix A.

History of Environmental Compliance

Neither Horus Kentucky 1 nor any person or entity with an ownership interest in Horus Kentucky 1 has violated any state or federal environmental laws or regulations. There are no known actions, whether judicial or administrative, pending against Horus Kentucky 1, nor any person or entity with an ownership interest in Horus Kentucky 1.⁶⁷ The Siting Board considers this an important factor and finds additional requirements are necessary in the event the certificate is transferred or the ownership/control is changed. This will be set forth more fully in Appendix A at mitigation measure 27.

Decommissioning

The proposed solar facility would have an expected useful life of approximately 30 to 40 years.⁶⁸ Lease agreements with participating landowners include commitments regarding infrastructure removal and land restoration.⁶⁹ Additionally, the Applicant must meet decommissioning requirements pursuant to the CUPs and the Franklin-Simpson County Zoning Regulation Section 9.8, which requires the Applicant to develop a “decommissioning plan that describes the anticipated life of the solar farm, the estimated costs in current dollars, the method for ensuring that the funds will be available for decommissioning and restoration and the manner in which the farm will be

⁶⁷ Application, Section 9.0, Economic Impact Analysis.

⁶⁸ *Id.*

⁶⁹ Horus Kentucky 1’s Response to Staff’s First Request (filed Sept. 2, 2021), Item 57.

decommissioned and the site restored.”⁷⁰ The regulation goes on to state that “following a six month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the solar farm. Decommissioning includes removing of solar panels, buildings, cabling, electrical components, and any other associated materials.”⁷¹

The Siting Board finds that mitigation measures are necessary to ensure protection from potential nonperformance of the decommissioning obligation. Horus Kentucky 1 will be required to implement mitigation measures that require it and its successors and assignees to meet all land restoration requirements in the leases with participating landowners, CUPs, Franklin-Simpson County Zoning Regulation Section 9.8, as well as mitigation measures that require a decommissioning plan specific to Horus Kentucky 1. These additional mitigation measures are outlined in Appendix A, mitigation measures 28 through 32.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Horus Kentucky 1 has presented sufficient evidence to support the issuance of a Certificate to Construct the proposed merchant solar facility. The Siting Board conditions its approval upon the full implementation of all mitigation measures and other requirements described herein and listed in Appendix A to this Order. A map showing the location of the proposed solar generating facility is attached to this Order as Appendix B.

⁷⁰ Horus Kentucky 1’s Response to Staff’s First Request, Appendix Part 2, Exhibit E, Section 9.8.

⁷¹ *Id.*

1. Horus Kentucky 1's application for a Certificate to Construct an approximately 69.3 MWac merchant solar electric generating facility in Simpson County, Kentucky, is conditionally granted subject to full compliance with the mitigation measures and conditions prescribed in Appendix A.

2. Within 30 days of entry of this Order, Horus Kentucky 1 shall send a copy of this Order to all the adjoining landowners who previously were required to receive notice of the Project. At least 30 days prior to construction it will notify residents and businesses within 2,400 feet of the Project boundary about the construction plan and the complaint resolution process.

3. Horus Kentucky 1 shall fully comply with the mitigation measures and conditions prescribed in Appendix A.

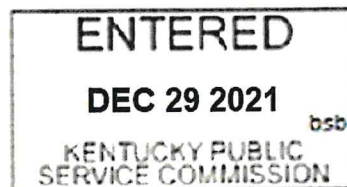
4. In the event mitigation measures within the body of this Order conflict with those prescribed in Appendix A, the measures in Appendix A shall control.

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

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By the Kentucky State Board on Electric
Generation and Transmission Siting

James Henry Mooneyhan did not participate in the deliberations or decision concerning this case.



ATTEST:

Linda C. Bridwell

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 STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2020-00417 DATED DEC 29 2021

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Horus Kentucky 1 LLC (Horus Kentucky 1) 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 or other Project facilities and infrastructure.

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

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

4. Horus Kentucky 1 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.

5. Horus Kentucky 1's access control strategy shall also include appropriate signage to warn potential trespassers. The Applicant must ensure that all site entrances

and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

6. According to National Electrical Safety Code (NESC) regulations, the security fence must be installed prior to the energization of any electrical equipment. The substation shall have its own separate security fence and locked access installed. Horus Kentucky 1 will comply with the fencing requirements of NESC.

7. Horus Kentucky 1 shall follow best practices, including a 50-foot setback from any open karst features, and monitoring of the karst features present within the Project. Horus Kentucky 1 shall notify the Siting Board and Simpson County Fiscal Court of any property damage that is incurred due to karst subsidence and report what repairs are performed. Throughout the life of the Project, Horus Kentucky 1 shall also report when any environmental or safety concerns arise from the karst features present within the Project.

8. 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. Horus Kentucky 1 will not remove any existing vegetation except to the extent it must remove such vegetation for the construction and operation of Project components.

9. Horus Kentucky 1 shall plant native evergreen species as a visual buffer to mitigate viewshed impacts, particularly in areas directly adjacent to the Project without existing vegetation.

10. Horus Kentucky 1 shall carry out visual screening consistent with the plans proposed in its application, SAR, and the maps included and ensure proposed new vegetative buffers are successfully established and develop as expected over

time. Should vegetation used as buffers die over time, Horus Kentucky 1 shall replace them as appropriate.

11. Horus Kentucky 1 shall provide a visual buffer between Project infrastructure and residences or other occupied structures with a line of sight to the facility to the reasonable satisfaction of the affected adjacent property owners. To the extent that an affected adjacent property owner indicates to Horus Kentucky 1 that such a buffer is not necessary, it will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

12. Horus Kentucky 1 shall cultivate at least two acres of native pollinator-friendly species onsite.

13. Horus Kentucky 1 is required to limit the construction activity, process, and deliveries to the hours between 8 a.m. and 6 p.m., Monday through Saturday. Non-noise-causing and non-construction activities can take place on the site between 7 a.m. and 10 p.m., Monday through Sunday, including field visits, arrival, departure, planning meetings, mowing, surveying, etc.

14. Horus Kentucky 1 shall notify residents and businesses within 2,400 feet of the project boundary about the construction plan, the noise potential, and mitigation plans one month prior to the start of construction.

15. If pile driving activity occurs within 1,500 feet of a noise sensitive receptor, Horus Kentucky 1 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). Should Horus Kentucky 1 employ the alternative racking system of ground mounting, such noise suppression measures will not be required when utilizing that method.

16. Horus Kentucky 1 shall implement a Complaint Resolution Program to address any complaints from surrounding landowners. Horus Kentucky 1 shall also submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Horus Kentucky 1 addressed those complaints, and the ultimate resolution of those complaints identifying whether the resolution was to the complainant's satisfaction.

17. Horus Kentucky 1 shall place panels, inverters and substation equipment consistent with the distances to noise receptors indicated in Horus Kentucky 1's noise and traffic study and with the setbacks required by the Simpson County Planning and Zoning regulations for the entirety of the Project. Nevertheless, Horus Kentucky 1 shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church or school, 25 feet from non-participating adjoining parcels, and 50 feet from adjacent roadways. Horus Kentucky 1 shall not place a central inverter, and if used, energy storage systems, closer than 450 feet from a residence, church or school. The only exception to these distances is allowed for parcel #62, 1271 Tyree Chapel Road for which Horus Kentucky 1 shall not place solar panels or string inverters, if used, closer than 150 feet from the residence, and shall not place a central inverter or energy storage system closer than 250 feet from the residence. These setbacks shall not be required for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the standard setback required by this order. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of construction of the Project.

18. Horus Kentucky 1 shall fix or pay for damage resulting from any vehicle transport to the project site. For damage resulting from vehicle transport in accordance with all permits, those permits will be controlling.

19. Horus Kentucky 1 shall comply with all laws and regulations regarding the use of roadways.

20. Horus Kentucky 1 shall implement ridesharing between construction workers when feasible, use appropriate traffic controls or allow flexible working hours outside of peak hours to minimize any potential delays during AM and PM peak hours.

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

22. Horus Kentucky 1 shall consult with the Simpson County Road Department (SCRD) regarding truck and other construction traffic and obtain necessary permits from the SCRD.

23. Horus Kentucky 1 shall develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

24. Horus Kentucky 1 shall comply with any road use agreement executed with SCRD. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

25. Horus Kentucky 1 shall develop and implement a traffic management plan to minimize the impacts on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any noise concerns during the construction phase and develop measures that would address those noise concerns.

26. Horus Kentucky 1 shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including use of water trucks. Dust impacts shall be kept at a minimal level. The Siting Board requires the Applicant's compliance with 401 KAR 63:010.

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

28. As applicable to individual lease agreements, Horus Kentucky 1, 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.

29. Horus Kentucky 1 shall file a full and explicit decommissioning plan with the Siting Board. This plan shall commit Horus Kentucky 1 to removing all facility components, above-ground and below-ground, regardless of depth, from the project site. Upon its completion, this plan shall be filed with the Siting Board or its successors. The decommissioning plan shall be completed at least one month prior to construction of the Project.

30. Horus Kentucky 1 shall file a bond with the Simpson County Fiscal Court, equal to the amount necessary to effectuate the explicit or formal decommissioning plan naming Simpson County as a third-party obligee (or secondary, in addition to individual landowners) beneficiary, in addition to the lessors of the subject property insofar as the leases contain a decommissioning bonding requirement, so that Simpson County will

have the authority to draw upon the bond to effectuate the decommissioning plan. For land in which there is no bonding requirement otherwise, Simpson County shall be the primary beneficiary of the decommissioning bond for that portion of the project. The bond(s) shall be filed with the Simpson County Treasurer, or with a bank, title company or financial institution reasonably acceptable to the county. The acceptance of the county of allowing the filing the bond(s) with an entity other than the Fiscal Court, through the Simpson County Treasurer, can be evidenced by a letter from the Judge-Executive, the Fiscal Court, or the County Attorney. The bond(s) shall be in place at the time of commencement of operation of the Project. The bond amount shall be reviewed every five years at Horus Kentucky 1's expense to determine and update the cost of removal amount. This review shall be conducted by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities. Certification of this review shall be provided to the Siting Board or its successors and the Simpson County Fiscal Court. Such certification shall be by letter and shall include the current amount of the anticipated bond and any change in the costs of removal or decommissioning.

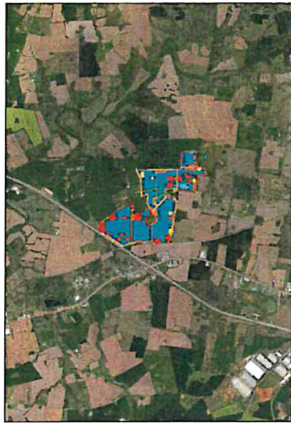
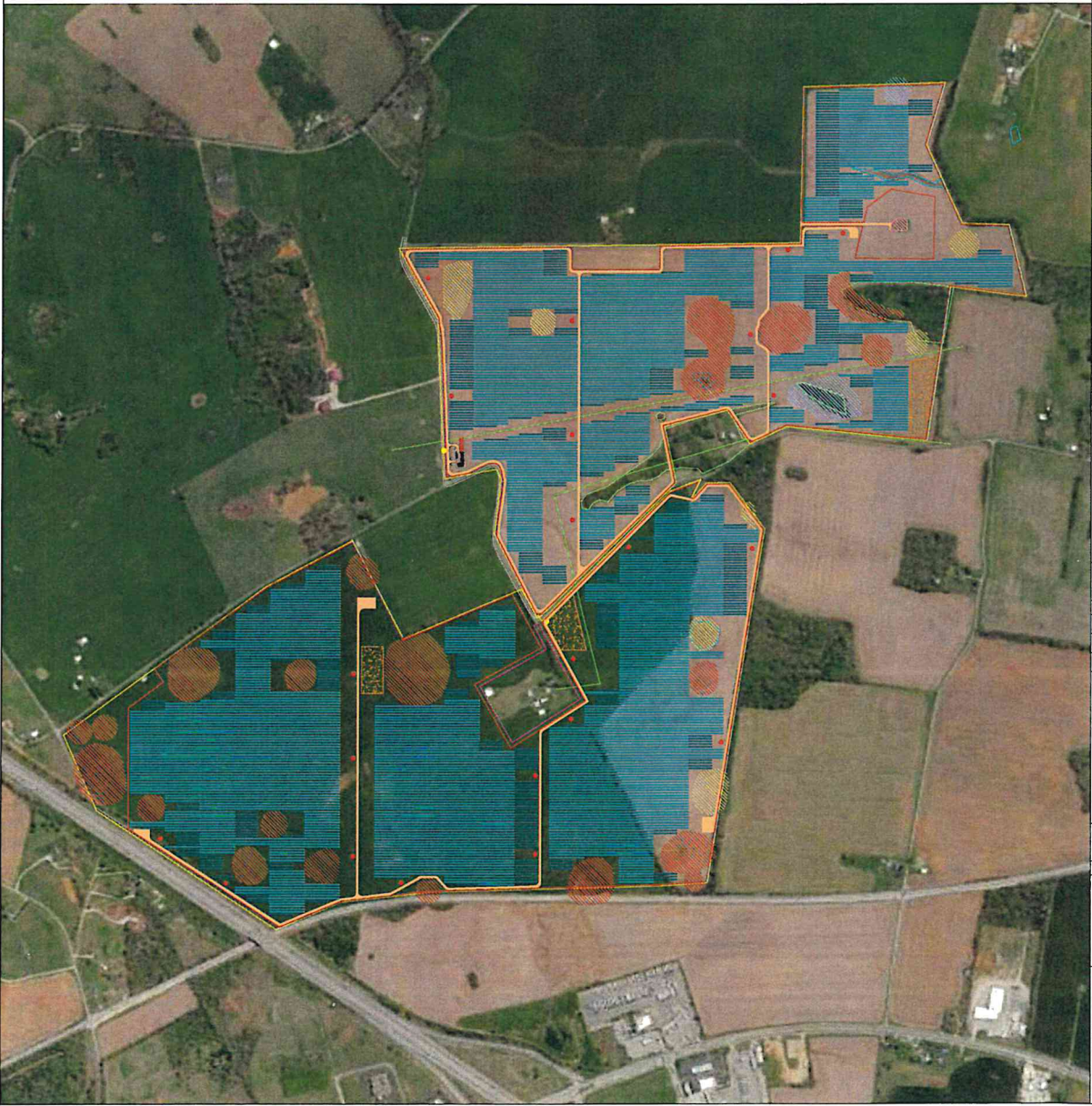
31. Horus Kentucky 1 or its assigns must provide notice to the Siting Board if during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Horus Kentucky 1 shall commit to removing the debris and replaced facility components from the Project site and Simpson County upon replacement. If the replaced facility components are properly disposed of at a permitted facility, they do not have to be physically removed from Simpson County. However, if the replaced facility components remain in Simpson County, Horus Kentucky 1 must inform the Siting Board of where the replaced facility are being disposing of.

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

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2020-00417 DATED DEC 29 2021

THREE PAGES TO FOLLOW



SCALE: 1"=5000'-0"

SYSTEM SPECIFICATIONS		
MAX NET EXPORT CAPABILITY (AT FBI)	69,300 kW	TOTAL MODULES 148,824
INVERTER CAPABILITY (MAX PER STRING)	74,350 kW	INVERTERS 28
POWER DC (MAX PER STRING)	89,999 kW	INVERTER STRING CAPACITY 6,098
MODULE POWER (MAX PER STRING)	333 Wp	INVERTERS 28
INVERTER CAPACITY (MAX PER STRING)	3,390 kW	MODULE TEC. 87650
	1299	PITCH 24.61 FT

SITE DETAILS	
LATITUDE	36°40'6.65"N
LONGITUDE	86°32'37.86"W
PARCEL BOUNDARY AREA	547.6 ACRES
PV PLANT AREA	5012 ACRES

PULL-OFF DISTANCE LOCATION	
LATITUDE	36°40'19.94"N
LONGITUDE	86°32'15.24"W

Legend

- HV LINE
- FENCE AREA
- PARCEL BOUNDARY
- ROADS
- EXCLUDED ZONES
- CONCERN
- SUBSTATION
- LATROUN AREA
- FOREST
- WETLANDS
- AVOIDANCE AREA-HIGH RISK AREA
- AVOIDANCE AREA-MEDIUM RISK AREA
- AVOIDANCE AREA-LOWER RISK AREA
- ACCESS ROADS
- INVERTER
- MAIN ACCESS
- SOLAR TRACKS TOWER MODULES
- SOLAR TRACKS TOWER MODULES



GENERAL NOTES

- THE LOCATION OF PROPOSED EQUIPMENT INCLUDING BUT NOT LIMITED TO TRACKING, SOLAR ARRAY BACKING, ELECTRICAL EQUIPMENT, OVERHEAD PILES AND LINES, ETC. IS BASED ON THE INFORMATION PROVIDED AND FIELD SURVEY. THE LOCATION OF THE TRACKING AND ELECTRICAL EQUIPMENT IS SUBJECT TO CHANGE BASED ON THE RESULTS OF THE FIELD SURVEY AND/OR OTHER CONSTRAINTS.
- PROPERTY BOUNDARIES, TOPOGRAPHIC DATA, AND EXISTING IMPROVEMENTS SHOWN ARE APPROXIMATE PER AERIAL PHOTOGRAPHY AND GIS MAPS.
- THIS PLAN IS PRELIMINARY AND WILL NOT BE RELEASED FOR CONSTRUCTION.
- 16' WIDE ROAD.
- INVERTER ACCESS ADJACENT TO EXISTING ROADS.
- OFFICIAL SITE SURVEY IS NOT AVAILABLE. PULL-OFF STRUCTURE LOCATION IS ESTIMATED.
- SUBSTATION GATES ALLOW FOR OFFSET FROM EAST AND DIRT FROM NORTH OF A 30' TRACK.

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OPDENERGY — PVF FRANKLIN
FRANKLIN, KENTUCKY

DATE: 04/19/2021

SCALE: 1"=5000'-0"

PROJECT NUMBER: SP01

NO.	REV.	DATE	DESCRIPTION

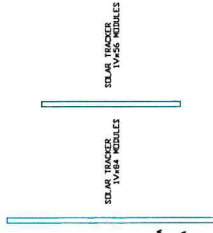


SCALE: 1"=5000'-0"

RESIDENTIAL PROPERTY	LATITUDE	LONGITUDE	DISTANCE TO THE PROJECT
1	36.4063836°N	86.32148384°W	500 FT
2	36.4063836°N	86.32148384°W	250 FT
3	36.4063836°N	86.32148384°W	250 FT
4	36.4063836°N	86.32148384°W	250 FT
5	36.404727°N	86.32148384°W	640 FT
6	36.3994836°N	86.3151593°W	250 FT
7	36.3994836°N	86.3151593°W	250 FT
8	36.3994836°N	86.3151593°W	250 FT
9	36.3994836°N	86.3151593°W	250 FT
10	36.3994836°N	86.32148384°W	975 FT
11	36.3992687°N	86.3235507°W	1082 FT

Legend:

- HY LINE
- FENCED AREA
- PARCEL BOUNDARY
- ROADS
- EXCLUDED ZONES
- CONCRETE
- SUBSTATION
- LANDFILL AREA
- FOREST
- WETLANDS
- AVOIDANCE AREA - HIGH RISK AREA
- AVOIDANCE AREA - MEDIUM RISK AREA
- AVOIDANCE AREA - LOWER RISK AREA
- ACCESS ROADS
- INVERTER
- SITE ENTRANCE



GENERAL NOTES

- THE LOCATION OF PROPOSED EQUIPMENT INCLUDING BUT NOT LIMITED TO TRACKING SYSTEMS, SOLAR TRACKER TOWER MODULES, AND SUBSTATIONS SHALL BE SUBJECT TO REGULATIONS AND SITE CONDITIONS, ADDITIONAL PERMITTING REQUIREMENTS, EQUIPMENT SPECIFICATIONS AND/OR OTHER CONSTRAINTS.
- PROPERTY BOUNDARIES, TOPOGRAPHIC DATA, AND EXISTING IMPROVEMENTS SHOWN ARE APPROXIMATE PER AERIAL PHOTOGRAPHY AND GIS MAPS.
- THIS PLAN IS PRELIMINARY AND WILL NOT BE RELEASED FOR CONSTRUCTION.
- 14' VIRE ROWS.
- INVERTER ACCESS ADJACENT TO EXISTING ROADS.
- OFFICIAL SITE SURVEY IS NOT AVAILABLE. FULL-SCALE STRUCTURE LOCATION IS ESTIMATED.
- SUBSTATION GATES ALLOW FOR ENTRANCE FROM EAST AND EXIT FROM NORTH OF A SOFT TRUCK.



NO.	DATE	DESCRIPTION	BY	CHK	APP	DATE	NO.	DATE	DESCRIPTION	BY	CHK	APP	DATE
1	4/14/2022	ISSUE FOR PERMIT					2						

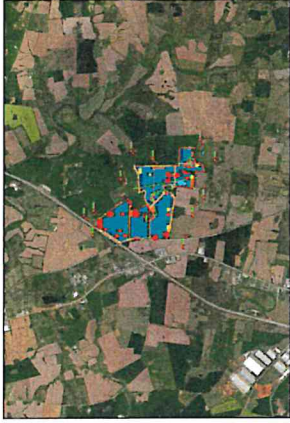
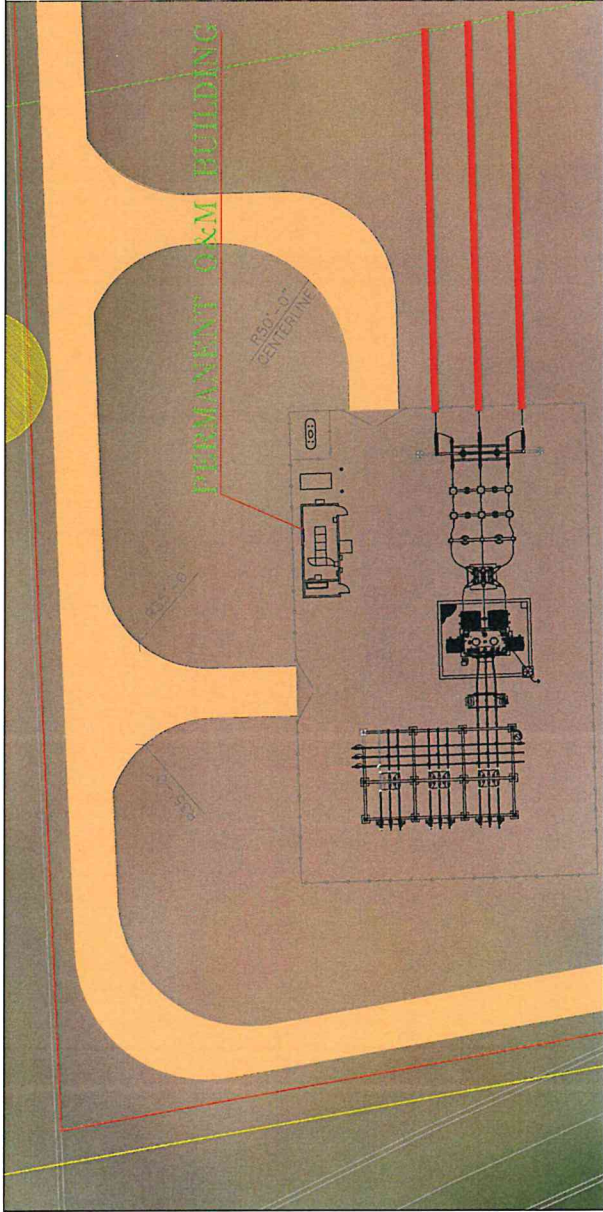
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OPDENERGY - PVF, FRANKLIN, KENTUCKY
RESIDENTIAL PROPERTY LAYOUT
DATE: 04/19/2021
SCALE: 1"=5000'-0"

PROJECT NO.:
DRAWING NO.:
DATE: 04/19/2021
SCALE: 1"=5000'-0"

SP02



SCALE: 1"=5000'-0"

SYSTEM SPECIFICATIONS			
MAX NET EXPORT CAPABILITY AT PDI	69,200 kW	TOTAL MODULES	148,224
INVERTER RATIO (MAX PER STRING CAPACITY)	74,360 kW	MOD PER STRING	28
POWER DC	89,799 kW	N° STRINGS	6,008
MODULE POWER	335 Wp	N° INVERTERS	28
INVERTER CAPACITY	3,380 kW	MODULE TEC.	87600
DC/AC	1.599	PITCH	24.61 FT

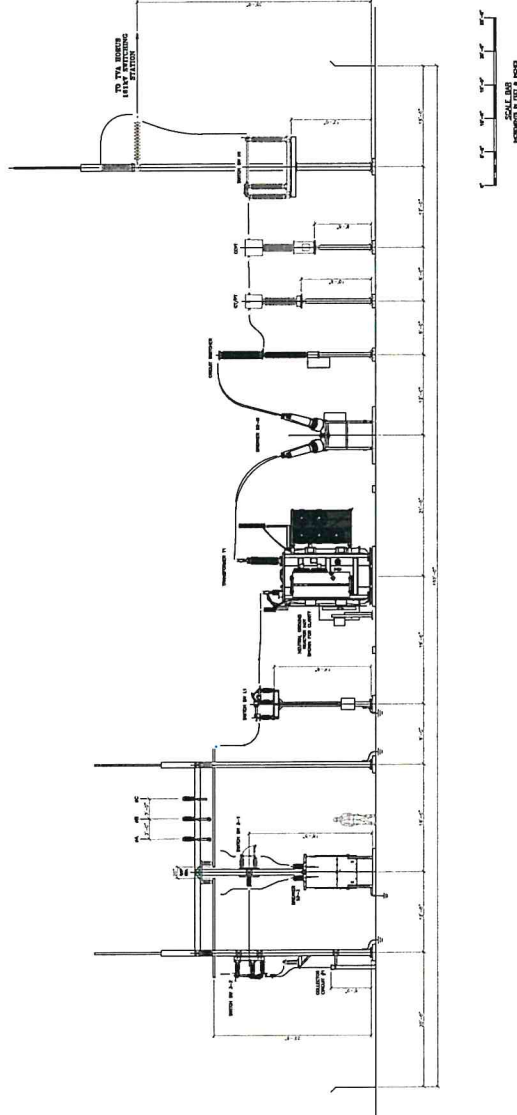
SITE DETAILS	
LATITUDE	36°40'6.65"N
LONGITUDE	86°32'37.86"W
PARCEL BOUNDARY AREA	547.6 acres
PV PLANT AREA	501.2 acres

PULL-OFF DISTANCE LOCATION	
LATITUDE	36°40'1.94"N
LONGITUDE	86°32'15.24"W



GENERAL NOTES

- THE LOCATION OF PROPOSED EQUIPMENT INCLUDING BUT NOT LIMITED TO TRACKING, SOLAR ARRAY MACHINERY, ELECTRICAL EQUIPMENT, OVERHEAD PILES AND LINE, ETC. ARE APPROXIMATE. THE LOCATION OF ALL EQUIPMENT SHALL BE DETERMINED BY THE CONTRACTOR UNDER THE CONDITIONS, ADDITIONAL PERMITTING REQUIREMENTS, EQUIPMENT SPECIFICATIONS AND/OR OTHER CONSTRAINTS.
- PROPERTY BOUNDARIES, TOPOGRAPHIC DATA, AND EXISTING IMPROVEMENTS SHOWN ARE APPROXIMATE PER AERIAL PHOTOGRAPHY AND GIS MAPS.
- THIS PLAN IS PRELIMINARY AND WILL NOT BE RELEASED FOR CONSTRUCTION.
- 16' WIDE ROADS.
- INVERTER ACCESS ADJACENT TO EXISTING ROADS.
- OFFICIAL SITE SURVEY IS NOT AVAILABLE. PULL-OFF STRUCTURE LOCATION IS ESTIMATED.
- SUBSTATION GATES ALLOW FOR DISTANCES FROM EAST AND WEST FROM NORTH OF A SOFT TRACK.



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NO.	DATE	DESCRIPTION	BY	CHK	APP	REV
1	8/10/2021	ISSUED FOR PERMIT				



OPDENERGY — PVF FRANKLIN
FRANKLIN, KENTUCKY

PROJECT NO.	DATE	SCALE	REVISION NO.
09/20/21	8/10/21	1"=47'	SP03

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