

BLUEBIRD SOLAR: APPLICATION

BayWa r.e, Solar Projects LLC
18575 Jamboree Road, Suite 850
Irvine, CA 92612
949 398 3915

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1. Applicant Information

REQUIREMENT: per KRS 278.706(2)(a); *The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility*

COMPLIANCE: Bluebird Solar LLC is a Kentucky limited liability company formed on August 8, 2016. The principal contact person, name, address and telephone number for this application are provided below

- Name: Bluebird Solar LLC
Attn: Clay Canning, Senior Development Manager
- Address: 18575 Jamboree Road, Suite 850
Irvine, CA 92612
- Phone: (949) 372-7318

2. Description of Proposed Site

REQUIREMENT: per KRS 278.706(2)(b); *A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility*

COMPLIANCE: This application (Application) is to construct and operate a solar photovoltaic facility producing up to 100 MWac (Project) on a fenced portion of an assemblage of Harrison County parcels from eleven landowners (Property) located south of Highway 62 (Leesburg Pike) near Broadwell. The Property straddles Russell Cave Road in southern Harrison County with the majority of acreage on the west side of the Road. The power generated by the Project will be sold on the open market through an existing transmission line that crosses the property.

A map showing the location of residential structures, schools, and public and private parks in relation to the proposed project is located in Attachment A. There are no schools, public or private parks, or healthcare facilities within 2 miles of the Project's radius. There are two residential neighborhoods (per KRS 278.700(6)) within 2,000 feet of the Project's radius. There are no hospitals and nursing home facilities within that radius.

The project consists of a total of approximately 1345 acres with options to lease or purchase,¹ of which approximately 1000 acres is permitted. This land is primarily considered active farming and pasture land. While the site plan shows approximately 600 fenced acres, additional acres may be needed for internal roads between the fenced acres, for cables running between the blocks of solar panels, and for landscaping. The equipment onsite will consist of solar panels, racking, inverters, transformers, one substation transformer, and associated wiring and balance of system.

The racking system used to fix the solar panels to the ground has a small footprint that does not use concrete, and the panels are not considered impervious as rainwater can travel over and around the panels, making this a low impact development. The panels are no more than 12 feet high at the highest point. The racks will be placed directly onto grass. Gravel will be placed on the access roads throughout the site, and will not be placed under the solar panels.

A fence meeting the National Electric Safety Code requirements, typically a six-foot fence with three strings of barbed wire at the top, will enclose the solar panels and associated infrastructure. The Project will comply with the NESC and American National Standards Institute (ANSI) Z535 Safety Sign Standards for Electric Utility Power Plants and Substations to guide the placement of safety signage around the facility.

The Project will comply with the local Conditional Use Permit that requires a minimum of 100 feet from the Project's infrastructure to frontage boundary lines and 50 feet to side and

¹ Of the project site, approximately 126 acres will be owned by the Project.

rear boundary lines of any non-participating properties and roadways from the Applicant's solar energy system.

A landscape buffer shall be retained where there is existing timber. Per a Harrison County ordinance, "Any existing tree or group of trees which stands within or near a require planting area and meets or exceeds the standards of this Ordinance may be used to satisfy the tree requirements of the planting area. The protection of tree stands, rather than individual trees, is strongly encouraged." Supplemental landscaping will be added where needed. The landscaping is intended to screen and substantially reduce the visibility of the solar arrays and their appurtenant facilities from the public rights-of-way and residences in the area.

In addition, the County ordinance states a requirement for newly planted trees as "Double row of plant material 6 feet of height at planting. Evergreen trees will be placed no more than 20 feet apart, with the second row centered between the first rows, to be a layered look. A chain link fence coated in green or black coating no less than 6 feet in height and no more than 8 feet in height shall be placed along the perimeter of the property. The vegetation shall be placed on the outside of the fence. The health of the landscaping shall be maintained, with trees replaced within 6 months upon death."

Five different landscape buffers have been designed for the project: Segment 1, Segment 2, Segment 3, Segment 4, and Segment 5. Each landscape buffer segment is approximately 585' in length, comprised of different dominant tree and shrub landscape material, and designed so that the landscape buffers blend together. The intent is to interchange the landscape buffers as they are used around the site.

Segment 1

Dominate Trees and Shrub

- Black Walnut (*Juglens nigra*)
- Eastern Red Cedar (*Juniperus virginiana*)
- Coralberry (*Symphoricarpos orbiculatus*)

Secondary Tree and Shrubs

- Pin Oak (*Quercus palustris*)
- Black Raspberry (*Rubus occidentalis*)
- Black Huckleberry (*Gaylussacia baccata*)

Segment 2

Dominate Tree and Shrub

- Eastern Red Cedar (*Juniperus virginiana*)
- Coralberry (*Symphoricarpos orbiculatus*)

Secondary Tree and Shrubs

- Silver Maple (*Acer saccharinum*)
- Prairie Crabapple (*Malus ioensis*)
- Southern Viburnum (*Viburnum dentatum*)
- American Hazelnut (*Corylus americana*)

Segment 3

Dominate Trees and Shrub

- Eastern Red Cedar (*Juniperus virginiana*)
- Silver Maple (*Acer saccharinum*)
- Black Raspberry (*Rubus occidentalis*)

Secondary Trees and Shrubs

- Redbud (*Cercis canadensis*)
- American Plum (*Prunus americana*)
- Black Raspberry (*Rubus occidentalis*)
- Black Huckleberry (*Gaylussacia baccata*)

Segment 4

Dominate Trees and Shrub

- Eastern Red Cedar (*Juniperus virginiana*)
- American Hazelnut (*Corylus Americana*)

Secondary Trees and Shrubs

- Ilex Opaca (*American Holly*)
- Pinus Echinata (*Shortleaf Pine*)
- Corralberry (*Symphoricarpos orbiculatus*)
- Southern Viburnum (*Viburnum dentatum*)

Segment 5

Dominate Trees and Shrub

- Existing trees
- Existing shrubs

Secondary Trees and Shrubs

- Eastern Red Cedar (*Juniperus virginiana*)
- Downy Serviceberry (*Amelanchier arborea*)
- Black Huckleberry (*Gaylussacia baccata*)
- Black Raspberry (*Rubus occidentalis*)

County Default Option

Dominate Trees and Shrub

- Eastern Red Cedar (*Juniperus virginiana*)

Secondary Trees and Shrubs

- American Holly (*Ilex opaca*)
- Shortleaf Pine (*Pinus echinata*)

The landscape plan, with segments 1 through 5, is designed to blend into the surrounding environment. However, the County default option, does provide the option of going with the trees as stated in the Solar Ordinance, which would be two rows of evergreen trees 20 feet apart and 6 feet high at planting. The Project landscape architect did think that the evergreen trees would stick out like a sore thumb thus the Project has provided additional planting options. The Harrison

County Board of Adjustments supported using the Project's proposed landscape plan that differs from the County's default option. A copy of this Landscape Plan is attached as Attachment B.

Once the Project Site has been fully developed and all landscaping installed as described above, the solar facilities should not be readily visible to the public or nearby surrounding residences.

The Project also commissioned impact studies regarding Indiana bat and/or northern long-eared bat habitat, Short's bladderpod, running buffalo clover, and Short's goldenrod. The studies are attached collectively as Attachment C, all of which indicate that the Project will not create a disturbance on the subjects of the studies.

3. Public Notice Evidence

REQUIREMENT: per KRS 278.706(2)(c); *Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to:*

- 1. Landowners whose property borders the proposed site; and*
- 2. The general public in a newspaper of general circulation in the county or municipality in which the facility is proposed to be located*

COMPLIANCE: A sample letter that was sent to landowners whose property borders the proposed site, followed by the list of addresses and names of those landowners who were sent notices on January 27, 2022 is contained in Attachment D. Two copies of this notice were mailed to each landowner; one via regular USPS mail and one via USPS Certified Mail. Please see Attachment D for certified mail receipts.

Also contained in Attachment D is the tearsheet of the notice published in the *Cynthiana Democrat* on February 3, 2022, which is the newspaper of general circulation in Harrison County.

4. Compliance with Local Ordinances and Regulations

REQUIREMENT: per KRS 278.706(2)(d); *A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any local planning and zoning ordinances. The statement shall also disclose setback requirements established by the planning and zoning commission as provided under KRS 278.704(3)*

COMPLIANCE: The Project lies entirely in Harrison County, whose Fiscal Court has adopted an ordinance for Solar Energy Systems proposed on agricultural zoned land to apply for and receive a Conditional Use Permit (CUP) prior to the start of construction. The ordinance is available at the following link: https://707cc97a-d5d5-4cd6-80da-8960049ad8eb.filesusr.com/ugd/e9d208_c03c75898fe34afeaf3cb654fe6ae21f.pdf

Bluebird Solar applied for the required CUP on May 6, 2021, and received approval by the Board of Adjustments on May 24, 2021. The Harrison County Board of Adjustments issued a CUP for the Project on May 24, 2021. The CUP includes 15 conditions that address local issues such as signage, lighting, fencing, decommissioning, and setbacks. The CUP established setbacks of a minimum of 100 feet to frontage boundary lines and 50 feet to side and rear boundary lines of any non-participating properties and roadways from the Applicant's solar energy system. A copy of the CUP conditions is included in Attachment E.

Bluebird Solar certifies that the Project will follow all local ordinances and regulations concerning noise control, and with any applicable local planning and zoning ordinances. A statement certifying these facts is submitted as Attachment E.

5. Setback Requirements

REQUIREMENT: per KRS 278.706(2)(e); *If the facility is not 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 or in an area where a planning and zoning commission has established a setback requirement pursuant to KRS 278.704(3), a statement that the exhaust stack of the proposed 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 facilities capable of generating ten megawatts (10MW) or more currently exist on the site. If the facility is 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, a statement that the proposed site is compatible with the setback requirements provided under KRS 278.704(5). If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to KRS 278.704(3), a statement that the proposed site is in compliance with those established setback requirements:*

COMPLIANCE: The Project is not proposed to be located on the site of a former coal processing plant, nor will it use any waste coal as a fuel source. No existing electricity generating facilities are on-site at the Project location.

Harrison County has established setback requirements for this location, per the information provided in Section 4. The Project will not include any exhaust stacks or wind turbines as part of the facility; therefore, there are no established setback requirements from the property boundary of any adjoining property owner to the energy generating facilities.

KRS 278.704(3) states as follows:

If the merchant electric generating facility is proposed to be located in a county or a municipality with planning and zoning, then setback requirements from a property boundary, residential neighborhood, school, hospital, or nursing home facility may be established by the planning and zoning commission. Any setback established by a planning and zoning commission for a facility in an area over which it has jurisdiction shall

(a) Have primacy over the setback requirement in subsections (2) and (5) of this section; and

(b) Not be subject to modification or waiver by the board through a request for deviation by the applicant, as provided in subsection (4) of this section.

The Project is within the jurisdiction of the Harrison County Planning Commission and has specific setback requirements set by the CUP, which is attached as Attachment E. Accordingly, the setback requirements identified in KRS 278.704(2) and KRS 278.706(2)(e) do not apply to this Project. The setbacks established by the CUP require the facility to be a minimum of 100 feet to frontage boundary lines and 50 feet to side and rear boundary lines of any non-participating properties and roadways from the Applicant's solar energy system. The Project will comply with those setback requirements over which Harrison County has primacy. As such, no motion for deviation is required.

6. Public Notice Report

REQUIREMENT: per KRS 278.706(2)(f); *A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including:*

- 1. The scheduling and conducting of a public meeting in the county or counties in which the proposed facility will be constructed at least ninety (90) days prior to the filing of an application, for the purpose of informing the public of the project being considered and receiving comment on it;*
- 2. Evidence that notice of the time, subject, and location of the meeting was published in the newspaper of general circulation in the county, and that individual notice was mailed to all owners of property adjoining the proposed project at least two (2) weeks prior to the meeting; and*
- 3. Any use of media coverage, direct mailing, fliers, newsletters, additional public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process*

COMPLIANCE: Bluebird Solar has made a substantial effort to engage the public in numerous ways regarding the Project.

Public Meetings

Due to the COVID-19 pandemic and in compliance with Kentucky Governor Andy Beshear's Executive Order, dated March 18, 2020, and subsequent executive orders, public meetings for the Project were held in person and virtually. The Project filed a Motion for Approval of Form of Public Meeting with the Siting Board, dated April 8, 2021, setting forth a plan to hold the public meeting in-person and online. The Siting Board issued an order dated April 13, 2021, approving a virtual public meeting and setting forth additional requirements for the public meeting.

An initial in-person and online public meeting was held on May 18, 2021, at Ashford Acres Inn in Cynthiana. Several representatives (Martin Nascimento, Mike Stanton, Shane Roberts, Stephen Sewell, and Todd Osterloh) of the project were on site to answer questions in person. In addition, then-Project Manager Whitney Rubin appeared virtually and provided a presentation about the Project. A copy of this presentation is submitted in collective Attachment F.

A second meeting was held virtually on May 19, 2021, during which Ms. Rubin provided a presentation and responded to questions.

A notice announcing the public meetings was published in the *Cynthiana Democrat* on April 29, 2021 and in the *Harrison Shopper* on April 26, 2021. The Project also mailed letters, dated April

29, 2021, to adjoining landowners notifying them of the meetings. Copies of these notices were filed with the Siting Board on May 4, 2021, and are attached hereto in collective Attachment G.

A third meeting was held in person on October 7, 2021, at the Prizing House in Cynthiana. Representatives of the project (Mike Stanton and Clay Canning) were on site to answer questions in person. Notices of this meeting were mailed via U.S.P.S. regular and certified mail and to all adjoining landowners on September 21, 2021. A notice announcing the public meeting was also published in the *Cynthiana Democrat* on September 23, 2021. Copies of these notices are attached hereto in Attachment G.

Board of Adjustments Public Meeting

The Harrison County Board of Adjustments met on May 24, 2021, to consider Bluebird Solar's application for a conditional use permit. Notice of that meeting was published in the *Cynthiana Democrat*, as required by local ordinance. Several representatives (Whitney Rubin, Shane Roberts, Stephen Sewell, Todd Osterloh, Richard Kirkland, and Dr. Paul Coomes) of the project were on site to answer questions in person. A copy of the presentation at the Board of Adjustments meeting is attached as collective Attachment F. The Board of Adjustments unanimously approved the Conditional Use Permit.

7. Efforts to locate near Existing Electric Generation

REQUIREMENT: per KRS 278.706(2)(g); *A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located;*

COMPLIANCE: It is rare for utility-scale solar projects to be co-located with existing electricity generating infrastructure, such as a coal or natural gas fired power plant. Efforts were made to site the Project where there is existing electricity transmission infrastructure.

The project will interconnect to an on-site, existing transmission line owned by East Kentucky Power Cooperative (EKPC). At the Project's expense, EKPC will build a new switchyard to interconnect the Project.

8. Proof of Service to County and Municipality Officials

REQUIREMENT: per KRS 278.706(2)(h); *Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed facility is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the jurisdiction in which the facility is proposed to be located;*

COMPLIANCE: A copy of the Siting Board application for Bluebird Solar LLC was electronically transmitted to Harrison County Judge/Executive and Joint Planning Commission Chairman, on the date of electronic filing of this application. On inquiry by Bluebird Solar, Judge/Executive Barnett and Joint Planning Commission Chairman (via the Planning Director) indicated that they would accept an electronic copy of the application.

9. Effect on Kentucky Electricity Generation System

REQUIREMENT: per KRS 278.706(2)(i); *An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky;*

COMPLIANCE: The Project will inject renewable electricity generated by the sun into the electricity transmission system in Kentucky.

The Project is located within the territory of PJM Interconnection LLC (PJM). PJM is the Regional Transmission Organization for 13 states including parts of Kentucky, and is managing the interconnection of the Project in coordination with East Kentucky Power Cooperative (EKPC), which owns the transmission infrastructure to which the project is proposing to interconnect. The interconnection study process in PJM involves three study phases; Feasibility Study, System Impact Study, and Facilities Study.

Bluebird Solar made two interconnection applications to PJM. The first (AC1-074) interconnection application to PJM was filed in February 2017 to interconnect the project on the Jacksonville-Renaker 138kV transmission line. Following the application, a kickoff call with PJM and EKPC was held to begin the three-step study process.

The Feasibility Study was completed in August 2017. The System Impact Study determines potential impacts to the regional electric grid and the need for any network upgrades to mitigate potential impacts. The System Impact Study Report for the Project was issued in June 2018. The third and final step, the Facilities Study, was completed in November 2020. These three reports can be found collectively in Attachment H.

The second (AC2-075) interconnection application to PJM was filed in February 2017. The Feasibility Study Report was issued in August 2017. The System Impact Study Report for this queue position was issued in June 2018. The Facilities Study Report for this queue position was issued in April 2021. Copies of these study reports can be found collectively in Attachment I.

During the System Impact Study, the Project was reviewed for the potential to impact adjoining utilities' transmission systems outside of PJM. PJM has confirmed that there are no utilities outside of PJM that have the potential to be affected by the Project or that require affected systems studies.

A key purpose of PJM and EKPC study process is to estimate the costs of any required upgrades, both at the Project site as well as elsewhere within the PJM transmission system, which the Project would create or contribute to, and to allocate such costs to the Project. Upon completion of the study process, both queue positions were combined under a single Interconnection Agreement that was executed by PJM, EKPC, and Bluebird Solar in July 2021. The Project will be required to pay for identified costs in order to interconnect and deliver electricity into the PJM and EKPC transmission system. In addition, Applicant has paid PJM for the costs of the study process.

10. Effect on Local and Regional Economies

REQUIREMENT: per KRS 278.706(2)(j); *An analysis of the proposed facility's economic impact on the affected region and the state;*

COMPLIANCE: See Attachment J for a report on the projected impact of the Project on local and regional economies, written by Paul A. Coomes, Ph.D, an Emeritus Professor of Economics from the University of Louisville.

On page 1 of the report, it states:

“There are two primary impacts expected from the project. First, there will be a one-time spike in construction and linked jobs as the site is built out over approximately one year, with a commensurate increase in County occupational tax receipts. Using company estimates of the construction payroll, I estimate that there will be a total of 282 new jobs in the County in year one, with new payroll of \$18.22 million. That payroll would yield \$273,000 in one-time occupational tax receipts for Harrison County. Second, there will be three decades of new property tax and PILOT payments to state and local jurisdictions in Harrison County due to the increased value of real estate, machinery and tangible property installed at the site. New property taxes plus the PILOT agreement will result in over \$1.5 million in payments to jurisdictions over the subsequent thirty years.”

In addition to the economic impacts described in Professor Coomes’ report, the Project will sell electricity and green credits on the open market, likely entering into a long-term power purchase agreement with a company that has made a commitment to source renewable energy. This power purchase agreement is typically signed before the Project goes into construction. A number of Kentucky-based companies and large Kentucky employers have made commitments to source renewable energy to power their Kentucky operations. Projects such as Bluebird Solar will allow these companies to meet their objectives locally, keeping the tax revenue and jobs created by the new renewable energy projects in-state.

11. Record of Environmental Violations

REQUIREMENT: per KRS 278.706(2)(k); *A detailed listing of all violations by it, or any person with an ownership interest, of federal or state environmental laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding five thousand dollars (\$5,000). The status of any pending action, whether judicial or administrative, shall also be submitted;*

COMPLIANCE: Neither Bluebird Solar LLC, nor any entity with ownership interest in the Project, has violated any state or federal environmental laws or regulations. There are no pending actions against Bluebird Solar LLC, nor any entity with ownership interest in the Project.

12. Site Assessment Report

REQUIREMENT: per KRS 278.706(2)(1); *A site assessment report as specified in KRS 278.708. The applicant may submit and the board may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report*

COMPLIANCE: The Site Assessment report is being contemporaneously filed herewith; please see the separately filed document titled “Bluebird Solar: Site Assessment Report.”