

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

In the Matter of:

ELECTRONIC APPLICATION OF)	
STONEFIELD SOLAR, LLC FOR A)	
CERTIFICATE OF CONSTRUCTION FOR)	
AN APPROXIMATELY 120 MEGAWATT)	Case No. 2022-00011
MERCHANT ELECTRIC SOLAR GENERATING)	
FACILITY AND NONREGULATED)	
TRANSMISSION LINE IN HARDIN COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700)	
ET SEQ. AND 807 KAR 5:110.)	

RESPONSE OF STONEFIELD SOLAR, LLC, TO NOTICE OF DEFICIENCY

The Applicant, Stonefield Solar, LLC (“Stonefield Solar” or “Applicant”), by and through counsel, hereby provides its response to the Notice of Filing Deficiency (NOD) issued on August 22, 2022, by the Kentucky State Board on Electric Generation and Transmission Siting (the “Board”) in response to the application for a construction certificate for a merchant solar electric generating facility submitted by the Applicant on August 19, 2022 (the “Application”).

The NOD alleged that the application was deficient pursuant to KRS 278.704(3), stating:

“The Hardin County Solar Ordinance was found invalid by Hardin Circuit Court. Therefore, the county setbacks listed in the application are not correct. The setbacks in KRS 278.704(2) apply unless a deviation is requested.”

Respectfully, the Applicant disagrees with the Board’s analysis of the recent decision in Case No. 22-CI-00197, styled *Hardin Solar, LLC, et al. v. The Hardin County Planning and Development Commission, et al.* (the “Hardin Solar Case”), and notes that while a provision of the Hardin County Development Guidance System (the “Ordinance”) was invalidated, as opposed to the entire Ordinance, the Applicant did not rely on the invalidated provision in its Application. (See decision

at Attachment 1). Thus, Applicant asserts that the alleged deficiency does not appear within the as-filed Application and the deficiency should be deemed either rescinded or cured.

The Hardin Solar Case was an appeal of a specific zoning/conditional use decision, which is unrelated to the current Applicant, and Section 15-8 (Procedures for Non-Listed Uses) of Hardin County's Development Guidance System. The Court ultimately declared "Section 15-8, of the DGS is invalid", but did not extend its decision to the rest of the Ordinance, upon which the Applicant's Application relies. Furthermore, Section 1-13 provides:

"The provisions of this ordinance are separable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this ordinance." (emphasis added).

Thus, the remainder of the Ordinance is still valid and in force today.

Applicant submitted its Application, Site Assessment Report, and Exhibits thereto referencing those provisions of the Ordinance dealing exclusively with the I-2 zoning classification, primarily Section 3-13. Both the Application and the SAR specifically reference those setbacks relevant to I-2, which are listed in Section 3-13 of the Ordinance. DGS Section 3-13 is enclosed as Attachment 2. The certification of compliance with all relevant setbacks also referenced the I-2 setbacks listed in Ordinance Section 3-13. (See Application ¶3; Application ¶12, Exhibit C; Application ¶20, Exhibit B-6, and SAR ¶8 (provided as Attachment 3)).

Although Hardin County had a resolution allowing solar farms as a conditional use and supplying setback distances, a resolution does not hold the same weight of law as an ordinance or regulation, and thus could not control the development of solar projects or require specific setback limits. This point was emphasized in the Hardin Solar Case decision, explaining that only the Fiscal Court could require the conditions found in the resolution. Recognizing this well in advance of the Hardin Solar Case decision, the Applicant predicated its Application and the relevant zoning

provisions, including setbacks, on the validly enacted portions of the Ordinance providing setbacks for I-2. Thus, the invalidation of the resolution has no bearing on the Applicant's Application.

Finally, because the Hardin County Ordinance is still in effect, including those setback provisions found in Section 3-13, the setbacks found in KRS 278.704(2) do not apply to the Applicant. Section 3-13 establishes the Heavy Industrial (I-2) zoning classification and provides setback requirements applicable to that zone, which will apply to the Applicant's project. KRS 278.704(3) provides, in part:

“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.”

Thus, the setbacks in KRS278.704(2) do not apply to the Applicant even absent a deviation granted by the Board.

Therefore, Applicant respectfully requests that the NOD be deemed either rescinded or cured without need for further filing by the Applicant.

Dated this 24th day of August 2022.

Respectfully submitted,

FROST BROWN TODD LLC



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ATTACHMENT 1

HARDIN CIRCUIT COURT
DIVISION III
CASE NO. 22-CI-00197

HARDIN SOLAR, LLC, ET AL,

PETITIONERS

VS.

DECLARATORY JUDGMENT

THE HARDIN COUNTY PLANNING AND
DEVELOPMENT COMMISSION, ET AL.;

RESPONDENTS

* * * * *

This case involves a Petition for Declaratory Judgment and an appeal of a specific zoning/conditional use decision. Because declaratory judgment may make a decision on the appeal unnecessary, the Court scheduled the process for submission of the declaratory judgment action first. The parties agreed on the record to be considered and filed competing memoranda. The Court conducted an oral argument on June 17, 2022.

The question is whether Section 15-8 of Hardin County's Development Guidance System ("DGS") improperly gives the Defendant Hardin County Planning and Development Commission ("Planning Commission") the authority to establish conditional uses. Stated another way, does the

law require the fiscal court to establish permissible conditional uses?

Before answering this question, some Respondents suggest this case is not appropriate for declaratory judgment. For a court to decide any case requires the presence of a "justiciable cause." Ky. Const. § 112(5). Kentucky law on declaratory judgments as one type of justiciable cause is now 100 years old. Before Kentucky's declaratory judgment statute (now at KRS Chapter 418) was first enacted in 1922, the common law did not permit a court to decide disputes until an injury was actually done as a result of a violation of law or breach of contract. De Charette v. St. Matthews Bank and Trust Co. 283 S.W. 410, 413 (Ky. 1926).

The law now allows a petitioner to state what he believes his rights are and the respondents' claims of contrary rights "which, if exercised, would impair, thwart, obstruct, or defeat ... his rights." Revis v. Daugherty, 287 S.W. 28, 29 (Ky. 1926) (emphasis added). The dividing line is between a real controversy and a "purely academic question." Id.

As Kentucky law developed over the following decades, these parameters did not change. The purpose remained to "avoid useless litigation" by declaring rights. Rogers v.

Webster, 99 S.W.2d 781, 782 (Ky. 1936). The statute allows the courts "to determine legal rights before one person has wronged another." Bowles v. Stilley's Ex'r., 254 S.W.2d 504, 505 (Ky. 1953). The learned Commissioner Stanley further stated in Bowles: "the purpose of the Declaratory Judgment Act is to make the courts more serviceable in the settlement of controversies, that it is to be liberally interpreted and administered ..." Id. at 506. See also KRS 418.080.

In another case, Commissioner Stanley further explained declaratory judgment is for questions not "merely advisory, or are academic, hypothetical, incidental or remote, or which will not be decisive of any present controversy." Dravo v. Liberty Nat. Bank & Trust Co., 267 S.W.2d 95, 97 (Ky. 1954). By contrast, "[t]he criterion that should govern the courts is not that there is a present controversy but a justiciable controversy over present rights, duties or liabilities. This is so although the effect of the judgment is prospective. A declaration in such a case is not only expedient but just and is within the design and purview of the statute." Id.

Applying these principles, the Court concludes this case presents a proper controversy for declaratory judgment. Among the various parties here are those who

have now twice unsuccessfully sought approval of a conditional use of their property. This conditional use exists solely as a result of the application of Section 15-8. The process of seeking and obtaining a conditional use permit has significant cost, both monetarily and in time, for people on both sides. There should be no legal infirmity which may cause all of these efforts to become meaningless.

Related to the issue of "should the case be here" is the mention of waiver or more correctly estoppel. See City of Erlanger v. American Isowall Corporation, 607 S.W.2d 128 (Ky. App. 1980). Some Respondents point out this legal challenge could have been made before or during the proceedings with the Planning Commission, especially considering a prior suit challenging a different section of the DGS but involving the same conditional use. Indeed, this would have saved a lot of people time, money, and trouble.

The suggestion could be made some parties wanted to "wait and see" if they lost on the application. If so, then the second challenge to the ordinance would serve as an additional avenue of attack. Counsel have assured the Court this was not the plan. The alleged problem with Section 15-8 was not contemplated at the time of the

application, which is the subject of the appeal in this case. Even if there had been some plan to attack the DGS piecemeal, which has not been shown, there are others involved in this suit whose rights will continue to be affected if there is no answer to the question about the validity of Section 15-8.

Regardless, there comes a time when any problem with this subject should be brought up with any other problems. This is the second lawsuit about the DGS in the context of "solar farming." National trends show the appropriate use of land for solar energy will continue as a land use issue requiring both planning generally and individual uses. It is not a judicious use of resources to keep finding problems one at a time and litigating them separately. Any question about the DGS with respect to this subject should be addressed now. In this way any problems may be corrected, and the parties can proceed under a valid ordinance.

Section 15-8 allows the Planning Commission to decide if a new conditional use will be permitted so long as the new conditional use will not "adversely affect long-range planning," in the opinion of the Planning Commission. Otherwise, conditional uses are those listed in a table (pages 56-57) under Section 16-1 of the DGS. If the new

conditional use is allowed, the Planning Commission then proceeds under the standards in Section 16 of the DGS.

The General Assembly, Kentucky's legislature, decides what powers the counties or other governmental entities may have with respect to zoning. In KRS 67.083(3)(k), the legislature clearly states the fiscal court may enact ordinances or regulations with respect to zoning under KRS Chapter 100. This requirement for the fiscal court to "enact" is repeated in KRS Chapter 100. KRS 110.201(2); KRS 100.203.

The use of the word "enact" is not accidental or insignificant. The word contemplates a decision by an elected legislative body. Reasons for this preference may include accountability of the elected representatives to the people for their decisions. Members of planning commissions and boards of adjustment are not elected.

In thirteen years, there have been only five prior additions under the Section 15-8 process, and they have not been added to the published list in the DGS (although they may be found in a separate compilation of resolutions on the county website). The last two were spaced over a six-year period.

The Court to some extent can empathize with the reason for Section 15-8. The fiscal court may have wanted to

avoid frequent changes to the DGS. The process of Section 15-8 resulted from a thoughtful study of how to make the DGS most efficient. There is no fault in the motivation, but the law must be followed, even when it causes extra work or is otherwise inconvenient.

There are two statutes which are violated by the Section 15-8 process. KRS 100.237 specifically governs the conditional use process. That statute gives to the Board of Adjustments (or the Planning Commission when KRS 100.203(5) applies, as in this case) the power to decide applications for conditional use permits but only for those "**specifically named in the zoning regulations.**" (emphasis added).

Regardless of any semantic debate about "ordinance" as opposed to "regulation," the law makes it clear ordinances can only be enacted by fiscal court. KRS 67.076. By definition, an ordinance is anything, no matter what it is called, which has a general effect and is enforceable within the county. KRS 67.075. The resolution of the Planning Commission at issue in this case meets this definition.

As conceded during the recent oral arguments, the approval of a conditional use under Section 15-8 would apply to any property in the listed zones. This means any

person with property in such a zone could seek to use the newly approved conditional use anywhere from West Point to Sonora or from Elizabethtown to Eastview. Because the Planning Commission Resolution establishing the solar farm conditional use under Section 15-8 is an ordinance by definition, it could only be enacted by the fiscal court.

The Court's conclusion is further supported by a detailed attorney general opinion, specifically OAG 78-815. Such opinions are not binding on the courts, but they may be "highly persuasive." Department of Kentucky State Police v. Trageser, 600 S.W.2d 749, 753 (Ky. App. 2020).

OAG 78-815 is remarkable for several reasons. The request for the opinion was made by an attorney who would later serve as the Chief Judge of the United States District Court for the Western District of Kentucky. He made the request for Jefferson County Judge (now Senate Minority Leader) Mitch McConnell. The opinion was written during the administration of Robert F. Stephens as Kentucky's Attorney General. He would later serve as the Chief Justice of the Kentucky Supreme Court.

OAG 78-815 addressed the same question legal issue posed by this case. The opinion is not a single-page summary opinion. Rather, it evaluates Kentucky law in detail before reaching the same conclusion: A resolution

which has the effect of an ordinance must be enacted as an ordinance by the fiscal court.

Hardin County is no stranger to litigation about zoning. An earlier invalid zoning ordinance declared one zone and then permitted the Planning Commission to allow or disallow conditional use permits on an individual basis, depending on a "growth guidance assessment." Hardin County v. Jost, 897 S.W.2d 592, 593 (Ky. App. 1995). The current DGS attempts to address the same challenge on a smaller scale and with a different process. But it similarly and impermissibly confers on the Planning Commission a legislative function.

A later case distinguishing Jost does not change this conclusion. Warren County Citizens for Managed Growth, Inc., v. Board of Commissioners of the City of Bowling Green, 207 S.W.3d 7 (Ky. App. 2006). This Warren County case involved a rezoning decision properly made by ordinance by the City of Bowling Green, rather than by a resolution by a city agency.

The Warren County case still may be helpful. In it the court recognized "planning is a prerequisite for zoning." Id. at 15. Zoning and the conditional uses to be allowed in zones must be subject to planning. This should

not be done by reaction based on individual plans for properties. Jost, supra, at 597.

Fortunately, a process exists to correct the situation. As OAG 78-815 pointed out, a county may ratify prior decisions. But more to the point, a specific process exists for the Planning Commission to be involved in the presentation of new conditional uses. KRS 100.211(3).

The fact KRS 100.211(3) exists further supports the conclusion the process of Section 15-8 is not authorized. As previously stated, a conditional use must be "specifically named" in the ordinance. To add a conditional use requires an amendment to the "text" of the ordinance.

This statutory process may originate with the Planning Commission. The Planning Commission must have one public hearing on the conditional use proposed. This hearing would not be about a particular project but rather about the use in general. Then the Planning Commission recommends to the fiscal court whether to add the conditional use. The ultimate decision to add conditional uses still rests with the fiscal court, as the law requires.

Now, the issue of whether solar farms are to be a conditional use again returns to the Hardin County

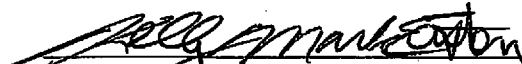
government. Both sides have indicated they want their side to be heard. Specifically, both sides have offered information about competing benefits and concerns. For both sides to be heard, there must be a commitment to listening without prejudice to the other side. All this must begin anew with the process the law requires.

For the reasons stated herein, the Court declares Section 15-8 of the DGS invalid. This result renders moot the appeal of the decision rejecting the solar farm conditional use permit in this case. As this Declaratory Judgment resolves the issues presented, this is a final and appealable judgment.

Ordered this 23rd day of June 2022.

ENTERED: 6.23.22
ATTEST: LORETTA CRADY, CLERK
HARDIN CIR/DIST COURT
BY CL D.C.

S. Lewis
M. Moulton
HCPD
D. Samford
T. Osterloh
D. Broderick
C. Skolnick


JUDGE, HARDIN CIRCUIT COURT,
DIVISION III

ATTACHMENT 2

3-13 HEAVY INDUSTRIAL ZONE (I-2)

A. INTENT

This Zone permits industrial development given the existence of the appropriate government services and utilities. The development shall be sited and designed so as to avoid neighborhoods and residential development in light of the potential nuisances or other hazards.

B. USES FOR THE ZONE

The Permitted, Accessory and Conditional Uses for lots and structures are set forth in the Land Use Table (Table 1, Pg. 56).

C. DIMENSION AND AREA REGULATIONS

The regulations on the dimensions and area for lots and yards are set forth as follows:

- 1) Minimum Lot Size – 3.0 acres;
- 2) Minimum Lot Frontage – 210’;
- 3) Minimum Width to Length Ratio – 1:3 until 300’ of road frontage;
- 4) Minimum Front Yard Setback – 50’;
- 5) Minimum Side Yard Setback –20’; 40’ adjoining commercial zones, 100’ adjoining residential and agricultural zones;
- 6) Minimum Rear Yard Setback –35’; 40’ adjoining commercial zones, 100’ adjoining residential and agricultural zones;
- 7) Maximum Lot Coverage – 0.85
- 8) Street Construction – New subdivision streets must intersection with government maintained roads with a minimum of 40 foot dedicated right-of-way and a minimum 18-foot road surface. To achieve street connectivity the Commission may approve secondary streets to intersect with other government maintained roads.

ADDITIONAL STANDARDS THAT MAY APPLY

Development Requirements, Pg. 73
Parking Standards, Pg. 89
Signage Standards, Pg. 97
Landscaping Standards, Pg. 103

Lighting Standards, Pg. 105
Building and Electric Permits, Pg. 117
Special Provisions, Pg. 143
• OUTDOOR STORAGE AND DISPLAY, Pg. 147
• REFUSE / GARBAGE DISPOSAL CONTAINERS, Pg. 148

ATTACHMENT 3

I. Applicant Information

1. Pursuant to KRS 278.706(2)(a) and 278.714(2)(a), the name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility and nonregulated electric transmission line is as follows: Stonefield Solar, LLC; 500 Sansome St, Suite 500, San Francisco, CA, 94111. The applicant's telephone number is: (270) 681-5720 and its email address is: info@stonefieldsolar.com. Communications should be directed to the attention of Rick Ferrera.

II. Description of Proposed Site

2. The proposed Stonefield Solar Project (“the Project”) is a 120 MW solar facility capable of providing enough clean, renewable electricity to power approximately 24,000 Kentucky homes. Photovoltaic (PV) solar modules are used to convert sunlight into direct current (DC) electricity which is then converted to alternating current (AC) electricity through inverters. Transformers step up AC electricity to a higher voltage so that it can connect to the regional transmission grid.

3. Pursuant to KRS 278.706(2)(b), The Project is located on 1,030 acres of unincorporated property near Elizabethtown, Kentucky in Hardin County (Exhibit A). The Project footprint, generally the area within the fence line where Project infrastructure will be located, includes 817 acres. The site consists of eight parcels leased from three landowners and one parcel with an option to be purchased by the Applicant (see Exhibit A). All parcels are currently zoned Rural Residential Zone (R-2), which is the default zoning for Hardin County, and currently are used primarily for agricultural purposes. The properties include primarily row crops and vegetation is sparse aside from forested riparian areas generally associated with West Rhudes Creek and the

ephemeral and intermittent streams that cross the properties. Many of the delineated onsite waters (streams and wetlands) do not fall under the jurisdiction of the U.S. Army Corps of Engineers because they lack surface water connections to jurisdictional features. Additionally, the site is situated in an area known for karst geology, including sinkholes. The generation site parcels will likely be rezoned to Heavy Industrial (I-2) prior to commencing construction. The Project is adjacent to a Vulcan Materials Company construction aggregates quarry and generally fits within the I-2 category.

4. Pursuant to KRS 278.714(2)(b) the nonregulated electric transmission line will start at approximate coordinates 37°38'29.94" N 85°56'38.48" W and run north to east approximately 13,523 feet to the existing Central Hardin 138kV substation, owned and operated by Eastern Kentucky Power Cooperative (EKPC), a Touchstone Energy Cooperative located on Pritchard Parkway in Elizabethtown. The proposed voltage of the nonregulated electric transmission line is 69 kV and maintained within a proposed 50-foot right-of-way. The proposed right-of-way will be within a number of parcels (Exhibit A-1). The nonregulated electric transmission line will be approximately 159 feet from the nearest non-participating residential structure and there are no participating structures near the proposed route. One school and one public or private park exist within one mile of the proposed nonregulated electric transmission line as shown in Exhibit A-2. The proposed nonregulated electric transmission line will not exist within 1,000 feet of a residential neighborhood, school, or park.

5. Approximately 50,000 linear feet of private access roads will be utilized within the facility and will be constructed of all-weather gravel. The array access roads will not exceed 12 feet in width, except for turning radii, which will not exceed 40 feet in radius. Two-foot shoulders will be constructed on all access roads. The substation access road will not exceed 20 feet in width.

III. Public Notice Evidence

10. Pursuant to KRS 278.706(2)(c), public notice of the filing of this application was provided to adjacent landowners and magistrates (Exhibit B-1) on July 21 and 22, 2022 and to the general public via publication in The News Enterprise, which is the newspaper of general circulation in Hardin County, on July 23, 2022. (Exhibit B-2).

11. Letters were mailed to the adjacent landowners on October 28, 2021, to provide notice of the public information meeting held on November 11, 2021. An example of the letter and delivery proof to the adjacent landowners and magistrates can be found in Exhibit B-3 as well as a scanned copy of the notice of the public information meeting that was published in The News Enterprise on October 28, 2021, in Exhibit B-4.

IV. Compliance with Local Ordinance and Regulations

12. Pursuant to KRS 278.706(2)(d), Hardin County has promulgated the Hardin County Development Guidance System Zoning Ordinance, 2009 (hereinafter “the Ordinance”) and the Applicant has designed the Project to be consistent with the applicable Ordinance requirements. The Applicant certifies that the Project will comply with all local ordinances and regulations concerning noise control and with any applicable local planning and zoning ordinances. Pursuant to KRS 278,704(3), the following setbacks were established by the Ordinance: on property zoned as I-2, Hardin County requires a minimum front yard setback of 50 feet; minimum side yard setback of 20 feet, or 40 feet if adjoining commercial/industrial zones and 100 feet if adjoining residential and agricultural zones; minimum rear yard setback of 35 feet; or 40 feet if adjoining commercial/industrial zones, and 100 feet if adjoining residential and agricultural zones. The

signed Statement of Compliance is contained in Exhibit C. The Ordinance is enclosed as SAR Exhibit F.

V. Setback Requirements

13. Pursuant to KRS 278.706(2)(e), the Project will not include any exhaust stacks or wind turbines as part of the facility; the Project will not be required to follow setback requirements set forth in KRS 278.704(3), from the property boundary of any adjoining property owner to the energy generating facilities as a result of the locally established setback requirements.

14. The Applicant retained Kirkland Appraisals, LLC, to assess potential effects of the Project on nearby property values. The matched pair analysis shows no impact on home values due to abutting or adjoining a solar facility, as well as no impact to abutting or adjacent vacant residential or agricultural land where the Project is properly screened and buffered. The adjoining properties have sufficient setbacks from the proposed solar panels and supplemental vegetation is proposed to enhance the areas where the existing trees are insufficient to provide proper screening.

VI. Public Notice Report

15. Pursuant to KRS 278.706(2)(f), the Applicant has made a substantial effort to engage the public in numerous ways regarding the Project. Stonefield Solar has created a Project website (<https://stonefieldsolar.com/>) to publish information about the Project and to provide an email and telephone number for feedback. It has held in-person public meetings, online public meetings, in-person meetings with media, county officials, and neighboring residents. In all communications, Stonefield Solar has endeavored to be transparent regarding the specifics of the proposed Project.

7/21-22/2022	Mailing	Adjacent Landowners	Application Filing letter
7/23/2022	The News Enterprise	Public Newspaper Advertisement	Public Notice of Application Filing

VII. Efforts to Locate Near Existing Electric Generation

18. Consistent with KRS 278.706(2)(g), Stonefield Solar took into account whether the proposed solar project could be located on, adjoining, or in proximity to the location of existing electric generating facilities. For solar projects like Stonefield Solar, key factors for site selection are favorable geography, willing landowner participation, and access to transmission lines. The land needed to site Stonefield Solar was not available on or adjoining to an existing electric generation facility. However, Stonefield Solar selected a location in proximity to an existing transmission line.

19. The onsite substation will connect to the existing electric grid via an approximately 13,523-foot nonregulated electric transmission line to be constructed between the Project footprint and the existing 69 kV Central Hardin Substation, owned and operated by EKPC. Information on PJM's studies of the interconnection cost and infrastructure are included in the System Impact Study included in Exhibit D.

VIII. Proof of Service to County and Municipality Officials

20. Pursuant to KRS 278.706(2)(h), a copy of the Siting Board application for Stonefield Solar, LLC, was electronically transmitted to the Judge-Executive of Hardin County, Harry Berry, the chief executive officer of the county in which the proposed generating facility is to be located. The proposed facility is not being located within the boundaries of any municipal corporation. It also has been served on the Chairman of the Hardin County Planning &

Development Commission, Mark Hinton, the chief officer of the public agency charged with the duty of planning land use in Hardin County, on August 19, 2022. Proof of this service is provided in Exhibit B-6.

IX. Effect on Kentucky Electricity Generation System

21. Pursuant to KRS 278.706(2)(i), the Project is within EKPC's service territory, and therefore, the interconnection of the Project will be on the EKPC system. An analysis of the proposed solar generating facility's projected effect on the electricity transmission system is provided in Exhibit D.

X. Effect on Local and Regional Economies

22. Pursuant to KRS 278.706(2)(j), an Economic Impact Study was completed for the Project by Strategic Economic Research enclosed as Exhibit E. As the study demonstrates, utility-scale solar energy projects have numerous economic benefits. Solar installations create job opportunities in the local area during both the short-term construction phase and the long-term operational phase. In addition to the workers directly involved in the construction and maintenance of the solar energy project, numerous other jobs are supported through indirect supply chain purchases and the higher spending that is induced by these workers. Solar projects strengthen the local tax base and help improve county services, and local infrastructure such as public roads.

23. According to the Economic Impact Study, the Project is projected to create 93 local (Hardin County) jobs during construction and the equivalent of 7.6 full time local, long term jobs during operation. To the extent feasible, jobs will be sourced locally. The Project is anticipated to create over \$6,500,000 in new local earnings during construction and another \$290,000 in new local long-term earnings; and a local output of more than \$8,000,000 during construction and

7. Pursuant to KRS 278.708(3)(a)(6), there is one 345-kV transmission line that intersects the Project and one 69-kV transmission line that intersects the project and connects to the Central Hardin Substation located on Pritchard Parkway in Elizabethtown, Kentucky.

8. Pursuant to KRS 278.708(3)(a)(7), Hardin County has promulgated the Hardin County Development Guidance System Zoning Ordinance, 2009 (hereinafter “the Ordinance”), which establishes the following set back requirements that will be applicable to the project: on property zoned as I-2, Hardin County requires a minimum front yard setback of 50 feet; minimum side yard setback of 20 feet, or 40 feet if adjoining commercial zones and 100 feet if adjoining residential and agricultural zones; minimum rear yard setback of 35 feet; or 40 feet if adjoining commercial zones, and 100 feet if adjoining residential and agricultural zones. The Ordinance is enclosed as SAR Exhibit F.

9. Pursuant to KRS 278.708(3)(a)(8), a noise assessment was completed for the Project by Stantec Consulting Services in August 2022 (SAR Exhibit D). The noise assessment indicates that during site operation, intermittent noise related to the panel tracking system and the noise of the inverters is expected. The increase in noise is negligible due to the both the vertical and horizontal distances between the panels/inverters and the nearest noise sensitive receptors. The nearest sensitive receptor is more than 450 feet from any solar panels and approximately 639 feet from an inverter. During average operation the inverters will be similar in noise level (~42 dBA) to quiet library sounds at the nearest receptors and will only run when the facility is producing electricity (e.g., when the sun is shining). According to manufacturer specifications the loudest the transformer is expected to be is just over 60 dBA, at one meter from the source, or the level of a normal conversation. Since the nearest receptor is approximately 950 feet from the substation, noise emitted from the receptor would be less than typical background noise. Site visits and

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AND 807 KAR 5:110.)	

Certification Required by KRS 278.706(2)(d)

Comes the Affiant, James F Cook, and hereby states as follows:

1. I am over the age of 18 and a resident of California.
2. I am the Vice President of Development of Candela Renewables, LLC, the contract development agent for Stonefield Solar, LLC.
3. I have conducted an inquiry into the facts contained in this Statement and have found them to be true to the best of my knowledge and belief.
4. I hereby certify that the proposed facility as planned and to be constructed in Hardin County, Kentucky will be in compliance with all local ordinances and regulations concerning noise control, and will be in compliance with any local planning and zoning ordinances.
5. I have been informed that the general setback requirements established by the Hardin County Planning and Zoning Commission for structures in a Heavy Industrial (I-2) zone are Minimum Front Yard Setback of 50 feet (40 feet for adjoining commercial zones); Minimum Side Yard Setback of 20 feet (40 feet for adjoining commercial zones, 100 feet for adjoining residential and agricultural zones); and Minimum Rear Yard Setback of 35 feet (40 feet for adjoining commercial zones, 100 feet for adjoining residential and agricultural zones).

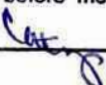
Signed this 18th day of AUGUST, 2022.

Candela Renewables, LLC, contract
development agent for Stonefield Solar,
LLC

By: 
Name: James F Cook
Title: Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara
Subscribed and sworn to (or affirmed) before me
on this 18th day of August, 2022
by JAMES F. COOK
proved to me on the basis of satisfactory evidence
to be the person (s) who appeared before me.

Signature: 

 **CATHY M. WONG**
COMM. #2403771
Notary Public - California
Santa Clara County
My Comm. Expires June 4, 2026

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

In the Matter of:

ELECTRONIC APPLICATION OF)	
STONEFIELD SOLAR, LLC FOR A)	
CERTIFICATE OF CONSTRUCTION FOR))	
AN APPROXIMATELY 120 MEGAWATT)	Case No. 2022-00011
MERCHANT ELECTRIC SOLAR GENERATING))	
FACILITY AND NONREGULATED)	
TRANSMISSION LINE IN HARDIN COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700)	
ET SEQ. AND 807 KAR 5:110.)	

Proof Of Service in Compliance with KRS 278.706(2)(h) and 278.714(2)(f)

Comes the Affiant, Aubree Muse, and hereby states as follows:

1. I am over the age of 18 and a resident of Kentucky.
2. On this day, August 19, 2022, I personally delivered electronic versions of the Stonefield Solar, LLC, Application for a construction certificate to construct a merchant solar electric generating facility and a non-regulated transmission line to the following individuals/locations:

County Judge-Executive Harry Berry
150 N. Provident Way, Suite 314
Elizabethtown, KY 42701
(270) 765-2350

Planning Commission Chairman Mark Hinton
150 N. Provident Way, Suite 225
Elizabethtown, KY 42701
(270) 769-5479

Date: August 19, 2022



Name: Aubree Muse
Title: Development Analyst, Candela Renewables

(COMMONWEALTH OF KENTUCKY)

(COUNTY OF HARDIN)

Subscribed and sworn before me, I Maci Belfiore, a

Notary Public, in and for the County and State above, do hereby declare that the Affiant,

Audree Muse did appear personally before me

and furnish to me adequate identification of proving their identity and stated that

she (he/she) did sign this document of their own free will, on this the 19th day of

August, 2022.

(AFFIX SEAL)



Maci Belfiore

Notary Public

My Commission expires: 7-24-2025