

DOGWOOD CORNERS LLC
APPLICATION

DOGWOOD CORNERS, LLC
106 Isabella Street, Suite 400
Pittsburgh, PA 15212

September 2023

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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: Dogwood Corners LLC is a Delaware limited liability company formed on April 27, 2022. Dogwood Corners LLC is a wholly owned subsidiary of Oriden LLC and is authorized to do business in Kentucky. The principal contact person, name, address, and telephone number for this application are provided below.

- Name: Dogwood Corners LLC
Attn: Megan Stahl, Manager, Development
- Address: 106 Isabella Street, Suite 400
Pittsburgh, PA 15212
- Phone: (689) 666-8536

Person Responsible: Megan Stahl

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:

Dogwood Corners LLC is proposing to construct and operate a solar energy facility and battery energy storage system (BESS) generating up to a total of 125 megawatts plus providing 25 megawatts of storage capacity. The approximate street address of the proposed Solar and BESS Project is 4228-4112 Dogwood Kelly Rd, Hopkinsville, Christian County, KY 42240, and the project coordinates are 36.953485, -87.427484. The proposed facility will consist of approximately 670 acres of solar photovoltaic panels and associated racking, inverters, underground collection lines, an overhead line connecting the east and west sided of the project, a project substation, a BESS facility, a utility-owned switching station, and access roads.

The site consists of eight parcels secured pursuant to six real estate agreements. Project parcels consist of a mix of row crop agriculture, residential uses, and recreational wooded areas. Many of the cultivated fields, roadsides, and forest edges contained grassy swales and heavy erosional gullies and rills. Fencerows and forest edges were dominated by relatively young mixed forest lots containing a variety of oaks, hickories, and maples, with a shrub understory of primarily greenbrier and brambles, and relatively open herbaceous layers of goldenrods, asters, nettles and grasses. The forested patches within the Project Area were discontinuous and concentrated along stream or drainage features. Topography is gently sloping with prevalence of erosion and bedrock lithology. The Project Area is not predisposed to prolonged inundation or hydric conditions expected to facilitate the formation of wetlands.

The Project will avoid impacts to stream and wetland resources outside of minor access road crossings and will also avoid impacts to most existing forested habitat. The Project aims to protect natural resources by installing fencing around but not in between solar panel bays, which will maintain open areas through which animals can continue to travel. This approach will maintain wildlife corridors where possible. The Project will also install wildlife-permeable fencing, which allows small mammals to pass under the fence. Additionally, where appropriate, the Project will create new wildlife habitat with installation of pollinator friendly species and foraging habitat.

Based on community feedback, the Project Area was adjusted to maintain a minimum distance of 500 feet between non-participating residences and Project facilities, which is significantly larger than industry standards. The nearest participating residential structure is approximately 83 feet from the nearest panel, and the nearest non-participating residential structure is approximately 518 feet from the nearest panel. Also based on community feedback the substation and BESS facility

were relocated from a visible location along Goode Road to a location further within the Project Area. The nearest participating residential structure is approximately 3,427 feet from the substation, and the nearest non-participating residential structure is approximately 1,355 feet from the substation. There are zero residential neighborhoods, schools, or parks within two miles of the proposed Project. A map depicting a two-mile radius around the Project Area is enclosed as Attachment A, titled "Context Map".

Private access roads will be utilized within the Project and will be constructed of gravel. The locations of proposed access roads are shown on a map enclosed in Appendix B of the Site Assessment Report, titled "Preliminary Site Layout". All entrances and driveways will comply with applicable requirements for safe ingress and egress. The Project solar arrays will be secured with perimeter fence, which will consist of seven-foot-minimum (consistent with National Electric Code) wildlife-permeable fence. Project construction will minimize large-scale grading and removal of native soil, and clearing and grubbing will occur only where necessary. Minimal grading may be required to level steep or undulating areas of the site for installation of erosion, sediment, and stormwater management controls, and to prepare soils for foundations for substation equipment and inverters.

Person Responsible: Megan Stahl

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 August 8, 2023, is contained in Attachment B. This notice was mailed to each landowner via regular USPS mail.

Also contained in Attachment B is the tear sheet and affidavit of the notice published in the *Kentucky New Era* on August 12 and 15, 2023, which is the newspaper of general circulation in Christian County.

Person Responsible: Megan Stahl

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 is located in Christian County.

Dogwood Corners LLC certifies that the Project will follow all local ordinances and regulations concerning noise control, and with any applicable local planning and zoning ordinances that were valid and existed on the date the application is filed, pursuant to KRS 278.710(1)(e). A statement certifying these facts is submitted as Attachment C.

As discussed below, there are no setback requirements established by the planning and zoning commission.

Dogwood Corners LLC notes that the Christian County Fiscal Court attempted to pass a purported zoning ordinance numbered as Christian County Ordinance No. 22-004, which is an invalid zoning ordinance because it attempts to regulate setbacks and screening between buildings and other structures (as set forth in KRS 100.203), and because the Fiscal Court violated the other provisions of KRS Chapter 100 in its enactment.

Dogwood Corners LLC has filed an action for declaratory judgment in Christian Circuit Court, docketed as 22-CI-1010, in which Dogwood Corners LLC seeks court confirmation that the purported ordinance is invalid for the reasons set forth above. The Fiscal Court has admitted as much in its Answer and that the Christian County Community & Development Services (“CDS”), which is the planning commission established by the County, did not hold a hearing or make any recommendation to the Fiscal Court regarding the zoning ordinance in violation of KRS 100.207.

Ordinance No. 22-004 is void *ab initio*, as the Fiscal Court was without statutory authority to enact a zoning ordinance without first holding a public hearing and allowing the CDS to offer a recommendation, among other reasons. *See Bellafonte Land Inc. v. Bellefonte, Kentucky*, 864 S.W.2d 315, 316 (Ky. App. 1993) (“If the ordinances are void *ab initio*, the City had not yet obtained planning and zoning authority, a prerequisite to jurisdiction to regulate the appellant’s road as was being done (KRS 100.113, KRS 100.187(3), and KRS 100.201)”). The Ordinance is already void *ab initio* as the Fiscal Court lacked the lawful authority to enact Ordinance No. 22-004. Dogwood Corners LLC has filed the declaratory judgment action for the Christian Circuit Court to declare it void.

As of the filing date of this application, Dogwood Corners LLC has a Motion for Judgment on the Pleadings pending before the Court. At a hearing on the Motion on August 16, 2023, the Court requested the parties to submit supplemental written briefs. The next oral argument before the Circuit Court has been set for September 20, 2023.

Dogwood Corners LLC listened to concerns from members of the community and is proposing setbacks that are significantly larger than solar industry standards. The Project is committed to placing solar panels no closer than 500 feet from a non-participating residence. By comparison:

- The Siting Board has frequently approved projects with setbacks to solar panels being no closer than 150 feet from non-participating residences.
- Logan County Ordinance No. 19-920-06 requires solar energy facilities be setback 250 feet from residences.
- Henderson County Section 30.01 Solar Energy System requires that all equipment shall be located at least 100 feet from any residential structure.

Person Responsible: Megan Stahl and Legal

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.

As stated in Section 4 above, the Christian County planning commission has not established a setback requirement in a valid ordinance.

The Project will not include any exhaust stacks or wind turbines as part of the facility, and therefore, there are no established 1,000-foot setback requirements from the property boundary of any adjoining property owner to the energy generating facilities.

In addition, the Project does not have any residential neighborhood, school, hospital, or nursing home facility within 2,000 feet from facilities to be used for generation of electricity. Specifically, there are no populated areas within 2,000 feet of five (5) or more acres in relevant parcels containing at least one (1) residential structure per acre. Therefore, no deviation from the statutory setbacks is required to be obtained.

Person Responsible: Megan Stahl and Legal

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: Dogwood Corners LLC has made a substantial effort to engage the public regarding the Project through multiple public meetings and direct outreach to stakeholders.

Public Meetings

Public meetings for the Project were held in person at community centers at two churches located within the proposed project area on both September 22, 2022, and August 17, 2023. The September 22, 2022 meeting satisfies the requirement to hold a public meeting at least 90 days prior to the filing of this application and was held at New Barren Springs Baptist Church activity building and was very well attended with approximately 60 community members and elected officials from the area surrounding the proposed project site. Dogwood Corners LLC representatives provided a presentation about the Project, were on hand to take questions and listen to concerns and comments from the community, and large foam boards depicting the project layout were displayed. Food and drinks from nearby Joelle's Bakery and Café were provided for attendees. The August 17, 2023 meeting was held at the Dogwood Christian Church community center and was also very well attended with approximately 50 community members and elected officials from the area surrounding the proposed project site. Project updates were provided to small groups and on an individual basis and subject matter experts from Dogwood Corners LLC and several consulting companies were on hand to answer questions. The topics covered included environmental, engineering, property value, project economics, noise, traffic, dust and decommissioning. Large foam boards depicting the Project layout, which was updated based on community feedback, were displayed. Food and drinks from nearby Joelle's Bakery and Café were again provided for attendees. Both meetings were held after typical business hours to allow community members to

attend at a time convenient to their schedules. Photos from both meetings may be found in Attachment D.

Meeting Notices

Notices announcing the public meetings were published in the *Kentucky New Era* on September 6, 2022 for the September 22, 2022 meeting, and August 12 and 15, 2023 for the August 17, 2023 meeting. Copies of the announcements may be found in Attachment E.

Prior to both public meetings Dogwood Corners LLC mailed details about the meetings to participating and adjoining landowners neighboring the proposed Project site. The announcement for the September 22, 2022 meeting was mailed September 7, 2022 and the announcement for the August 17, 2023 meeting was mailed August 8, 2023. Copies of the announcements may be found in Attachment E.

Additional Engagement

Dogwood Corners LLC conducted outreach and communication with Christian County residents and officials starting in 2019 and continued through 2022. During this time Dogwood Corners LLC successfully signed six landowners to option agreements. In June 2022 representatives from Dogwood Corners LLC met in-person with Judge Executive Steve Tribble, Treasurer Walter Cummings, former County Attorney Mike Foster, and several magistrates to discuss economic benefits of the project, as well as outreach to several landowners adjoining the Project Area. Representatives from Dogwood Corners LLC attended the Christian County Fiscal Court meeting on June 14, 2022, provided Project updates, and the Fiscal Court unanimously approved an inducement resolution approving an Industrial Revenue Bond (IRB). As discussed in the June Fiscal Court meeting, Dogwood Corners LLC continued community outreach efforts to adjoining landowners.

9/22/2022: Dogwood Corners held a public meeting at New Barren Springs Baptist Church.

9/27/2033: Christian County Fiscal Court rescinded the previously approved IRB to address community concerns.

10/31/2022: Dogwood Corners met with then County Attorney John Soyers and Senator Whitney Westerfield to discuss County concerns.

11/1/2022: Dogwood Corners provided email to County officials with proposed information to consider in development of an ordinance.

11/10/2022: Representatives from Dogwood Corners LLC attended the Fiscal Court meeting, provided project updates, an explanation of the Project development and siting process, consistency with existing County plans such as the Christian County Vision and Hopkinsville-Christian County Sustainability Plan, and recommendations on the proposed solar ordinance. Fiscal Court held First Reading of Solar Panel Farm Ordinance #2022-04.

11/22/2022: Representatives from Dogwood Corners LLC attended the Fiscal Court meeting and provided additional feedback on the proposed solar ordinance.

11/23/2022: Dogwood Corners provided email with noise references verbally requested during 11/22/2023 Fiscal Court meeting.

11/29/2022: Representatives from Dogwood Corners LLC attended the Fiscal Court meeting, requested clarification on setback requirements and the deviation process and spoke about the benefits of solar for the community. Fiscal Court held Second Reading of Solar Panel Farm Ordinance #2022-04.

1/10/2023: Representatives from Dogwood Corners LLC met in-person with Christian County officials (including new County Attorney Lincoln Foster and new Judge Executive Jerry Gilliam) to discuss whether County would consider modifying ordinance, County indicated they needed project documents to inform new Fiscal Court members about the project.

3/1/2023: Dogwood Corners provided project documents (including updated Property Value, Economic, Noise and Traffic analyses, as well as visual screening simulations and locations) requested by County during 1/10/2023 meeting.

3/29/2023: Dogwood Corners met with Christian County officials to discuss information provided, County requested Decommissioning Plan.

5/10/2023: Dogwood Corners provided draft Decommissioning Plan by email.

5/15-6/26/2023: Dogwood Corners sent several emails to County officials requesting a follow up meeting to discuss the Decommissioning Plan and other Project updates.

6/28/2023: Dogwood Corners met with the Executive Director of the Southwest Kentucky Economic Development Council to provide updates on the Project and receive feedback on development.

7/14/2023: Dogwood Corners met with Christian County officials including Squire John Bruce, Judge Executive Jerry Gilliam, County Attorney Lincoln Foster, Squire J.E. Pryor, Tom Britton, and Mac Johns to discuss Project updates and next steps.

7/18/2023: Dogwood Corners continued outreach to adjoining landowners to discuss Project updates, setbacks and proposed visual screening.

7/27/2023: Dogwood Corners provided an email to attendees of 7/14/2023 meeting with requested follow up information including proposed modifications to ordinance.

8/17/2023: Dogwood Corners held public workshop at Dogwood Christian Church.

Person Responsible: Megan Stahl

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 Tennessee Valley Authority.

Person Responsible: Megan Stahl

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 Dogwood Corners LLC will be electronically transmitted to Christian County Judge/Executive and Community and Development Services (Planning Commission) Chairman through its Executive Director, on the date of electronic filing of this application.

Person Responsible: Megan Stahl and Legal

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:

Oriden LLC submitted an interconnection request to the Tennessee Valley Authority (TVA) on August 4, 2020. TVA issued a Feasibility Study Report on February 5, 2021 and a revised Report on March 3, 2021. TVA issued a System Impact Study (SIS) Report March 12, 2021, Revision 1 on December 21, 2021, and Revision 2 on June 23, 2022.

TVA conducted SIS at the request of Oriden LLC to interconnect a solar Generating Facility with a maximum generating capability of 125 MW (net) to the TVA system in Christian County, KY. The objective of the SIS is to identify all Adverse System Impacts on TVA's transmission system in order to maintain system reliability as a result of the Interconnection Request. The SIS will also determine the facility additions, modifications, and upgrades that are needed to maintain a reliable interconnection. In addition to identifying all Adverse System Impacts on the TVA transmission system, TVA monitors its Local Power Companies (LPCs) as well as neighboring transmission systems for impacts.

The study included steady-state (thermal & voltage) analysis, short circuit analysis, stability analysis, and reactive capability.

- Steady-state loadflow analysis determined that the proposed interconnection will not cause thermal violations on the TVA transmission system.
- Short circuit analysis determined that the proposed interconnection will not cause any breaker duty issues on the TVA transmission system.
- Transient stability analysis determined that the proposed interconnection will not cause any new transient stability issues on the TVA transmission system.
- The evaluation of the reactive capability requirement of a 95% power factor (injecting and absorbing) at the Point of Interconnection (POI) identified the need for additional reactive support and identified the method of mitigation.

The study identified a need for Direct Assignment Facilities that will be included in Project construction.

Oriden LLC and TVA entered into an Interconnection Facilities Study Agreement on April 26, 2021. A copy of the Interconnection Facilities Study Agreement may be found in Attachment F.

Person Responsible: Megan Stahl

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 G 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 spike in construction and linked jobs as the site is built out over approximately one year. Using estimates of the construction payroll, I estimate that there will be a total (direct and spinoff) of 371 new jobs in the County in year one, with new labor compensation of \$22.1 million.

Second, there will be three to four decades of new property-related tax payments to state and local jurisdictions in Christian County due to the increased value of real estate, machinery and tangible property installed at the site. Over 36 years, this would lead to \$5.2 million in property tax revenues for local government jurisdictions in Christian County. The eleven land parcels involved generated \$9,600 in property taxes in 2021, almost all going to local jurisdictions. This can be compared to an average of \$144,000 likely to be generated per year by the solar project over the life of the project.

Person Responsible: Paul Coomes

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 Dogwood Corners LLC, nor any entity with direct ownership interest in the Project, has violated any state or federal environmental laws or regulations. There are no pending actions against Dogwood Corners LLC, nor any entity with direct ownership interest in the Project.

Person Responsible: Megan Stahl

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 “Dogwood Corners LLC: Site Assessment Report”, Attachment H.

Person Responsible: See sections of Site Assessment Report

13. Decommissioning Plan

REQUIREMENT: *A decommissioning plan that shall describe how the merchant electric generating facility will be decommissioned and dismantled following the end of its useful life. The decommissioning plan shall, at a minimum, include plans to:*

- 1. Unless otherwise requested by the landowner, remove all above-ground facilities;*
- 2. Unless otherwise requested by the landowner, remove any underground components and foundations of above-ground facilities. Facilities removed under this subparagraph shall be removed to a depth of three (3) feet below the surface grade of the land in or on which the component was installed, unless the landowner and the applicant otherwise agree to a different depth;*
- 3. Return the land to a substantially similar state as it was prior to the commencement of construction;*
- 4. Unless otherwise requested by the landowner, leave any interconnection or other facilities in place for future use at the completion of the decommissioning process;*
- 5. Secure a bond or other similar security for the project to assure financial performance of the decommissioning obligation, provided that:*
 - a. The amount of the proposed bond or similar security shall be determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest in either the merchant electric generating facility or any parcel of land upon which the merchant electric generating facility is located. The proposed amount of the bond or similar security shall be either:*
 - i. The net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value of the merchant electric generating facility's components; or*
 - ii. The bond amount required by a county or municipal government that has established a decommissioning bond requirement or similar security obligation in the county or municipality where the merchant electric generating facility will be located. If the facility will be located in more than one (1) county or municipality that has established a decommissioning bond or similar security obligation, then the higher amount shall be required for the facility;*
 - b. The bond or other similar security names:*
 - i. For property that is leased by the applicant, each landowner from whom the applicant leases land and the Energy and Environment Cabinet as the primary co-beneficiaries; or*
 - ii. For property that is owned by the applicant, the Energy and Environment Cabinet as the primary beneficiary;*

c. If the merchant electric generating facility is to be located in a county or municipality that has not established a decommissioning bond or other similar security obligation, the bond or other similar security shall name the county or municipality as a secondary beneficiary with the county's or municipality's consent;

d. The bond or other similar security shall be provided by an insurance company or surety that shall at all times maintain at least an "Excellent" rating as measured by the AM Best rating agency or an investment grade credit rating by any national credit rating agency and, if available, shall be noncancelable by the provider or the customer until completion of the decommissioning plan or until a replacement bond is secured; and

e. The bond or other similar security shall provide that at least thirty (30) days prior to its cancellation or lapse, the surety shall notify the applicant, its successor or assign, each landowner, the Energy and Environment Cabinet, and the county or city in which the facility is located of the impending cancellation or lapse. The notice shall specify the reason for the cancellation or lapse and provide any of the parties, either jointly or separately, the opportunity to cure the cancellation or lapse prior to it becoming effective. The applicant, its successor, or its assign, shall be responsible for all costs incurred by all parties to cure the cancellation or lapse of the bond. Each landowner, or the Energy and Environment Cabinet with the prior approval of each landowner, may make a demand on the bond and initiate and complete the decommissioning plan.

6. Communicate with each affected landowner at the end of the merchant electric generating facility's useful life so that any requests of the landowner that are in addition to the minimum requirements set forth in this paragraph and in addition to any other requirements specified in the lease with the landowner may, in the sole discretion of the applicant or its successor or assign, be accommodated; and

7. Incorporate the requirements of paragraphs (m)1. to 6. of this subsection into the applicant's leases with landowners.

COMPLIANCE: The Decommissioning Plan, which is consistent with the above stated requirements, may be found in Attachment I.

Person Responsible: Shane Kelley

14. Cumulative Environmental Assessment Summary

REQUIREMENT: per KRS 224.10-280; *Cumulative environmental assessment and fee required before construction of facility for generating electricity -- Conditions imposed by cabinet -- Administrative regulations.*

(1) Except for a person that commenced construction of a facility prior to April 15, 2002, or that has received a certificate of public convenience and necessity from the Public Service Commission prior to April 15, 2002, no person shall commence to construct a facility to be used for the generation of electricity unless the person:

(a) Submits a cumulative environmental assessment to the cabinet with the permit application; and

(b) Remits a fee set pursuant to KRS 224.10-100(20) by the cabinet to defray the cost of processing the cumulative environmental assessment.

(2) The person may submit and the cabinet may accept documentation of compliance with the National Environmental Policy Act (NEPA) as satisfying the requirements to file a cumulative environmental assessment under subsection (1) of this section.

(3) The cumulative environmental assessment shall contain a description, with appropriate analytical support, of:

(a) For air pollutants:

1. Types and quantities of air pollutants that will be emitted from the facility; and

2. A description of the methods to be used to control those emissions;

(b) For water pollutants:

1. Types and quantities of water pollutants that will be discharged from the facility into the waters of the Commonwealth; and

2. A description of the methods to be used to control those discharges;

(c) For wastes:

1. Types and quantities of wastes that will be generated by the facility; and

2. A description of the methods to be used to manage and dispose of such wastes; and

(d) For water withdrawal:

1. Identification of the source and volume of anticipated water withdrawal needed to support facility construction and operations; and

2. A description of the methods to be used for managing water usage and withdrawal.

(4) The cabinet may impose such conditions regarding the timing, volume, duration, or type of pollutants on a permit, registration, general permit, or permit-by-rule for a facility subject to this section as are necessary to comply with applicable standards.

(5) The cabinet may promulgate administrative regulations to implement the provisions of this section.

COMPLIANCE: The Cumulative Environmental Assessment, which is consistent with the above stated requirements, may be found in Attachment J.

Person Responsible: Ryan Rupprecht