

Case No. 2023-00263
Banjo Creek Solar, LLC
Response to Siting Board's First Request for Information

Siting Board 1-5:

Provide a list of permits that will be required from any other local, state, or federal agencies for the project. Include in the response the status of those permits.

Response: The following is a non-exhaustive list of typical permits that Banjo Creek assumes is presently required along with an additional like of potential permits Banjo Creek may be required to obtain for solar projects of similar size and scope. Other permits may be required and this list is subject to change based upon future analysis, studies and findings.

Witness: Jonathan Flemings

Supplemental Response (Jan. 22, 2024): In the initial filing of this response on October 20, 2024, the attachment was erroneously inserted behind Item 10, as opposed to behind Item 5. The attachment below is identical to what was previously filed.

Witness: Jonathan Flemings

Regulatory Authority	Permit/ Approval	Description	Status
Federal (Non-exhaustive list. Other permits may be required.)			
USFWS	Endangered Species Act (ESA) of 1973, as amended	<p>Consultation with USFWS; Incidental Take Permit, if required</p> <p>Required for Federal agencies authorizing, funding, permitting, or carrying out an action. Prohibits the take (including killing, capturing, selling, trading, and transport) of species listed under ESA Section 7.</p>	Outreach to begin Q2 2025
USFWS	Bald and Golden Eagle Protection Act (BGEPA) of 1940, as amended	<p>Consultation with USFWS; Incidental Take Permit, if required</p> <p>Required for Federal agencies authorizing, funding, permitting, or carrying out an action. Prohibits the take of bald and golden eagles without prior authorization by the USFWS. Take includes the killing, injuring, or disturbing of present or nesting eagles.</p>	Outreach to begin Q2 2025
USFWS	Migratory Bird Treaty Act (MBTA) of 1918, as amended	<p>Consultation with USFWS; Incidental Take Permit, if required.</p> <p>Required for Federal agencies authorizing, funding, permitting, or carrying out an action. Prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the USFWS.</p>	Outreach to begin Q2 2025
USEPA	Phase I Environmental Site Assessment	<p>Determines the presence, or lack thereof, of recognized environmental conditions associated with the property in accordance with the American Society for Testing and Materials E 1527-13 guidance document.</p> <p>Certain actions can trigger need for a Phase I Environmental Site Assessment. Those that could be applicable to the Project include the submission of an application to a public agency for change-of-use or other discretionary land use permit, or the request by a regulatory agency that suspects environmental contamination liabilities on the property.</p> <p>Not required unless a federal agency suspects environmental contamination liabilities in the Project area, or for due diligence purposes associated with lending or investors.</p>	Assessment to begin Q4 2024
USEPA	Spill Prevention, Control, and Countermeasures (SPCC) Plan	<p>Describes measures to prevent oil discharges and to prepare personnel to respond in a safe, effective, and timely manner to mitigate the impacts of a discharge from project facilities or infrastructure. Used as a reference for oil storage information and testing records, as a tool to communicate practices on preventing and responding to discharges with employees, as a guide to facility inspections, and as a resource during emergency response.</p> <p>Required if the total on-site oil storage capacity exceeds 1,320 gallons.</p>	Outreach to begin Q2 2025
EEC	Energy & Environment Cabinet; Natural Heritage Review	<p>Heritage reviews are informational in nature, and result in a document informing a requestor if there are sites of conservation concern near a proposed project. In addition, potential concerns in the project area are identified. The EEC compiles information from many agencies and sources to track where professionals have confirmed the presence of rare or endangered species and of good examples of natural areas or unusual habitats.</p>	Outreach to begin Q2 2025

Regulatory Authority	Permit/ Approval	Description	Status
TVA	NEPA Review: Record of Decision, Finding of No Significant Impact, or Categorical Exclusion	TVA conducts environmental reviews in accordance with NEPA, which typically also include assessments that facilitate compliance with other environmental review requirements, such as those under NHPA and ESA. Power purchase agreement with TVA.	Review to begin Q1 2025
State / Other (Non-exhaustive list. Other permits may be required.)			
KDOW Kentucky Pollutant Discharge Elimination System (KPDES)	National Pollutant Discharge Elimination System (NPDES) Act; General Permit (Construction Stormwater)	For stormwater discharges from construction activities causing disturbance of more than 1 acre. The Project Site is not located in a MS4 community.	Outreach to begin Q2 2025
KDOW Floodplain Management Section	Floodplain Development Permit	Permit for floodplain impacts, elevation certificates Land-disturbing activities in any special flood hazard area that results in an increase of the Base Flood Elevation. If a floodplain permit is needed, an authorized 401 WQC from KDOW is also required.	Outreach to begin Q2 2025
KDOW	Water Withdrawal Permit	Required for the withdrawal of public water.	Outreach to begin Q2 2025
KPDES	Wastewater Construction Permit	Required if sewers or pump stations will be constructed. If needed.	Outreach to begin Q2 2025
KHC State Historic Preservation Office	National Historic Preservation Act (NHPA) Section 106 Consultation	Federal lead agencies (TVA) consult with the SHPO regarding potential effects on historic resources. Federal actions that would affect properties eligible for listing on the National Register of Historic Places (NRHP).	Outreach to begin Q2 2025
Interested American Indian Tribes	National Historic Preservation Act (NHPA) Section 106 Consultation	Federal lead agencies (TVA) consult with interested American Indian Tribes regarding potential effects on historic and cultural resources. Federal actions that would affect properties eligible for listing on the NRHP.	Outreach to begin Q2 2025
Kentucky Transportation Cabinet	Encroachment Permit Bond	Permit for right-of-way encroachment Encroachment of the right-of- way of any state highway	Outreach to begin Q2 2025
Commonwealth of Kentucky	Overweight/ Over-Dimensional Permit	Oversized loads or overweight loads on Kentucky State-maintained roads and bridges. If the Project requires an oversize/overweight vehicle load, then a permit would be required	Outreach to begin Q2 2025
State Siting Board Approval	Kentucky State Board on Electric Generation and	Show that the Project is adhering to local ordinances and describe the anticipated Project effects to aspects of the human environment and how the Project would mitigate those.	Ongoing – Anticipated Q2 2024

Regulatory Authority	Permit/ Approval	Description	Status
	Transmission Siting; Construction Certificate	Required for merchant plants with a generating capacity of 10 megawatts or more and for non-regulated transmission lines capable of carrying 69,000 volts or more	
PPC	Public Protection Cabinet, State Building Permit	Required for construction of certain buildings or structures. State building permits are required where there is no local permit or where a project exceeds certain thresholds in the code (e.g., specified square footage).	Outreach to begin Q2 2025
Graves County	Building Permits	Permits are required for the construction of (1) any buildings on the property; (2) any fencing over seven (7) feet in height on the property; and (3) any telecommunications towers.	Outreach to begin Q2 2025
Graves County	Electrical Permit		Outreach to begin Q2 2025
Graves County	County Commercial Driveway Permit		Outreach to begin Q2 2025
Graves County	County Floodplain Permit		Outreach to begin Q2 2025
Other potentially required permits.			
USACE	Clean Water Act (CWA) Section 404 Permit	Permit and consultation with USACE Required for the discharge of dredged or fill material into waters of U.S. Minimal levels of fill (<0.5 acre) may be covered under Nationwide Permit (NWP). Impacts greater than 0.5 acres would require an Individual Permit. The 404 permit cannot be verified until the 401 Water Quality Certification (WQC) has been authorized.	To be determined
KDOW	CWA Section 401 WQC	Verifies that project construction would comply with state water quality standards. USACE Section 404 Permit	To be determined
FAA	Federal Aviation Administration (FAA); 14 CFR Part 77	Notice is required prior to the construction of any structure exceeding 200 feet above ground level or exceeding a height restriction based on the distance from an airport.	To be determined
USDA	U.S. Department of Agriculture; Conservation Reserve Program (CRP)	If permanent facilities are constructed on land enrolled in this program, contracts with individual landowners will have to be amended or terminated to reflect the change in acreage enrolled in the CRP program.	To be determined
Graves County Health Department	On-site sewage disposal system permit	Permit and inspection required to install onsite sewage disposal system if there is a building with bathroom facilities on the property; see http://www.gravescountyhealthdepartment.com/public-health/on-site-sewage.php	To be determined
Department of Energy	Federal Public Utilities Regulatory Polices Act		To be determined