

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF MARTIN)	
COUNTY SOLAR PROJECT, LLC FOR A)	
CERTIFICATE OF CONSTRUCTION FOR AN)	
APPROXIMATELY 200 MEGAWATT)	CASE NO.
MERCHANT ELECTRIC SOLAR GENERATING)	2021-00029
FACILITY IN MARTIN COUNTY, KENTUCKY)	
PURSUANT TO KRS 278.700 AND 807 KAR)	
5:110)	

ORDER

On May 19, 2021, Martin County Solar Project, LLC (Martin County Solar or Applicant) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) requesting a Certificate of Construction to construct an approximately 200-megawatt alternating current (MWac) solar photovoltaic (PV) electric generating facility to be located near Pilgrim, Martin County, Kentucky (Project).¹

There are no intervenors in this matter. Pursuant to KRS 278.708(5), the Siting Board hired BBC Research & Consulting to review the applicant’s site assessment report (SAR). Pursuant to a procedural schedule established June 11, 2021, Martin County Solar responded to two rounds of discovery; BBC filed a Review and Evaluation² (BBC Report) of the applicant’s site assessment report (SAR) after conducting a site visit; and Martin County Solar filed comments upon the BBC Report. A formal evidentiary hearing

¹ Application at 1.

² BBC Research & Consulting’s Review and Evaluation of Martin County Solar Project, LLC Siting Assessment Report (Ky. PSC Aug. 30, 2021).

was held on September 28, 2021. Martin County Solar filed responses to post-hearing data requests on October 12, 2021. The Siting Board received no public comments, and the Siting Board received no public comments at the beginning of the September 28, 2021 formal evidentiary hearing. The matter now stands submitted for a decision.

PROPOSED MARTIN COUNTY SOLAR FACILITY AND PUBLIC ENGAGEMENT

The proposed solar facility is a 2,541-acre site located near Pilgrim, Kentucky, in Martin County.³ The Project is located on a reclaimed coal mine that has been highly impacted by historical mining operations.⁴ Martin County Solar states that approximately 153,000 linear feet of perimeter fence, not to exceed 7 feet, will surround the Project.⁵ The solar facility has a rated capacity of 200 MWac and will be connected to an onsite existing transmission line owned by Kentucky Power Company (Kentucky Power).⁶

Martin County Solar provided notice of the proposed facility in accordance with KRS 278.706. Pursuant to KRS 278.706(2)(c), Martin County Solar notified landowners whose property borders the proposed solar facility site via certified mail on January 27, 2021.⁷ Martin County Solar also published notice of the proposed solar facility in *The Mountain Citizen*, the newspaper of general circulation in Martin County, on January 27, 2021.⁸

³ Application at 3.

⁴ *Id.* at 2.

⁵ *Id.* at 3.

⁶ *Id.* at 10.

⁷ *Id.* at 5.

⁸ *Id.*

In addition, Martin County Solar engaged in public involvement program activities, as required by KRS 278.706(2)(f), prior to the filing of its application.⁹ Martin County Solar held a public meeting on February 10, 2021, to inform the public about the solar project and receive comments from the public.¹⁰ Martin County Solar published notice of the public meeting in the January 27, 2021 edition of *The Mountain Citizen*.¹¹ Letters were also mailed to all adjoining landowners notifying them of the public meeting.¹² Members of the public were able to attend the February 10, 2021 meeting, which was held virtually, due to COVID-19 concerns.¹³

DISCUSSION

I. Requirements Under KRS 278.708 – Site Assessment Report

KRS 278.704(1) states that “[n]o person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the [Siting] [B]oard.” KRS 278.708 requires a SAR be prepared and filed with an application. The SAR should provide (1) a detailed description of the proposed site; (2) an evaluation of the compatibility of the facility with scenic surroundings; (3) potential changes in property values and land use resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility; (4) evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; (5) the impact of the

⁹ *Id.* at 8–9.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 9.

¹² *Id.* at 7.

¹³ *Id.*

facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility; and (6) any mitigating measures to be implemented by Martin County Solar to minimize or avoid adverse effects identified in the site assessment report.

Detailed Site Description

In addition to the description of the proposed Project as described above, Martin County Solar states the Project will be situated mainly on reclaimed mine land with small areas of intact forested land on the periphery. Martin County Solar states that vegetation is sparse on the site, and the natural hydrology has been significantly altered. Soils within the Project are shallow, approx. 3-8 inches in depth, and are underlain by mine spoil (crushed up rock and coal residuals).¹⁴

There are two residential neighborhoods within 2,000 feet of the Project's facilities. However, the project sits significantly above the surrounding properties, including approximately 240 and 360 feet in elevation above the two neighborhoods, respectively.¹⁵ Pursuant to KRS 278.704(4), Martin County Solar filed a motion with the Siting Board for a deviation from statutory setback requirements, which is discussed later in this Order.

There are two proposed site entrances, one each on the east and west sides of the project footprint, adjacent to KY-1714 and KY-1439. In the SAR filed with the application, Martin County Solar states that it will comply with the National Electrical

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 6.

Safety Code (NESC) requiring the site to be fenced prior to the start of construction and entrances to the site to be gated and locked when workers are not active on site.¹⁶

The proposed project footprint contains two properties that are currently part of a Kentucky Department of Fish and Wildlife (KDFW) Hunting Access area and will require disenrollment from that program. Martin County Solar states when the properties are removed, KDFW will post notice on their webpage that the boundaries have changed. In addition, Martin County Solar will post signage at access points of the properties notifying hunters that the area is no longer enrolled in the public access program.¹⁷

Martin County Solar does not propose to require utilities on site during the operational life of the proposed project other than potential electrical service for site lighting at the substation.¹⁸

The BBC Report concludes that Martin County Solar has generally complied with the requirements for describing the facility and site development plan, as required by KRS 278.708. The BBC Report recommends the following mitigation measures¹⁹:

1. Any change in project boundaries from the information reviewed during this evaluation should be submitted to the Siting Board for review.
2. Martin County Solar should provide the results of the American Land Title Association (ALTA) Survey of the legal boundaries of the site, including a metes and

¹⁶ Application, Exhibit F, SAR at 4; see also Martin County Solar's Motion to Supplement Motion to Deviate (filed Sept. 3, 2021).

¹⁷ Martin County Solar's Response to Siting Board Staff's Post-Hearing Request for Information (filed Oct. 12, 2021), Item 1.

¹⁸ Martin County Solar's Response to Siting Board Staff's First Request for Information (filed July 19, 2021), BBC Request, Item 6.

¹⁹ BBC Report, Section C at 11

bounds description, to the Siting Board as soon as it is completed, as well as an update on correspondence with owners of pipelines and wells located on the site.

3. Martin County Solar should control access to the site during construction and operation. All entrances should be gated and locked when not in use. Martin County Solar's access control strategy should include appropriate signage to warn potential trespassers. Martin County Solar should ensure that site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners. According to NESC regulations, the security fence must be installed prior to any electrical installation work.

4. Martin County Solar should coordinate with the KDFW Resources to notify hunters that access at the site will no longer be allowed. Martin County Solar should also incorporate this message into its signage at site entrances and boundaries.

5. Martin County Solar should resubmit its Motion for Deviation from Setback Requirements based on its correction to acknowledge two adjacent residential neighborhoods rather than only one. The Motion should describe Martin County Solar's proposed setbacks based on the distance estimates from facility components (e.g., solar panels) for all applicable adjoining residences.²⁰

Having reviewed the information and data contained in the SAR, the Siting Board finds that Martin County Solar has complied with the requirements for describing the facility and a site development plan, as required by KRS 278.708. However, the Siting Board finds it necessary to impose certain mitigation measures and requirements related to the description of the facility and the proposed site development plan. Specifically, the

²⁰ Martin County Solar filed a Motion to Supplement Motion for Deviation on September 3, 2021.

Siting Board will require that Martin County Solar keep the Siting Board apprised of changes throughout the development of the Project, and as such will order Martin County Solar to provide the final site plan before the commencement of construction. This plan shall clearly indicate and highlight any changes, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of this matter. Additionally, based on the concerns and proposals raised in the BBC Report, the Siting Board further finds that the mitigation measures outlined in Appendix A to this Order, and in particular, items 1–9 shall be adhered to.

Compatibility with Scenic Surroundings

As noted above, the proposed Project site is mainly on reclaimed mine land with small areas of intact forested land on the periphery. The proposed Project site sits approximately 240 feet in elevation above and 1,000 feet away from the nearest residences. Martin County Solar states that, due to this Project being built at an elevation significantly higher than local residences, visual impacts to nearby resources will be minimal. Additionally, given that the Project is sited on a former coal mine, Martin County Solar claims any changes to current visual impacts will be less than those caused by the former land use.²¹ Martin County Solar notes that it has not received any complaints or concerns regarding the Project.²²

The BBC Report concludes the proposed facility is compatible with the scenic surroundings.²³ The BBC Report notes the site is considerably elevated and while the

²¹ Application, Exhibit F, SAR at 6.

²² Martin County Solar's Response to Siting Board Staff's First Request for Information (filed July 19, 2021), BBC Request Item 11.

²³ BBC Report, Section C at 17.

perimeter of site will be visible from surrounding residences, neighborhoods, or community buildings, the project's physical elements will be shielded from view by the site's elevation and existing vegetation.²⁴ The BBC Report recommends the following mitigation measures to address visual impacts:

1. Martin County Solar should retain existing vegetation around the site's perimeter to the extent possible and ensure the long-term health of the existing vegetation for the operation life of the project.

2. While it is not expected, if any components of the facility are visible to neighboring homes after construction, Martin County Solar should assess whether a screening plan is appropriate by consulting with neighbors to determine if there are adverse impacts to their viewshed.

Having reviewed the records of this proceeding, the Siting Board finds that the location of the proposed solar facility, given its elevation and distance from the nearest residences, combined with the pre-existing vegetation around the perimeter, will mitigate the effects the proposed facility will have on the scenic surroundings of the site. However, to ensure the continued compatibility of scenic surrounding, mitigation measures addressing obligations to maintain or further develop vegetative buffers and keep the Siting Board informed of potentially material changes to the site plan are necessary. As such, and based on the record, additional mitigation measures regarding scenic compatibility are outlined in Appendix A to this Order, and in particular, items 10-11.

²⁴ *Id.* at 14.

Impact on Property Values

With respect to impact on property values, Martin County Solar submitted a Property Value Impact Report from a certified real estate appraiser that finds, based upon a comparative analysis, the solar facility will have no impact on the property values of abutting or adjacent residential or agricultural properties.²⁵ The report indicates that the solar facility would function in a harmonious manner with the nearby surroundings, which is mostly agricultural, and that operation of the solar facility would not generate the level of noise, odor, or traffic impacts to negatively impact the nearby surroundings as compared to a fossil fuel generating facility or other industrial facility.

The BBC Report notes that the central issue with respect to property values impact is whether, and to what extent, the development and operation of the Martin County Solar facility will cause nearby property values to change. The BBC Report reviewed Martin County Solar's Property Value Impact Report, noting that the report contained matched pair analysis and a comparative study analyzing data from numerous solar facilities across the country of property values in proximity to such facilities with similar homes, which are not in close proximity. The BBC Report also more closely examined the data provided in the matched pair sets to determine the likelihood of a positive impact, negative impact, or no impact. The matched pair analysis shows no impact on home values as close as 105 feet when reasonable visual buffers are provided.²⁶ The BBC Report states that the analysis performed on behalf of Martin County Solar is similar to the approach by which appraisers commonly estimate residential property values.

²⁵ Application, Exhibit F, SAR Exhibit B at 17.

²⁶ BBC Report, Section B at 3.

The BBC Report also reviewed recent studies and articles on this subject and notes that no data or analysis has been provided to support the contention that solar developments have had an adverse impact on property values. The BBC Report points to a 2018 study conducted by the LBJ School of Public Affairs at the University of Texas, which involved a survey of public sector property appraisers in 430 counties with commercial solar facilities. This study found that a majority of survey respondents estimated a value impact of zero and geospatial analysis showed that relatively few homes would be impacted.²⁷ The BBC Report also reviewed a 2020 study completed by economists at the University of Rhode Island, which found that in areas of high population density, houses within a one-mile radius depreciate by about 1.7 percent following construction of a solar array.²⁸ However, the BBC Report states these findings were specific to solar sites in suburban areas. There was found to be no statistically significant impact on home prices in rural settings such as the areas surrounding the proposed Martin County Solar facility. Based upon a review of Martin County Solar's SAR, discovery responses, independent research, and information collected from the site visit, the BBC Report concludes that the Martin County Solar facility will unlikely have any meaningful impacts on the property values of adjacent properties or other properties near the solar facility.

Upon review of the Property Value Impact Report, the study conducted by Kirkland Appraisals conflicted with information provided in Martin County Solar's SAR and application. The Property Value Impact Report had 25 fewer land parcels than the

²⁷ BBC Report, Section C at 20–21.

²⁸ BBC Report, Section C at 21.

application and the closest residence from the nearest solar panel was stated as being at a greater distance than as described in other parts of the SAR and application.²⁹ Martin County Solar explained that the Project had expanded its boundaries after the Property Value Impact Report by Kirkland Appraisals was prepared and that the expansion was not expected to change the findings. In response to a request from the Siting Board, Kirkland Appraisals filed a written statement along with supplemental calculations confirming that the expansion of the Project is not substantial enough to impact the findings of the Property Value Report.³⁰

Having reviewed the record, the Siting Board finds that there is sufficient evidence to conclude that the proposed Martin County Solar facility will more than likely not have any adverse impact on nearby property values. The proposed Project site is elevated by more than 200 feet above adjacent residences, neighborhoods, and roads, and for this reason the physical components of the facility should not be viewable from nearby residences.³¹ The characteristics of solar facilities operations is passive in nature in that it does not produce any air, noise, waste, or water pollution, nor does it create any traffic issues during operations.

Impact on Roads, Railways, and Fugitive Dust

With respect to the impact on roads, railways, and fugitive dust, Martin County Solar's Noise and Traffic Study, filed as part of its SAR, notes the proposed solar site will have a primary access point along KY 1439 near the railroad crossing and a second

²⁹ *Id.*

³⁰ Martin County Solar's Response to Siting Board Staff's Post-Hearing Request for Information (filed Oct. 12, 2021), Item 2.

³¹ BBC Report, Section B at 4.

access point that would provide access to KY 1714 north of Lick Bridge.³² There is one railway adjacent to the proposed site to the west; however, it is located downslope and Martin County Solar states it will not likely be used for any construction or operational activities related to the Project.³³

With respect to road degradation, Martin County Solar estimates that the weight of the main power transformer, which is the largest delivery to site, will be approximately 200,000 pounds, and that, “the subsurface conditions [of the project site] are not expected to be of concern as the heavy loads will be using the existing access roads installed during the mining operations.”³⁴ For other standard equipment and supplies, Martin County Solar anticipates a maximum of 100 truck deliveries to site per day.

Martin County Solar recognizes construction and associated land disturbance associated with the proposed project may temporarily contribute airborne materials. To address this, Martin County Solar states the Project will utilize best management practices such as monitoring weather, minimization of disturbance areas, and covering of open piles, to minimize dust.³⁵ Additionally, open-bodied trucks transporting dirt will move slowly and be covered while moving. During construction activities, water may be applied to internal road system to reduce dust generation. Water used for dust control is

³² Application Exhibit F, SAR Exhibit E at unnumbered page 271.

³³ Application, Exhibit F, SAR at 4.

³⁴ Martin County Solar’s Response to Siting Board Staff’s First Request for Information (filed July 19, 2021), Item 24 and response to BBC Item 4

³⁵ Application Exhibit F, SAR at 10.

authorized under the Kentucky Pollutant Discharge Elimination System (KPDES) as a non-storm water discharge activity, which will be required for the proposed project.³⁶

The Noise and Traffic Study states that, during construction, all highway segments are anticipated to continue to operate at acceptable level of service (LOS) standards during both the peak hours.³⁷ Based upon the Noise and Traffic Study, Martin County Solar asserts the construction for this project will not adversely affect traffic operations on KY 1714 or KY 1439.³⁸ The Noise and Traffic Study further states that, after construction is complete, the future traffic demand related to this project will be less than a typical single-family home and this additional volume of daily traffic is considered negligible and the operational phase of the project will have no measurable impact on the traffic and/or transportation infrastructure.³⁹

The BBC Report indicates that during the construction period, there could be noticeable effects on traffic volumes noticeable to local residents, but due to the low traffic levels at present, is unlikely to impact the level of service on roadways.⁴⁰

The BBC Report further notes the following regarding road conditions and potential degradation of roadways:

“During construction, the anticipated 40 to 60 commuter vehicle roundtrips and up to 100 delivery truck trips would substantially increase local traffic relative to current levels. However, given the low traffic levels at present, and the history of the site as a surface mine, this is unlikely to impact the level of service on nearby roadways. Delivery of the 100-

³⁶ *Id.*

³⁷ Application Exhibit F, SAR Exhibit E, Executive Summary at i.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ BBC Report at 14.

ton substation transformer will likely present challenges given the existing load rating of KY-1439 and KY-1714.”⁴¹

The BBC Report states that these challenges can likely be overcome with careful advance planning.

The BBC Report ultimately finds that, while no significant adverse transportation impacts are anticipated, it recommends Martin County Solar pursue the following mitigation measures to ensure that impacts to roadways will be kept to a minimum:

1. Martin County Solar should develop and implement a traffic management plan for the construction phase of the project to minimize impacts on traffic flow and keep traffic safe. As part of this plan, Martin County Solar should implement ridesharing between construction workers as appropriate and feasible due to the COVID-19 pandemic, use appropriate traffic controls or allow flexible working hours outside of peak hours to minimize any potential delays during AM and PM peak hours.

2. Martin County Solar should consult with the Kentucky Transportation Cabinet (KYTC) and the Martin County Road Department as soon as feasible to discuss the anticipated construction-related traffic and the transportation requirements for the power transformer and the KYTC’s restrictions on KY-1439 and KY-1714. Martin County Solar should obtain any necessary permits from these agencies.

3. Martin County Solar should commit to rectify any damage to public roads by fixing or fully compensating the appropriate transportation authorities for any damage or degradation to the existing road network that it causes or to which it materially contributes.

⁴¹ BBC Report, Section C at 32.

Having reviewed the record, the Siting Board finds that traffic impacts will require mitigation during construction of the solar facility and will be minimal during its operation. Mitigation measures required for the project, including those related to Martin County Solar's obligations regarding traffic and road degradation, as well as related permits, are necessary based on the concerns and evidence provided by the SAR and BBC Report. As such, Mitigation measures related to traffic and roads are outlined in Appendix A, and in particular, items 12-19.

The Siting Board also believes that fugitive dust should not be an issue given the Applicant's proposed best practices for construction and operational activities. To ensure fugitive dust meets the expectation of not being an issue during the construction phase or operational phase of the solar project, the Siting Board will require Martin County Solar to implement mitigation measure 20 outlined in Appendix A to this Order.

Anticipated Noise Level

Martin County Solar's Noise Assessment report indicates that the project location is in a rural mountainous area and the current land use can be defined as agricultural. Land use adjacent to the project area is comprised of scattered homes, forested land and pastures. Martin County Solar notes that most of the project area was previously cleared and surface mined for coal.⁴²

According to Martin County Solar's Noise Assessment, there are ten residences and four cemeteries within 1,000 feet of the project boundary. The nearest residence is approximately 590 feet from the project boundary at the closest point.⁴³ An active railroad

⁴² Application Exhibit F, SAR Exhibit D, Noise Assessment at 1.

⁴³ *Id.* at 2.

runs between all ten residence and the proposed solar site. Martin County Solar further asserts that the residences are in a valley, 240 feet lower in elevation than the proposed site.⁴⁴

The nearest cemetery is approximately 218 feet from the project boundary and exhibits frequent use, with covered shelters and picnic benches.⁴⁵ The closest shelter is approximately 250 feet from the closest proposed solar panel and approximately 780 feet from the nearest inverter.⁴⁶

Martin County Solar provides that construction of the facility is expected to commence in March of 2022 and be completed in June of 2023.⁴⁷ The loudest source from construction is anticipated to be pile driving equipment. The anticipated noise level due to construction equipment will be approximately 79.8 dBA at 563 feet, the nearest residential receptor and for the nearest cemetery the level is anticipated to be 88 dBA at 218 feet from the project boundary.⁴⁸ Martin County Solar further notes noise levels from construction work is expected to progress across the site and be of shorter duration and at lower levels than historical coal mining activities.⁴⁹ Martin County Solar has requested that construction activities be allowed to take place 8 a.m. to 8 p.m., Monday through Saturday.⁵⁰

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Martin County Solar's Response to Siting Board Staff's First Request for Information (filed July 19, 2021), Item 17.

⁴⁸ BBC Report, Section C at 24.

⁴⁹ Application Exhibit F, SAR Exhibit D at 8.

⁵⁰ Martin County Solar's Response to BBC Report at 3.

When the solar facility is operating, there will be periodic noise associated with the solar equipment, intermittent noise from single-axis tracking motors, relatively constant noise from inverters and the substation transformer. The sound level produced by tracking motors is anticipated to be less than 55 dBA at the closest residential receptor approximately 670 feet away.⁵¹ Noise from inverters is described as a hum and is anticipated to be 33 dBA at the closest residential receptor approximately 1,013 feet away from the source.⁵² The noise level from the substation is described as a low frequency hum, with the anticipated level to be 7.0 dBA at the closest receptor, 1,341 feet away.⁵³ Martin County Solar stated that the nearest sound receptor to the battery energy storage system (BESS) would be at distance of 1,921 feet.⁵⁴ Martin County Solar states that it did not find any relevant county noise ordinance.⁵⁵

The BBC Report likewise notes that noise issues stem from construction activities and operational components of the solar facility. During construction, noise from the pile drivers will have the most substantial impact on the nearest noise receptors. The topography of the area, distance and elevation from dwellings, as well as existing mature vegetation will likely mitigate impacts from construction noise.⁵⁶

⁵¹ Martin County Solar's Response to Siting Board Staff's First Request for Information (filed July 19, 2021), Item 20.

⁵² *Id.*, Item 19.

⁵³ *Id.*, Item 18.

⁵⁴ Martin County Solar's Response to Siting Board Staff's Post-Hearing Request for Information, Item 6.

⁵⁵ Application, Exhibit F, SAR Exhibit D at 3.

⁵⁶ BBC Report, Section C at 28.

The BBC Report concludes that during operation of the proposed facility noise levels are unlikely to be disruptive to local residents.⁵⁷

The Siting Board finds noise from construction will be intermittent and temporary, and as provided by both Martin County Solar and BBC, construction noise will be loudest during the pile driving portion of the construction process if pile driving is used. Accordingly, the construction noise will not be permanently impactful to nearby residence, while the operational noise from the Project components should have little effect on nearby residents. The Siting Board would note the unique circumstances of this proposed Project, and given the topography, the elevation and distance from the nearest sound receptors, and the mature existing vegetative buffering that can provide noise suppression, the Siting Board will grant Martin County Solar's request for construction hours of 8 a.m. to 8 p.m. Monday through Saturday. For the same reasons, the Siting Board will not mandate that any further noise suppression measure be utilized by Martin County Solar during the construction process. To ensure the impact of construction noise does not unduly impact nearby residents the Siting Board will require Martin County Solar to implement certain mitigation measures outlined in Appendix A to this Order, in particular items 21–24.

Mitigation Measures Proposed by Martin County Solar

Martin County Solar's SAR contained the following mitigation measures that it plans to implement⁵⁸:

⁵⁷ *Id.*

⁵⁸ Application, Exhibit F, SAR at 10–12.

1. The Project was responsibly sited on the previously disturbed, former Martiki Coal Mine site. Siting solar projects on former coal mine sites minimizes the environmental impact that occurs as a result of all development while presenting a unique opportunity to repurpose land that might not be suitable for other types of development.

2. The Project is sited on a topographic high and surrounded by existing vegetation. Therefore, viewshed impacts to residences in the surrounding area are not expected.

3. The Project has been designed to minimize the amount of tree clearing required.

4. The Project has been designed to avoid impacts to Waters of the US (WOTUS) delineated on site. If impacts to such features becomes necessary, then the impact will be minimized and the appropriate Clean Water Act (CWA) Section 404/401 permit will be obtained from the U.S. Army Corps of Engineers (USACE) and the Kentucky Energy & Environment Cabinet – Department for Environmental Protection – Division of Water (Kentucky DOW).

5. Areas disturbed during Project construction will be revegetated with a mix of noninvasive native and non-native grass seed mixes to improve soil health and reduce storm water runoff.

6. The Project has been designed to avoid impacts and preserve access to four cemeteries located on site.

7. The regulation and permitting of utility scale solar impacts to stormwater and WOTUS will be addressed separately to this Siting Board application.

8. Regulatory Agency: Kentucky DOW: The Project will obtain a Kentucky Department of Environmental Protection Storm water Construction General Permit from the Kentucky DOW in compliance with the CWA.

9. Regulatory Agency: USACE – Louisville District: The Project has been designed to avoid impacts to WOTUS. However, if impact becomes necessary then Martin County Solar will coordinate with the USACE – Louisville District and the appropriate CWA Section 404 permit 12 will be obtained. If necessary, a CWA Section 401 Water Quality Certification will be obtained from the Kentucky DOW.

II. Requirements under KRS 278.710(1)

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

Economic Impact on Affected Region and State:

Martin County Solar’s Economic Impact Report (EI Report) was prepared by Strategic Economic Research, LLC using National Renewable Energy Laboratory’s (NREL) Jobs and Economic Development Impacts Model (JEDI).⁵⁹ According to the EI Report, the Martin County Solar project is expected to have significant impacts on the economies of Martin County and Kentucky as a whole, bringing new employment, spending, and taxes to the areas.

The EI Report analyzes the direct, indirect, and induced impacts to both the state of Kentucky and Martin County. Direct impacts refer to any construction or maintenance-

⁵⁹ Application, Exhibit E, Economic Impact Analysis of Martin County Solar Project at 17.

related employment, wages, and spending associated specifically with the project.⁶⁰ Indirect impacts refer to secondary employment and wages that occur outside the project, but support the completion and operation of the solar site, such as materials and supplies purchased from local businesses.⁶¹ Induced impacts refer to employment and wages, unrelated to the project, that result from the increase in business and household spending, stemming from the direct and indirect impacts.⁶² Lastly, total impact refers to the combination of the direct, indirect, and induced impacts. Tax revenues will also contribute to the overall economic impact of the project.

An economic impact analysis was performed separately for, the construction phase, and the operation phase of the Project. The construction phase is estimated to last approximately 12 to 18 months, with the majority of economic impact occurring in the construction sector.⁶³ Martin County Solar estimates a direct impact of up to 180 full-time equivalent workers (FTE) in Martin County over the 12 to 18 month construction period with a direct payroll of \$17.2 million.⁶⁴ Martin County Solar estimated the portion of labor that would come from within the county using industry averages of comparable projects.⁶⁵ The total direct and indirect impact to Martin County is estimated to be 251 FTE jobs with a new payroll of around \$20.5 million.⁶⁶ A full analysis for the state of Kentucky estimated

⁶⁰ *Id.*

⁶¹ *Id.* at 18.

⁶² *Id.*

⁶³ *Id.* at 17–18 and 20.

⁶⁴ *Id.* at 19 and 21.

⁶⁵ Martin County Solar's Responses to Siting Board Staffs First Request for Information (filed July 19, 2021), Item 13.

⁶⁶ Application Exhibit E, Economic Impact Analysis of Martin County Solar Project at 19 and 22.

a total direct and indirect impact of 502 jobs created or retained, and a payroll of \$39.3 million.⁶⁷ Other sectors are expected to be affected as contractors purchase supplies and materials from businesses in the area and workers spend a portion of their incomes at local businesses.⁶⁸

The operation phase stands to bring fewer economic impacts to a variety of businesses in the areas, but is expected to have a longer-term impact that is estimated to last 20 to 30 years.⁶⁹ Martin County Solar estimated 11 FTE jobs to support continued operation of the site over the 20–30 year Project life.⁷⁰ The Operation Phase will have an additional combined indirect and induced impact of 16.2 and 21.2 jobs throughout the county and state, respectively.⁷¹ Total payroll over the over the term, is expected to be \$3.6 million in the state of Kentucky.⁷²

Martin County Solar sought a Payment in Lieu of Taxes (PILOT) agreement with Martin County.⁷³ The EI Report assumes that the project will pay a PILOT amount of \$1,500 per MWac of installed capacity, annually.⁷⁴ In addition, Martin County Solar is expected to pay to Kentucky a rate of \$0.0015 per \$100 of assessed value on both the

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 19.

⁷¹ *Id.*

⁷² *Id.* at 21.

⁷³ *Id.* at 22.

⁷⁴ *Id.* at 23.

manufacturing machinery and the tangible personal property on the site. Over a 30 year operational period, this amounts to a total of \$9.3 million in property tax revenues to Martin County and Kentucky.

Having reviewed the record, the Siting Board finds that the Martin County Solar facility will have a positive economic impact on the region for the reasons set forth above regarding job creation and retention, economic impact to other sections, and tax revenue.

Existence of Other Generating Facilities

Martin County Solar states that 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.⁷⁵ This Project is located on reclaimed coal mine land with an existing substation and transmission lines.⁷⁶ At the Project's expense, Kentucky Power will expand the existing breaker-and-half substation to include the addition of a new string and installation of two (2) 138 kV circuit breakers to interconnect the Project.⁷⁷

KRS 278.710(1)(d) provides that the Siting Board must consider whether a merchant plant is proposed for a site upon which facilities capable of generating 10 MW or more of electricity are currently located. Although the site upon which the Martin County Solar facility will be located does not contain any other generating facilities, the Siting Board notes the selected site will encompass an existing transmission line and Martin County Solar will be able to directly interconnect its solar facility to that of the

⁷⁵ Application at 9–10.

⁷⁶ *Id.*

⁷⁷ *Id.*

existing transmission line without the need for any additional land.⁷⁸ Also, as previously determined, the generally passive characteristics of the solar facility will be compatible with the surrounding area.

Local Planning and Zoning Requirements

Martin County Solar states that the proposed solar facility will be located entirely in Martin County, and that there are no setback requirements established by a planning and zoning commission for the location of the project.⁷⁹ Martin County Solar certifies that the Project will follow any applicable local ordinances and regulations concerning noise control, and with any applicable local planning and zoning ordinances.⁸⁰

The Siting Board finds that Martin County Solar's certification, that the proposed solar facility will meet all local planning and zoning requirements that existed on the date the application was filed, satisfies the requirements of KRS 278.710(1)(e).

Impact on Transmission System

Martin County Solar states the Project is within the American Electric Power (AEP) service territory, and therefore, the interconnection of the project will be on the Kentucky Power system and will interconnect with PJM Interconnection, LLC (PJM), the regional transmission organization.⁸¹ The PJM interconnection process requires three study phases; Feasibility Study, System Impact Study, and Facilities Study.⁸²

⁷⁸ *Id.*

⁷⁹ Application, Exhibit C at unnumbered page 1.

⁸⁰ *Id.*

⁸¹ *Id.* at 10.

⁸² *Id.*

The purpose of the feasibility study is to determine a plan, with estimated cost and construction time, to connect the proposed Martin County Solar facility to the PJM network at a location specified by Martin County Solar. The purpose of the facilities study encompasses the engineering design work necessary to begin construction of required expansion plan upgrades identified by PJM to accommodate an interconnection request. The System Impact Study determines potential impacts to the regional electric grid and the need for any network upgrades to mitigate potential impacts. PJM issued the Systems Impact Report on the Martin County Solar project in August 2020.⁸³ The Systems Impact Report shows that Martin County Solar will be responsible for attachment facilities, direct connection network upgrade, and non-direct connection network upgrade costs of approximately \$2,408,000.⁸⁴

KRS 278.710(f) provides that the Siting Board should consider whether the additional load imposed upon the electricity transmission system by use of the Martin County Solar facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission (PSC). Having reviewed the record, the Siting Board finds that the proposed solar facility will not adversely impact the reliability of service provided by retail electric utilities under the PSC's jurisdiction based upon Martin County Solar's commitment to the interconnection process and protocols and its acceptance of any cost obligations resulting from the interconnection process and protocols consistent with the requirements under KRS 278.212. The Siting Board finds that Martin County Solar has satisfied the requirements of KRS 278.710(f).

⁸³ Application, Exhibit D at 6.

⁸⁴ *Id.*

Compliance with Setback Requirements

Martin County Solar's application acknowledges that KRS 278.706(2)(e) requires all proposed structures or facilities used for generation of electricity to be at least 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility subject to a certain exception that is not applicable in this instance. KRS 278.700(6) defines "residential neighborhood" as a populated area of five or more acres containing at least one residential structure per acre. Martin County Solar states that there are two residential neighborhoods near the Project.⁸⁵ Martin County Solar filed a motion, and supplemental motion, pursuant to KRS 278.704(4), seeking a deviation from the 2,000 foot setback requirement, and is seeking approval for a 590 foot setback from two residential neighborhoods that lie within 2,000 feet of the Project site.⁸⁶ Without a deviation, all proposed structures or facilities used for generation of electricity must be located more than 2,000 feet from any residential neighborhood.⁸⁷ Pursuant to KRS 278.704(4), the Board may grant a deviation from the 2,000-foot setback requirements if it is determined that the proposed facility as designed and as located would meet the goals of in KRS 224.10-280 (Cumulative Environmental Assessment), KRS 278.010 (definitions), KRS 278.212 (costs of upgrading existing grid), KRS 278.214 (curtailment of service), KRS 278.216 (site assessment report), KRS 278.218 (transfer of

⁸⁵ Martin County Solar's Application and Motion to Deviate (filed July 7, 2021) stated there was one residential neighborhood near, but it was further clarified in Martin County Solar's Motion to Supplement Motion to Deviate (filed Sept. 3, 2021) that there are two neighborhoods within the applicable distance from the Project.

⁸⁶ Motion for Deviation; Motion to Supplement Motion to Deviate.

⁸⁷ Motion for Deviation from Setback Requirements at 3.

ownership), and KRS 278.700 to KRS 278.716 (Siting Board requirements) at a distance closer than the required 2,000 feet.

KRS 224.10–280 provides that no person shall commence to construct a facility to be used for the generation of electricity unless that person has submitted a cumulative environmental assessment (CEA) to the Energy and Environment Cabinet (Cabinet). In its motion, Martin County Solar proffers that the Project is designed and located to meet the goals of KRS 224.10–280, advising that its CEA provides an in-depth analysis of the potential air pollutants, water pollutants, wastes, and water withdrawal associated with the proposed merchant solar facility.

The CEA shows that the Martin County Solar facility will produce zero emissions and that minimal, indirect air emissions will occur during construction through the operation of vehicles and equipment and mowing, but no air quality permit is required for these construction or ancillary activities.

With respect to water evaluation, Martin County Solar will conduct Project construction activities in compliance with Kentucky Division of Water's (KDOW) Construction Storm Water Discharge General Permit for any construction activities that disturb one acre or more. Contractors will be required to use best management practices, such as silt fences, sediment basins, and buffer zones, in order to minimize the impacts of stormwater runoff and will implement a stormwater pollution prevention plan to comply with KDOW requirements.⁸⁸ Martin County Solar states that with the use of best

⁸⁸ *Id.* at 5.

management practices that will be followed to minimize impacts associated with construction.⁸⁹

The Siting Board finds that if wetlands or streams are disturbed during construction or operation, they shall only be disturbed according to applicable law, including the securing of any necessary permits.

With respect to waste evaluation, the CEA notes that construction activities will generate solid waste consisting of construction debris and general trash, such as wood, cardboard, and plastic packaging. Martin County Solar states that wastes developed during construction and operation will be recycled where practicable or otherwise disposed of in accordance with applicable regulations. The Project could also generate very small amounts of hazardous waste. The Project would be considered a conditionally exempt small quantity generator. Any hazardous waste will be managed offsite at a permitted facility.⁹⁰

With respect to managing water withdrawal and usage, the Martin County Solar facility will primarily utilize existing or new water wells. Construction-related water use would support site preparation (including dust control, if applicable) and grading activities. Similar to other solar facilities, the Martin County Solar project is not water intensive during the operational phase.⁹¹

Martin County Solar states that, based upon the CEA submitted to the Cabinet, the goals of the requirements of KRS 224.10-280 have been met.

⁸⁹ *Id.* at 5.

⁹⁰ *Id.* at 6.

⁹¹ *Id.* at 7.

With respect to KRS 278.010, Martin County Solar states that this statutory provision sets forth the definitions to be used in conjunction with KRS 278.010 to KRS 278.450, KRS 278.541 to KRS 278.544, KRS 278.546 to KRS 278.5462, and KRS 278.990. Martin County Solar asserts that the Siting Board's authority begins with KRS 278.700 and extends through KRS 278.716 and any applicable provision of KRS 278.990. Martin County Solar contends that in filing a complete application pursuant to the applicable statutes in this proceeding, the company has satisfied the goal of providing the required information utilizing the definition of any applicable term defined in KRS 278.010.

KRS 278.212 requires the filing of plans and specifications for electrical interconnection with merchant electric generating facility and imposes the obligation upon a merchant electric generating developer for any costs or expenses associated with upgrading the existing electricity transmission grid as a result of the additional load caused by a merchant electric generating facility. Martin County Solar avers that it has met the goals of KRS 278.212 because Martin County Solar will comply with all applicable conditions relating to electrical interconnection with utilities by following the PJM interconnection process. Additionally, Martin County Solar states that it will accept responsibility for appropriate costs which may result from its interconnecting with the electricity transmission grid.

KRS 278.214 governs the curtailment of service and establishes the progression of entities whose service may be interrupted or curtailed pursuant to an emergency or other event. Martin County Solar states that it will abide by the requirements of this provision to the extent that these requirements are applicable.

KRS 278.216 requires utilities under the jurisdiction of the Kentucky PSC to obtain a site compatibility certificate before beginning construction of an electric generating facility capable of generating more than 10 megawatts. An application for a site compatibility certificate should include the submission of a site assessment report as prescribed in the applicable Siting Board statutes. Martin County Solar states that it is not a utility under the jurisdiction of the Kentucky PSC. However, Martin County Solar states that it has nonetheless met the requirements of KRS 278.216 by complying with the requirements of KRS 278.700 *et seq.*, including the submission of an SAR.

KRS 278.218 provides that no transfer of utility assets having an original book value of \$1 million or more without prior approval of the Kentucky PSC if the assets are to be transferred by reasons other than obsolescence or the assets will continue to be used to provide the same or similar service to the utility or its customers. Martin County Solar states that it is not a utility as that term is defined in KRS 278.010(3). However, to the extent Siting Board approval may at some time be required for change of ownership or control of assets owned by Martin County Solar, Martin County Solar states that it will abide by the applicable rules and regulations that govern its operation.

KRS 278.700 *et seq.* governs the Siting Board's jurisdiction and process. Martin County Solar states that it has met the goals set forth in these provisions as evidenced by the application in its entirety. Martin County Solar further states that it has provided a comprehensive application with a detailed discussion of all of the criteria applicable to its proposed facility under KRS 278.700–278.716.

Having reviewed the record and being otherwise sufficiently advised, the Siting Board finds that Martin Solar has demonstrated the proposed facility as designed and as

located would meet the goals of the various statutes set forth in KRS 278.704(4) at a distance closer than the required 2,000 feet and is therefore permitted to a deviation from the 2,000-foot setback requirement to the distances requested and as noted below. The Siting Board notes that the mitigation requirements imposed in the Compatibility with Scenic Surroundings and Noise and Anticipated Noise Level sections will also provide some level of protection for persons occupying a property adjacent to the proposed solar facility with respect to noise, obstruction of views, and traffic. Based on the record in this matter, including the results of the noise and traffic study, Martin County Solar shall not place the BESS or solar panels closer than 590 feet from any residence, and shall not place inverters closer than 1,000 feet from any residence. This mitigation measure is outlined in Appendix A, item 24.

History of Environmental Compliance

Martin County Solar states that neither Martin County Solar, nor any entity with ownership interest in the Project, has violated any state or federal environmental laws or regulations. There are no pending actions, judicial or administrative, against Martin County Solar nor any entity with ownership interest in the Project.⁹²

KRS 278.710(1)(i) directs the Siting Board to consider whether Martin County Solar has a good environmental compliance history. In light of Martin County Solar's verified statement and no evidence to the contrary, the Siting Board finds that Martin County Solar has satisfied the requirements of KRS 278.710(1)(i). Nevertheless, the Applicant shall seek approval for any change in control or ownership so the Siting Board can ensure ongoing compliance with the law that no entity with a proposed ownership

⁹² Application at 11–12.

interest in the Project, has violated any state or federal environmental laws or regulations, and that there are no pending actions against any entity with a proposed ownership interest in the Project.

Decommissioning

The proposed solar facility would have an expected useful life of approximately 20 to 30 years.⁹³ Martin County Solar states that decommissioning requirements exist in its land agreements with the surface landowners for the Project.⁹⁴ However, Martin County has not prepared a formal decommissioning plan. The Siting Board finds mitigation measures are necessary to ensure that all parties are protected from potential nonperformance of decommissioning obligations. The Siting Board will require Martin County Solar to implement mitigation measures that require Martin County Solar and its successors and assigns to meet all land restoration requirements in the surface landowner agreements, as well as mitigation measures that require a decommissioning plan specific to Martin County Solar's Project. These mitigation measures are outlined in Appendix A, in particular items 25–30.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Martin County Solar has presented sufficient evidence to support the issuance of a deviation from the setback requirements of KRS 278.704(2) and a Certificate to construct the proposed merchant solar facility. The Siting Board conditions its approval upon the full implementation of all mitigation measures described herein and

⁹³ *Id.* at 76.

⁹⁴ September 28, 2021 Hearing at 9:40:41.

listed in Appendix A to this Order. A map showing the location of the proposed solar generating facility is attached hereto as Appendix B.

IT IS THEREFORE ORDERED that:

1. Martin County Solar's Motion to Supplement Pending Motion for Deviation is granted.

2. Martin County Solar's application for a Certificate to Construct an approximately 200 MWac merchant solar electric generating facility in Martin County, Kentucky, is conditionally granted subject to full compliance with the mitigation measures and condition prescribed in Appendix A.

3. Martin County Solar's motion for deviation from the 2,000-foot setback requirement is granted in part, such that a 590 foot setback requirement shall apply to each of the two neighborhoods that lie within 2,000 feet of the Project site. In addition, a 1,000 foot setback shall apply to Inverters.

4. Martin County Solar shall fully comply with the mitigation measures and conditions prescribed in Appendix A.

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

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

By the Kentucky State Board on Electric
Generation and Transmission Siting



ATTEST:

A handwritten signature in blue ink that reads "Linda G. Bridwell". The signature is written in a cursive style.

Executive Director
Public Service Commission
on behalf of the Kentucky State
Board on Electric Generation
and Transmission Siting

Case No. 2021-00029

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2021-00029 DATED NOV 15 2021

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Martin County Solar LLC (Martin County Solar) to ensure that the facilities proposed in this proceeding are constructed as ordered.

1. A final site layout plan shall be submitted to the Siting Board upon completion of the final site design. Deviations from the preliminary site layout provided in the Martin County Solar's responses to the Siting Board Staff's Post-Hearing Request for Information should be clearly indicated on the revised graphic. Those changes shall include, but are not limited to, location of solar panels, inverters, transformers, substation, operation and maintenance building or other Project facilities and infrastructure.

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

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

4. A final, Project specific, construction schedule, including revised estimates of on-site workers and commuter vehicle traffic, shall be submitted to the Siting Board. Deviations from the preliminary construction schedule provided in this matter should be clearly indicated.

5. The Siting Board will determine whether any deviation to the construction schedule or workforce estimates is likely to create a materially different pattern or magnitude of impacts. If not, no further action is required, but if yes, Martin County Solar will support the Siting Board's effort to revise its assessment of impacts and mitigation requirements.

6. Martin County Solar or its contractor will control access to the site during construction and operation. All construction entrances will be gated and locked when not in use.

7. Martin County Solar's access control strategy shall also include appropriate signage to warn potential trespassers. Martin County Solar must ensure that all site entrances and boundaries have adequate signage, particularly in locations visible to the public, local residents, and business owners.

8. According to National Electrical Safety Code regulations, the security fence must be installed prior to any electrical installation work. The substation will have its own separate security fence and locked access installed.

9. Martin County Solar should coordinate with the Kentucky Department of Fish and Wildlife Resources to notify hunters that access at the site will no longer be allowed. Martin County Solar should also incorporate this message into its signage at site entrances and boundaries.

10. Martin County Solar shall not remove any existing vegetation around the site's perimeter unless the existing vegetation needs to be removed, except to the extent it must remove such vegetation for the construction and operation of Project components.

11. While it is not expected, if any components of the facility are visible to neighboring homes after construction, Martin County Solar shall assess the feasibility of a screening plan, including consulting with neighbors to determine whether there are adverse impacts to their viewshed. If a screening plan is considered, regardless of whether it is ultimately implemented, notice of such consideration shall be filed with the Siting Board.

12. Martin County Solar shall fix or pay for damage resulting from any vehicle transport to the project site in accordance with all applicable transportation permits obtained from state and local road authorities. For damage resulting from vehicle transport in accordance with all permits, those permits will be controlling.

13. Martin County Solar shall comply with all laws and regulations regarding the use of roadways.

14. Martin County Solar shall implement ride-sharing between construction workers when feasible, use appropriate traffic controls or allow flexible working hours outside of peak hours to minimize any potential delays during AM and PM peak hours.

15. Martin County Solar will consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

16. Martin County Solar will consult with the Martin County Road Department (MCRD) regarding truck and other construction traffic and obtain necessary permits from the MCRD.

17. Martin County Solar shall develop special plans and obtain necessary permits before bringing the very heavy loads, especially the substation transformer, onto state or county roads.

18. Martin County Solar shall comply with any road use agreement executed with MCRD. Such an agreement might consider special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

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

20. Martin County Solar shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process. Dust impacts shall be kept at a minimal level. The Siting Board expects the Applicant's compliance with 401 KAR 63:010.

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

22. Martin County Solar shall notify residents and businesses within 2,400 feet of the project boundary about the construction plan, the noise potential and mitigation plans one month prior to the start of construction.

23. Martin County Solar shall implement a Customer Resolution Program to address any complaints from surrounding landowners. Martin County Solar shall also submit annually a status report associated with its Customer Resolution Program, regardless of whether any complaints are received in any given year. The annual status report should provide, among other things, any individual complaints, how Martin County Solar addressed those complaints, and the ultimate resolution of those complaints identifying whether or not the resolution was to the complainant's satisfaction.

24. Martin County Solar shall place panels, inverters and substation equipment consistent with the distances to noise receptors indicated in Martin County Solar's noise and traffic study. Nevertheless, Martin County Solar shall not place solar panels closer than 590 feet from a residence, and shall not place an inverter or BESS closer than 1000 feet from a residence.

25. As applicable to individual landowner agreements, Martin County Solar, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each landowner agreement.

26. Martin County Solar shall file a full and explicit decommissioning plan with the Siting Board. This plan shall commit Martin County Solar to removing all facility components, above-ground and below-ground, regardless of depth, from the project site and Martin County at the cessation of operations. If the facility components are properly disposed of at a permitted facility, they do not have to be physically removed from Martin County. Upon its completion, this plan shall be filed with the Siting Board or its successors. The decommissioning plan shall be completed at least one month prior to construction of the Project.

27. Martin County Solar shall be required to file a bond, equal to the amount necessary to effectuate the explicit decommissioning plan naming Martin County as a third-party (or secondary, in addition to individual landowners) beneficiary, in addition to the owners of the subject property insofar as the landowner agreements contain a decommissioning bonding requirement, so that Martin County will have the authority to draw upon the bond to effectuate the decommissioning plan. For land in which there is no bonding requirement otherwise, Martin County shall be the primary beneficiary of the decommissioning bond for that portion of the project. The bond(s) shall be filed with the Martin County Treasurer or with a bank, title company or financial institution reasonably acceptable to the county. That acceptance can be evidenced by a letter from the Judge Executive, the fiscal court, or the County Attorney. The bond shall be in place at the time of commencement of operation of the Project. The bond amount shall be reviewed every five years at Martin County Solar's expense to determine and update the cost of removal amount. This review shall be conducted by an individual or firm with experience or expertise in the costs of removal or decommissioning of electric generating facilities. Certification of this review shall be provided to the Siting Board or its successors and the Martin County Fiscal Court. Such certification shall be by letter and shall include the current amount of the anticipated bond and any change in the costs of removal or decommissioning.

28. If any person shall acquire or transfer ownership of, or control, or the right to control the Project, by sale of assets, transfer of stock, or otherwise, or abandon the same, Martin County Solar or its successors or assigns shall provide explicit notice to the Siting Board and the Martin County Fiscal Court.

29. Martin County Solar or its assigns must provide notice to the Siting Board if during any two-year period, it replaces more than twenty percent of its facilities. Martin County Solar shall commit to removing the debris and replaced facility components from the project site and Martin County upon replacement. If the replaced facility components are properly disposed of at a permitted facility, they do not have to be physically removed from Martin County. However, if the replaced facility components remain in Martin County, Martin County Solar must inform the Siting Board of where the replaced facility are being disposing of.

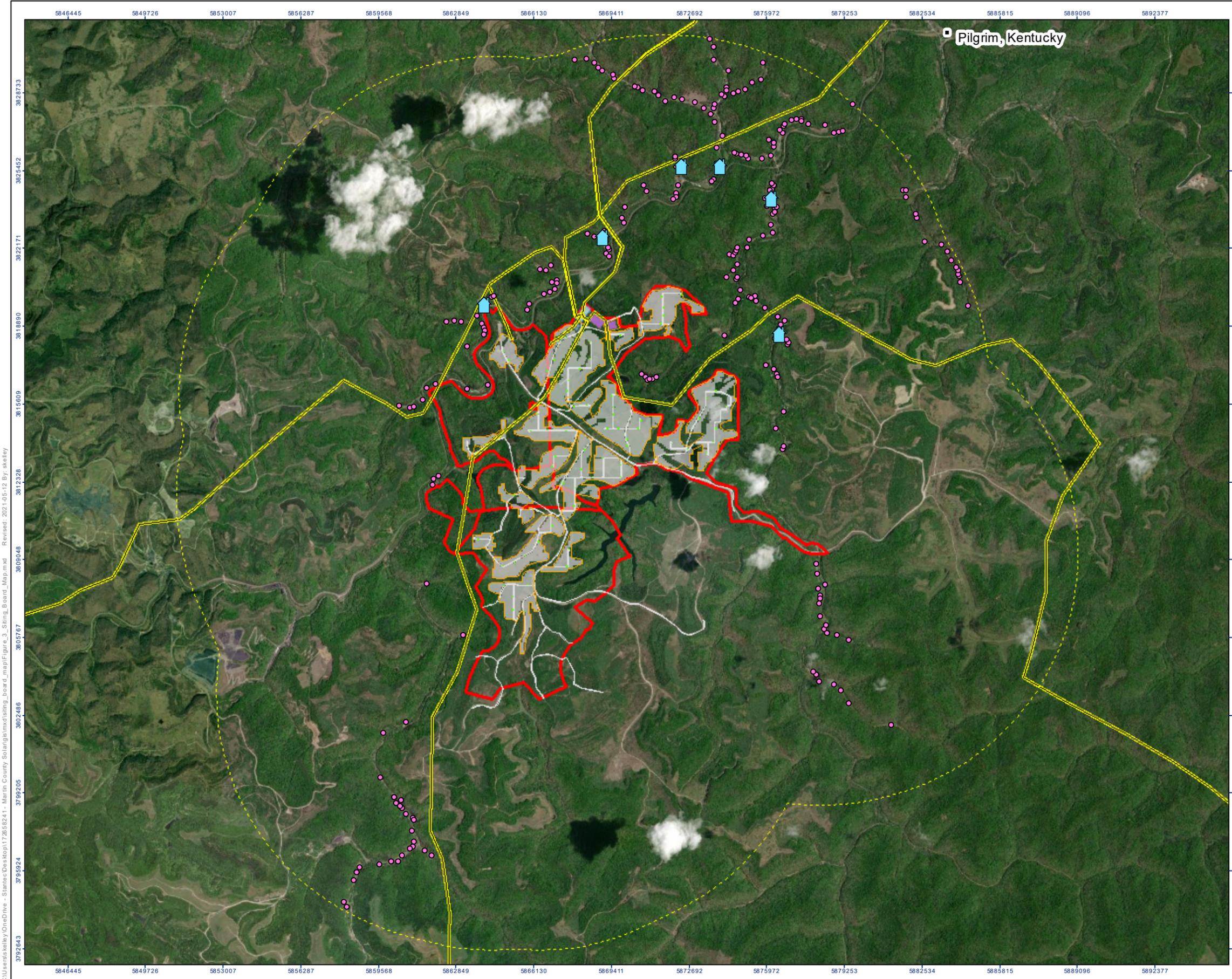
30. Any disposal or recycling of Project equipment, during operations or decommissioning of the Project, shall be done in accordance with applicable laws and requirements.

APPENDIX B

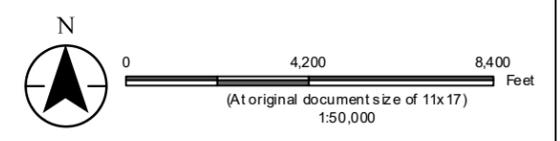
APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2021-00029 DATED NOV 15 2021

Martin County Solar, LLC Site Map

ONE PAGE TO FOLLOW

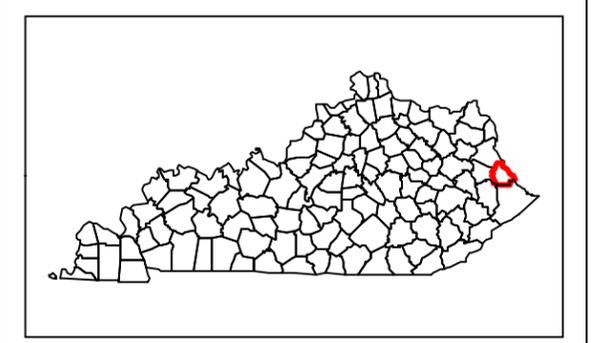


- Legend**
- Project Site
 - 2-Mile Buffer
 - BESS Sites
 - Substation
 - Electrical Transmission Line
 - Fenceline
 - Inverters
 - Racks
 - Access Roads
 - House Locations
 - Neighborhood



Notes

1. Coordinate System: NAD 1983 StatePlane Kentucky FIPS 1600 Feet
2. Data Sources: Imagery Date (5/8/2018)
3. Background: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Project Location Prepared by SPK on 2021-04-16
 Wolf Creek Road (CR-1439) TR by LC on 2021-04-16
 hez (Threeforks), Martin County, Kentucky R Review by JJA on 2020-04-16

Client/Project 172658261 REVA
 Martin County Solar Project, LLC
 Siting Board Application

Title
Exhibit A Project Site

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