

COMMONWEALTH OF KENTUCKY

BEFORE THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION
AND TRANSMISSION SITING

In the Matter of:

ELECTRONIC APPLICATION OF BANJO CREEK)	
SOLAR LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY)	CASE NO.
120-MEGAWATT ELECTRIC GENERATING)	2023-00263
FACILITY IN GRAVES COUNTY, KENTUCKY)	
PURSUANT TO KRS 278.700 AND 807 KAR)	
5:110)	

ORDER

On September 7, 2023, Banjo Creek Solar LLC (Banjo Creek) filed an application with the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board) seeking a Construction Certificate to construct an approximately 120-megawatt ground mounted solar photovoltaic electric generating facility (Project) comprising approximately 1,106 acres of land in Graves County, Kentucky.

Pursuant to a procedural schedule established on September 27, 2023, Banjo Creek responded to two rounds of discovery. On October 3, 2023, the Siting Board granted intervention to a group of seven residents that live adjacent to the Project area (collectively, Residents of Banjo Creek).¹ A site visit was held on November 3, 2023. Siting Board consultant, Wells Engineering (Wells), filed its report on December 15, 2023 (Wells Report). Banjo Creek submitted its response to the Wells Report on January 8, 2024. As provided by KRS 278.712(1), an in person public meeting was scheduled for

¹ Order (Ky. PSC Oct. 3, 2023).

January 16, 2024. However, due to inclement weather, the in person public meeting was held virtually on January 16, 2024.² There were no public comments made during the virtual local public hearing. However, there have been numerous written public comments filed in the record.³ On January 16, 2024, the Residents of Banjo Creek filed an objection to the virtual hearing and requested that the Siting Board reschedule the local public hearing to a later date to allow for an in-person hearing.⁴ On January 18, 2024, Banjo Creek responded noting that, in its view, the Siting Board complied with the law and the public received notice of the change.⁵ The Siting Board entered an Order on January 23, 2024, finding that the Siting Board is not required to have a local public comment hearing, and as such, the Residents of Banjo Creek's motion was overruled.⁶

The Siting Board has reviewed all the comments. A formal hearing was held on January 23, 2024. The Residents of Banjo Creek did not participate in the formal hearing. Prior to the hearing, several public comments were made.⁷

Banjo Creek filed its post-hearing brief on January 30, 2024. Banjo Creek argued that the Tennessee Valley Authority (TVA) interconnection approval process is extensive

² On Oct. 4, 2023, the Residents of Banjo Creek filed a request for a local public hearing. A local public hearing was scheduled for January 16, 2024 in Graves County, Kentucky, by Order dated Nov. 20, 2023. However, due to inclement weather, the meeting was changed to virtual by Order of the Commission on January 16, 2024. Later, on January 16, 2024, the Residents of Banjo Creek filed a motion requesting the public hearing be rescheduled, as discussed further on in the Order.

³ [View Public Comments for: 2023-00263 \(ky.gov\)](#)

⁴ Residents of Banjo Creek's Motion to Continue/Reschedule Local Public Hearing and Objection to Virtual Meeting Request for Leave to Intervene (filed Jan. 16, 2024).

⁵ Banjo Creek's Response to Intervenors' Motion (filed Jan. 18, 2024).

⁶ Order (Ky. PSC Jan. 23, 2024).

⁷ The Hearing Video Transcript (HVT) of the January 23, 2024, Hearing at 09:12:15–09:31:57. Public comments made by Jason Garland, Jessica Jeffries, David Jeffries, Shane McEndree.

and thorough.⁸ Banjo Creek also argued that the proposed setbacks were in conformity with the recent setbacks approved by the Siting Board.⁹ The Residents of Banjo Creek also filed a post-hearing brief.¹⁰ The Residents of Banjo Creek argued that the application contains insufficient information for the Siting Board to render a decision.¹¹ The filing also stated that the setbacks should be the statutory ones found in KRS 278.704.¹² Banjo Creek filed its responses to post-hearing requests for information on February 2, 2024.

On February 9, 2024, Banjo Creek filed a motion to strike the brief filed by the intervenors. Banjo Creek stated that the motion did not comply with 807 KAR 5:110 Section 7.¹³ The Siting Board has reviewed the motion. The Siting Board notes that the post-hearing brief is never considered evidence in a proceeding. The Siting Board finds that the brief did not comply with the applicable regulation, and no extension to file was requested by the Residents of Banjo Creek. As such, the Siting Board grants the motion to the extent that the Siting Board will treat the brief as a public comment. The matter now stands submitted for a decision.

LEGAL STANDARD

The filing requirements and standard of review for requests to construct a merchant generating facility are set forth in KRS 278.700–.718. KRS 278.704(1) requires that an application be filed with and approved by the Siting Board before the construction

⁸ Banjo Creek’s Post-Hearing Brief (filed Jan. 30, 2024) at unnumbered pages 1–3.

⁹ Banjo Creek’s Post-Hearing Brief at unnumbered pages 3–5.

¹⁰ Residents of Banjo Creek’s Post-Hearing Brief (filed Feb.2, 2024).

¹¹ Residents of Banjo Creek’s Post-Hearing Brief at 1–2.

¹² Residents of Banjo Creek’s Post-Hearing Brief at 2–3.

¹³ Banjo Creek’s Motion to Strike (filed Feb. 9, 2024) at 3.

of a merchant electric generating facility can commence. KRS 278.706 requires that the application include evidence of public notice and compliance with local planning and zoning ordinances.

KRS 278.708(2) requires Banjo Creek to prepare a site assessment report (SAR) that includes (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 site; (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 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 suggested by Banjo Creek to minimize or avoid adverse effects identified in the SAR.

KRS 278.710(1) delineates the criteria on which the Siting Board will grant or deny the certificate, which include (1) impact on scenic surroundings, property values, and surrounding roads; (2) anticipated noise levels during construction and operation of the facility; (3) economic impact on the region and state; (4) whether the proposed facility meets all local planning and zoning requirements existing on the date the application was filed; (5) impact of the additional load on the reliability of jurisdictional utilities; (6) setback requirements; (7) efficacy of mitigation measures proposed by Banjo Creek; and (8) whether Banjo Creek has a good environmental compliance history.

PROPOSED FACILITY

The Project will be located on 1,106 acres near Farmington, Graves County, Kentucky.¹⁴ The Project will contain approximately 325,050 of photovoltaic solar panels, associated ground-mounted racking, 165 inverters, battery energy storage system (BESS), and a substation.¹⁵ The Project will also have an approximately 185-foot nonregulated transmission line that will interconnect the Project with the Tennessee Valley Authority (TVA) Paris-Mayfield 161 kV transmission line.¹⁶

DISCUSSION AND FINDINGS

I. KRS 278.708: SAR Filing Requirements and Mitigation Measures

Mitigation Measures Proposed by Banjo Creek and Siting Board Consultant

As required by KRS 278.708(4), Banjo Creek proposed various mitigation measures consistent with the statutes regarding traffic, noise, roadway preservation, permitting, setbacks, public safety, scenic preservation, and decommissioning.¹⁷ In accordance with KRS 278.708(5), Wells recommended mitigation measures in the following areas: site development plan; compatibility with scenic surroundings; road degradation, and setback and sound mitigation methods.¹⁸ Banjo Creek generally agreed with the mitigation measures recommended by the Wells Report but disagreed that sound reducing barriers or blankets are being the best option for noise mitigation for this

¹⁴ Application (filed Sept. 7, 2023) unnumbered at 5.

¹⁵ Application, Attachment H, Decommissioning Plan at 8.

¹⁶ Application unnumbered at 5.

¹⁷ Application, Attachment G (SAR), unnumbered pages 10–14.

¹⁸Wells Engineering Solar Generation Siting Final Report (Wells Report) (filed Dec. 15, 2023), Attachment A, at 35.

Project.¹⁹ Banjo Creek also disagreed with Wells recommendation that the Project construct new bridges or culverts, wherever necessary, to transport equipment.²⁰

The Siting Board has reviewed the mitigation measures proposed by Banjo Creek and in the Wells Report, and finds that, in addition to those Banjo Creek has initially proposed, the mitigation measures set forth in Appendix A, and discussed throughout this Order, are appropriate and reasonable because they achieve the statutory purpose of mitigating the adverse effects identified in the SAR and the Wells Report in accordance with KRS 278.708. The Siting Board notes that, in consideration of public comments and concerns of the Siting Board, several of the mitigation measures contain conditions precedent to start of construction.

Detailed Site Description

KRS 278.708(3)(a)(1–6) requires that the detailed site description in the SAR include a description of (1) surrounding land uses for residential, commercial, agricultural, and recreational purposes; (2) the legal boundaries of the proposed site; (3) proposed access control to the site; (4) the location of facility buildings, transmission lines, and other structures; (5) location and use of access ways, internal roads, and railways; and (6) existing or proposed utilities to service the facility.

As an initial matter, the Siting Board notes that recently, applications have been submitted with less and less robust information. When the Siting Board is missing studies and analyses from an application that are not statutorily required but critical in making an informed decision, and considering the likelihood the applicant or project will be sold once

¹⁹ Applicant's Response to the Consultant's Report (filed Jan. 8, 2024) at 2.

²⁰ Applicant's Response to the Consultant's Report at 2.

a construction certificate is obtained, the Siting Board is forced to review the evidence with concern regarding long-term development responsibility and an eye toward specifically reviewing and enforcing the mitigation measures.

Banjo Creek submitted the required SAR with its application.²¹ The SAR contained a preliminary site plan,²² which was updated during the pendency of the proceedings.²³ The site plan included the Project boundary, proposed security fence, access roads, access points, existing overhead electrical lines, residential structures, axis tracker locations, existing roadways, proposed substation location, and BESS location.²⁴ Supplemental maps were provided which depicted proposed Point of Interconnection (POI),²⁵ land use,²⁶ wetland features,²⁷ community structures such as churches, cemeteries, and residences,²⁸ and a vegetative screening plan.²⁹ Banjo Creek is considering a mix of deciduous and evergreen species of plants and trees suitable for the local climate for the vegetative buffer.³⁰ The Project's current design contemplates clearing up to 180 acres of vegetation (mostly trees) for construction to respect setbacks

²¹ Application, SAR at 2.

²² Application, SAR, Appendix C.

²³ See Banjo Creeks Response to Siting Board Staff's Second Request for Information (Staff's Second Request) (filed Nov. 17, 2023), for a full conceptual layout as well as cross sections of the project.

²⁴ Application, SAR, Appendix C.

²⁵ Banjo Creek's Response to Consultant's Report, Exhibit B.

²⁶ Application, SAR, Appendix A.

²⁷ Banjo Creek's Response to Siting Board Staff's First Request for Information (Staff's First Request) (filed Oct. 5, 2023), Item 6.

²⁸ Banjo Creek's Response to Staff's First Request, Item 18.

²⁹ Banjo Creek's Responses to Staff's Second Request (filed Nov. 17, 2023), Item 3.

³⁰ Banjo Creek's Response to Staff's First Request, Item 11.

from nonparticipating landowners.³¹ Banjo Creek is aware of several existing structures that could be subject to removal or demolition, including five barns, two grain bins, and one irrigation pivot point.³² The legal boundaries and property deeds of the proposed site are contained in the application.³³

The proposed Project would connect to TVA's adjacent existing Paris–Mayfield 161 kV transmission line. The proposed solar facility is on approximately 1,106 acres.³⁴ The solar facility would consist of a solar array with crystalline silicon or thin film PV panels attached to ground-mounted single-axis trackers, central inverters, several medium voltage transformers and a main power transformer, a substation, BESS, a switching station, an operations and maintenance (O&M) building, access roads, and all associated cabling and safety equipment.³⁵ The final battery storage system selected will be commercially insurable and will have a useful life of at least 20 years. The batteries will be recycled at the end of their useful life as indicated in the Decommissioning Plan.³⁶ The Project components needing external power would be served by an existing adjacent TVA Paris–Mayfield 161 kV transmission line or local power from West Kentucky Rural Electric Cooperative.³⁷ No water or sewage utility lines are expected to be built or used for the

³¹ Banjo Creek's Response to Staff's First Request, Item 10.

³² Banjo Creek's Response to Staff's First Request, Item 9.

³³ Application, SAR, Appendix B.

³⁴ Application, Section 2.

³⁵ Application, SAR, Section 1.

³⁶ Banjo Creek's Response to Staff's First Request, Item 30.

³⁷ Application, SAR, Section 1.

Project.³⁸ Any water needs would be provided either via proposed on-site groundwater wells or by delivery via water trucks.³⁹ Perimeter security fencing will be installed according to National Electrical Safety Code (NESC) standards.⁴⁰ Electrical work may be installed before the fencing is complete, but no Project energization or commissioning work will begin prior to completion of the perimeter security fencing.⁴¹ Banjo Creek's security measures will be in compliance with NESC standards and North American Electric Reliability Corporation (NERC) requirements at a minimum for the O&M areas and Project substation.⁴² During construction, access to the site will be controlled by the General Contractor.⁴³ Once the operations phase commences, access to the site will be managed by the O&M contractor selected to manage the site on a day-to-day basis.⁴⁴

According to the 2021 U.S. Geological Survey National Land Cover Database, surrounding Project land uses consists of agricultural, forested, herbaceous, and low intensity development.⁴⁵ The Project site consists primarily of cultivated crops and hay or pasture (90.8 percent total), with scattered areas of deciduous and mixed forest (6.6 percent total), open space (1.6 percent), and developed areas, herbaceous, and open

³⁸ Application, SAR, Section 1.

³⁹ Application, SAR, Section 1.

⁴⁰ Banjo Creek's Response to Staff's First Request, Item 7.

⁴¹ Banjo Creek's Response to Staff's First Request, Item 7.

⁴² Banjo Creek's Response to Staff's First Request, Item 8.

⁴³ Banjo Creek's Response to Staff's First Request, Item 20.

⁴⁴ Banjo Creek's Response to Staff's First Request, Items 7, 8, 20.

⁴⁵ Wells Engineering Solar Generation Siting Final Report, Attachment A at 3.

water (0.9 percent total).⁴⁶ Banjo Creek has identified one cemetery (Yarbrough Cemetery) located within 2,000 feet of the Project located approximately two-tenths of a mile away from the Project boundary.⁴⁷ No cemeteries are located within the Project boundary.⁴⁸ There are no residential neighborhoods, schools, hospitals, or nursing home facilities within 2,000 feet of the Project.⁴⁹

Having reviewed the record of this proceeding, the Siting Board finds that Banjo Creek has complied with the requirements for describing the facility and a site development plan as required by KRS 278.708. With this finding, as noted above, the Siting Board does not intend this to be acceptance of the totality of the filings and reminds applicants of the importance of a thorough application and expected reports. However, the Siting Board finds that it is necessary to impose specific mitigation measures and requirements related to the description of the facility and the proposed site development plan. The Siting Board will require that Banjo Creek keep the Siting Board apprised of changes throughout the development of the Project and, as such, will order Banjo Creek to provide the final site plan before the commencement of construction. In addition, Banjo Creek will be required to file the final reports through the TVA interconnection process for Siting Board review and approval. The final site plan filed with the Commission should identify and highlight any change, including those to the design and boundaries of the Project, from the proposed site plan provided to the Siting Board during the pendency of

⁴⁶ Wells Report at 3.

⁴⁷ Banjo Creek Solar's Responses to Staff's First Request, Item 18.

⁴⁸ Banjo Creek Solar's Responses to Staff's First Request, Item 18.

⁴⁹ Banjo Creek Solar's Responses Staff's First Request, Item 18.

this matter. Furthermore, based on the findings and proposals of the Wells Report, the Siting Board finds that additional mitigation measures are required. These mitigation measures are outlined in Appendix A to this Order, specifically mitigation measures 1 through 9.

Compatibility with Scenic Surroundings

Banjo Creek indicated that the Project site is generally agricultural and forested lands.⁵⁰ The site is located on flat to gently sloping terrain.⁵¹ The view will be impacted primarily by solar panels. Banjo Creek has indicated it will mitigate the visual impacts of the facility by utilizing topography of the land and the addition of vegetative buffers.⁵² There will also be a six-foot-tall fence topped with barbed wire and a vegetative buffer composed of evergreen trees planted a maximum of 15 feet apart at the perimeter fence along the frontage and residences where existing vegetation is not sufficient to shield the views of the facility.⁵³

Having reviewed the record, the Siting Board finds that, while there will always be an impact on the scenery of neighboring properties, the impact of this Project will be minimal. The proposed vegetative buffer, along with other mitigation measures proposed by Banjo Creek and Wells, will minimize the effect that the proposed facility will have on the scenic surroundings of the site. However, the Siting Board will require mitigation

⁵⁰ Wells Report at 3.

⁵¹ Wells Report at 5.

⁵² Wells Report, Attachment A at 6.

⁵³ Wells Report, Attachment A at 6.

measures in addition to those proposed by Banjo Creek. Those are set forth in Appendix A to this Order, specifically mitigation measures 10 through 15.

Impact on Property Values

Banjo Creek submitted a property value impact report conducted by Kirkland Appraisals (Kirkland Report), a certified real estate appraiser.⁵⁴ The Kirkland Report found that, based upon a comparative analysis the solar facility will have no impact on the property values of abutting or adjoining residential or agricultural properties.⁵⁵ The report indicated that the solar facility would function in a harmonious manner with the nearby surroundings, which is mostly agricultural, and that operation of the Project would not generate the level of noise, odor, or traffic to negatively impact the nearby surroundings as compared to a fossil fuel generating facility or other industrial facilities.⁵⁶

The Wells Report provided a review and analysis by Clark Toleman, MAI, on the Kirkland Report and its findings.⁵⁷ The review analyzed the paired sales analysis prepared by the Kirkland Report to determine that there is a strong indicator that the proximity to a solar facility has a neutral impact on adjoining property values with proper setbacks and landscaped buffers.⁵⁸ The Wells Report concluded that the Kirkland Report was credible and representative of the market conditions that would exist if the Project is constructed.⁵⁹

⁵⁴ SAR, Appendix F, Property Value Analysis.

⁵⁵ SAR, Appendix F at 2.

⁵⁶ Application, Section 2, SAR, Appendix A at 2 and 128.

⁵⁷ Wells Report, Attachment B.

⁵⁸ Wells Report, Attachment B at 8.

⁵⁹ Wells Report at 33.

Having reviewed the record, the Siting Board finds sufficient evidence to conclude that the proposed Banjo Creek facility will not have any significant adverse impact on nearby property values so long as proper mitigation measures are implemented. The characteristics of the solar facility's operations are passive, and the facility will be temporary, with the land returned to its natural state after a few decades of operation. The facility does not produce any air, noise, waste, or water pollution, nor does it create any traffic issues during operations.

Anticipated Noise Level

Banjo Creek's Noise and Traffic Study was completed by GreenGo Energy US, Inc. (GreenGo Energy).⁶⁰ GreenGo Energy used day-night average sound noise metric that is recommended by United States Environmental Protection Agency to evaluate the sound levels from the project.⁶¹ GreenGo Energy stated the estimated maximum equipment noise levels during construction will occur during pile driving, and estimated that at the closest receiver with a 300 foot setback from a panel would have noise levels during pile driving of 85 dBA Lmax or 78 dBA.⁶² GreenGo Energy then stated that a 75 dBA Lmax/68 dBA buffer from each of the receivers will be used.⁶³ GreenGo Energy stated that pile driving will be limited to 8 a.m. to 6 p.m. local time, Monday through Friday. GreenGo Energy proposed to limit construction activity, process, and deliveries to the hours between 7 a.m. and 7 p.m. local time, Monday through Saturday. GreenGo Energy

⁶⁰ Application, Appendix D, Noise and Traffic Assessment Study.

⁶¹ Application, Appendix D, Noise and Traffic Assessment Study at 2.

⁶² Application, Appendix D, Noise and Traffic Assessment Study at 6.

⁶³ Application, Appendix D, Noise and Traffic Assessment Study at 6.

proposed non-noise-causing and non-construction activities can take place on the site between 6 a.m. and 11 p.m. local time, Monday through Sunday.⁶⁴

GreenGo Energy used a predictive model developed by Computer Aided Noise Abatement to estimate noise during operation.⁶⁵ The highest the estimated time-weighted average sound pressure (Leq) hourly at a receiver during operation was 52 Leq.⁶⁶ GreenGo Energy concluded that operational noise was estimated to be very similar to those currently generated onsite by farming activities and offsite by commercial and farm uses.⁶⁷

The Siting Board finds that noise from the construction phase will be intermittent and temporary but will be significant to the nearest residences. As indicated by both Banjo Creek and Wells, the noise will be loudest during the construction phase but will not be permanently damaging to nearby residents. The Siting Board further finds that the operational noise from inverters and the main transformer should have little to no effect on residences in the area.

Based on the case record, the Siting Board finds that Banjo Creek's application is in compliance with the statutory requirements for disclosing noise levels. However, the Siting Board further finds that based on the entire record, to ensure the impact of construction noise does not unduly impact nearby residents, Banjo Creek will be required to implement specific mitigation measures to ensure the impact of construction noise does

⁶⁴ Application, Appendix D, Noise and Traffic Assessment Study at 15.

⁶⁵ Application, Appendix D, Noise and Traffic Assessment Study at 9.

⁶⁶ Application, Appendix D, Noise and Traffic Assessment Study at 9.

⁶⁷ Application, Appendix D, Noise and Traffic Assessment Study at 15.

not unduly impact nearby residents. The mitigation measures implemented by the Siting Board are designed to limit the effects of construction noise by controlling the hours of construction in general, as well as the time and manner pile driving can occur. The Siting Board will require Banjo Creek to mitigate construction noise up to 1,000 feet to ensure the surrounding community is not negatively impacted by the construction noise. Banjo Creek may forego noise suppression if it employs a panel installation method that does not involve pile driving, so long as the method does not produce noise levels similar to pile driving. These mitigation measures are further outlined in Appendix A to this Order, specifically mitigation measures 16 through 18.

Impact on Roads, Railways, and Fugitive Dust

Construction is anticipated to take approximately 12 to 18 months.⁶⁸ During the construction phase, there will be intermittent and temporary impacts to traffic flow on the roads near the Project. KY Route 339/Antioch Church Road extends east-west through the southern portion of the project.⁶⁹ KY Route 564 extends north-south through the eastern portion of the project.⁷⁰ Wilferd Road extends east-west through the northern portion of the project.⁷¹ HDR, Inc. conducted a Noise and Traffic Study and concluded there will a temporary increase of traffic construction.⁷² The study further concluded no railways will be impacted during construction or operations.⁷³ Wells also reviewed the

⁶⁸ HVT of January 23, 2024 Hearing, Jonathan Flemings at 09:37:38–09:37:44.

⁶⁹ Appendix D, Noise and Traffic Study, Section 3 at 15.

⁷⁰ Appendix D, Noise and Traffic Study, Section 3 at 15.

⁷¹ Appendix D, Noise and Traffic Study, Section 3 at 15.

⁷² Appendix D, Noise and Traffic Study, Section 3 at 17.

⁷³ Appendix D, Noise and Traffic Study, Section 5 at 18.

traffic impact and found there will be minimal traffic impact on the roads near the project, but this will be alleviated with mitigation measures.⁷⁴

The study also noted that during the operational phase the Project will be monitored daily via security cameras and employees will conduct periodic site visits.⁷⁵ The operational phase will have little impact on the roads and traffic.⁷⁶

The Siting Board finds that traffic and road degradation issues can be addressed with Banjo Creek mitigation measures, the additional mitigation measures proposed by Wells, and mitigation measures set forth in Appendix A to this Order, specifically mitigation measures 20 through 28.

The Siting Board anticipates some fugitive dust from the construction phase. Banjo Creek stated it will mitigate the dust from construction by covering soil piles and application of water as necessary.⁷⁷ Dust will not be a factor during the operations phase. The Siting Board requires additional mitigation measures to reduce any potentially harmful effects on the area, which are outlined in Appendix A to this Order. The Siting Board will require Banjo Creek to inform the Siting Board and the Kentucky Energy and Environment Cabinet (EEC) of the date construction will commence, 30 days prior, to ensure the proper permits have been obtained and whether proper steps have been taken to comply with the mitigation measures set forth in Appendix A to this Order.

⁷⁴ Wells Report, Section 5 at 8.

⁷⁵ Appendix D, Noise and Traffic Study, Section 5 at 18.

⁷⁶ Appendix D, Noise and Traffic Study, Section 3 at 17.

⁷⁷Appendix D, Noise and Traffic Study, Section 3 at 17.

II. KRS 278.710(1) Criteria

Economic Impact on Affected Region and the State

According to Banjo Creek's economic impact report, the proposed solar facility will invest over \$248 million in Graves County, Kentucky, including land acquisition, site preparation, solar panel and electrical equipment installation, landscaping and security fencing.⁷⁸ The Project is expected to generate significant positive economic and fiscal impacts to Graves County. Such impacts include the creation of hundreds of construction jobs, expansion of the local tax base, and the benefits of having a long-term employer and corporate citizen in the region. The Project will be conducted in two phases: a construction phase and an operations phase.⁷⁹

The IMPLAN model used for the economic impact analysis focused on Graves County only because of the lack of industrial linkages in the region.⁸⁰ During the Project's construction phase, Banjo Creek estimated that approximately 288 temporary, full-time jobs will be created during the construction phase with a direct payroll of approximately \$17.5 million including fringe benefits.⁸¹ Banjo Creek estimated that the average wage per construction job would be \$60,700 as compared to the 2021 annual average wages for all occupations in Graves County which totaled \$42,520.⁸² Banjo Creek estimated

⁷⁸ Application, Attachment F at 1–2.

⁷⁹ Application, Attachment F at 1.

⁸⁰ Application, Attachment F at 8 and 12.

⁸¹ Application, Attachment F at 9–11.

⁸² Application, Attachment F at 10–11.

indirect and induced economic impacts are estimated to contribute another 93 jobs with an additional \$5.6 million in payroll.⁸³

Banjo Creek concluded the total construction phase's economic impact is estimated to be 381 total full-time equivalent jobs in Graves County with a new payroll of \$23.1 million.⁸⁴ The vast majority of these jobs will be filled by skilled workers and contractors such as fencers, electricians, panel installers, equipment operators and construction managers.⁸⁵ Banjo Creek intends to hire as many local workers as permitted by the subcontractors it chooses for the project.⁸⁶

Banjo Creek estimated that the ongoing economic impact from the project's operational phase is estimated to be very small relative to the one-time impacts from the construction phase. The ongoing operational phase of the Project is expected to support approximately 3.8 jobs.⁸⁷

Banjo Creek and Graves County are currently planning on negotiating an Industrial Revenue Bond (IRB) and a Payment in Lieu of Taxes (PILOT) Agreement.⁸⁸ Without an IRB and PILOT in place, Banjo Creek estimates that it will pay property taxes to local governments of approximately \$3.2 million, with \$2.1 million going specifically to the

⁸³ Application, Attachment F at 11.

⁸⁴ Application, Attachment F at 11 (calculated by subtracting direct jobs and payroll from total jobs and payroll: 381 Total Jobs minus 288 Direct Jobs equals 93 Induced Jobs; \$23.1 million Total Payroll minus \$17.5 million Direct Payroll equals \$5.6 million Induced Payroll).

⁸⁵ Application, Attachment F at 10.

⁸⁶ Banjo Creek's Response Staff's Second Request for Information (Staff's Second Request), Item 6.

⁸⁷ Application, Attachment F at 13.

⁸⁸ Staff's Second Request, Item 5.

school district.⁸⁹ The Commonwealth of Kentucky would receive approximately \$4.7 million in property taxes over the 40-year Project life.⁹⁰ These payments, which average about \$80,000 annually, can be compared to the \$7,000 per year based upon the agricultural use value of the land in 2022.⁹¹ In addition to property taxes, income tax revenue and Sales and Use tax revenues will be collected. During the construction phase, an estimated \$231,000 in occupational taxes will be collected.⁹²

Mark Watters of Watters Unclaimed Property Consulting LLC was contracted by Wells to evaluate the economic impact of the project.⁹³ Mr. Watters concluded that, based upon the information presented by the economic impact report, there is a positive, significant, short-term initial economic impact during the Construction Phase for the Commonwealth of Kentucky, Graves County, and its region and lesser but positive economic impacts during the Operations phase.⁹⁴

Having reviewed the record, the Siting Board finds that the Banjo Creek facility will have a positive economic impact on the region.

Existence of Other Generating Facilities

Banjo Creek indicated that there are no existing facilities near the proposed site that generate electricity.⁹⁵ Banjo Creek stated the Project was sited in a location with

⁸⁹ Application Attachment F at 15.

⁹⁰ Application Attachment F at 1.

⁹¹ Application Attachment F at 1 and 15.

⁹² Application Attachment F at 1 and 14.

⁹³ See Review and Evaluation of Banjo Creek Solar LLC Siting Assessment Report Case Number: 2023-00263, Attachment C. (Wells Report) (filed Dec. 15, 2023).

⁹⁴ Wells Report at 2.

⁹⁵ Application at unnumbered page at 12.

proximity to existing transmission infrastructure,⁹⁶ and that the Project will interconnect into the existing TVA Paris-Mayfield 161 kV transmission line.⁹⁷

Local Planning and Zoning Requirements

Graves County does not have Planning and Zoning and has not enacted any zoning ordinances or setback requirements.⁹⁸ The statutory requirements of KRS 278.706(2)(e) apply unless a deviation is applied for and granted by the Siting Board. KRS 278.706(2)(e) requires that all proposed structures or facilities used for generation of electricity must be 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility. The Project will not be within 2,000 feet of any residential neighborhood, school hospital, or nursing home facility.⁹⁹

Impact on Transmission System

The Project is located within TVA's electric system in Kentucky. TVA manages the interconnection and is also the owner of the proposed point of connection.¹⁰⁰ TVA conducted a System Impact Study Report that was issued on May 4, 2023.¹⁰¹ The System Impact Study identified impacts to the transmission system, including neighboring transmission system. No potentially affected systems were identified from the proposed interconnection.¹⁰² Banjo Creek elected to opt out of the Feasibility Study, which is

⁹⁶ Application at unnumbered page 12.

⁹⁷ Application at unnumbered page 12.

⁹⁸ Application at unnumbered page 9 and SAR at unnumbered page 5.

⁹⁹ Notice of Correction filed January 28, 2024 at 2 and Attachment A, Context Map.

¹⁰⁰ Application at unnumbered page 14.

¹⁰¹ Application at unnumbered page 14.

¹⁰² Application at unnumbered page 14. See Application, Attachment E for the full System Impact Study.

optional in the TVA process.¹⁰³ The Facilities Study is in progress and is expected in mid-2024.¹⁰⁴

Based upon the case record, the Siting Board finds that Banjo Creek has satisfied the requirements of KRS 278.710(f), and that the additional load imposed upon the electricity transmission system by the generation of electricity at the Banjo Creek facility will not adversely affect the reliability of service for retail customers of electric utilities regulated by the Kentucky Public Service Commission. This finding is based upon Banjo Creek's commitment to the interconnection process and protocols consistent with the requirements of KRS 278.212.

Banjo Creek also filed an application for a nonregulated transmission line pursuant to KRS 278.717.¹⁰⁵ Banjo Creek stated the nonregulated transmission line will be approximately 2,000 feet and will run from the project's substation to a to-be-built TVA switchyard.¹⁰⁶ The nonregulated transmission line will have a voltage of 161 kV and will have a right-of-way of 65 feet on either side of the centerline for a total width of 130 feet.¹⁰⁷ The transmission line will be located on one parcel of property that is leased by Banjo Creek.¹⁰⁸ The transmission line and appurtenances will be constructed and maintained

¹⁰³ Application at unnumbered page 14.

¹⁰⁴ Application at unnumbered page 14.

¹⁰⁵ See Case No. 2023-00320, *Electronic Application of Banjo Creek Solar LLC for a Certificate of Construction for 161 kV Nonregulated Electric Transmission line up to Approximately 2,000 Feet in Length In Graves County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110*. Consolidated with this case pursuant to an Order dated January 23, 2024.

¹⁰⁶ Case No. 2023-00320, Application at 5.

¹⁰⁷ Case No. 2023-00320, Application at 4.

¹⁰⁸ Case No. 2023-00320, Application at 4.

in accordance with the NESC.¹⁰⁹ The transmission line is on the interior of the Project and is as far as possible from neighboring parcels.¹¹⁰

Compliance with Setback Requirements

Graves County does not have any planning and zoning and has not enacted any zoning ordinances or setback requirements. The statutory requirements of KRS 278.706(2) (e) requires that all proposed structures or facilities used for generation of electricity must be 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility.¹¹¹ KRS 278.700(6) defines “residential neighborhood” as a populated area of five or more acres containing at least one residential structure per acre.¹¹² This Project will not be within 2,000 feet from any residential neighborhood, school, hospital, or nursing home facility; therefore, KRS 278.706(2)(e) does not apply.¹¹³ Banjo Creek requested the following setbacks: 300 feet from residences, 100 feet from nonparticipating parcels, 30 feet from nonparticipating parcels that do not have residences and from county roads, 50 feet from banks and streams and the edges of wetlands.¹¹⁴

In consideration, the Siting Board finds that Banjo Creek shall not place solar panels or string inverters if used, closer than 300 feet from a residence, church or school, 100 feet from any exterior property line, 30 feet from nonparticipating adjoining parcels,

¹⁰⁹ Case No. 2023-00320, Application at 6.

¹¹⁰ Case No. 2023-00320, Application at 4.

¹¹¹ KRS 278.706(2)(e)

¹¹² KRS 278.700(6).

¹¹³ KRS 278.704(4).

¹¹⁴ SAR, Attachment G, unnumbered at 5.

and 50 feet from adjacent roadways and 30 feet from nonparticipating parcels. The Siting Board approves a distance of 300 feet between any solar panel or string inverter and any residential neighborhood. Banjo Creek shall not place a central inverter and, if used, energy storage systems closer than 450 feet from a residence, church, or school. Exceptions to these setbacks requirements for participating landowners are included in Appendix A, mitigation measure 19.

History of Environmental Compliance

In the application, Banjo Creek stated that neither it, nor anyone with an ownership interest in it, has violated any environmental laws, rules, or administrative regulations that resulted in criminal confiscation, or a fine greater than \$5,000.¹¹⁵ Further, Banjo Creek is not the subject of any pending judicial or administrative actions.¹¹⁶

Transfer of Ownership

Solar developments are often sold to other companies during the planning, construction, and operation of projects. When a construction certificate for a solar facility is sought, the Project and the developers are thoroughly evaluated to ensure that the Project will comply with all statutory and regulatory requirements. After review, the construction certificate is conditionally granted on the condition of full compliance with all mitigation measures, some of which continue into the operation of the project. As noted in the preceding section, the Siting Board not only reviews the history and abilities of the

¹¹⁵ Application at unnumbered page 16 and Banjo Creek's Response to Staff's Post-Hearing Request, Item 14.

¹¹⁶ Application at unnumbered page 16.

Person¹¹⁷ seeking the certificate, but also the entities that have an ownership interest in the Project. Here, the applicant has no resources or employees of its own, and instead depends on the resources and employees of affiliates or entities with an ownership interest in it. Banjo Creek will employ the persons responsible for compliance with the construction certificate during construction and the persons responsible for the continued compliance during operations.¹¹⁸ Without GreenGo Energy, Banjo Creek would not have the managerial, technical, or financial capability necessary to construct or operate the facility, nor to comply with the conditions required herein. As such, the Siting Board will require approval of the transfer of ownership or control of Banjo Creek, the person seeking and being granted, with conditions, the construction certificate in this matter. Without knowledge of who is providing the resources and employees to Banjo Creek to ensure ongoing compliance with the measures required herein, there is no way to ensure the requirements are adhered to throughout the life of the Project. To be clear, this condition does not apply to the actual transfer of the facility, but rather the transfer of ownership or control of the person holding the certificate to construct. The measures related to the transfer of ownership or control of the person holding the construction certificate are set forth more fully in Appendix A to this Order, specifically mitigation measure 29.

¹¹⁷ KRS 278.700(3) defines a person as any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity.

¹¹⁸ Banjo Creek Response to Staff's Post-Hearing Request, Item 1.

Decommissioning

Banjo Creek submitted a decommissioning plan with the application.¹¹⁹ The decommissioning plan and the applicable property leases contain covenants to remove all underground components.¹²⁰ The applicable property leases contain covenants to return the land to a condition reasonably similar to its original condition.¹²¹

The Siting Board finds that Banjo Creek must return the land to its original use, to the extent possible, at the end of the Project's life. Returning the land back to its original state and use after decades of operation is an important part of the Siting Board's finding regarding the impact of the facilities on scenic surroundings, property values, and the economy. The relatively "temporary" nature of the facilities compared to other types of more permanent development, such as thermal merchant generation facilities, industrial operations, or housing, is a prime consideration of the Siting Board in granting a certificate, with conditions, in this matter. An inability or unwillingness to return the land back to its prior state after the life of the facility, including leaving underground facilities in excess of three feet, increases the permanence of the facility. As such, the Siting Board requires the removal of all components above and below ground. Removal of all underground components and regrading or recompacting the soil for agricultural use will mitigate any damage to the land, thus returning the land to a state that provides at least as great of an economic impact as it does today. The Siting Board will also require

¹¹⁹ Application, Attachment H.

¹²⁰ Application, Attachment H at 2–3 and Banjo Creek's Response to Staff's First Request, Item 1.

¹²¹ Application, Attachment H at 12.

additional mitigation measures related to decommissioning, which are outlined in Appendix A to this Order, specifically mitigation measures 30 through 33.

III. Requirements under KRS 278.714

KRS 278.714(2) directs the Siting Board to consider the following criteria in considering an application for the construction of the unregulated transmission line as proposed by Banjo Creek:

- Location of proposed line and structures to support it;
- Proposed right-of-way limits;
- Existing property lines that will be crossed and names of owners;
- Distance from neighborhoods, schools, public and private parks;
- Voltages and capacities;
- Length of line;
- Terminal points;
- Substation connections; and
- Statement of compliance for construction and maintenance with engineering practices and the NESC.

Full Description of the Proposed Route of Transmission Line

The proposed transmission line will tie into the existing 161 kV electric transmission line on the project site.¹²² The 161 kV transmission line would connect the proposed solar and battery storage generation substation to TVA existing Paris-Mayfield 161 kV transmission system via future tap and installation of a TVA switching station which will be located in the same area.¹²³ The total length of the proposed line will be a

¹²² Case No. 2023-00320, Application for Transmission line at 4.

¹²³ Case No. 2023-00320, Application for Transmission line, Pleading at unnumbered page 2.

maximum of 2,000 feet in length.¹²⁴ Banjo Creek has filed several maps for the proposed transmission line route.¹²⁵

Detailed Description of the Proposed Transmission Line and Appurtenances

KRS 278.714(2)(c) states that a full description of the proposed electric transmission line and appurtenances is required, including the following: initial and design voltages and capacities; length of the line; terminal points; and substation connections.

Banjo Creek submitted a map showing the existing property lines that the proposed transmission line is proposed to cross.¹²⁶ Banjo Creek submitted copies of the leases currently procured for the route of the transmission line. The proposed transmission line will be located in the interior of the project site.¹²⁷ Since Banjo Creek's interconnection application to TVA is in the facilities study phase and also subject to TVA's NEPA review, the final route of the proposed transmission line may have to be adjusted.¹²⁸ The final route may also have to be adjusted due to wetlands and other environmental resources that are identified during the NEPA study process.¹²⁹

The Siting Board finds additional requirements are necessary to ensure protections exist in the case the transmission route is different than the route supported by the record of this matter. This will be set forth more fully in Appendix A to this Order, specifically mitigation measure 37.

¹²⁴ Case No. 2023-00320, Application for Transmission line at 5.

¹²⁵ Application, Appendix C and Case No. 2023-00320, Application for Transmission line at 5.

¹²⁶ Application, Appendix C, and Case No. 2023-00320, Application for Transmission line at 5.

¹²⁷ Case No. 2023-00320, Application for Transmission line at 4.

¹²⁸ Case No. 2023-00320, Application for Transmission line at 4.

¹²⁹ Case No. 2023-00320, Application for Transmission line at 4.

Compliance with NESC

KRS 278.714(2)(d) requires that the Applicant provide a statement that the proposed electric transmission line and appurtenances will be constructed and maintained in accordance with accepted engineering practices and the NESC. Banjo Creek confirmed that the proposed electric transmission line would be built and maintained in accordance with accepted engineering practices and the NESC.¹³⁰

Requirements under KRS 278.714(3)

The Siting Board is also tasked with examining the following additional criteria in rendering its decision regarding construction of the proposed transmission line.

Scenic Impact

Banjo Creek stated that the location of the proposed transmission line is in the interior of the project site and as far as possible from neighboring parcels.¹³¹ The transmission line will be contained on one parcel of property under lease by Banjo Creek.¹³² For the proposed nonregulated transmission line, the Project features under consideration for scenic compatibility include the proposed towers to support the transmission line, up to 2,000 feet of transmission line from the project's substation to a to-be-built TVA switchyard, and the cleared right-of-way for the transmission line.¹³³

¹³⁰ Banjo Creek Application for Transmission line at 6.

¹³¹ Case No. 2023-00320, Application for Transmission line at 4.

¹³² Application for Transmission Line at 4.

¹³³ Application for Transmission line, Pleading at unnumbered page 2.

Banjo Creek stated that the proposed route of the electric transmission line will minimize significant adverse impact to the scenic assets of Kentucky and that it will construct and maintain the line according to all applicable legal requirements.¹³⁴

Compliance with all Legal Requirements

KRS 278.714(3) frames the decision to be made by the Siting Board for proposed nonregulated transmission lines:

Action to grant the certificate shall be based on the board's determination that the proposed route of the line will minimize significant adverse impact on the scenic assets of Kentucky and that the Applicant will construct and maintain the line according to all applicable legal requirements. In addition, the board may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth. If the board determines that locating the transmission line will result in significant degradation of scenic factors or if the board determines that the construction and maintenance of the line will be in violation of applicable legal requirements, the board may deny the application or condition the application's approval upon relocation of the route of the line, or changes in design or configuration of the line.

As previously discussed, the Siting Board finds that overall, the proposed transmission line would not have a significant adverse impact on the scenic assets of Graves County, Kentucky. Banjo Creek has complied, to date, with all applicable conditions relating to electrical interconnection with utilities by following the TVA interconnection process. The Siting Board finds that Banjo Creek proposed transmission line meets the requirements of KRS 278.714(3), subject to the mitigation measures and conditions imposed in this Order and the attached Appendix A to this Order.

¹³⁴ Application, Volume 1 at 6.

Based upon the case record, the Siting Board finds Banjo Creek's application for a construction certificate for a nonregulated transmission line should be approved. The transmission line is minimal in length and is contained within the project's boundaries. The transmission line will have minimal effects on the scenic surroundings and Banjo Creek has stated it will abide by the NESC in the construction and operation of the transmission line.

CONCLUSION

After carefully considering the criteria outlined in KRS Chapter 278, the Siting Board finds that Banjo Creek has presented sufficient evidence to support the issuance of a construction certificate to construct the proposed merchant solar facility and nonregulated transmission line. The Siting Board conditions its approval upon the full implementation of all mitigation measures and other requirements described herein and 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. Banjo Creek's motion to strike is granted to the extent that the Commission will treat the Residents of Banjo Creek's Post-Hearing Brief as a public comment.
2. Banjo Creek's application for a construction certificate to construct an approximately 120 MW merchant solar electric generating facility and approximately 2,000-foot nonregulated transmission in Graves County, Kentucky, is conditionally granted subject to full compliance with the mitigation measures and conditions prescribed in Appendix A.
3. Banjo Creek's application for construction of a 161 kV transmission line not

to exceed 2,000 ft. is granted, subject to full compliance with the mitigation measures and conditions prescribed in Appendix A.

4. Banjo Creek 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 Siting Board's docket.

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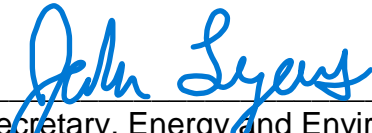
KENTUCKY STATE BOARD ON ELECTRIC
GENERATION AND TRANSMISSION SITING


Chairman, Public Service Commission


Vice Chairman, Public Service Commission


Commissioner, Public Service Commission


by KAC
w/permission


Secretary, Energy and Environment Cabinet,
or her designee


Secretary, Cabinet for Economic Development,
or his designee

Jesse Perry, ad hoc

ATTEST:


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



APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON ELECTRIC GENERATION AND TRANSMISSION SITING IN CASE NO. 2023-00263 DATED MAR 05 2024

MITIGATION MEASURES AND CONDITIONS IMPOSED

The following mitigation measures and conditions are hereby imposed on Banjo Creek Solar LLC (Banjo Creek) 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 within 14 days of completion of the final site design for review. Deviations from the preliminary site layout should be clearly indicated on the revised graphic. Those changes could include, but are not limited to, location of solar panels, inverters, transformers, substation, operation and maintenance building, transmission line route, 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. Construction shall not begin until the Siting Board has issued an Order regarding the finalized site plan.

4. Banjo Creek shall provide the date construction will commence to the Siting Board and the Kentucky Energy and Environment Cabinet (EEC) 30 days prior to that date.

5. Banjo Creek shall comply with all requirements in KRS 278.710 for monitoring by EEC.

6. Prior to construction, Banjo Creek shall provide a finalized Emergency Response Plan to the local fire district, first responders, and any County Emergency Management Agency. Banjo Creek shall provide site specific training for local emergency responders at their request. Access for fire and emergency units shall be set up after consultation with local authorities.

7. Banjo Creek 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.

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

9. The security fence must be installed prior to activation of any electrical installation work in accordance with NESC standards. The substation shall have its own separate security fence and locked access installed in accordance with NESC standards.

10. Existing vegetation between solar arrays and nearby roadways and homes shall be left in place to the extent feasible to help minimize visual impacts and screen the Project from nearby homeowners and travelers. Banjo Creek will not remove any existing vegetation except to the extent it must remove such vegetation for the construction and operation of Project components.

11. Banjo Creek shall implement planting of native evergreen species as a visual buffer to mitigate visual viewshed impacts, in areas where those viewshed impacts occur from residences or roadways directly adjacent to the Project and there is not

adequate existing vegetation. If it is not adequate, then vegetation ten feet thick reaching six feet at maturity (in four years) will be added by Banjo Creek between Project infrastructure and residences, or other occupied structures, with a line of sight to the facility to the reasonable satisfaction of the affected adjacent property owners. Planting of vegetative buffers may be done over the construction period; however, Banjo Creek should prioritize vegetative planting at all periods of construction to reduce viewshed impacts. All planting shall be done prior to the operation of the facility.

12. As Banjo Creek progresses in the TVA interconnection process Banjo Creek shall provide the Siting Board with all final reports.

13. Banjo Creek shall cultivate at least two acres of native, pollinator friendly species on-site.

14. Banjo Creek shall carry out visual screening consistent with the plan proposed in its application, SAR, and the maps included, and ensure that the proposed new vegetative buffers are successfully established and developed as expected over time. Should vegetation used as buffers die over time, Banjo Creek shall replace plantings as necessary.

15. To the extent that an affected adjacent property owner indicates to Banjo Creek that a visual buffer is not necessary, Banjo Creek will obtain that property owner's written consent and submit such consent in writing to the Siting Board.

16. Banjo Creek is required to limit construction activity, process, and deliveries to the hours between 8 a.m. and 6 p.m. local time, Monday through Saturday. The Siting Board directs that construction activities that create a higher level of noise, such as pile driving, will be limited to 9 a.m. to 5 p.m. local time, Monday through Friday. Non-noise

causing and non-construction activities may take place on the site between 7 a.m. and 10 p.m. local time, Monday through Sunday, including field visits, arrival, departure, planning, meetings, mowing, surveying, etc.

17. If the pile-driving activity occurs within 1,000 feet of a noise-sensitive receptor, Banjo Creek shall implement a construction method that will suppress the noise generated during the pile-driving process (i.e., semi-tractor and canvas method, sound blankets on fencing surrounding the solar site, or any other comparable method). Banjo Creek can forego using noise suppression measures if it employs a panel installation method that does not use pile driving, so long as that method does not create noise levels similar to pile driving.

18. Banjo Creek shall notify residents and businesses within 2,400 feet of the Project boundary about the construction plan, the noise potential, any mitigation plans, and its Complaint Resolution Program referred to in Item 34 of this Appendix, at least one month prior to the start of construction.

19. Banjo Creek shall place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans. Nevertheless, Banjo Creek shall not place solar panels or string inverters, if used, closer than 300 feet from a residence, church, or school, 30 feet from nonparticipating adjoining parcels, or 50 feet from adjacent roadways and 100 feet from exterior property lines. The Siting Board approves a distance of 300 feet between any solar panel or string inverter and any residential neighborhood. Banjo Creek shall not place a central inverter, and if used, energy storage systems, closer than 450 feet from any adjacent residences, church, or school. These further setbacks shall not be required

for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of construction on the Project.

20. Banjo Creek shall fix or pay for repairs for damage to roads and bridges resulting from any vehicle transport to the site. For damage resulting from vehicle transport in accordance with all permits, those permits will control.

21. Banjo Creek shall comply with all laws and regulations regarding the use of roadways.

22. Banjo Creek shall implement ridesharing between construction workers when feasible, use appropriate traffic controls, or allow flexible working hours outside of peak hours to minimize any potential traffic delays during a.m. and p.m. peak hours.

23. Banjo Creek shall consult with the Kentucky Transportation Cabinet (KYTC) regarding truck and other construction traffic and obtain necessary permits from the KYTC.

24. Banjo Creek shall consult with the Graves County Road Department (GCRD) regarding truck and other construction traffic and obtain any necessary permits from the GCRD.

25. Banjo Creek shall develop special plans and obtain necessary permits before transporting heavy loads, especially the substation transformer, onto state or county roads.

26. Banjo Creek shall comply with any road use agreement executed with GCRD. Such an agreement might include special considerations for overweight loads, routes utilized by heavy trucks, road weight limits, and bridge weight limits.

27. Banjo Creek shall develop and implement a traffic management plan to minimize the impact on traffic flow and keep traffic safe. Any such traffic management plan shall also identify any traffic-related noise concerns during the construction phase and develop measures that would address those noise concerns.

28. Banjo Creek shall properly maintain construction equipment and follow best management practices related to fugitive dust throughout the construction process, including the use of water trucks. Dust impacts shall be kept at a minimal level. The Siting Board requires Banjo Creek's compliance with 401 KAR 63:010.

29. If any Person as defined by KRS 278.700(3) shall acquire or transfer ownership of, or control, or the right to control Banjo Creek, by sale of assets, transfer of stock, or otherwise, or abandon the same, Banjo Creek or its successors or assigns shall request explicit approval from the Siting Board with notice of the request provided to the Graves County Fiscal Court. In any application requesting such abandonment, sale, or change of control, Banjo Creek and any proposed entity with an ownership interest in Banjo Creek shall certify its compliance with KRS 278.710(1)(i).

30. As applicable to individual lease agreements, Banjo Creek, its successors, or assigns will abide by the specific land restoration commitments agreed to by individual property owners, as described in each executed lease agreement.

31. Banjo Creek shall file a complete and explicit decommissioning plan with the Siting Board. This plan shall commit Banjo Creek to remove all facility components,

above ground and below ground, regardless of depth, from the Project site. 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 before the construction of the Project.

32. Banjo Creek or its assigns shall provide notice to the Siting Board, if, during any two-year (730 days) period, it replaces more than 20 percent of its facilities. Banjo Creek shall commit to removing the debris and replaced facility components from the Project site and from Graves County upon replacement. If the replaced components are properly disposed of at a permitted facility, they do not have to be physically removed from Graves County. However, if the replaced facility components remain in the county, Banjo Creek must inform the Siting Board of the location where the components are being disposed.

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

34. Banjo Creek shall initiate and maintain the Complaint Resolution Program provided to the Siting Board in the case record to address any complaints from community members. Banjo Creek shall also submit annually a status report associated with its Complaint Resolution Program, providing, among other things, the individual complaints, how Banjo Creek addressed those complaints, and the ultimate resolution of those complaints identifying whether the resolution was to the complainant's satisfaction.

35. Banjo Creek shall provide the Graves County Planning & Development Commission contact information for individuals within the company that can be contacted with concerns. This shall include contact information for the general public to reach

individuals that can address their concerns. Banjo Creek shall update this contact information yearly, or within 30 days of any change in contact information.

36. Within 30 days of entry, Banjo Creek shall send a copy of this Order to all the adjoining landowners who previously were required to receive notice of this Project.

37. Banjo Creek shall adhere to the proposed transmission routes presented in the Context Map. Should Banjo Creek find it necessary to include any parcel of land not included in this response in order, to finalize the route of the proposed transmission line, Banjo Creek shall return to the Siting Board to request an amendment to the location of the transmission.

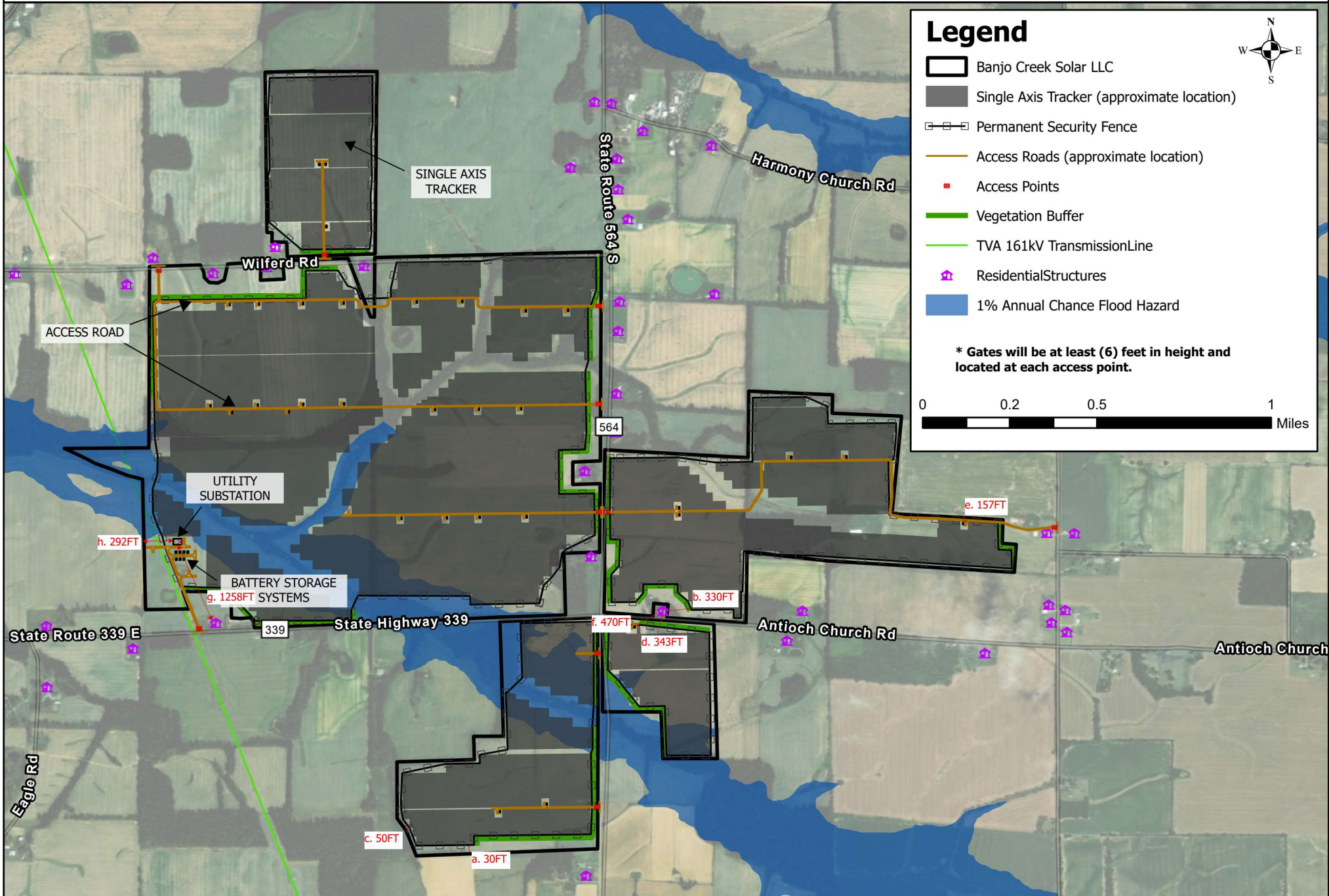
APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY STATE BOARD ON
ELECTRIC GENERATION AND TRANSMISSION SITING IN
CASE NO. 2023-00263 DATED MAR 05 2024

ONE PAGE TO FOLLOW

Banjo Creek Solar LLC

Preliminary Site Layout



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