

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

In the Matter of:

ELECTRONIC APPLICATION OF CRAB	)	
RUN SOLAR, LLC FOR A CERTIFICATE OF	)	CASE NO.
CONSTRUCTION FOR AN UP TO 45	)	2025-00276
MEGAWATT ELECTRIC SOLAR	)	
GENERATING FACILITY IN MARION	)	
COUNTY, KENTUCKY	)	

ORDER

This matter is before the Siting Board upon a motion for rehearing filed on July 7, 2026, by Crab Run Solar, LLC (Crab Run Solar)¹ seeking rehearing and modification of certain mitigation measures imposed by the Siting Board's June 17, 2026, order (final Order) that conditionally approved a certificate to construct an approximately 45-megawatt (MW) merchant solar generating facility in Marion County (Project). On July 14, 2026, the Intervenor²s filed a response in opposition to the request made by Crab Run Solar.³

¹ The Intervenor²s filed a separate motion for rehearing and modification, which will be addressed in a separate Order.

² Kathy Dow, Glenn Russell, Lynn Russell, Susan Spalding, Terri Miles, Mary Angela Mattingly, Richard Mattingly, Bobby Thomas, Olivia Thomas, Robert Thomas, Brian Thompson, and Kim Thompson.

³ Intervenor²s' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed July 14, 2026).

DISCUSSION AND FINDING

The Siting Board is governed by KRS 278.700–KRS 278.716 and 807 KAR 5:110. Consistent with past case precedent, the Siting Board has treated motions or applications for rehearing filed pursuant to KRS 278.400 simply as a motion for reconsideration or clarification. The Siting Board will proceed ruling on the Intervenor's Application for Rehearing based on the same rationale.

Crab Run Solar requested rehearing and modification regarding Mitigation Measure 21. Crab Run Solar also requested clarification on the required setback distances from solar panels to non-participating parcel lines.

Mitigation Measure 21

Crab Run Solar shall place panels, inverters and switchyard components consistent with the distances that have been prescribed in this Order. The Siting Board approves a distance of 500 feet between any solar panel or string inverter and any residential neighborhood and 100 feet from any exterior property line. Crab Run Solar shall not place solar panels or string inverters, if used, closer than 500 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways and. Crab Run Solar shall not place a central inverter, and if used, energy storage systems, closer than 450 feet from any adjacent residences, churches, or schools. 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 the Project.

In support of its motion, Crab Run Solar stated that the evidence does not support a setback of 500 feet.⁴ Crab Run Solar also argued that Elliot Engineering did not recommend a setback of 500 feet.⁵ Additionally, Crab Run Solar, explained that the Siting Board is supposed to act for the benefit of all Kentuckians and should balance the impact of this project on nearby residences with the overall benefit of the Project to the community and the Commonwealth.⁶ Crab Run Solar also argued that a setback of more than 450 feet jeopardies whether the project can actually be built.⁷ Crab Run Solar argued that by imposing a 500-foot setback, the Siting Board is essentially trying to “render the Project all-but-invisible to neighbors.”⁸ Crab Run Solar continues to state the statute focuses on whether reasonable mitigation measures have been proposed, including to decrease and soften visual impacts.⁹ Crab Run Solar stated that the

⁴ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 4.

⁵ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 5.

⁶ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 6.

⁷ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 8–9.

⁸ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 5.

⁹ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 6.

Intervenors did not offer any evidence or study that would explain why the distance of 335 feet does not achieve the statutory goals.¹⁰

In response, the Intervenors made several arguments. The Intervenors argued that the burden is on Crab Run Solar to justify a deviation of 335 feet.¹¹ The Intervenors further argued that, contrary to Crab Run Solar's argument, there is evidence in the record that supports a greater setback.¹² Additionally, the Intervenors stated that the peer reviewed evidence "supports a greater setback, not a lesser one."¹³ The Intervenors indicated that the consultant for this project did not make any recommendations for setbacks and concluded that "the project will have a negative impact on the adjoining value when the set back and buffer screen is in place."¹⁴

The Intervenors stated that the distances for this project were a design choice.¹⁵ Intervenors argued that Crab Run Solar chose to place the unused acreage in close proximity to the participating landowners, not the objecting neighbors.¹⁶

¹⁰ Crab Run Solar Project Application for Rehearing of Board's June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 6.

¹¹ Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 2.

¹² Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 2.

¹³ Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 2.

¹⁴ Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 2.

¹⁵ Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 5.

¹⁶ Intervenors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 5.

The Intervenor's further argued that the Crab Run Solar selected the site, and the design layout was developed by Crab Run Solar. The Intervenor's stated that adjacent landowners should not have to "absorb the property value loss so that a merchant facility may reach its maximum capacity."¹⁷

Having reviewed the relevant record, the rehearing pleadings, and being otherwise sufficiently advised, as discussed above, the Siting Board denies the request for reconsideration on this issue because the Siting Board's final Order is not unlawful nor unreasonable.

Mitigation Measure 12 and 13

Crab Run Solar requested reconsideration of Mitigation Measure 12, 13, and 17.

Mitigation Measure 12 reads as follows:

If any components of the facility are visible to neighboring homes after construction, Crab Run Solar shall assess the feasibility of a screening plan, including consulting 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.

Mitigation Measure 13 reads as follows:

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

Mitigation Measure 17 is a verbatim duplicate of Mitigation Measure 13.

¹⁷ Intervenor's Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 4.

In support of its motion, Crab Run Solar argued that Mitigation Measures 12 and 13 should be removed because those items could impose a “lengthy and ultimately inconclusive consultation process with adjacent landowners.”¹⁸ Crab Run Solar also stated that, due to the vagueness of Mitigation Measures 12 and 13, these conditions should be eliminated.¹⁹

The Intervenor argued that Mitigation Measure 12 and 13 should not be eliminated because “they are the only screening conditions that operate after construction.”²⁰ The Intervenor stated that, by eliminating these conditions, it “would make visibility a one-time, pre-construction question and remove the written record that protects the owners and the Applicant.”²¹ As an alternative, the Intervenor proposed a procedure in which an assessment would be conducted to determine visibility from each non-participating residence that has a line-of-sight view of the projects components.²² After the assessment is complete, it is filed with the Siting Board after commercial operation begins.²³ Intervenor also stated that a provision should be included that if the

¹⁸ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026, Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 12.

¹⁹ Crab Run Solar Project Application for Rehearing of Board’s June 17, 2026 Order Relative to Condition 21 and Partial Denial of Its Motion for Deviation From Setback Requirements; and Conditions 12, 13, and 17 at 12.

²⁰ Intervenor’s Response in Opposition to Crab Run Solar Project, LLC’s Application for Rehearing (filed on July 14, 2026) at 6.

²¹ Intervenor’s Response in Opposition to Crab Run Solar Project, LLC’s Application for Rehearing (filed on July 14, 2026) at 6–7.

²² Intervenor’s Response in Opposition to Crab Run Solar Project, LLC’s Application for Rehearing (filed on July 14, 2026) at 7.

²³ Intervenor’s Response in Opposition to Crab Run Solar Project, LLC’s Application for Rehearing (filed on July 14, 2026) at 7.

landowner does not respond within 30 days of the written notice, the consultation obligation no longer applies.²⁴

Based upon the motion and the final Order and being otherwise sufficiently advised, the Siting Board finds that Mitigation Measures 12 and 13 should not be eliminated. In this case, there are 11 Intervenorors who are adjacent landowners; therefore, it is important for Crab Run Solar to continue working with adjacent landowners regarding vegetative screening. Consistent with case precedent regarding vegetative screening, the Siting Board has consistently concluded that if nearby landowners make unreasonable demands, the developer can file a motion with the Siting Board seeking an order to determine whether the developers' actions are in compliance with the Siting Board's mitigation measures.²⁵ Additionally, in Case No. 2020-00206 (Sebree Solar II), the Siting Board found in the final Order that the satisfaction of neighboring landowners with the vegetative buffer is an important consideration in the granting of the certificate of construction.²⁶ This Siting Board continues to concur with this reasoning.

KRS 278.710(9) provides that when the construction certificate has been approved and the project begins generating electricity for sale, ongoing compliance with mitigation

²⁴ Intervenorors' Response in Opposition to Crab Run Solar Project, LLC's Application for Rehearing (filed on July 14, 2026) at 7.

²⁵ Case No. 2020-00206, *Electronic Application of AEUG Fleming Solar for a Certificate of Construction for an Approximately 188 Megawatt Merchant Electric Solar Generating Facility in Fleming County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. Siting Board June 12, 2021) at 3 and Case No. 2022-00131, *Sebree Solar II, LLC For a Certificate of Construction for an Approximately 188 Megawatt Merchant Electric Solar Generating Facility in Henderson County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. Siting Board Dec. 15, 2023) Order at 2.

²⁶ *Sebree Solar II, LLC For a Certificate of Construction for an Approximately 188 Megawatt Merchant Electric Solar Generating Facility in Henderson County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110* (Ky. Siting Board Dec. 15, 2023) Order at 2.

measures will be enforced by the Energy and Environment Cabinet and any enforcement by the Siting Board will stop. Therefore, as far as the recommended procedure suggested by the Intervenor, it would require the Siting Board to enforce a mitigation measure when it no longer has the authority to do so.

In addition, the Siting Board notes that Mitigation Measure 17 was duplicative or Mitigation Measure 13. As such, the Siting Board grants the motion for modification and strikes Mitigation Measure 17 from the final Order, Appendix A.

IT IS THEREFORE ORDERED that:

1. The Siting Board denies Crab Run Solar's motion related to setbacks.
2. Crab Run Solar's motion for reconsideration of Mitigation Measures 12 and 13 is denied.
3. Crab Run Solar's motion for modification of Mitigation Measures 17 is granted.
4. Mitigation Measure 17 shall be stricken from the final Order, Appendix A, that was issued on June 17, 2026.
5. All other provisions of the Siting Board's June 17, 2026 final Order that are not in conflict with the terms of the Order shall remain in effect.

Entered on this 14th day of August, 2026.

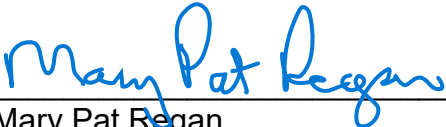
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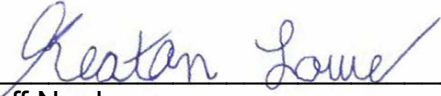
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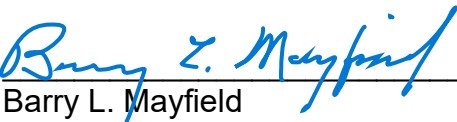


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ATTEST:



Justin McNeil
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*on behalf of the Kentucky State Board on
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