BEFORE
THE OHIO POWER SITING BOARD

In the Matter of the Application of Eastern Cottontail Solar LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility	)))))	Case No. 24-0495-EL-BGN

BRIEF OF ALLEN TURNBULL AND BETSY ALT CONTRA REHEARING

Dated: September 29, 2025

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PRELIMINARY STATEMENT

Allen Turnbull and Betsy Alt, participating landowners in the Eastern Cottontail Solar Project (the "Project"), submit this Brief in opposition to both of the applications for rehearing pending in this proceeding (the "Applications for Rehearing"), namely: the September 19, 2025 Application for Rehearing filed by Citizens For Fair Fields and its members (collectively "CFFF"); and the September 19, 2025 Application for Rehearing filed by Walnut Township (collectively "WT"). In short, the Ohio Power Siting Board's August 21, 2025 Opinion and Order (the "Opinion") granting a Certificate of Environmental Compatibility and Public Need to the Project was lawful and reasonable, and the Applications for Rehearing should be denied.

ARGUMENT

The Board lawfully and reasonably concluded, after weighing arguments and evidence from both sides, that the Project satisfies the statutory criteria for approval specified in R.C. 4906.10(A). As described below, the Applications for Rehearing primarily rehash arguments from post-hearing briefs, which the Board has already addressed and declined to adopt. The Board has recently denied a motion for rehearing under similar circumstances. *See* Entry on Rehearing, *In re Frasier Solar*, Case No. 23-0796-EL-BGN (Aug. 21, 2025) ¶ 50 (denying rehearing when "the bulk of [Opposing Parties'] arguments are similar to and/or identical to those raised in post-hearing briefing"). Here, the applications for rehearing advance few new arguments for Board consideration, and those new arguments amount to immaterial variants of those raised in post-hearing briefing. More importantly, neither CFFF nor WT has identified any basis to conclude that the Board's previous assessment of the arguments and evidence was "manifestly against the weight of the evidence, or otherwise unlawful or unreasonable." *See id.*

Therefore, the Board should deny the Applications for Rehearing.

I. CFFF's Application for Rehearing Should Be Denied

CFFF's Application for Rehearing primarily rehashes arguments that the Board lawfully and reasonably rejected and does not identify errors that warrant rehearing. In its September 19, 2025 filing, CFFF argued that the Board acted unlawfully and unreasonably by not accepting CFFF's previous arguments regarding:

(1) opposition from local residents, *see* CFFF's Rehearing App. at 5-13 (repeating arguments from CFFF's Initial Br. at 3-8 and CFFF's Reply Br. at 2-9);

(2) concerns about population density near the project, *see* CFFF's Rehearing App. at 13-14 (repeating arguments from CFFF's Initial Br. at 8-9 and CFFF's Reply Br. at 9-10);

(3) concerns about loss of agricultural land, *see* CFFF's Rehearing App. at 14-21 (repeating arguments from CFFF's Initial Br. at 9-12 and CFFF's Reply Br. at 10-14);

(4) concerns about impacts to the local viewshed, *see* CFFF's Rehearing App. at 21-35 (repeating arguments from CFFF's Initial Br. at 17-25 and CFFF's Reply Br. at 14-16);

(5) concerns about flooding and impacts to drainage, *see* CFFF's Rehearing App. at 35-42 (repeating arguments from CFFF's Initial Br. at 25-30 and CFFF's Reply Br. at 16-19);

(6) concerns about traffic impacts due to construction, *see* CFFF's Rehearing App. at 42-45 (repeating arguments from CFFF's Initial Br. at 30-32 and CFFF's Reply Br. at 19-20).

(7) concerns about dust impacts due to construction, *see* CFFF's Rehearing App. at 45-46 (repeating arguments from CFFF's Initial Br. at 35-36 and CFFF's Reply Br. at 23)

(8) concerns about an alleged burial site, *see* CFFF's Rehearing App. at 46-47 (repeating arguments from CFFF's Initial Br. at 37-38 and CFFF's Reply Br. at 24)

(9) concerns about exposure to toxins, *see* CFFF's Rehearing App. at 47-48 (repeating arguments from CFFF's Reply Br. at 25-26)

(10) concerns about impacts to wildlife, *see* CFFF's Rehearing App. at 48-51

(repeating arguments from CFFF's Initial Br. at 32-34 and CFFF's Reply Br. at 20)

The Board previously considered and addressed each of these arguments in its Opinion, including the relevance, extent, and existence of opposition from local residents (*see, e.g.*, Opinion 103), concerns about population density near the project (*see, e.g.*, Opinion ¶¶ 57, 99), concerns about the sufficiency of measures to mitigate visual impacts (*see, e.g.*, Opinion ¶¶ 56-57, 67, 72), concerns about loss of agricultural land (*see, e.g.*, Opinion ¶¶ 60-61, 63-65, 67, 69, 73-74), concerns about flooding and impacts to drainage (*see, e.g.*, Opinion ¶¶ 44-50, 67, 70-71, 89, 100,106), concerns about traffic impacts due to construction (*see, e.g.*, Opinion ¶¶ 88-89, 102), concerns about dust impacts due to construction (*see, e.g.*, Opinion ¶¶ 81, 88, 93-94, 99, 109), concerns about an alleged burial site (*see, e.g.*, Opinion 65), concerns about exposure to toxins (*see, e.g.*, Opinion ¶¶ 79-82), and concerns about impacts to wildlife (*see, e.g.*, Opinion ¶¶ 52-53). *See also In re Application of Harvey Solar I, L.L.C.*, Slip Opinion No. 2025-Ohio-1503, ¶¶ 18-39 (rejecting challenges to the Board's assessment of visual impacts, flooding and drainage, and wildlife, among other topics).

Moreover, CFFF has failed to identify any basis to conclude that the Board's assessment of public interest—or any other factor—was so manifestly against the weight of evidence as to justify a rehearing.

II. WT's Application for Rehearing Should Be Denied

WT's Application for Rehearing suffers the same defects. In its September 19, 2025 filing, WT joins the application for rehearing that CFFF submitted. However, WT proffers zero new grounds for a rehearing. Rather, the Township parrots the same ten grounds for rehearing included by CFFF in its application for rehearing.

Because WT has not advanced any new ground for rehearing, WT has also failed to

identify any basis to conclude that the Board's assessment of public interest—or any other factor—was so manifestly against the weight of evidence as to justify a rehearing

CONCLUSION

For the foregoing reasons, the Applications for Rehearing should be denied.

Dated: September 29, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing will be electronically served via the Ohio Power Siting Board's e-filing system and via electronic mail on all parties referenced in the service list of the docket.

Dated: September 29, 2025

/s/ Trent Dougherty
Trent Dougherty