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PRELIMINARY STATEMENT

The Crossroads Solar Project (the “Project”) should be approved. As the December 5, 2025 Staff Report of Investigation (“Staff Report”) found, the Project meets all of the criteria for approval set out in Ohio Revised Code 4906.10(A). In addition, as intervenors Chuck Rawlins, Paul Etgen, Carol Holtrey, and Donald Holtrey outlined in their initial post-hearing brief, the Project will deliver real benefits to the State and to Morrow County. The Project will deliver electricity to meet rising demand, jobs to employ local workers, funding for local schools and services, and new opportunities for sheep grazing. These community and state-wide benefits occur while at the same time providing participating landowners with much-needed financial security. Finally, the conditions in the Joint Stipulation and Recommendation (“Stipulation”) will ensure that adverse environmental impacts are minimized.

This Reply Brief, however, will not rehash the many arguments in support of the Project. Instead, this Reply Brief will focus on explaining why none of the arguments presented by the Project’s opponents, the OPSB Staff and elected officials from Morrow County, Westfield Township, Lincoln Township, and Cardington Township (“the Local Government Opposition”), provide any reasonable basis for rejecting the Project.¹ As described below, the OPSB Staff and the Local Government Oppositions’ arguments suffer from two primary flaws: (1) the opponents misconstrue and misapply the legal requirements of Ohio Rev. Code 4906.10(a)(6) for approval of a solar facility; and (2) the opponents fail to recognize the property rights at stake in this proceeding. Because the Project meets all of the statutory criteria for approval, and because the opponents have failed to identify any reasonable basis to reject it, the Board should approve it.

¹ This Brief does not address the arguments made by Mr. Kodi Hawkins and Ms. Crystal Von Schubert in their respective Post-Hearing Briefs. This should not be construed as support or neutrality vis-à-vis the arguments made. In fact, to the contrary.

ARGUMENT

The opponents' case for denying the Certificate of Environmental Compatibility and Public Need ("Certificate") suffers from two major defects. First, the opponents have failed to properly analyze the Project pursuant to Ohio Rev. Code 4906.10(A)(6). Second, they fail to adequately account for the property rights of participating landowners. Here, the public interest is served by protecting the property rights of those who seek to make a lawful, productive, and responsible use of their land.

I. The OPSB Staff Misconstrue and Misapply the Legal Requirements of Ohio Rev. Code 4906.10(A)(6) for Approval of a Solar Facility

In this case, the opponents of the Project, contrary to Staff's claims,² have been anything but "consistent."³ Before the issuance of the Staff Report, Cardington Township passed a resolution on November 10, 2025, in which the Township Board of Trustees maintained a neutral position on the Project.⁴ On December 5, 2025, Staff issued their Staff Report of Investigation, a 64-page, thoroughly-researched, and technical report in which Staff, at the time, recommended that the Board approve the Project.⁵

Three days after the issuance of the Staff Report, however, Cardington Township passed a resolution opposing the Project.⁶ As Jess Stottsberry concedes in testimony, the Township provided "[n]o reason for the change in position" nor "was there mention of the township's

² Staff Br. at 9.

³ See *In re Richwood Solar, LLC*, OPSB Case No. 23-0930-EL-BGN, ¶ 43 (Jan. 16, 2025) ("Richwood") ("Therefore, based on the *consistent* opposition to the Project by each and every local government entity within the project area, the Board finds that the Project fails to serve the public interest, convenience, and necessity as required by R.C. 4906.10(A)(6)."(emphasis added)).

⁴ Staff ex. 2 (Direct Testimony of Jess Stottsberry) at 4:9-11.

⁵ Staff Ex. 1 (Staff Report) at 1.

⁶ Staff ex. 2. at 4:15-16.

previous indication of continuous engagement with the project.”⁷

Staff then reversed their own recommendation. In a few pages of ambiguous testimony, Staff argues that “[w]ith the filing of the December 8, 2025 Cardington Township resolution opposing the project,”⁸ the Project “no longer demonstrates that it meets the public interest, convenience, and necessity provisions of R.C. 20 4906.10(A)(6).”⁹ In their brief, Staff elaborates that Cardington Township’s opposition was “especially significant” because the resolution clarified that “its earlier neutrality resolution was not intended to be interpreted as supporting the project.”¹⁰ Moreover, Staff recommended that the Board “deny the certificate because any benefits to the local community are outweighed by the unanimous local governmental opposition and overwhelming documented public opposition.”¹¹

Staff’s inconsistency is both capricious and incoherent. Staff misconstrues and misapplies the requirements of the statute in three principal ways. First, Staff’s retroactive finding that the Project fails to serve the “public interest, convenience, and necessity” defies the Ohio Supreme Court’s central holding in *In re Application of S. Branch Solar, L.L.C.* Second, Staff erroneously relies on several OPSB authorities which are distinguishable from the present case. Third, Staff falsely contends that public opposition to the Project is “overwhelming.”

A. Staff’s retroactive conclusion that the Project fails to serve the “public interest, convenience, and necessity”— on the sole basis that Cardington Township passed a resolution opposing the Project *after* the Staff Report was filed — defies the Ohio Supreme Court’s holding in *In re Application of S. Branch Solar, L.L.C.*

In a recent decision, *In re Application of S. Branch Solar, L.L.C.*, the Ohio Supreme Court interrogated whether the Board’s determination that the South Branch solar-powered

⁷ *Id.* at 4:16-18.

⁸ *Id.* at 7: 4-5.

⁹ *Id.* at 7: 18-20.

¹⁰ Staff Br. at 11.

¹¹ *Id.* at 13.

electric-generation facility in Washington Township, Ohio would serve the “public interest, convenience, and necessity” pursuant to Ohio Rev. Code 4906.10(A)(6) was “unlawful or unreasonable.”¹² In its opinion, the Court clarified that “while local-government and public input regarding the project are informative, they are *not determinative* of whether the proposed facility will serve the “public interest, convenience, and necessity” under R.C. 4906.10(A)(6).”¹³

Despite the Court’s clear holding that local opposition is “not determinative” of whether a proposed facility will serve the “public interest, convenience, and necessity,” Staff treats Cardington Township’s resolution opposing the Project as dispositive. Indeed, Staff notes in their brief that Staff changed their position “because Cardington Township changed its position.”¹⁴ Therefore, the record suggests that in changing their position, Cardington Township’s post-Staff Report resolution in opposition to the Project operated as a de facto determinant of Staff’s reversed recommendation – in direct conflict with the binding Supreme Court holding in *In re Application of S. Branch Solar, L.L.C.*¹⁵

In their brief, Staff attempts to obscure this reality, citing other superfluous examples of post-Staff Report opposition to maintain the illusion that Staff is still viewing the Project through the requisite “broad lens.”¹⁶ Indeed, Staff notes in testimony that they also considered post-Staff Report evidence including “the impacts from (1) the testimony at the local public hearing ... and (2) the public comments filed in the case since the Staff Report was published.”¹⁷ In essence, Staff attempts to convince the Board that they have taken into account the totality of local opposition displayed after the Staff Report was issued and, in doing so, were merely tipped over

¹² In re Application of S. Branch Solar, L.L.C., Slip Op. No. 2025-Ohio-5679 (Ohio 2025).

¹³ *Id.* (emphasis added).

¹⁴ Staff Br. at 12.

¹⁵ In re Application of S. Branch Solar, L.L.C., Slip Op. No. 2025-Ohio-5679 (Ohio 2025).

¹⁶ In the Matter of the Application of Republic Wind, LLC, No. 17-2295, Opinion and Order, ¶ 91 (“Republic Wind”)(June 24, 2021)(“[p]ublic interest, convenience, and necessity should be examined through a broad lens.”).

¹⁷ Staff ex. 2 at 7:12-14.

the edge.

The notion that Staff is objectively weighing the totality of the Project’s public benefits against the totality of local opposition is not supported by the record. As discussed at length in Section I.C.,¹⁸ neither the post-Staff Report testimony at the local public hearing nor the post-Staff Report public comments filed in the case docket suggest that local opposition amounts to anything close to what could be described as “overwhelming,” despite what Staff contends.¹⁹ Moreover, the idea that the post-Staff Report opposition expressed at the local public hearing and in the case docket materially changed Staff’s calculus is specious. Indeed, during cross-examination, Staff witness Ms. Juliana Graham-Price admitted that Cardington Township’s resolution was “*the difference*” that changed Staff’s mind and that all other factors had remained “consistent.”²⁰

In reality, therefore, Cardington Township’s post-Staff Report resolution is the only meaningful factor contributing to Staff’s reversed position. Regardless, to comply with *In re Application of S. Branch Solar, L.L.C.*, the Board cannot, without anything more, rely solely on the extent of local opposition as the basis of their finding pursuant to Ohio Rev. Code 4906.10(A)(6).

In summary, Staff’s retroactive conclusion that the Project fails to serve the “public interest, convenience, and necessity” within the meaning of Ohio Rev. Code 4906.10(A)(6) – on the sole basis that Cardington Township passed a resolution opposing the Project *after* their Report was issued – is the exact type of one-sided analysis that *In re Application of S. Branch*

¹⁸ See *infra* Section I.C.

¹⁹ Staff Br. at 9 (“Accordingly, this project demonstrates consistent, unanimous, and *overwhelming* opposition because ... of the *overwhelming* public opposition presented throughout the proceedings.”(emphasis added)).

²⁰ Evidentiary Hearing Tr. Vol V at 1092:2-14 (emphasis added).

Solar, L.L.C. precludes.²¹

B. Staff erroneously relies on several OPSB authorities which are distinguishable from the present case

In their brief, Staff notes that in evaluating Ohio Rev. Code 4906.10(A)(6), the Board has historically considered “whether there is unanimous or ‘overwhelming’ local opposition to a project by the government entities whose constituents are impacted by the Project.”²² Staff then cites several OPSB cases in which “unanimous or overwhelming local governmental opposition to a project” contributed to the Board's eventual denial of the project.²³ These cases included: *In re Richwood Solar, LLC*; *In re Stark Solar, LLC*; *In re Cepheus Energy Project, LLC*; *In re Birch Solar 1, LLC*; and *In the Matter of the Application of Republic Wind, LLC*.²⁴ In none of these cases, however, did Staff ever retract their recommendation contained in the initial Staff Report. In this case, Staff and the Local Government Opposition have been uniquely inconsistent.

This case, therefore, presents novel questions about the nature of Staff’s role in these proceedings. The Staff Report is intended to serve as a comprehensive and thorough balancing of public benefits and local opposition. Staff’s vacillation creates procedural instability, enables local gamesmanship, unfairly disadvantages participating landowners, and threatens the

²¹ *In re Application of S. Branch Solar, L.L.C.*, Slip Op. No. 2025-Ohio-5679 (Ohio 2025).

²² Staff Br. at 8.

²³ *Id.*

²⁴ See *In re Richwood Solar, LLC*, OPSB Case No. 23-0930-EL-BGN, ¶¶ 40-43, 72 (Jan. 16, 2025) (“Richwood”) (“As we have indicated in recent decisions, the determination of public interest, convenience, and necessity must be examined through a broad lens and in consideration of impacts, local and otherwise, from the Project... Therefore, based on the consistent opposition to the Project by each and every local government entity within the project area, the Board finds that the Project fails to serve the public interest, convenience, and necessity as required by R.C. 4906.10(A)(6)”; see also *In re Stark Solar, LLC*, OPSB Case No. 23-0931-EL-BGN, ¶ 36-39 (April 17, 2025); *In re Cepheus Energy Project, LLC*, OPSB Case No. 21-293- EL-BGN, ¶¶ 121-131 (Jan. 19, 2023); *In re Birch Solar 1, LLC*, OPSB Case No. 20-1605-EL-BGN, ¶¶ 68-72 (Oct. 20, 2022); *Republic Wind*, ¶3 (the “especially prominent and one-sided” local opposition to the rejected wind project was an important factor in OPSB’s determination that the Republic Wind project did not serve the public interest, convenience, and necessity under R.C. 4906.10(A)(6)”). *In re Kingwood Solar I LLC*, OPSB Case No. 21-117-ELBGN, ¶¶ 142-152 (Dec. 15, 2022).

perceived impartiality of the Staff and Board. These consequences could substantially chill desirable energy development and investment when Ohio needs it most.

C. Staff falsely contends that public opposition to the Project is “overwhelming”

In their brief, Staff contends that local public opposition to the Project, in addition to local government opposition, is “overwhelming.”²⁵ Specifically, Staff notes that “(1) the testimony at the local public hearing ... and (2) the public comments filed in the case since the Staff Report was published ... demonstrate[] a high level of public opposition to the Project.”²⁶ After noting how “overwhelming” local public opposition has contributed to the Board’s denial of Certificates in prior OPSB cases,²⁷ Staff then reversed its own recommendation in this case on the basis that public opposition to this Project has been similarly “overwhelming.”²⁸

However, Staff’s contention that local opposition to the Project is “overwhelming” deeply mischaracterizes the record. First, the testimony at the local public hearing included a significant number of comments from members of the community supportive of the Project. Indeed, as Crossroads notes in their brief, “[a] tabulation of all the testimony presented at the local public hearing ... indicates that out of the 52 people who testified, 21 testified in favor of the Project and 31 testified against.”²⁹ Similarly, many public comments filed in this case since the Staff Report was published express support for the Project. Moreover, as Doug Herling testified, a review of the public comments filed on the case docket from the inception of the proceeding through December 19, 2025 reveals that 44% of comments with an address in the

²⁵ Staff Br. at 9 (“Accordingly, this project demonstrates consistent, unanimous, and *overwhelming* opposition because ... of the *overwhelming* public opposition presented throughout the proceedings.”).

²⁶ *Id.* at 12.

²⁷ *Id.* at 11.

²⁸ *Id.* at 12.

²⁹ Crossroads Br. at 26 (citing Tr. Vol. I at 19:25-20:1; Vol. II at 502:7-11; Vol. V at 1090:9-18).

three townships were supportive of the Project and 55% opposed the Project.”³⁰ When prompted during cross-examination, Staff’s own witness, Ms. Juliana Graham-Price, could not in good-faith define this level opposition as “overwhelming.”³¹ Where, as here, evidence suggests that community sentiments are relatively evenly split,³² Staff’s description of local opposition as “overwhelming” is hyperbolic.

II. The Public Interest Is Served by Upholding Property Rights

The Local Government Opposition argues that there are “well-documented issues” with the “loss of property rights of nonparticipating landowners in the vicinity of the project area.”³³ Ironically enough, the Local Government Opposition does not seem to recognize how denying this Project would adversely impact the property rights of participating landowners. Indeed, private property ownership has long been understood to encompass a traditional suite of rights, including the authority to determine lawful uses of land, to exclude others, and to derive economic benefit from one’s property.³⁴ This suite of rights, however, has never empowered individual landowners to determine how their neighbors use their property. Moreover, the Local Government Opposition is unclear about how nonparticipating landowners’ actual “property rights” are being threatened by the Project. Rather, the Board should recognize the immense public interest in protecting the property rights of the participating landowners.

To be sure, there are individualized interests at stake in this Project. Mr. Rawlins testified

³⁰ Company Ex. 6 (Direct Testimony of Doug Herling) at 11:18-20.

³¹ Evidentiary Hearing Tr. Vol V at 1109-1110: 4-9 (“Q: so anything below 60/40 [opposition] would not be *overwhelming* in your opinion?... A: It would still be *opposition* if it was lower than that. It could be 55/45. It’s still - it’s still in excess of 50/50.” (emphasis added)).

³² See Crossroads Br., *supra* note 29; See also Herling Tr., *supra* note 30.

³³ Local Government Opposition Br. at 16.

³⁴ See *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1014–19 (1992); *Loretto v. Teleprompter Manhattan Catv Corp.*, 458 U.S. 419, 435 (1982); *Kaiser Aetna v. United States*, 444 U.S. 164, 176 (1979).

that the Project will provide “a steady stream of income” as he enters his retirement.³⁵ Mr. Etgen testified that if the Project is not approved, he may “accumulat[e] debt and be[] forced to sell personal property.”³⁶ Mrs. Holtrey testified that the Project will keep the land in her family for future generations of farmers, including her granddaughter.³⁷

But there is more at stake in this proceeding than whether Mr. Rawlins, Mr. Etgen, Mrs. Holtrey, and Mr. Holtrey should be allowed to earn a lease income from a solar project. There is a broader question at stake concerning what farmers and landowners should be allowed to do with the land that they have lawfully purchased and cared for, often at great risk.

The preferences of neighboring residents should not determine the activities permitted on the land owned by Mr. Rawlins, Mr. Etgen, Mrs. Holtrey, and Mr. Holtrey, particularly given that the Project provides substantive benefits to the broader community while presenting minimal environmental risks. The Board should validate the property rights of farmers and landowners who have decided to participate in responsibly designed projects like this solar facility.

³⁵ Landowners Ex. 4 (Direct Testimony of Chuck Rawlins) at 3:1-2.

³⁶ Landowners Ex. 1 (Direct Testimony of Paul Etgen) at 2: 20-22.

³⁷ Landowners Ex. 3 (Direct Testimony of Carol Holtrey) at 3:11-15.

CONCLUSION

For the foregoing reasons, the Board should approve the Stipulation and grant a Certificate for the Crossroads Solar Project.

Dated: February 17, 2026

Respectfully submitted,

/s/ Trent Dougherty

Trent Dougherty (Bar No. 0079817)
HUBAY DOUGHERTY
1391 Grandview Ave. #12460
Columbus, Ohio 43212
Telephone: (614) 330-6752
trent@hubaydougherty.com

*Counsel for Chuck Rawlins, Paul Etgen,
Carol Holtrey, and Donald Holtrey*

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: February 17, 2026

/s/ Trent Dougherty
Trent Dougherty

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Summary: Brief Reply Brief of Chuck Rawlins, Paul Etgen, Carol Holtrey, and Donald Holtrey electronically filed by Mr. Trent A. Dougherty on behalf of Etgen, Paul and Holtrey, Carol and Holtrey, Donald and Rawlins, Chuck.