

As Ohio approaches energy cliff, four solar farms' fates are in the Ohio Supreme Court's hands

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COLUMBUS, Ohio – As the state grapples with an explosion in energy demand and an electric grid underequipped to handle it, the Ohio Supreme Court controls the fate of four utility-scale solar farms that together could power hundreds of thousands of homes.

The court heard oral arguments this week in two cases where residential neighbors challenged permits granted to Harvey Solar, a 350-megawatt project in Licking County, and South Branch Solar, a 130-megawatt project in Hancock County.

Local governments, meanwhile, mounted a Supreme Court appeal last fall of Oak Run Solar, an 800-megawatt Madison County behemoth and the single largest solar project proposed in the state.

Oral arguments are scheduled for this spring for an appeal of a rejection of a permit requested by developers in Greene County for Kingwood Solar, a 175-megawatt project. The Ohio Power Siting Board nixed the application given objections from local Republican elected officials.

And Birch Solar, proposed in Allen and Auglaize counties, said in a court filing Thursday it was [cutting its losses and ending its plans to build a 300-megawatt farm](#), given resistance from Republican political power ranging from township trustees, county commissioners, and even the Ohio Senate President.

The Supreme Court, now under firm 6-1 Republican control, will likely rule on at least the four cases on its docket this year. The glut of solar cases captures the legal and political headwinds the industry faces. Whether the Ohio Power Siting Board, which regulates the placement of large-scale power projects, grants or rejects a permit, developers often find themselves dragged through years of litigation on accusations that their projects spoil local viewsheds, harm the environment, or fail to serve the “public interest, convenience, and necessity,” an undefined phrase that state

law requires. Plus, in 2021, Ohio enacted legislation giving [local governments new powers to kill all wind or solar](#) (but not oil, gas or coal) projects within their borders.

The fights against solar power come amid alarms over [massive new demand for electricity driven mostly by a proliferation of data centers](#) -- the fuel cells behind AI and crypto operations -- owned mostly by tech majors like Google, Meta and Amazon. Grid operators and utilities have warned of a looming energy cliff as data centers' demand surpasses available power supply.

For a sense of scale, the maximum power demand in central Ohio at any given time is currently about 4,000 megawatts. American Electric Power, the local utility, has already signed contracts with data centers that will need another 5,000 megawatts. And other developers have expressed interest for projects that would need another 30,000 megawatts (a ninefold increase in total) if each deal were to materialize.

Reasoning for the opposition to solar varies. Save Hartford Township, the nonprofit, said Harvey Solar would harm the area economically and produce annoying noise at night. Travis Bohn, the lone plaintiff suing South Branch, painted solar farms as a near dystopia. He previously warned they could spread “like a cancer” if left unimpeded.

“Brain damage. Hearing loss. Flooding. Damage to drain tile systems. Loss of local business,” his attorneys wrote in court filings. “Record evidence reveals that South Branch Solar ... in the small farming community in the Village of Arcadia may cause all of that and more.”

The fight over solar in Ohio comes amid the planet’s [hottest year](#) since recordkeeping began in the mid-19th century, as domestic oil production reached record levels in the U.S., and as four separate wildfires forced evacuation of tens of thousands of residents around Los Angeles, America’s second largest city. However, they have centered on more provincial concerns about viewsheds and local wildlife than bigger picture questions about climate change or a societal shift from fossil fuel to renewable sources.

The state supreme court has been warm to solar interests over the past few years. In 2023, the justices upheld the board’s approval of the 80-megawatt Angelina and 70-watt Alamo solar farms in Preble County. And it also rejected a zoning appeal, ruling in favor of Woodstock Solar in Champaign County that same year.

Harvey Solar

The power siting board approved the Harvey project in April 2022, following negotiations and a settlement agreed to by most of the intervening parties. That includes keeping existing vegetation and planting new ones as a buffer, adding fencing, and ensuring a setback from the property line.

Across 2,600 acres of farmland, the developers plan to install rows and rows of solar panels no taller than 15 feet above the ground. They say the project will create an estimated 1,370 jobs and \$91 million in payroll during construction. Once operational, it will pay \$3.1 million in annual taxes over a 40-year run. In the meantime, the developers pay the landowners an annual lease payment for hosting the panels.

The lengthy research the developers submitted, plus buy-in from locals and local government officials, shows the project opponents “chiefly rely on misstatements of the facts in the record, baseless conjecture, and hyperbole” to undermine the power siting board, the developers argued.

Tax records show Save Hartford Township received tax exempt status from the IRS in 2021. Since then, it has reported raising less than \$50,000 per year. The group is represented by Jack Van Kley, a lawyer who [specializes in fighting solar farms in Ohio](#). Van Kley since 2022 has appeared before the court opposing nine separate wind and solar projects, to say nothing of cases at the power siting board level.

The nonprofit’s principal officer, Mary Bauman of Knox County, didn’t return an email.

Van Kley argued to the justices Tuesday that the board failed to consider the “economic damage” the solar farms would cause. He later explained he was referring to the loss of farm production on the land in favor of solar generation, plus downstream losses to businesses like pesticide and fertilizer suppliers. He also claimed the board failed to consider “nighttime noise” from the solar units.

Jonathan Secrest, an attorney for the developers, said what the citizens’ group is really doing is quibbling about facts that have already been carefully considered by the OPSB. And Thomas Lindgren, an attorney representing the OPSB, emphasized its members already heard testimony and cross examination from experts on these issues. The permit requires aesthetic and environmental production. And the night noise is minimal.

“As I’m sure you can appreciate, the solar panels aren’t operating at night,” he said.

South Branch Solar

At first, South Branch Solar proposed 205-megawatt farm spanning 1,000 acres. Amid the power siting board process, developers pared it down to 130 megawatts over 700 acres, all in Hancock County. It also agreed to increase setback buffers, rework its traffic scheme, incorporate vegetative screening and farm-style fencing, and update its drainage plans.

Bohn, at first through lawyers with the white shoe law firm of Taft, Stettinius and Hollister, noted straw polls at two public hearings where 76% and 86% of those in attendance opposed the project. In [testimony](#), he said he grew up in Arcadia and lived in town since graduating Arcadia High School in 2009. He bought his home from his grandfather before the developers signed leases across the street. He said the solar farm would depress neighboring property's values. He works as a firefighter and said an accident at the project's battery storage facility "will deplete all resources readily available to a small volunteer fire department." A local ban against solar, he said, is "the only reason this project won't spread like a cancer throughout the entire county."

While lawyers represented Bohn in earlier proceedings, he made the unusual choice to argue on his own behalf before the seven justices Wednesday. He questioned the public need for the solar farms and warned they would "destroy" neighboring businesses like a bison farm nearby.

Janet Gregory, an attorney representing the OPSB, said the board has a rigorous process of fielding testimony and hearing evidence about economics, land use, aesthetics and the like. The appeal, she said, amounts to second guessing of their factual findings with thin supporting evidence.