



Fox Rothschild <sup>LLP</sup>  
ATTORNEYS AT LAW

Tel (919) 755-8700 Fax (919) 755-8800  
www.foxrothschild.com

KAREN M. KEMERAIT  
Direct No: 919.755.8764  
Email: kkemerait@foxrothschild.com

July 16, 2020

Ms. Kimberley A. Campbell  
Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

**RE: REBUTTAL TESTIMONY OF CULLEN MORRIS**  
***In the matter of the Application of Apex Solar, LLC to amend the CPCN***  
***to Construct a 30-MW Solar Facility in Cleveland County, NC***  
***Docket No. SP 11723, Sub 0***

Dear Ms. Campbell:

On behalf of Apex Solar, LLC, in the above referenced matter and docket, I herewith provide the Rebuttal Testimony of Cullen Morris responding to information provided by Public Staff Witness Lucas in his Testimony filed on July 10, 2020 and to further support Apex Solar, LLC's Application.

Should you have any questions concerning this Testimony, or exhibits attached thereto, please do not hesitate to contact me.

Sincerely,

/s/ Karen M. Kemerait

Karen M. Kemerait

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota  
Nevada New Jersey New York North Carolina Pennsylvania South Carolina Texas Washington

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**DOCKET NO. SP-11723, SUB 0**

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

**In the Matter of )  
Application of Apex Solar, LLC, for a Certificate of )  
Public Convenience and Necessity to Construct a 30- )  
MW Solar Facility in Cleveland County, North Carolina )**

**REBUTTAL TESTIMONY**

**OF**

**CULLEN MORRIS**

**ON BEHALF OF**

**APEX SOLAR, LLC**

**July 16, 2020**

1    **Q.     Please state your name and business address.**

2    A.     My name is Cullen Morris. My business address is 5003 Southpark Drive, Suite  
3           210, Durham, North Carolina 27713.

4    **Q.     Did you previously file testimony in this docket?**

5    A.     Yes. I filed direct testimony in this docket on July 2, 2020.

6    **Q.     Have you read the direct testimony of Public Staff Witness Jay B. Lucas filed**  
7           **on July 10, 2020?**

8    A.     Yes. I have read the testimony of Public Staff Witness Lucas.

9    **Q.     What is the purpose of your testimony?**

10   A.     The purpose of my testimony is to respond to information provided by Public  
11           Staff Witness Lucas and to further support Apex Solar, LLC's ("Apex Solar")  
12           Application for an Amended Certificate of Public Convenience and Necessity  
13           ("CPCN").

14   **Q.     Please address Public Staff Witness Lucas' testimony.**

15   A.     I would like to address Public Staff Witness Lucas' testimony about Cleveland  
16           County's Solar Ordinance that will apply to the Apex Solar facility (the  
17           "Facility"). Apex Solar will comply with all provisions of the Solar Ordinance  
18           that was in effect when Apex Solar's Conditional Use Permit Application was  
19           approved on November 29, 2018 by the Cleveland County Board of Adjustment  
20           (the authority having jurisdiction over land use matters in Cleveland County)  
21           ("2018 Solar Ordinance"). The 2018 Solar Ordinance is attached hereto as  
22           Exhibit A. After the Conditional Use Permit was granted, Cleveland County  
23           revised its Solar Ordinance in 2019 ("2019 Solar Ordinance"). The 2019 Solar

1 Ordinance is attached hereto as Exhibit B. Because the 2019 Solar Ordinance was  
2 not in effect when the Conditional Use Permit was granted, that ordinance does  
3 not apply to the Facility.

4 **Q. Even though the 2019 Solar Ordinance is not applicable to the Facility, will**  
5 **Apex Solar voluntarily comply with any of the provisions of that ordinance?**

6 A. Yes. Even though Apex Solar is not required to comply with the 2019 Solar  
7 Ordinance, Apex Solar will voluntarily comply with the following provisions of  
8 the 2019 Solar Ordinance:

9 1. Section 12-160(a): Apex Solar provided (and Cleveland County  
10 approved) a site plan as indicated in that section. However, that site plan was not  
11 signed and sealed by a professional engineer. Apex Solar will provide a site plan  
12 signed and sealed by a professional engineer when applying for building and  
13 electrical permits.

14 2. Section 12-160(b)(c): Apex Solar will install opaque evergreen  
15 vegetation to reach a height of 20 feet.

16 3. Section 12-160(i): While Apex Solar will not meet every  
17 requirement of this section, a decommissioning plan was provided to and  
18 approved by Cleveland County. The decommissioning plan is attached as Exhibit  
19 C. Apex Solar also notes the Environmental Management Commission is drafting  
20 decommissioning rules pursuant to 2019 House Bill 329 that will take effect in  
21 2022. Apex Solar will comply with any applicable new regulations for disposal.

22 **Q. Will the Facility exceed any of the setback or screening requirements for the**  
23 **Facility required by the 2018 Solar Ordinance?**

1     A.     Yes. Apex Solar will voluntarily exceed the setback and screening requirements as  
2           follows:

3           1.     On Parcel ID No. 35641, owned by Leon Leonhardt, Apex Solar is  
4           required to provide a 50-foot setback from the security fencing to any non-  
5           participating property. After consultation with adjoining property owners, Apex  
6           Solar volunteered to adhere to a 70-foot setback along the northwest property  
7           boundary with Charolais Drive.

8           2.     Apex Solar is required to plant Type A screening as defined in  
9           Section 12-305. More specifically, this requires Apex Solar to preserve existing  
10          vegetation or plant evergreen vegetation, either of which must be opaque to 6 feet  
11          in height and reach 20 feet at maturity. However, in addition to these requirements  
12          and after consultation with adjoining property owners, Apex Solar volunteered to  
13          preserve or plant three staggered rows of vegetation ranging from 6 to 8 feet in  
14          height, along the northwest property boundary with Charolais Drive.

15          Apex Solar also volunteered to install slatted fencing along this parcel's  
16          northeastern boundary with Fallston Waco Road.

17          3.     On Parcel ID No. 35642, also owned by Leon Leonhardt, Apex  
18          Solar is likewise required to meet the 50-foot setback and Type A screening.  
19          However, along the western boundary of this parcel adjacent to Mr. Donaldson's  
20          property, Apex Solar has volunteered to provide a 70-foot setback and a 150-foot  
21          non-disturbance buffer, and to preserve or plant three staggered rows of vegetation  
22          ranging from 6 to 8 feet in height.

1           4.     On the portions of Parcel ID Nos. 35642 and 35649 located  
2 southwest of Fallston Waco Road, all of which are owned by Leon Leonhardt, Apex  
3 Solar must meet the standards of the Type A screening. However, in addition to  
4 this requirement, Apex Solar volunteered to install slatted fencing along the  
5 boundaries with Fallston Waco Road.

6           5.     On the portion of Parcel ID No. 35649 located southwest of Fallston  
7 Waco Road, Apex Solar must observe a 50-foot setback and meet the standards of  
8 Type A screening. However, along this property's southern border, Apex Solar has  
9 volunteered to observe a 70-foot setback and preserve or plant three staggered rows  
10 of vegetation ranging from 6 to 8 feet in height.

11          6.     Throughout the project footprint, Apex Solar has volunteered a 150-  
12 foot setback from any habitable dwelling, even though the 2018 Solar Ordinance  
13 only requires Apex Solar to observe a 100-foot setback.

14 **Q.     In addition to meeting and/or exceeding the requirements of the 2018 Solar**  
15 **Ordinance, are there other regulations to which Apex Solar will comply?**

16 **A.**     First, there will be a wetlands delineation and jurisdictional determination by the  
17 US Army Corps of Engineers pursuant to Section 404 of the Clean Water Act for  
18 the entirety of the Facility footprint. There will be 50-foot riparian buffers on  
19 both sides of any jurisdictional streams. Second, the entirety of the Facility will  
20 require an erosion and sedimentation control plan approved by the North Carolina  
21 Department of Environmental Quality in accordance with the Sedimentation  
22 Pollution Control Act. Third, the entirety of the Facility is subject to and will  
23 comply with the Endangered Species Act and the Fish and Wildlife Coordination

1 Act. Collectively, these laws require coordination with US Fish and Wildlife  
2 Service and the North Carolina Wildlife Resources Commission to limit or  
3 prohibit adverse impacts to protected species. Fourth, the entirety of the Facility  
4 is subject to the North Carolina Environmental Policy Act and has been reviewed  
5 by the State Historic Preservation Office for any impact to important historical or  
6 cultural sites. Fifth, Apex Solar will adhere to state regulations for the application  
7 of herbicides or chemical mowing that is performed as part of the operations and  
8 maintenance of the facility, and Apex Solar will utilize only licensed contractors  
9 for those operations. Finally, the Environmental Protection Agency performs  
10 tests to determine whether toxic/hazardous materials are present and whether the  
11 materials can be disposed of in landfills. This test is called the Toxic  
12 Characteristic Leaching Procedure (TCLP) test. Solar panels pass that test and  
13 may be disposed of in landfills.

14 **Q. What is your recommendation with respect to Apex Solar's Application for**  
15 **an Amended CPCN?**

16 A. It is my recommendation that the Commission issue an order awarding the  
17 Amended CPCN for the Facility.

18 **Q. Does this conclude your testimony?**

19 A. Yes.

### **CERTIFICATE OF SERVICE**

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing **REBUTTAL TESTIMONY** by first class mail deposited in the U. S. mail, postage pre-paid, or by e-mail transmission to all parties of record.

This the 16<sup>th</sup> day of July, 2020.

/s/ Karen M. Kemerait

FOX ROTHSCHILD LLP

Karen M. Kemerait

434 Fayetteville Street, Suite 2800

Raleigh, NC 27601

Telephone: 919/755-8764 – direct

E-mail: [kkemerait@foxrothschild.com](mailto:kkemerait@foxrothschild.com)

[www.foxrothschild.com](http://www.foxrothschild.com)

*Attorneys for Apex Solar, LLC*



Docket No. SP-11723, Sub 0

EXHIBIT A

to Rebuttal Testimony of Cullen Morris

2018 SOLAR ORDINANCE

## **Sec. 12-160. - Solar electric power generation.**

The following development standards shall apply to the construction of any solar facility designed to generate electricity for a commercial purpose. Any solar facility on properties less than ten (10) acres shall be prohibited:

- (a) A site plan shall be prepared in accordance with section 12-33. The site plan does not require a boundary survey as described in subsection 12-33(a)(1). The site plan shall show the location of any structures within one hundred (100) feet of the property line, and also demonstrate compliance with the other standards in this section.
- (b) Opaque (Type A) screening shall be installed between the security fence and adjacent non-participating property and the road right-of-way, prior to the operation of any solar equipment.
- (c) Security fencing shall be installed around the perimeter of the solar farm. The fencing shall be a minimum of six (6) feet in height, chain link, and equipped with a gate and locking mechanism.
- (d) Setbacks shall be measured from the security fencing:
  - (1) Fifty (50) feet from any non-participating property;
  - (2) One hundred (100) feet from any habitable dwelling or commercial structure;
  - (3) One thousand (1,000) feet from the right-of-way of a NCDOT Scenic Byway.
- (e) Landscape screening, fencing, gates and warning signs shall be maintained in good condition until the facility is decommissioned.
- (f) *Decommission plan.*
  - (1) The owner/operator of the solar facility shall submit a decommissioning plan prior to the issuance of a zoning permit or conditional use permit (example provided following this section); however, nothing about the issuance of this permit relieves the landowner of the obligation to remove the equipment as outlined in the conditional use or zoning permit.
  - (2) If the owner/operator of the solar facility fails to ensure the removal of the equipment within six (6) months after power production ceases for a period of twelve (12) continuous months, the landowner shall be in violation of the conditional use or zoning permit, and be subject to the penalties set forth in section 12-94.
  - (3) Each day that the violation continues after notification to the landowner by the administrator, shall be considered a separate offense for purposes of penalties and remedies.

(g) *Enforcement by injunction, abatement and liens.*

- (1) If a violation continues under section 12-94, the violation may be enforced by an order of abatement issued by the general court of justice for failure of the landowner to correct the unlawful condition of the property. Upon issuance of an abatement order by the general court of justice, a landowner must comply with the order within the time limit specified. If the landowner fails to do so, the county may take steps necessary to correct the condition of the property. The cost to correct the condition shall be a lien on the property in the nature of a mechanic or material man lien.
- (2) The equipment which remains shall be deemed abandoned and salvaged for the cost of decommissioning.
- (3) Should the salvage value exceed the cost of decommissioning, the balance shall be placed with the office of the clerk of court for abandoned funds.

(Ord. of 4-5-16(1))

**Example of the Decommissioning Plan**

Decommission Plan for Big Bright Solar ("Facility"), located at \_\_\_\_\_.

Prepared and Submitted by \_\_\_\_\_, the owner of Big Bright Solar

This decommissioning plan is presented as required by Subsection 12-160(f) of the Cleveland County Code.

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.

2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Re-vegetate any cleared areas with warm season grasses that are native to the Piedmont region, unless requested in writing by the owner of the real estate to not re-vegetate due to plans for agricultural planting.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The Facility Owner, currently \_\_\_\_\_, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Landowner (if different) Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

(Ord. of 4-5-16(1))

Secs. 12-161—12-170. - Reserved.

Docket No. SP-11723, Sub 0

EXHIBIT B

to Rebuttal Testimony of Cullen Morris

2019 SOLAR ORDINANCE

## **Solar Ordinance for Cleveland County, North Carolina**

- **Sec. 12-160. - Solar electric power generation.**

The following development standards shall apply to the construction of any solar facility designed to generate electricity for a commercial purpose. Any solar facility on properties less than ten (10) acres, and or any solar facility containing battery storage shall be prohibited:

- (a) A site plan, signed and sealed by a professional engineer licensed pursuant to GS § 89C shall be prepared in accordance with section 12-33(a). The site plan shall show the location of any structures within one hundred (100) feet of the property line, and it shall also demonstrate compliance with the other standards in this section.
- (b) A landscape plan, signed and sealed by a professional landscape architect licensed pursuant to GS § 89A shall be prepared demonstrating compliance with this chapter.
- (c) Natural woodland buffering shall be installed between the security fence and adjacent nonparticipating property and the road right-of-way, prior to the operation of any solar equipment. Natural Woodland Buffering shall be planted at a depth of one hundred (100) feet consisting of species native to Cleveland County with a mixture of ornamental evergreen trees.
  - (1) The aforementioned natural woodland buffer area shall consist of a maximum seventy five (75) percent native pine trees.
  - (2) Trees within the natural area shall be installed at a minimum of one (1) tree per one hundred (100) square feet. Use of existing vegetation is encouraged.
  - (3) In addition to the above mentioned density requirements ornamental evergreen trees shall be installed within the natural woodland buffer one (1) tree per three hundred (300) square feet.
  - (4) Ornamental evergreen trees shall be installed at six (6) feet planted height.
  - (5) Reference Nonnative Invasive Plants of Southern Forest by the United States Department of Agriculture for examples of species.
- (d) Security fencing shall be installed around the perimeter of the solar facility. The fencing shall be a minimum of six (6) feet in height, chain link or other fencing sufficient to ensure no public access, and equipped with a gate and locking mechanism.
- (e) Setbacks shall be measured from the security fencing:
  - (1) One hundred (100) feet from any nonparticipating property;

(2) Two hundred (200) feet from any street right-of-way, habitable dwelling, or residentially zoned property.

(3) Five Hundred (500) feet from the right-of-way of any arterial street; and

(4) One thousand (1,000) feet from the right-of-way of a NCDOT Scenic Byway.

(f) *Maintenance.* Natural woodland buffer, fencing, gates and warning signs shall be maintained in good appearance and safe operating condition. The site shall be compliant with the adopted ordinance and all approved permits until the facility is decommissioned pursuant to subsection (i) below.

(g) *Emergency Access.* Current contact information for the facility owner and lessee if applicable, shall be posted at a visible location at each gate accessing the facility including:

(1) Name,

(2) Contact phone number,

(3) Address,

(4) Emergency contact phone number.

Facility owner shall further file an annual statement by February 1 of each year with the Cleveland County Planning Department containing the information listed in subsections (1) through (4) above.

(h) *Federal, state, and local requirements.* Following issuance of a conditional use or zoning permit and prior to issuance of a building permit for construction of a new solar facility, the applicant shall supply documentation to the Cleveland County Planning Department that all necessary federal, state, and local approvals have been obtained and notifications have been made pursuant to applicable federal and state requirements for building a new solar facility. At a minimum, these shall include:

(1) A boundary survey signed and sealed by a professional surveyor licensed in North Carolina showing compliance with the standards of this chapter submitted to the planning department;

(2) A site plan showing emergency access shall be submitted to and approved by the Cleveland County Emergency Management;

(3) Official documentation demonstrating compliance with any permitting required from the North Carolina Department of Environmental Quality (NCDEQ);

(4) Official documentation demonstrating compliance with any permitting required from the National Environmental Policy Act (NEPA);

(5) Official documentation demonstrating compliance with the Endangered Species Act (ESA).

(i) *Decommission.*

(1) A decommissioning plan shall be signed and sealed by a professional engineer licensed pursuant to GS § 89C and submitted to the Cleveland County Planning Department prior to the issuance of a zoning permit or conditional use permit (example provided at the end of this Section 12-160): the decommissioning plan must be signed and notarized by both the owner/operator of the solar facility and the land owner. However, nothing about the issuance of a conditional use or zoning permit, including a decommissioning plan, relieves the landowner of the obligation to remove the equipment as outlined in the Conditional Use or Zoning permit.

(2) The decommissioning plan must be renewed, signed, and notarized by the facility owner/operator and the land owner every five (5) years from the time the permit is issued, or upon any change of the solar facility ownership or land ownership.

(3) An estimated net cost of decommissioning, inclusive of salvage proceeds, is required and shall be prepared by a professional engineer, licensed pursuant to GS § 89C. The estimated net cost shall be revised on each decommissioning plan renewal every five (5) years and should account for inflation, deflation, and depreciation.

(4) Decommissioning shall include, but not necessarily be limited to the removal and disposal of solar panels, buildings, cabling, electrical components, roads, fencing, and any other associated facilities down to thirty-six (36) inches below grade. Further, the land shall be reasonably rehabilitated unless an agreement is reached with the land owner to leave as is.

(5) Prior to the issuance of any building permits or electrical permits, a surety bond naming Cleveland County as beneficiary shall be posted for one-hundred and twenty-five (125) percent of the estimated net cost of decommissioning established within the approved decommissioning plan, or twenty-five (25) percent of the estimated decommissioning cost excluding salvage value, whichever is greater. The surety bond shall be renewed every five (5) years at the same time the decommissioning plan is renewed.

(6) The Cleveland County Planning Department shall perform a revalidation inspection at minimum once every five (5) years from the date of the issuance of a permit to ensure that the solar facility remains in compliance with all standards of this chapter and the surety bond is valid.

(7) A copy of the sales contract for electricity, with any information made confidential by state or federal law redacted, shall be submitted to the Cleveland County Planning Department prior to obtaining a building permit, naming the buyer of electricity, the seller of electricity, and the beginning and end dates of the contract.

(8) If the owner/operator of the solar facility fails to ensure the removal of the equipment within six (6) months after commercial power production ceases for a period of twelve (12) continuous months, the landowner shall be in violation of the conditional use or zoning permit, and be subject to the penalties set forth in section 12-94.

(9) Each day that the violation continues after notification to the landowner by the administrator, shall be considered a separate offense for purposes of penalties and remedies.



*(j) Enforcement by injunction, abatement and liens.*

(1) In addition to any other remedies or enforcement methods allowed by any law, if a violation continues under section 12-94, the violation may be enforced by an order of abatement issued by the general court of justice for failure of the landowner to correct the unlawful condition of the property. Upon issuance of an abatement order by the general court of justice, a landowner must comply with the order within the time limit specified. If the landowner fails to do so, the county may take steps necessary to correct the condition of the property. The cost to correct the condition shall be a lien on the property in the nature of a mechanic or material man lien.

(2) The equipment which remains shall be deemed abandoned and salvaged for the cost of decommissioning.

(3) Should the salvage value exceed the cost of decommissioning, the balance shall be placed with the office of the clerk of court for abandoned funds.

**Example of the Decommissioning Plan**

Decommission Plan for Big Bright Solar ("Facility"), located at \_\_\_\_\_.

Prepared and Submitted by \_\_\_\_\_, the owner of Big Bright Solar

This decommissioning plan is presented as required by Subsection 12-160(f) of the Cleveland County Code.

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends;
2. The system does not produce power for 12 months; or
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Revegetate any cleared areas with warm season grasses that are native to the Piedmont region, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The facility owner, currently \_\_\_\_\_, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property owner may have to remove the facility as outlined in the conditional use permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the facility owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the Cleveland County Planning Department and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_

Landowner (if different) Signature: \_\_\_\_\_ Date: \_\_\_\_

(Ord. of 4-5-16(1); Ord. of 4-12-19(1))

Docket No. SP-11723, Sub 0

EXHIBIT C

to Rebuttal Testimony of Cullen Morris

DECOMMISSIONING PLAN

## **Decommissioning Plan**

Decommission Plan for Apex Solar, LLC ("Facility"), located at Pony Barn Road, Lawndale, NCC 28090.

Prepared and Submitted by Apex Solar, LLC, the owner of Apex Solar

This decommissioning plan is presented as required by Subsection 12-160(f) of the Cleveland County Code.

Decommissioning will occur as a result of any of the following conditions:

1. The land lease ends
2. The system does not produce power for 12 months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, will do the following as a minimum to decommission the project.

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
2. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
3. Restore the land to a condition reasonably similar to its condition before SES development, including replacement of top soil removed or eroded.
4. Re-vegetate any cleared areas with warm season grasses that are native to the Piedmont region, unless requested in writing by the owner of the real estate to not re-vegetate due to plans for agricultural planting.

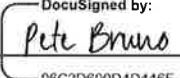
All said removal and decommissioning shall occur within 12 months of the facility ceasing to produce power for sale.

The Facility Owner, currently Apex Solar, LLC, is responsible for this decommissioning. Nothing in this plan relieves any obligation that the real estate property

owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature:  DocuSigned by:  
Authorized Person on behalf of Apex Solar, LLC  
06C2D600D4D446F...

Date: 9/21/2018

Landowner signature pages attached.

owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature: \_\_\_\_\_ Authorized Person on behalf of Apex Solar, LLC

Date: \_\_\_\_\_

Landowner (if different) Signature: \_\_\_\_\_

Date: June 1 2019

owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature: \_\_\_\_\_ *Authorized Person on behalf of Apex Solar, LLC*

Date: \_\_\_\_\_

Landowner (if different) Signature: *Dennis Dale Peter Elizabeth Peeler*

Date: *6-1-18*

owner may have to remove the facility as outlined in the Conditional Use Permit in the event the operator of the facility does not fulfill this obligation.

The owner of the Facility will provide the Cleveland County Planning Department and the Register of Deeds with an updated signed decommissioning plan within 30 days of change in the Facility Owner.

This plan may be modified from time to time and a copy of any modified plans will be provided to the planning staff and filed with the Register of Deeds by the party responsible for decommissioning.

Facility Owner Signature: \_\_\_\_\_ *Authorized Person on behalf of Apex Solar, LLC*

Date: \_\_\_\_\_

Landowner (if different) Signature: *D. Leonard*

Date: *6-14-18*