



State of Vermont

Karin McNeill
Office of Planning
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901
Ph: (802) 505-0396

Agency of Natural Resources

February 25, 2021

Via ePUC
Clerk
Vermont Public Utility Commission
112 State St., Drawer 20
Montpelier, VT 05620-2701

Docket 21-0401-NMP:

Petition of Putney Green Acres Solar LLC (“Applicant”), for a certificate of public good (“CPG”), pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW (AC) solar electric generation system in Putney, Vermont (“Project”)

In response to the application, the Agency of Natural Resources (“Agency”) offers the following comments and requests CPG conditions under Section 248(b)(5) and 10 V.S.A. § 6086(a) Criteria 1B and 1E/1F. By phone February 25, 2021, the Applicant represented by Leslie Cadwell stated no objection to the Agency’s comments and requested CPG conditions herein.

Standard of Review

Section 248(b)(5) states that the PUC shall not issue a certificate of public good unless it finds that the Project “will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.”¹ The material contained in the application reveals that the Project has the potential to cause undue adverse effects under specific criteria. Potential undue adverse effects are discussed below.

10 V.S.A. § 6086(a) Criterion 1B: Waste Disposal

The application states the Project would be sited on the closed and capped former Putney Paper (Green Acres) paper sludge landfill. The application includes the Agency’s December 3, 2020 Landfill Preferred Site Certification. The Applicant and landowner must submit an updated landfill post-closure plan for the proposed development. In accordance with the 2020 Solid

¹ 30 V.S.A. § 248(b)(5).

Waste Management Rules, the Agency would review and approve engineering and procedural specifications to ensure the proposed Project construction, operation or maintenance of any development upon the landfill would not compromise to the integrity of the landfill capping system, any landfill gas collection and removal system, leachate collection and removal system, surface water control system, environmental monitoring system, and access controls, or otherwise increase the environmental or public health and safety risk from the facility. The requirements for approval of these specifications are documented in the Agency's [Policy on Constructing Solar Photovoltaics on Closed Solid Waste Landfills](#).²

The CPG conditions below are required to ensure compliance with Criterion 1B:

The CPG Holder shall not commence site preparation and construction until the landfill owner has obtained approval for a Post-Closure Certification Amendment from the Agency of Natural Resources ("Agency") for the former Putney Paper (Green Acres) landfill. Prior to commencement of decommissioning, the CPG Holder shall obtain approvals as required under Agency regulations effective at the time of decommissioning.

10 V.S.A. § 6086(a) Criterion 1E: Streams

10 V.S.A. § 6086(a) Criterion 1F: Shorelines

The application indicates the Project abuts the Connecticut River riparian zone south of the array. It appears that on-going vegetation management to prevent panel shading would occur up to the riparian zone boundary. The application describes impacts to a Connecticut River tributary from the overhead electric line installation and maintenance, including tree clearing, proposed where the tributary daylights between existing disturbance - two culverts, I-91 North, an existing access, and the railway. The application site plan marks the Connecticut River 100-foot riparian zone but does not mark the tributary 50-foot riparian zone.

Undisturbed naturally vegetated riparian zones maintain water quality and habitat needs and functions along waterbodies. Disturbance within the tributary riparian zone should be minimized to the extent practicable. To prevent accidental encroachment into the River riparian zone from Project activities, including from vegetation cutting, trimming, and erosion measures, the Agency requires construction flagging to be installed outside the River riparian zone boundary. The Agency also recommends permanent demarcation to ensure no encroachment from on-going vegetation management.

Under Criteria 1(E) and 1(F), the Agency reviews projects for conformance with the Agency's [Guidance for Agency Act 250 and Section 248 Comments Regarding Riparian Buffers](#)³. Riparian zones are lands along streams, rivers, lakes, and ponds. Undisturbed, naturally vegetated riparian zones offer a variety of benefits including shading, sediment filtering, nutrient accumulation,

² Policy on Constructing Solar Photovoltaics on Closed Solid Waste Landfills, <https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/Solar-Landfills-Policy.pdf>

³ Guidance for Agency Act 250 and Section 248 Comments Regarding Riparian Buffers, <http://anr.vermont.gov/sites/anr/files/co/planning/documents/guidance/Guidance%20for%20Agency%20Act%20250%20and%20Section%20248%20Comments%20Regarding%20Riparian%20Buffers.pdf>

long-term bank and channel stabilization, and habitat for both terrestrial and aquatic life stages. Riparian zones provide travel and dispersal routes for wildlife and plants. Aquatic organisms find food and shelter in fallen leaves and woody material along the water's littoral zone. These benefits are realized in the protected reach as well as in downstream receiving waters.

The CPG conditions below are required to ensure compliance with Criteria 1E and 1F:

The CPG Holder shall maintain an undisturbed, naturally vegetated riparian zone along the Connecticut River. The River riparian zone shall be measured inland, perpendicular to and horizontally 100-feet from the mean water level and extends to the water's edge at base flow conditions. The term "undisturbed" means no activities that may cause or contribute to ground or vegetation disturbance, or soil compaction, including but not limited to construction; earth-moving activities; storage of materials; tree trimming or canopy removal; tree, shrub or groundcover removal; plowing or disposal of snow; grazing and mowing. Where the Project is within 100 feet of the River riparian zone boundary, the CPG Holder shall install a continuous line of visible flagging outside the riparian zone boundary, prior to commencement of site preparation and construction to remain for the duration of construction.

The CPG Holder shall limit disturbance within the Connecticut River tributary riparian zone to the existing access footprint and to install and maintain the overhead electric line. Disturbance shall be minimized to the extent practicable. The tributary riparian zone shall be measured inland, perpendicular to and horizontally 50-feet from the top-of-bank/slope and extends to the water's edge at base flow conditions.

Absent compliance with the conditions requested above, the proposed Project could raise significant issues with regard to Section 248(b)(5) and 10 V.S.A. § 6086(a) Criteria cited above.

Thank you for the opportunity to comment. Please contact me with any questions.

Sincerely, /s/ Karin McNeill

Karin McNeill
Regulatory Policy Analyst, Agency of Natural Resources
(802) 505-0396, karin.mcneill@vermont.gov