



Vermont Agency of Natural Resources

Office of Planning

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October 20, 2021

Holly R. Anderson, Clerk
Vermont Public Utility Commission
112 State Street – 4th Floor
Montpelier, VT 05620-2701

Re: 21-2939-NMP, Randolph Davis Solar LLC, Randolph, Vermont

Dear Ms. Anderson:

On August 11, 2021, Randolph Davis Solar LLC (“Applicant”) filed an application under 30 V.S.A. §§ 248 and 8010 and Vermont Public Utility Commission (“Commission”) Rule 5.100 for a certificate of public good (“CPG”) authorizing installation and operation of a 500-kilowatt (AC) photovoltaic group net-metering system in Randolph, Vermont (the “Project”). On August 18, 2021, the Commission determined the application to be administratively complete. On September 23, 2021, following receipt of additional information, the Commission set October 25, 2021 as the date by which comments, notices of intervention, motions to intervene, and requests for hearing on the Project must be filed.

The Vermont Agency of Natural Resources (“Agency”) reviewed the application and offers the following comments on substantive issues under applicable Section 248 criteria or within the Commission’s jurisdiction to resolve.¹

10 V.S.A. § 6086(a)(1)(E) – Streams

The site plan shows a stream surrounded by a 50-foot riparian buffer south of the proposed solar array.² No disturbance is proposed within the riparian buffer. The limits of disturbance are partly coterminous with the riparian buffer. The site plan indicates that, “Limits of disturbance (or “construction demarcation”) shall be installed prior to any earth disturbing activities.”

¹ Commission Rule 5.119(A).

² Exhibit RDS-MS-2.

A 50-foot riparian buffer along the stream nearest the Project is consistent with Agency guidance.³ To ensure the Project maintains the natural condition of this stream, the Agency believes that a CPG condition requiring maintenance of an undisturbed, naturally vegetated riparian zone along this stream is necessary and consistent with the abovementioned guidance. Therefore, the Agency respectfully requests that the Commission include the following condition in any CPG it issues for the Project:

The CPG Holder shall maintain an undisturbed, naturally vegetated riparian zone along the stream southwest of the proposed solar array and shown on the approved site plan. The riparian zone shall be measured inland, perpendicular to, and horizontally 50 feet from the stream's top of bank or, in areas where a wetland is contiguous to the stream, from the upland edge of the delineated wetland, and shall extend 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.

CPG Conditions Regarding Wetlands, Source Protection, and Deer Wintering Area

The Agency concurs with conditions 12, 13, 14, and 15 in the Applicant's proposed CPG. These conditions facilitate compliance with the Vermont Wetland Rules and respond to Agency comments on the advance notice for the Project regarding potential impacts to source protection and deer wintering areas. To ensure the Project meets criteria 1, 1(G), and 8(A) of 10 V.S.A. § 6086(a) and does not result in undue adverse effects on the natural environment, the Agency respectfully requests that the Commission include these conditions in any CPG it issues for the Project.

Conclusion

Provided the CPG is conditioned as requested above, the Agency finds the Project would not have undue adverse effects or warrant a hearing regarding criteria of Agency concern under 30 V.S.A. § 248(b)(5). Please contact me if the Agency can be of further assistance in this matter.

[Signature Page Follows]

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

Sincerely,

/s/ Kevin Anderson

Kevin Anderson

Regulatory Policy Analyst

Vermont Agency of Natural Resources

cc: Service List (by ePUC only)