

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

CASE NUMBER 21-2939-NMP

PETITION OF RANDOLPH DAVIS SOLAR LLC FOR A
CERTIFICATE OF PUBLIC GOOD, PURSUANT TO 30 V.S.A.
SECTIONS 248 AND 8010, AUTHORIZING THE
INSTALLATION AND OPERATION OF A 500 KW GROUP
NET-METERED SOLAR ELECTRIC GENERATION SYSTEM
IN RANDOLPH, VERMONT

February 16, 2022
10 a.m.

Scheduling Conference held before the Vermont
Public Utility Commission via Go To Meeting on February
16, 2022, beginning at 10 a.m.

P R E S E N T

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1 HEARING OFFICER POPPITI: Good morning.
2 This is a scheduling conference in Case Number
3 21-2939-NMP which concerns the petition of Randolph
4 Davis Solar LLC for a Certificate of Public Good
5 pursuant to 30 V.S.A. Sections 248 and 8010,
6 authorizing the installation and operation of a 500
7 kW group net-metered solar electric generation system
8 in Randolph, Vermont.

9 My name is Andrea Poppiti and the
10 Commission has appointed me to be the hearing officer
11 in this proceeding, and before we get started I just
12 want to ask if anyone intends to record today's
13 conference via audio or video if you could just let
14 me know now. Okay. Thank you. I'll start by taking
15 appearances starting with the Department.

16 MR. GUZMAN: Good morning. This is Eric
17 Guzman on behalf of the Department of Public Service.

18 HEARING OFFICER POPPITI: Thank you, and
19 the Petitioner.

20 MS. HAYDEN: Good morning. Kimberly
21 Hayden from Paul Frank + Collins on behalf of the
22 Petitioner, and with me via video is Mr. Brendan
23 Malley and Miss Martha Staskus from Norwich Solar
24 Technologies.

25 HEARING OFFICER POPPITI: Thank you, and

1 our intervenors in this proceeding.

2 MR. BINDER: Yes. Michael Binder and
3 Joan Allen are present now.

4 HEARING OFFICER POPPITI: Thank you, and
5 then ANR.

6 MR. KISICKI: Aaron Kisicki on behalf of
7 the Agency of Natural Resources, and with me is Kevin
8 Anderson from the planning department from the
9 Agency.

10 HEARING OFFICER POPPITI: Thank you, and
11 AAFM I think I see on there.

12 MS. TISHER: Yes. Good morning.
13 Elizabeth Tisher with the Attorney General's Office
14 on behalf of the Agency of Agriculture, Food and
15 Markets.

16 HEARING OFFICER POPPITI: Okay, and I
17 see Ms. Annette Smith is on the phone as well or on
18 the call.

19 MS. SMITH: Yes. I'm an observer.

20 HEARING OFFICER POPPITI: Okay. Thank
21 you, and is there anyone else that I missed? Okay.
22 Thanks. So before we get started I want to go over
23 some procedures and this is our COVID-19 pandemic
24 procedures that I need to put on the record for folks
25 and to make sure there aren't any questions about our

1 procedures.

2 So the Commission is continuing to limit
3 in-person contact and as a result today's conference
4 is being conducted remotely. We are using the web
5 based platform Go To Meeting. We will be using some
6 special procedures uniquely related to using a web
7 based platform. I will read them now for the benefit
8 of the parties and to ensure we have them on the
9 record.

10 Parties may raise concerns about these
11 procedures either now or at any point during the
12 workshop -- or, sorry, the conference if the platform
13 is not performing as expected or if you are having
14 difficulties. If we need to stop for technical
15 issues, we'll be proceeding a little more slowly and
16 I just want to make sure that most people are
17 operating from their homes and if we have unexpected
18 interruptions, that's okay. My cat is in the corner
19 over there and he likes to jump on the desk
20 sometimes.

21 So then I just wanted to make sure that
22 if you are planning on speaking during the
23 conference, it would be great if you could turn your
24 camera on and also it's just helpful for us to see
25 you and make some eye contact with you. I see Mr.

1 Binder and Ms. Allen, if you are comfortable putting
2 your camera on, then I would appreciate it. If
3 you're not comfortable, then that's okay as well.
4 Hi.

5 I will not mute anyone's microphone and
6 this means you should keep your cell phone on mute
7 unless you're speaking to indicate that you want to
8 speak. Just unmute your microphone and I'll
9 hopefully see it when it turns to green so I'll know
10 that you want to speak, and just very important that
11 we avoid talking over one another because we have a
12 court reporter on the line and she's taking a
13 transcript of this proceeding so that all the parties
14 have a chance to look at it and make sure everyone is
15 on the same page.

16 If your internet connection cuts out,
17 please try to rejoin. If you're not able to rejoin,
18 then please contact the Clerk's Office immediately
19 and we will pause the conference and try to resolve
20 the issue. If anyone that you know of is having a
21 hard time reconnecting, just let me know and we'll
22 pause and try to resolve the issue.

23 I don't anticipate that we'll need
24 anyone to present any materials today so we won't
25 need to do the share screen feature. I've got the

1 proposed schedule that was filed by the Petitioner
2 this morning and I have that in front of me now. So
3 I think that's our main focus today so I have that in
4 front of me.

5 Let's see. Okay. Does anyone have any
6 questions or concerns about the procedures that I
7 just laid out? Okay. Hearing none I just want to
8 make sure that we stay on task and note that the
9 purpose of this scheduling conference is to schedule
10 a hearing date and schedule leading up to the
11 deadlines for that hearing date, and we're also
12 looking at today just discussing the scope of the
13 hearing. So I would like to hear from each of the
14 parties on that as well. Okay.

15 So let's start with the petitioner, if
16 you could just walk us through the schedule that you
17 have laid out here and I'll give folks a chance to
18 respond after we just go through that on the record
19 together. Ms. Hayden.

20 MS. HAYDEN: Yes. Thank you. The
21 schedule -- yes you can hear me -- the schedule that
22 we submitted was circulated previously as I indicated
23 in the cover letter to all of the parties. It's kind
24 of what I think of as a standard contested case
25 schedule which starts with the status conference,

1 discovery, rebuttal testimony, technical hearing, and
2 we used some what I think also very standard
3 intervals for the periods between an action and
4 response. So most of these have three week
5 intervals. I think there's a four week interval for
6 filing briefs, and we did -- and Mr. Binder can speak
7 to his input provided yesterday which was helpful. I
8 had missed one interval and so we added that into the
9 schedule which was non-petitioner discovery responses
10 I believe, and the site visit I think Mr. Binder and
11 Ms. Allen had requested after the snow melts. The
12 petitioner doesn't object to a site visit. I just
13 kind of left that open at the end.

14 So the dates reflect the pretty standard
15 three week intervals except for the technical hearing
16 or the briefs after technical hearing, and
17 petitioner's responses to discovery will be provided
18 within two weeks after discovery is served on
19 petitioner, and I would also say that the petitioner
20 is flexible on dates. I wanted the proposed schedule
21 to reflect dates so that people can plan accordingly
22 with respect to other commitments or vacations, et
23 cetera.

24 HEARING OFFICER POPPITI: Okay. Thank
25 you. I would like to hear from Mr. Binder now. Do

1 you have anything to add?

2 MR. BINDER: Yes. We just barely 20
3 minutes ago have seen the new filing of the site plan
4 and my first reaction to it, and really it's just a
5 very first reaction, is it does not comply with the
6 statutory requirements in 5107(C)(6) which require
7 that elevation drawings be provided as a separate
8 exhibit and they should be drawn on the site plan,
9 you know, the north, south, and east, west lines, and
10 I do not see them on the site plan that was submitted
11 this morning. So I would request that all of the
12 dates on the petitioner's schedule be adjusted to
13 begin two weeks after a proper site plan is
14 submitted.

15 HEARING OFFICER POPPITI: Thank you, Mr.
16 Binder. I also had some questions on the site plan
17 which I also just received, you know, 20 minutes ago,
18 and one thing that I was hoping to see from the
19 petitioner would be some testimony -- excuse me --
20 explaining how the site plan has changed from the
21 original version. I would like to see also a layer
22 on top of the site plan, if possible, elevation
23 sloped so that it's easy to see where the -- where
24 the slope is 25 percent or more. I think, you know,
25 I could sort of discern it from there, but I want it

1 to be very clear, you know, what the situation is
2 now; yes, and then I echo Mr. Binder's questions
3 there just making sure that there are -- all the
4 pieces are followed in terms of the requirements laid
5 out in the rule. So if you could, basically it would
6 be helpful to walk us through in the testimony this
7 is the rule, this is where you can find this
8 information, and make sure that we can -- we have a
9 good road map to make sure that we could follow it
10 along. Does that -- do you have anything to add to
11 that, Mr. Binder, that you would like to see?

12 MR. BINDER: No I do not. That was our
13 concern. In our proposed schedule we did ask the
14 petitioner submit a new site plan and supplemental
15 testimony explaining the new site plan. So yes I
16 totally agree that we need to understand what's in
17 the new site plan.

18 HEARING OFFICER POPPITI: Great. So
19 what's a reasonable time frame, Ms. Hayden, on that?

20 MS. HAYDEN: I think -- so we believe we
21 can do that within a week. So we could -- so we
22 could bump these dates. I'm not looking at my
23 calendar to see what effect that would have, but we
24 could -- the petitioner could provide that testimony,
25 elevation detail and the layers that you just

1 described, and I'll have to read the transcript to
2 confirm that I have got that, but we can file that
3 within about a week. I would recommend, so today is
4 Wednesday, I would suggest next Friday just so we --

5 HEARING OFFICER POPPITI: Sure.

6 MS. HAYDEN: These are prepared by an
7 outside engineer.

8 HEARING OFFICER POPPITI: So that would
9 be the 25th.

10 MS. HAYDEN: Friday the 25th. So that
11 would be then the second interval after the schedule
12 Friday the 25th.

13 HEARING OFFICER POPPITI: Okay. So then
14 we would like to move out the discovery.

15 MS. HAYDEN: I think that would move the
16 discovery to March 18.

17 HEARING OFFICER POPPITI: That would be
18 three weeks after.

19 MR. BINDER: I think that's two weeks
20 after.

21 MS. HAYDEN: Oh that's fine. We could
22 do it within two weeks. That would be March 11th.

23 MR. BINDER: We would prefer three, but
24 the original time frames were two weeks after the
25 site plan for discovery. If you want to make it

1 three weeks, we have no objection.

2 MS. HAYDEN: Okay. Let's do that.

3 HEARING OFFICER POPPITI: So the 18th.

4 MS. HAYDEN: Petitioner responds to
5 discovery I believe that would be April 1st.

6 HEARING OFFICER POPPITI: Yes.

7 MS. HAYDEN: Okay. Non-petitioner
8 prefiled testimony three weeks would bring that to
9 April 22nd; is that right?

10 HEARING OFFICER POPPITI: Yes.

11 MS. HAYDEN: Discovery on non-petitioner
12 prefiled we had proposed two weeks. Let me just
13 look. April 22nd. Sorry. April 22nd two weeks
14 after that would be May 6th. Non-petitioner
15 discovery responses three weeks would bring that to
16 May 27th.

17 HEARING OFFICER POPPITI: Yes.

18 MS. HAYDEN: Rebuttal testimony three
19 weeks is that June 17th? Yes, and then a technical
20 hearing. I have not checked with the Clerk's Office,
21 but three weeks after that would be July 8th. I
22 guess we would defer to the hearing officer in terms
23 of the exact date of a technical hearing.

24 HEARING OFFICER POPPITI: I might look
25 at the week of July 11th instead.

1 MS. HAYDEN: Okay. Week of July 11th,
2 and then maybe then to bring the full briefs due the
3 week of August 8th.

4 HEARING OFFICER POPPITI: Okay. I want
5 to take a chance to hear from the other parties on
6 the call today as well about their comments on the
7 schedule and what they see the scope of the hearing
8 to need to encompass and whether they intend to file
9 testimony. Those three main questions would be
10 great. So I guess I'll start with Ms. Tisher.

11 MS. TISHER: Good morning. The Agency
12 of Agriculture, Food and Markets doesn't have any
13 issue with the schedule. We're fine with that. As
14 far as, you know, the scope of the issues obviously
15 if, you know, we're going to take a look at the
16 updated site plan to see if there are any additional
17 impacts to primary ag soils beyond what we had
18 submitted some comments back in I believe October.
19 So we'll review the site plan, see if there are any
20 changes to that, and then, you know, potentially have
21 some discovery and prepare some prefiled testimony,
22 if necessary.

23 HEARING OFFICER POPPITI: Okay, and then
24 I'm just remembering that AAFM filed a notice of
25 intervention so I just wanted to take a moment on the

1 record today to grant that motion for intervention.

2 MS. TISHER: Thank you.

3 HEARING OFFICER POPPITI: Thanks, and
4 Mr. Kisicki.

5 MR. KISICKI: Thank you. I think with
6 respect to the schedule we generally are fine with
7 the dates that we've just come up with. I guess the
8 one thing I would ask is if we could plug in a
9 specific date for the site visit that would probably
10 be helpful just from my end just because it allows
11 for greater scheduling.

12 HEARING OFFICER POPPITI: Sure.

13 MR. KISICKI: We may need to bring some
14 program folks with us. We're just not sure. So if
15 we can nail down that date, that would be great. I
16 also have a question why the site visit would need to
17 occur after the snow melts. We have conducted site
18 visits in the snow before.

19 HEARING OFFICER POPPITI: Sorry.

20 MR. KISICKI: Let's deal with that now.

21 HEARING OFFICER POPPITI: Okay. So the
22 site visit I just wanted to hear from folks about the
23 idea of having it after the snow melts as opposed to
24 some time before or, you know, further along so that
25 we're not out there when it's negative 10 would be

1 nice, but not necessarily snow melt. Maybe we could
2 think about in terms of April or March, late March
3 maybe as a deadline, but I would like to hear from I
4 think Mr. Binder may have suggested that.

5 MR. BINDER: We have no objection to
6 doing it. We have snowshoes and enjoy their use. I
7 put it after the snow melt because I thought you
8 could see the vegetation and lay of the land a little
9 bit better, but we do not object to doing it with
10 snow on the ground.

11 HEARING OFFICER POPPITI: Okay.

12 MR. KISICKI: I would just suggest we do
13 the site visit sooner rather than later just because
14 historically site visits help inform discovery and
15 framing up testimony. So if we have that site visit
16 in advance, that's helpful to us.

17 HEARING OFFICER POPPITI: Can you
18 promise that it will be above zero?

19 MR. KISICKI: I absolutely cannot.

20 HEARING OFFICER POPPITI: Okay. So
21 let's see. The testimony from non-petitioners in our
22 schedule is April 22nd. So perhaps we can look at
23 the last week in March, which would be the week of
24 the 28th or the week of the 21st. I could do either
25 one. Do you have a preference, Mr. Kisicki? Would

1 you rather do it earlier the week of the 21st?

2 MR. KISICKI: I think either time in
3 there would be fine and I feel confident that it will
4 be above zero late March.

5 HEARING OFFICER POPPITI: Excellent.

6 MR. KISICKI: I don't want to promise,
7 but I feel pretty good about that.

8 HEARING OFFICER POPPITI: Okay. That's
9 good. Okay. So let's look at probably the 24th or
10 the 25th of March. That's the Thursday or Friday.
11 Does anyone have any -- we could give people a chance
12 to look at their calendars and I'll just have our
13 clerk, Holly Anderson, touch base with folks, but
14 just we'll look at those two dates unless someone has
15 a vacation planned or something during that time.
16 Does anyone have any concerns about that week?

17 MS. HAYDEN: If I could -- it's Kim
18 Hayden on behalf of the petitioner -- Miss Staskus
19 and Mr. Malley, both of whom would be attending, will
20 need to check their calendars particularly for school
21 vacation. Maybe that date could be left open with
22 those two days being recommended or something to that
23 effect and parties to respond within, you know, the
24 next several days or a week? I don't think it will
25 take that long. I will just say as we're sitting

1 here on the call I can't answer specifically if those
2 two days would work for my client. They do work for
3 me.

4 HEARING OFFICER POPPITI: Sure. That
5 sounds good. We'll just leave it open. We'll say
6 the week of the 21st or if I can -- if you could let
7 us know by -- today is Wednesday -- by the end of the
8 week, then that would be perfect because then I'll be
9 issuing a scheduling conference order in this case
10 and then that will have the whole schedule laid out,
11 and if we could determine the site visit day before I
12 issue that, that would be great for the Clerk's
13 Office's planning, and if you could just let Ms.
14 Anderson know if you have any conflicts with that,
15 that week.

16 MS. HAYDEN: The petitioner certainly
17 can let you know by Friday. Probably before.

18 HEARING OFFICER POPPITI: Okay. Does
19 that sound okay to other folks? Okay. Sounds good.
20 Okay. Sorry, Mr. Kisicki, I cut you off to talk
21 about the site visit. Was there anything else that
22 you would like to discuss?

23 MR. KISICKI: Just very quickly to
24 respond to your other two questions I think right now
25 the Agency submitted their comment letter back in

1 October that outlined our position with respect to
2 the petition as we've seen it. I think I would echo
3 Miss Tisher's comments which is we'll take a look at
4 the revised site plan, sort of determine whether or
5 not we need to submit testimony on that. I don't
6 expect that we probably will need to submit
7 testimony. We may need to -- I imagine in this case
8 we may need to submit some rebuttal testimony
9 depending on what the intervenors file would be my
10 guess, but I'm not sure. We'll have to sort that
11 out.

12 With respect to the scope of the issues
13 Mr. Binder and Ms. Allen have laid out a number of
14 issues in their comments, a number of which speak to
15 Agency issues. To the extent that they are able to
16 sort of outline what they expect to put in their
17 testimony at this juncture would be helpful
18 understanding full well that they might not have a
19 fully developed position with anything -- with
20 respect to anything right now. I -- just to the
21 extent that we can identify issues now I think would
22 be helpful to all the parties to sort of narrow the
23 issues and really help to focus the hearing officer's
24 focus with respect to this proceeding.

25 HEARING OFFICER POPPITI: Okay. We'll

1 go back to get Mr. Binder's thoughts and Ms. Allen's
2 thoughts on that after we hear from the Department of
3 Public Service. Mr. Guzman.

4 MR. GUZMAN: Yeah so as far as the
5 schedule goes I think we're on board with the
6 schedule as amended in this scheduling conference.
7 The dates for the evidentiary hearing are fine for
8 me. As to the scope my understanding for at least
9 the aspects that the Department typically looks at
10 would be particularly orderly development and
11 reviewing the updated site plan and its potential
12 conformance with the Randolph town plan. I can't say
13 at this point whether we're planning on submitting
14 testimony. I think it's largely testimony submitted
15 by the intervenors as well as our review of the site
16 plan.

17 HEARING OFFICER POPPITI: Okay. So I
18 guess I would want to make sure that I do hear from
19 -- in the case from the -- from AAFM and ANR and the
20 Department if not in testimony that in updated
21 comments. So I would like to make sure that if you
22 decide not to file testimony that you do file some
23 updated comments to lay out where you are now as
24 opposed to back in October especially given the
25 changes to the site plan and such. Okay.

1 MR. KISICKI: I'm sorry. Miss Poppiti,
2 would you expect to get those updated comments the
3 same date as the rebuttal testimony? In other words,
4 those comments would be in lieu of rebuttal
5 testimony?

6 HEARING OFFICER POPPITI: I think that
7 makes sense. If we were to -- if you decide not to
8 file rebuttal testimony, then updated comments would
9 be -- would be filed that day. Yes.

10 MR. KISICKI: Thank you.

11 HEARING OFFICER POPPITI: I will note
12 that on the schedule. Just making a note. Well, you
13 know, Mr. Kisicki and Mr. Guzman have both talked
14 about a lot of the issues that Mr. Binder and Ms.
15 Allen have raised, and I just wanted to encourage
16 folks to talk amongst yourselves about concerns and
17 where things are as you go along, but I just wanted
18 to also give Mr. Binder a chance to respond on that
19 piece that Mr. Kisicki raised about if we could just
20 talk a little bit more about the scope today of the
21 hearing and if you have an idea of what you intend to
22 plan in terms of testimony acknowledging that, you
23 know, that could evolve over time just to give a
24 taste of where you're going that would be helpful.
25 Mr. Binder.

1 MR. BINDER: I'm a little -- this is our
2 first PUC proceeding and to be honest I'm really not
3 sure where it's going to go. A lot will depend on
4 discovery. One thing I should point out is the Town
5 of Randolph Selectboard has once again put off for
6 another month their decision on whether to rescind
7 the preferred sites letter. The issue at the last
8 meeting, which we did attend, seems to be on what is
9 the exact definition of an energy -- was it energy --

10 MR. ANDERSON: Energy facility.

11 MR. BINDER: Energy facility
12 development. We contend an energy facility
13 development is most of the disturbed area. Brooke
14 Dingleline spoke at the selectboard meeting as an
15 attendee. She's a Randolph resident and she said
16 that in her opinion, her legal opinion, it was
17 anywhere there was excavation that would include the
18 road or any other excavated area and she felt those
19 could not be on greater than 25 percent slopes. I
20 think that's what the selectboard decided to wait
21 another month to research. I guess they want to find
22 out from their own lawyers what exactly an energy
23 facility development is.

24 HEARING OFFICER POPPITI: Okay. Thank
25 you for that update. I just wanted to make sure that

1 we recognize that this process could be part of
2 testimony that you submit. So I don't want to get
3 too into the details on that. Sorry, Ms. Hayden.

4 MS. HAYDEN: Yes I would like to respond
5 to issues related to Mr. Binder's comments just now.
6 We have the selectboard minutes from the most recent
7 selectboard meeting which was dated February 8th, and
8 the selectboard minutes reflect that there was
9 discussion about there being no need to take action
10 on the preferred siting letter if there was no intent
11 or motion to rescind. The letter issuance stands as
12 approved in June 2021 at this time and I'll be
13 submitting that after this status conference.

14 There's been a lot of discussion about
15 what -- whether the existing preferred siting letters
16 should be rescinded or not in the comments that have
17 been submitted to date, and we have followed and have
18 attended -- the petitioner representatives have
19 attended the various planning commission and
20 selectboard meetings, and the most recent meeting
21 again has recorded minutes that reflect that no
22 action is being taken at this time to rescind, and I
23 just want to make that statement for the record; and
24 I'm happy that Mr. Binder noted that Attorney
25 Dingleline was in attendance at that meeting. She

1 was in attendance at all three meetings that the town
2 has had since December, and to the extent -- I noted
3 that the Binders did not fill out the intervention
4 form to reflect who would be acting as counsel.
5 Under the Rules of Civil Procedure, Rule 79.1, if an
6 attorney is going to participate in any way by
7 providing a limited notice of appearance with respect
8 to any pleadings, any appearance, any advice to a
9 client, that attorney is required to file as soon as
10 practicable a limited notice of appearance that
11 conforms with the requirements of Rule 79.1, and, in
12 addition, counsel is required to represent that the
13 party that they are providing limited notice of
14 appearance for will provide a general notice of
15 appearance pro se with the tribunal.

16 In this case the intervention form by
17 the Ms. Allen and Mr. Binder does not indicate who
18 counsel will be, whether they are representing
19 themselves, and so we request that the intervention
20 form be completed to identify who is acting as
21 counsel on their behalf in this proceeding.

22 HEARING OFFICER POPPITI: Thank you, Ms.
23 Hayden. I think, you know, Mr. Binder has mentioned
24 Ms. Dingleline, but he hasn't made any indication
25 that the representation will happen. So I just want

1 to give Mr. Binder a chance to just respond to that.
2 Do you plan on having an attorney represent or advise
3 you in these proceedings?

4 MR. BINDER: No we do not and we've not
5 retained any attorney including Brooke Dingleline.
6 As far as I can tell she appeared as a Randolph
7 concerned citizen to give her opinion on orderly
8 development.

9 HEARING OFFICER POPPITI: Okay. Thank
10 you, and I wanted to hear from the Department on
11 whether you've been following along with these
12 discussions with the town or if this is something
13 that you intend to look into more as it evolves
14 because I would like to hear -- be sure to hear at
15 some point from the Department on this.

16 MR. GUZMAN: We have not participated in
17 the town meetings. I have reviewed the minutes as
18 they have been posted, and I did speak with the
19 Binders -- well Joan Allen and Michael yesterday just
20 to get an update from them as far as their
21 participation, but we plan on following along with
22 the town's discussions if they do intend on
23 discussing it next month.

24 HEARING OFFICER POPPITI: Okay. Thank
25 you. Just checking my notes here. I do feel as

1 though, you know, the petition was filed at one point
2 and there have been many changes to the site plan and
3 so I want to make sure that the petitioner is keeping
4 us, the Commission, informed of its efforts to make
5 sure that the selectboard has the whole picture of
6 the changes to the site plan, and so to the extent
7 that you could explain in the prefiled or the
8 testimony on the slope issue and the changes to the
9 site plan the efforts that you have made to explain
10 to the selectboard what the changes are and, you
11 know, how that was relayed to them, that would be
12 helpful. I want to make sure that they are coming
13 along on this with us and we go along so that they
14 have the full benefit of the changes and the
15 information that we're getting as well. Is that
16 something that you could do, Ms. Hayden?

17 MS. HAYDEN: We can address that in the
18 supplemental testimony. I just would note for
19 context that the meeting of the planning commission
20 in December and the two meetings of the selectboard
21 on January 13th and then on February 10th were all at
22 Mr. Binder's request to rescind the preferred siting
23 designation, and the petitioner has attended all
24 those meetings and presented materials to both
25 bodies, and again we can walk through that in the

1 supplemental testimony that we'll provide.

2 HEARING OFFICER POPPITI: That would be
3 great. It would be nice to have a timeline too
4 because as the filings come into the Commission it's
5 often hard to reconstruct what happened when, and so
6 if you could walk us through that and then also make
7 sure that you are tying it to the filings that were
8 made as well so that we can look at pieces together.

9 MR. BINDER: May I speak?

10 HEARING OFFICER POPPITI: Yes. Go
11 ahead.

12 MR. BINDER: I just want to point out
13 that there were no representatives from Norwich Solar
14 Technology at the December planning commission
15 meeting where we had requested they rescind the
16 letter.

17 HEARING OFFICER POPPITI: Okay. Well we
18 will have a chance to respond to that -- Mr. Binder,
19 you will have a chance to respond in terms of
20 submitting testimony. It's not until May 6 -- sorry,
21 April 22nd because there's the back and forth with
22 the discovery. So you can lay out that process in
23 terms of discovery and ask questions of the
24 petitioner at that time and they will have a chance
25 to respond as well. So I just want to make sure

1 that, you know, you have that framework to work
2 within to question their representations at that
3 time.

4 MR. BINDER: I think we understand that.
5 I only brought that up because Ms. Hayden had just
6 mentioned that.

7 HEARING OFFICER POPPITI: Yes.

8 MR. BINDER: They have attended those --
9 that planning commission and two selectboard
10 meetings. They were not at the planning commission
11 meeting.

12 MS. HAYDEN: I will say I misspoke. It
13 was not my client. I misspoke. They were at the two
14 selectboard meetings.

15 HEARING OFFICER POPPITI: Thank you, Ms.
16 Hayden.

17 MS. HAYDEN: And we will again provide
18 that timeline in the testimony.

19 HEARING OFFICER POPPITI: That's great.
20 That would be very helpful and then we could all make
21 sure we're -- I'm on the same page and give Mr.
22 Binder a chance to check that and make sure his
23 understanding is on the same page.

24 Does anyone have anything else they
25 would like to talk about on the record today or does

1 anyone have any questions or did we cover the process
2 sufficiently, Mr. Binder and Ms. Allen, that you have
3 a good grasp of where things are going and how they
4 will proceed?

5 MR. BINDER: I wouldn't say we have a
6 good grasp, but we're learning as we go.

7 HEARING OFFICER POPPITI: Okay. Well
8 you'll see next week I'll be issuing an order and
9 that will lay out the schedule and that will make
10 sure that you have the road map and everyone is on
11 the same page, and I encourage you to work with the
12 government agencies to the extent that your issues
13 fall into their different realms of expertise, and
14 I'm sure Mr. Guzman will be happy to answer, you
15 know, process questions to the extent that he can do
16 so, and then if you have any questions for me, they
17 could be submitted via the Clerk's Office, but really
18 like in terms of process Mr. Guzman can walk you
19 through that as well.

20 MR. BINDER: Thank you very much.

21 HEARING OFFICER POPPITI: Okay. Thank
22 you. Does anyone have anything else they wish to
23 discuss on the record today?

24 MS. HAYDEN: No thank you.

25 HEARING OFFICER POPPITI: I just wanted

1 to say thank you everyone for coming prepared to
2 discuss all these issues and we will move forward on
3 proceeding in the schedule and I'll get that order
4 issued next week. Thank you very much and I hope
5 everyone has a nice day.

6 (Whereupon, the proceeding was
7 adjourned at 10:45 a.m.)
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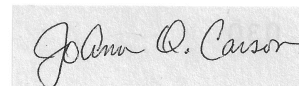
C E R T I F I C A T E

I, JoAnn Q. Carson, do hereby certify that I recorded by stenographic means the scheduling conference in Case Number 21-2939-NMP via Go To Meeting on February 16, 2022, beginning at 10 a.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting, and the foregoing 29 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings, to the best of my ability.

I further certify that I am not related to any of the parties thereto or their Counsel, and I am in no way interested in the outcome of said cause.

Dated at Burlington, Vermont, this 16th day of February, 2022.



JoAnn Q. Carson

Registered Merit Reporter

Certified Real Time Reporter