

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Randolph Davis Road Solar LLC for a	)	
Certificate of public good, pursuant to 30	)	
V.S.A. §§ 248 and 8010, authorizing the	)	
Installation and operation of a 500kW group	)	Case No. 21-2939-NMP
Net-metered solar electric generation system in	)	
Randolph, Vermont	)	

**PETITIONER’S RESPONSE TO INTERVENORS MICHAEL BINDER’S AND
JOAN ALLEN’S FIRST SET OF INFORMATION REQUESTS
SERVED ON PETITIONER**

Randolph Davis Solar LLC (“Petitioner”), by and through the undersigned counsel, hereby responds to the first set of discovery requests served by to the Michael Binder and Joan Allen (“Landowners”) on March 18, 2022.

General Objections

The following General Objections of Petitioner are incorporated by reference into its responses to each Interrogatory, Request to Produce, and Request for Admissions reproduced below, whether or not an objection is stated in any particular response. Any response to one of the Interrogatories, Requests to Produce, or Requests for Admission given below is given without waiver of any objection, whether or not an objection is stated.

1. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is overbroad, irrelevant, unduly burdensome, or not proportional to the needs of the case.

2. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure of information or production of material privileged under the attorney-client, workproduct, or any other applicable privilege.

3. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is unreasonably cumulative or duplicative, or calls for the disclosure of information or production of material that is obtainable from some other source that is more convenient, less burdensome, or less expensive, including,

but not limited to, information or material that is publicly available or that has already been disclosed or produced to you in connection with another proceeding.

4. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure or production of confidential or proprietary information, trade secrets, or material.

5. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is vague, unintelligible, requires speculation as to the information being sought, or is otherwise incapable of a reasonable answer.

6. Petitioner objects to each Instruction and Definition listed in the requesting party's discovery requests to the extent that it exceeds the bounds of permissible discovery or is unduly burdensome.

7. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of Petitioner's testimony and exhibits.

8. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request would require Petitioner to conduct extensive document review, additional studies, analyses, and/or tests as part of its response.

9. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the requesting party's intervention.

10. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the issues on review.

11. Petitioner objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that it calls for a legal conclusion.

Responses to First Set of Information Requests

Q.PET:RDS.1-1. Produce a list of all other solar energy projects permitted or built by Norwich Solar Technology, that have slopes greater than 25% within their Limits of Disturbance.

A.PET:RDS.1-1. Object to the extent the question seeks to have Petitioner prepare analysis not performed. Without waiving the objection, Petitioner has not performed the analysis requested.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-2. Produce a storm water plan for the entire site, including all areas within the Limits of Disturbance, and containing a slope overlay and complete engineering details, including specific locations of all excavated structures being installed for the management of surface and/or subsurface water and all finished grade details.

A.PET:RDS.1-2. Object to the extent the question seeks to have Petitioner prepare analysis not performed. Further objection on the grounds the phrase "storm water plan" is vague and ambiguous and because the request is not proportional to the needs of the case. Notwithstanding the objections, Petitioner will complete and submit an Agency of Natural Resources Construction Stormwater Discharge Permit application prior to commencement of installation, as stated in my prefiled testimony and as specified on Exhibit RDS MS-2A Sheet 2.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-3. Produce field notes and dates of all site visits to the project by the site plan engineers, Krebs & Lansing.

Q.PET:RDS.1-3. Krebs & Lansing did not visit the site. For Exhibit RDS MS-2A, Krebs & Lansing used the survey data produced by Horizons Engineering. See Exhibit RDS MS-12.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-4. According to the site plan, soils on the access road are to be excavated and replaced by fabric and gravel. Approximately 1/3 of that soil is Prime Agricultural Soils ("PAS") and will be stockpiled on site. The fabric and gravel in the PAS part of the road will be removed at decommissioning and the PAS soils will be restored. What will be done with the excavated gravel at decommissioning?

Q.PET:RDS.1-4. Objection to the extent question does not pose any question but instead makes assertions. Notwithstanding the objection, please refer to the Project Decommissioning Plan, Exhibit RDS MS-9, which provides in pertinent part:

- c. Remove and dispose of (preferentially recycle) facilities once they are no longer in service and the site shall be restored to its condition prior to installation of the facility to the greatest extent practicable;
- d. Remove all hazardous materials and transport them to be disposed of by licensed contractors at an appropriate facility in accordance with rules and regulations governing the disposal of such materials.

Q.PET:RDS.1-5. The site plan does not call for stockpiling the non PAS top and subsoils, nor does it indicate that the non PAS soils will be used in construction. What will be done with the 2/3 of the top soil and subsoil (approximately 325 cubic yards, if the full 12 inches is excavated) that is not PAS?

A.PET:RDS.1-5. Installation activities involving non PAS soils will be managed in accordance with the EPSC details noted on Exhibit RDS MS-2, Sheet 2, and the Construction Stormwater Permit issued by DEC for the Project.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-6. Admit that the Limits of Disturbance of the proposed energy facility development contains slopes greater than 25% in violation of the town plan prohibition of development of energy facilities on slopes greater than 25%. If denied, provide all facts that support such denial.

A.PET:RDS.1-6. Objection, calls for a legal conclusion.

Person(s) Responsible for Response: Kimberly K. Hayden, Esq.
Title: Attorney, Paul, Frank + Collins P.C.
Date: April 1, 2022

Q.PET:RDS.1-7. Admit that the solar panels are the Principle Structure of the proposed energy facility development and as such are subject to setback requirements as per town plan and zoning regulations. If denied, provide all facts that support such denial.

A.PET:RDS.1-7. Objection, the phrase "Principle Structure" is vague and ambiguous. Further objection to the extent the question calls for a legal conclusion.

Person(s) Responsible for Response: Kimberly K. Hayden, Esq.
Title: Attorney, Paul, Frank + Collins P.C.
Date: July 1, 2022

Q.PET:RDS.1-8. Admit that the town plan prohibition of locating energy facility developments on slopes greater than 25% applies to all structures and areas within the Limits of Disturbance of the proposed energy facility. If denied, provide all facts that support such denial.

A.PET:RDS.1-8. Objection, calls for a legal conclusion.

Q.PET:RDS.1-9. Identify all entities that have finalized their net metering agreements with the proposed net metering system and provide a copy of all agreements.

A.PET:RDS.1-9. Objection, the requested information is not relevant to the substantive criteria of Section 248 in this proceeding, and is beyond the scope of landowner's intervention.

Person(s) Responsible for Response: Kimberly K. Hayden, Esq.
Title: Attorney, Paul, Frank + Collins P.C.
Date: April 1, 2022

Q.PET:RDS.1-10. Admit that the disturbed area will be seeded with non-native grasses and other non-native vegetation. If denied, provide all facts that support such denial.

A.PET:RDS.1-10. As identified on RDS MS-2A, Sheet 2, the seed mix will be a combination of typical permanent and temporary seed mixes.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Executive Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-11. Identify the precise dollar amount per year of the “new tax revenues to the Town of Randolph and the State of Vermont Education Fund” which will be generated by the Project such that it will “also benefit public investments” as represented in the application materials.

A.PET:RDS.1-11. Objection, the scope of the question is beyond the scope of Landowners' intervention. Further objection to the extent the questions calls for analysis not already performed. Without waiving the objection, Petitioner has not performed the analysis requested, although Petitioner notes that the tax revenues paid to the Town of Randolph will be set based upon the Valuation of Solar Plants by the Randolph Assessor as described in 32 V.S.A. § 3481(1)(D) and will be paid annually for either 25 years or the remaining life of the project. The State Uniform Capacity Tax of \$4.00 per kW of plant capacity will be paid the Department of Taxes annually.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-12. Admit that a vernal pool, on the intervenor's property is located 134 ft from the Limits of Disturbance of the proposed project. If denied, provide all facts that support such denial.

A.PET:RDS.1-12. Objection to the extent the statement calls for analysis not already performed. Without waiving the objection, Petitioner has not performed the analysis requested.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-13. Please describe how you determined the slopes of the 50 ft buffers around the class 2 wetlands and the stream bank on the project parcel and what were they?

A.PET:RDS.1-13. Objection, relevance. Without waiving the objection, buffers are measured from edge of wetland and top of bank of the stream.

Person(s) Responsible for Response: Dori Barton
Title: Wetland Ecologist, Arrowwood Environmental
Date: April 1, 2022

Q.PET:RDS.1-14. Admit that 50 ft buffers should be wider than 50 ft because of the steep slopes and erodibility of the soils in the buffer area.

A.PET:RDS.1-14. DEC applies a 50 foot buffer.

Q.PET:RDS.1-15. Per PUC Net Metering Rule 5.107 (C) (9), provide either a wetland delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net metering system will not be PROXIMATE to any significant wetlands.

A.PET:RDS.1-15. Please refer to Exhibit RDS DB-2. Per the wetland survey protocol, AE flagged wetland boundaries in the field and subsequently located with a GPS unit capable of sub-meter accuracy. See Exhibit RDS DB-2 Figure 1 and Exhibit RDS MS- 2A

Person(s) Responsible for Response: Dori Barton
Title: Wetland Ecologist, Arrowwood Environmental
Date: April 1, 2022

Q.PET:RDS.1-16. Admit that the project site is mapped by VT ANR as part of a 753 acre habitat block, and is separated by Davis Rd. from a 688 acre habitat block containing core habitat, and abuts core habitat on an adjoining property.

A.PET:RDS.1-16. Objection to the extent the question calls for information not relevant to the substantive criteria of Section 248, is vague and ambiguous as to "habitat block" and "core habitat", and calls for analysis not performed. Without waiving the objections, the Petitioner has not performed the analysis requested.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Q.PET:RDS.1-17. For each expert witness that you may use at trial to present expert testimony under Vermont Rules of Evidence 702, 703, or 705, whether or not the witness may also testify from personal knowledge as to any fact in issue in the case, please provide:

- a. Provide a summary of the grounds for each opinion of the expert;
- b. Produce all communications and notes of communications between you and the expert and/or between your attorney and the expert which: (i) relate to compensation for said expert's study or testimony; (ii) identify facts or data that you and/or your counsel provided and that the expert considered in forming the opinions to be expressed (regardless of whether that information formed the basis for any such opinions); and (iii) identify assumptions that you and/or your counsel provided and that the expert relied on in forming the opinions to be expressed.

A.PET:RDS.1-17. Petitioner has yet to identify expert witnesses to be used at a hearing apart from Ms. Staskus and Ms. Barton.

- a. As to the grounds for the opinions of Ms. Staskus and Ms. Barton as stated in testimony and exhibits submitted to date, please refer to their prefiled testimonies and exhibits already submitted in this case.
- b. Objection to the extent the question calls for attorney client communications or attorney work product. Without waiving the objection, please refer to **Attachment A.PET:RDS.1-17.**

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer, Norwich Solar
Date: April 1, 2022

Dated at Burlington, Vermont on this 1st day of April, 2022.

As to Objections:



By:

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