

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

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

**MICHAEL BINDER'S RESPONSE TO PETITIONER'S FIRST SET OF
INFORMATION REQUESTS**

Q:PET:Binder.1-1: Please identify and produce all nonprivileged documents prepared by and/or relied upon by you in drafting your May 6, 2022 testimony and exhibits, or any persons working for or under the direction of you, in connection with your testimony, including, but not limited to, the raw data, and other results of any research, calculations, or work conducted by the person and any documents, calculations, data, research, or other information generated by any other person that you consulted.

A:PET:Binder.1-1: This question is so grammatically confusing (four 'and', four 'or', and one 'and/or') that I am not really sure of exactly what you are asking, or even how many questions you are asking. I object to producing the documents that have already been submitted as exhibits because they are in the possession of, known to, or otherwise equally available to the petitioner. I object to the production of the other documents that I have read because the request it is overly broad, cumulative, and I do not possess copies of these documents that were not submitted as exhibits. It would be an undue burden on me to try and reproduce 11 months of browsing history, and download and produce all of the articles and documents I have read, assuming it was even possible to do so. Without waiving the objections, I can offer that:

A:PET:Binder.1-1 part 1: There are, and there have been no persons working for or under me, in connection with my testimony.

A:PET:Binder.1-1 part 2: All documents that I have produced for my testimony have been submitted as testimony or exhibits. This includes MB-1, MB-7, MB-8, MB-9, MB-10, MB-12, MB-13, MB-14, MB-18, MB-19, MB-28, MB-29, and MB-30.

A:PET:Binder.1-1 part 3: All the documents that I have relied upon for my testimony have been submitted as testimony or exhibits. This includes MB-2,

MB-3, MB-4, MB-5, MB-6, MB-11, MB-15, MB-16, MB-17, MB-18, MB-19, MB-20, MB-21, MB-22, MB-23, MB-24, MB-25, MB-26, and MB-27.

After learning of this project in June 2021, I read voraciously about solar installations. I looked at other town and regional plans, solar racking catalogs, and dozens of articles based on a Google search for “solar on slopes” and other similar searches. All of this reading is the background information I relied upon to reach the conclusion that a solar development on land with greater than 15% slopes is an atypical solar development. Other than MB-3, MB-5, and MB-25 which were submitted as exhibits, I have not kept copies of other documents on the subject of solar development on steep slopes.

I also read dozens of articles in an attempt to quantify the carbon cost of this project. I testified that I could not verifiably quantify the carbon cost of this project because there were too many site specific variables. Most of what I read was from the first couple of pages of three Google searches: “carbon cost of logging”, “wetlands carbon sequestration”, and “forest carbon sequestration”. When I realized that I could not verifiably quantify the carbon cost of this project, I did not keep downloaded copies of the articles I read.

Q:PET:Binder.1-2: Please identify and produce copies of any studies, reports, articles, presentations, orders, decisions, and any other background information relied on by you, or those working with you or under your direction, in developing your testimony.

A:PET:Binder.1-2: See response to A:PET:Binder.1-1 above.

Q:PET:Binder.1-3: Please identify and produce in their original format all electronic files that were utilized or generated by you to prepare any analysis, images, impressions, conclusions, or statements presented in your testimony.

A:PET:Binder.1-3: I produced Exhibits MB-7 and MB-8 by taking a clipping from Petitioner's site plan RDS MS-2. I created 50' diameter circles on the image with Preview Software on a Mac. After counting the LiDAR contour lines across a diameter of each circle, I labeled each circle with its slope. Therefore RDS MS-2 is the original format electronic file that I utilized in my analysis of slopes on the site. I object to the request that I produce Petitioner's exhibit RDS MS-2 because it seeks information in the possession of, known to, or otherwise equally available to the petitioner.

My exhibit MB-15 is an .MP3 file that I created by converting a .WMA file that I received from the Town of Randolph. I object to the request that I produce the .WMA file that I received from the Town of Randolph because it seeks information that has been available (by making a Public Records Request) to the petitioner since December of 2021. Furthermore, there is no information in the .WMA file that is not in the .MP3 file that I submitted as exhibit MB-15.

My exhibit MB-17 was originally an image pdf produced by the Town of Randolph. I object to the request that I produce the original image .PDF file because the file is, and has been for some time, readily available to the petitioner by making a Public Records Request of the Town of Randolph. Furthermore, the original file contains no information that is not in exhibit MB-17, and MB-17 is in the possession of, known to, or otherwise equally available to the petitioner.

Q:PET:Binder.1-4: Produce all email communications between you and the Agency of Natural Resources concerning the Randolph Davis Solar Project.

A:PET:Binder.1-4: I object to this request because it seeks information that is available now, has been available for some time, and will continue to be available to the Petitioner by making a Public Records Request of ANR. The request for these emails could also have been served on ANR. Furthermore, my emails have been with several ANR staff and lawyers, all with different email addresses. It would be much easier for ANR to search its email for “Binder” than for me to do the multiple searches necessary to find all of the emails with the multiple email addresses that the various ANR staff and lawyers use.

Q:PET:Binder.1-5: Produce all email communications and list and describe all phone communications between you and Brooke Dingleline concerning (a) the Randolph Davis Solar Project, (b) Norwich Solar Technologies, (c) Randolph Davis Solar LLC, (d) preferred siting, (e) the Randolph Town Plan, (f) the Randolph Planning Commission, (g) the Randolph Selectboard, and (h) Enhanced Energy Planning.

A:PET:Binder.1-5: I object to the entirety of these requests because they seek information or documents that are irrelevant and outside the scope of discoverable information under VRCP 26. I also object as the requests are overbroad, without time limits, unduly burdensome, and for an improper purpose of annoyance, oppression and/or intimidation. I also object on the grounds of attorney-client privilege to the extent that any of my communications were for the purposes of obtaining legal advice and/or legal representation. I also object on the basis of work product privilege. Without waiving these objections, Ms. Dingleline has played no role in preparing, reviewing or commenting on my testimony or exhibits.

Q:PET:Binder.1-6: Produce all email communications and list and describe all phone communications between you and Annette Smith concerning (a) the Randolph Davis Solar Project, (b) Norwich Solar Technologies, (c) Randolph Davis Solar LLC, (d) preferred siting, (e) the Randolph Town Plan, (f) the Randolph Planning Commission, (g) the Randolph Selectboard, and (h) Enhanced Energy Planning.

A:PET:Binder.1-6: I object to the entirety of these requests because they seek information or documents that are irrelevant and outside the scope of discoverable information under VRCP 26. I also object as the requests are overbroad, without time limits, unduly burdensome, and for an improper purpose of annoyance, oppression and/or intimidation. I also object on the basis of work product privilege.

Q:PET:Binder.1-7: Produce all email communications between you and the Town of Randolph, including any staff or committee member thereof, concerning (a) the Randolph Davis Solar Project, (b) Norwich Solar Technologies, (c) Randolph Davis Solar LLC, (d) preferred siting, (e) the Randolph Town Plan, (f) the Randolph Planning Commission, (g) the Randolph Selectboard, and (h) Enhanced Energy Planning.

A:PET:Binder.1-7: I object to the entirety of this request to produce all emails between myself and the Town of Randolph because these emails are available now, have been available for some time, and will continue to be available to the petitioner by requesting Public Records from the Town of Randolph.

Furthermore, my emails have been with several town officials, all with different email addresses. It would be less of a burden for the Town to search its email for “Binder” than for me to do the multiple searches necessary to find all of the emails with the multiple email addresses that the various town officials use.

Q:PET:Binder.1-8: Admit that you are not a Vermont licensed surveyor.

A:PET:Binder.1-8: I am not a Vermont licensed surveyor.

Q:PET:Binder.1-9: Admit that you are not a Vermont licensed professional engineer.

A:PET:Binder.1-9: I am not a Vermont licensed professional engineer.

Q:PET:Binder.1-10: Admit that you are not a Vermont licensed civil engineer.

A:PET:Binder.1-10: I am not a Vermont licensed civil engineer.

Q:PET:Binder.1-11: Admit that you are not a Vermont licensed wastewater engineer.

A:PET:Binder.1-11: I am not a Vermont licensed wastewater engineer.

Q:PET:Binder.1-12: Admit that you do not have education, training or experience as a Vermont civil engineer. If denied, describe in detail all such education, training and experience.

A:PET:Binder.1-12: I do not have training or experience as a Vermont civil engineer. I admit to receiving some education in civil engineering during my six years studying Math, Science, and Engineering at the Massachusetts Institute of Technology.

Q:PET:Binder.1-13: Admit that you do not have education, training or experience as a Vermont civil engineer. If denied, describe in detail all such education, training and experience.

A:PET:Binder.1-13: See response to Q:PET:Binder.1-12 above.

Q:PET:Binder.1-14: The cover page to your testimony lists Exhibit MB-9 as “My notes on PC criteria and process”. With respect to the document, please respond to the following:

- a) Who prepared the questions?
- b) Who prepared the responses?
- c) Who assisted you in preparing this document?
- d) Produce all notes, emails and other documents reviewed by you to prepare this document.

A:PET:Binder.1-14:

After being served with this discovery request, I reviewed exhibit MB-9 and discovered an error. The last line of the answer to the first question should be stricken.

I had planned to put a narration and transcription of the March 2022 Planning Committee meeting in exhibit MB-25, but I ran out of time before the filing deadline and did not create the exhibit. My error is that I forgot to delete the reference in MB-9 to the exhibit that I never created.

Rather than leaving a gap (MB-25) in my exhibit numbering, or having to renumber all of my exhibits above MB-25, I chose to take what was then my last exhibit (MB-31) and renumber it as MB-25.

A:PET:Binder.1-14 part a) I wrote the questions without assistance.

A:PET:Binder.1-14 part b) I wrote the responses without assistance (including the transcriptions).

A:PET:Binder.1-14 part c) I prepared the entire exhibit.

A:PET:Binder.1-14 part d) The ORCA recording (exhibit MB-21) of the June 2021 Selectboard meeting (which I attended) and the minutes of the June Planning Commission (MB-4) are the only notes, emails, or documents that I relied on to prepare the exhibit. I object to producing these exhibits because they are in the possession of, known to, or otherwise equally available to the petitioner.

Q:PET:Binder.1-15: Produce all drafts of your prefled testimony.

A:PET:Binder.1-15: I object to the entirety of this request because petitioner has exceeded the allowed maximum of 20 questions including sub-parts. I also object to the entirety of this request because, as a *pro se* litigant, the drafts are my work product.

Q:PET:Binder.1-16: Identify each person who reviewed or assisted you in the preparation of your prefiled testimony, and describe with reference to each Q&A, the input or assistance provided. Produce all documents each such person provided to you in connection with same.

A:PET:Binder.1-16: I object to the entirety of this request because petitioner has exceeded the allowed maximum of 20 questions including sub-parts. Without waiving such objection my wife assisted me by proofreading my testimony for grammar and spelling but produced no documents in connection with same.

Q:PET:Binder.1-17: Identify, describe and produce all comments provided to you on your prefiled testimony and identify as to each who provided such input.

A:PET:Binder.1-17: I object to the entirety of this request because petitioner has exceeded the allowed maximum of 20 questions including sub-parts.

Q:PET:Binder.1-18: Identify each person who reviewed or assisted you in the preparation of your discovery served on the Agency of Natural Resources today.

A:PET:Binder.1-18: I object to the entirety of this request because petitioner has exceeded the allowed maximum of 20 questions including sub-parts.

DATED at Randolph, Vermont this 3rd day of June, 2022.

By: Michael Binder
MICHAEL BINDER

SUBSCRIBED AND SWORN to before me this 3rd day of June, 2022.

NOTARY PUBLIC

Laurel Law
My Commission Expires 1/31/23
Commission # 157.0012254

