

**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
Net-metered solar electric generation system in
Randolph, Vermont

Case No. 21-2939-NMP

REBUTTAL TESTIMONY OF MICHAEL BINDER

June 24, 2022

Exhibits:

MB-31	Resumé
MB-32	Slopes on a portion of Site Plan RDS MS-2B
MB-33	Staskus email with Slopes Overlay on Preliminary Site Plan
MB-34	Detail of Proposed Road on two Site Plans
MB-35	Water Flow above Proposed Road
MB-36	Road Cross Section
MB-37	Bend in Road, PAS Soils

Summary of Rebuttal Testimony

Michael Binder is an abutting landowner to the site of the proposed solar Energy Facility Development. He Rebuts Testimony of Martha Staskus.

REBUTTAL TESTIMONY OF MICHAEL BINDER

1 Q1. Please state your name, address, and occupation.

2 A1. Michael Binder, 1953 Davis Rd, Randolph Center, Vermont 05061

3 I am a retired Anatomy Professor.

4

5 Q2. Have you previously testified before the Public Utility Commission (PUC) or in other
6 judicial or administrative proceedings?

7 A2. Yes. I have submitted Prefiled Testimony in this Case.

8

9 Q3. What is the purpose of your testimony?

10 A3. The purpose of this Testimony is to rebut seven statements in an Affidavit and Prefiled
11 Testimony of Martha Staskus.

12

13 **Rebuttal Part I Slopes Layer**

14 Q4. Ms. Staskus states in an Affidavit filed on April 19, 2022:

15 “As requested by the Hearing Officer, Exhibit RDS MS-2B is a revised Site Plan that
16 shows slopes greater than 25% within the limit of disturbance of the Project...”

17 Is this statement factually correct?

18 A4. No. The Site Plan has a very deficient 25% Slopes Layer applied to the Limits of
19 Disturbance (LoD). Exhibit MB-32 shows many steep areas (slopes greater than 25%) within
20 the LoD that are not under the slope overlay. Further evidence that the Petitioner’s slope
21 layer is incomplete may easily be seen in Exhibit MB-33. MB-33 contains an email sent by
22 Ms. Staskus to Joshua Jerome (Randolph Zoning Director) in which she provides a slope layer

1 on a Preliminary Site Plan similar to the plan the Town had seen in June 2021 (when the Town
2 issued Preferred Sites Letters).

3 Q5. How long did it take Ms. Staskus to provide the requested Slopes Layer to Mr. Jerome?

4 A5. According to the time stamps on the emails, it took a mere One Hour and Thirty Four
5 Minutes. In contrast, on February 16, 2022 the Hearing Officer requested the Petitioner to
6 overlay a 25% Slopes Layer on the Site Plan and the request is still, for the most part,
7 unfulfilled.

8
9 Q6. How many Site Plans have been filed for this project.

10 A6. Four. 1) The original RDS MS-2 was filed in August 2021. 2) On February 16, 2022 a
11 revised RDS MS-2 was filed with the solar panels rearranged to avoid slopes greater than
12 25%. 3) On February 25, 2022 the Site Plan RDS MS-2A was filed. In this version the 1 ft
13 LiDAR contour lines were replaced with 2 ft contour lines and a Slopes Layer (in yellow) was
14 added to parts of the Site Plan. 4) The most recent Site Plan, RDS MS-2B, was filed on April
15 19, 2022. The LiDAR contours remain at 2 ft, a 25% Slopes Layer was added (in green) to the
16 LoD surrounding the access road, and the footprint of the road cut & fill was removed as
17 shown in Exhibit MB-34.

18 **Rebuttal Part II Typical Siting**

19 Q7. Ms. Staskus states in her August 2021 Prefiled Testimony: [page 5, line 9]

20 “The solar array is typical of an installation of its type and size”

21 Is that a factual statement?

22 A7. No. There is nothing typical about developing slopes this steep for solar projects. The

23 TRORC regional plan has a concise description under the section **Solar Siting**:

1 “Sites with raw solar potential are flat to gently sloping and face east, south, or
2 west.” [TRORC Plan page 241 is on page 256 of Exhibit MB-3 filed May 6, 2022]

3 Under the section **Hierarchy of Suitability** the TRORC plan states:

4 “As mentioned earlier, only lands with good exposure and gentle slopes make sense
5 for solar development” [TRORC Plan page 242 is on page 257 of Exhibit MB-3]
6

7 **Rebuttal Part III Cleared Land**

8 Q8. Ms. Staskus states in her August 2021 Prefiled Testimony: “The site is a combination of
9 woods and cleared land” [Page 5, line 1]. Is that statement factually correct?

10 A8. No. The property is entirely forested. There is no cleared land on the property, except
11 perhaps the log landing. Some of the forest was (and still is) a red pine plantation. In 2016
12 most of the red pine plantation was clearcut and other parts of the forest were selectively cut.
13 I witnessed the operation and it was a logging operation, not a land clearing operation.
14 Stumps were not removed and the land was not graded. The clearcut portion of the red pine
15 forest was left to regenerate and today it is early successional forest. It had been a deer
16 wintering area prior to the clearcut of the pines, and may be again if the regenerating forest is
17 not cleared for this project.
18

19 Q9. Which part of the red pine plantation was not clearcut in 2016?

20 A9. More than 100 ft of forest (including some of the pine plantation) was left intact to serve
21 as buffer above the wetlands. The wide buffer was necessary because the slopes above the
22 wetlands are so steep. On the Site Plan (or Exhibit MB-32) one can still see the old forest
23 buffer that is above the wetlands, and one can also see that the LoD extends down into the
24 forested buffer. All the forest land (both old and young forest) within the LoD will be cleared

1 and the land prepared for mowing if this project goes forward. What will remain of the forest
2 will be inadequate as a wetland buffer because of its steepness (yellow circles in Exhibit
3 MB-32) and erodible soils.

4 **Rebuttal Part IV Greenhouse Gasses**

5 Q10. Ms. Staskus states in her August 2021 Prefiled Testimony: [Page 14, Line 4]

6 “this Project will contribute to reducing greenhouse gas emissions”.

7 Is that a statement of fact?

8 A10. No. Ms. Staskus provides a sunny estimate of the carbon offset based on the solar gain
9 of the array, but provides no estimate for the carbon cost of building this project. There will
10 be an enormous carbon cost of logging, land clearing, excavating 1100 ft of road, building a
11 staging area, trenching, quarrying and trucking gravel, manufacturing and transporting road
12 fabric, solar panels, racking, cables, inverters and transformers, and at decommissioning,
13 removal and disposal of gravel and road fabric, deconstructing the road, restoring the
14 stockpiled Prime Ag Soils, and disposing of solar panels, racking, cables, inverters, and
15 transformers. Ms. Staskus minimizes the enormous carbon cost of this development with this
16 statement:

17 “Any limited air emissions or greenhouse gas emissions associated with installation
18 will be primarily from fossil-fueled vehicles and equipment used for deliveries,
19 worker transportation, and installation activities. The emissions will be typical of
20 construction projects...” [Page 16, Line 18]

21 This project is not a typical installation and the construction emissions will not be typical.

22 Lastly, and most importantly, Ms. Staskus overlooks the effect that 11.9 acres of deforestation
23 will have on carbon sequestration. Therefore it is not established as a fact that “this Project
24 will contribute to reducing greenhouse gas emissions”.

Rebuttal Part V Drainage

Q11. Ms. Staskus states in her August 2021 Prefiled Testimony that the submitted Site Plan contains: [page 7, line 1]

“Detailed plans for any drainage of surface and/or sub-surface water”

Does the Site Plan contain detailed plans for any drainage of surface and/or sub-surface water?

A11. No. The road will interrupt water flow (as may be seen on Exhibit MB-35) and will therefore require (at the very least) ditches and culverts. There structures do not exist, either by specification or by location, on the Site Plan.

Rebuttal Part VI Access Road Cross Section

Q12. Ms. Staskus states in her August 2021 Prefiled Testimony that the submitted Site Plan contains: [page 7, line 6]

“Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials”

Do the plans contain all the features claimed in this statement?

A.12 No. As mentioned in the previous answer, there is no drainage shown for the access road. The cross section of the access road on the Site Plan is deceptive because it is drawn on a level grade (see Exhibit MB-36) which is not typical of the proposed access road. The Petitioner’s road cross section is a ‘boilerplate’ cross section appropriate for use on a typical “flat to gently sloping” solar site, but this project site is far from typical.

The cross section of the access road contains a note: (see Exhibit MB-36)

“Remove topsoil and subsoil to a maximum depth of 12” as required”

The road will require a cut & fill up to 47 ft wide (see MB-34 and MB-37) in order to create a 12 ft wide road bed. The Site Plan cross section (see MB-36) indicates that the topsoil and

1 subsoil (up to 12 inches deep) are to be scooped out of the road bed and are to be replaced
2 with fabric and gravel. It is misleading to suggest that after the cut & fill creates a 12 ft wide
3 road bed, there will be any topsoil remaining to scoop out and replace with fabric and gravel.

4
5 **Rebuttal Part VII Prime Ag Soils**

6 Q13. Ms. Staskus states in her August 2021 Prefiled Testimony: [Page 21 line 1]

7 “PAS disturbed will be stockpiled on site. Upon decommissioning, Project
8 infrastructure will be removed and the PAS returned.”

9 Is any of the proposed Access Road on Prime Ag Soils?

10 A13. Yes. One third of the road is to be on PAS, and the widest part of the cut & fill is on PAS
11 (see Exhibit MB-37). Due to the soil depth of these PAS and the width, length, and depth of
12 the cut & fill, in my opinion the designated stockpile area for the PAS is significantly
13 undersized. Depending on how much PAS is removed and stockpiled, there may not be
14 enough soil remaining to shape the road bed.

15
16 Q14. Does this conclude your Rebuttal Testimony?

17 A14. Yes.