

**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 SECOND 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 July 6, 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 Second Set of Information Requests

Q.Landowners.2-1. Mr. Binder in his prefiled testimony wondered how, if you hadn't been to the site, you knew where to draw the so called "existing path, or way, or road" onto your site plan. You answered in your rebuttal:

"Multiple members of the design team, including Norwich Solar, Arrowwood Environmental, and Horizons Engineering conducted site visits prior to and during the design phase of the project. Information from these site visits was incorporated into the base plans and mapping we used to prepare the civil design."

Please produce the information, used to prepare the civil design, that you received from these site visits.

A.Landowners.2-1.

Norwich Solar provided us a GIS shapefile and Horizons Engineering provided us a point file from their topographic survey. See ATTACHMENTS A.Landowners.2-1.1 and 2-1.2 accompanying these discovery responses.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-2. If you used any of the above mentioned information to locate the Access Road on your site plan, then please produce the calculations you used on that information so that we may see that the road you designed is actually on the so called "existing path, or way, or road".

A.Landowners.2-2.

Calculations were not needed to determine the location of the road. We designed the road along the existing trail to the greatest extent possible, while minimizing the cuts and fills needed to install the road.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-3. Your site plan shows the approximate location of a PAS Storage Area, the footprint of which scales to approximately 10 ft by 60 ft. What volume of PAS (in cubic feet) is the PAS Storage Area (as depicted in the Site Plan) capable of stockpiling?

A.Landowners.2-3.

Approximately 1,300 cubic feet.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
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Q.Landowners.2-4. What is the footprint (in square feet) of the Access Road Cut & Fill on PAS soils?

A.Landowners.2-4.

Approximately 5,180 square feet.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-5. What depth (in inches) of PAS do you assume, in your calculations for stockpile volume, will be excavated from the footprint of the cut & fill? If you calculate volume for a range of excavation depths, please provide the range.

A.Landowners.2-5.

The depth of PAS excavation will vary depending on the location of the road. In cut sections, we would presume a depth of 12 inches of excavation. In fill sections over one foot, there will be no excavation at all, other than scraping off the woods "duff" layer (leaves and organics, not PAS). We offer the following summary of approximate depths of PAS removal by Station:

Station 0+00 to 0+50: Approximately 12 inches
Station 0+50 to 1+50: 0 inches
Station 1+50 to 1+90: Approximately 6 inches
Station 1+90 to 3+85: 0 inches
Station 3+85 to 4+10: Approximately 12 inches

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-6. Admit that the PAS Storage Area depicted in the Site Plan cannot hold the volume of PAS that will be excavated for stockpiling.

A.Landowners.2-6.

Denied. The PAS storage area is large enough hold the volume of PAS that will be excavated for stockpiling,

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Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
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Q.Landowners.2-7. Admit that the slopes layer (in green) overlaying the Access Road in site plan RDS MS-2B is derived from LiDAR data. If denied, please indicate the source of the slopes layer.

A.Landowners.2-7.

Admitted.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-8. Admit that you have the technical capacity and expertise to overlay a LiDAR derived "greater than 25% Slopes Layer" upon the entire Limits of Disturbance.

A.Landowners.2-8.

Admitted.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
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Q.Landowners.2-9. Admit that you have not placed a "greater than 25% Slopes Layer", derived from LiDAR or any other source, over the entire Limits of Disturbance.

A.Landowners.2-9.

Admitted. Inadvertently, the Exhibit RDS MS-2B Site Plan filed April 19, 2022 included the slope data surrounding the access area and the array only within the LOD. It was internally misunderstood that the slopes layer was to include the entire LOD. Petitioner thanks Mr. Binder for pointing this out. On July 13, 2022, Petitioner filed a corrected site plan that shows the greater than 25% slopes layer over the entire Limits of Disturbance.

Person(s) Responsible for Response: Martha Staskus
Title: Chief Development Officer of Norwich Solar Technologies.
Date: July 15, 2022

Q.Landowners.2-10. In your rebuttal testimony you wrote:

“Using the “on the ground” detailed survey prepared by Horizons Engineering, we prepared a revised solar array layout that avoids slopes of greater than 25%.”

Admit that the “on the ground survey” data used to determine slope in the area near the array, does not show areas of “greater than 25% slopes” that would be seen on a LiDAR derived slopes layer.

A.Landowners.2-10.

Admitted. The on the ground data has a higher precision than the LiDAR data.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-11. Admit that a “greater than 25% Slopes Layer” produced by LiDAR gives a more accurate depiction of Slopes greater than 25%, and with better resolution, than the Horizons Engineering “on the ground survey” which you have incorporated into a portion of your site plan. If denied, please produce the XYZ coordinates of the points located by Horizons Engineering so that we may see the location of, and distance between the data points that you use to support your claim that the revised solar array layout avoids slopes of greater than 25%.

A.Landowners.2-11.

Denied. It is our experience that an “on the ground survey” is more accurate than LiDAR data. The 2016 VCGI LiDAR metadata from which the LiDAR information was derived, indicates a vertical positional accuracy of 9.25 cm, or about 0.3 feet, in either direction. We would expect individual survey shots in professional topographic survey to have a vertical positional accuracy of 0.1 feet.

Person(s) Responsible for Response: Scott Homsted, P.E.
Title: Vice President of Krebs and Lansing Consulting Engineers, Inc.
Date: July 15, 2022

Q.Landowners.2-12. Ms. Allen has testified that the project parcel connects two large habitat blocks, each block contains core habitat, and that she has witnessed that the project parcel is a busy corridor where wildlife cross Davis Rd. to get from one habitat block to the other. Admit that Ms. Allen is correct, or if denied please produce evidence that she is incorrect.

A.Landowners.2-12.

Denied. On a relative scale the habitat blocks are not large in size resulting in overall low rankings of 3 (752 acres) and 4 (816 acres). A riparian wildlife road crossing has been identified in BioFinder approximately 2,000ft to the north of the project area on Davis Road. The presence of existing development on the west side of Davis Road, directly across from the proposed project, degrades the quality of this location for wildlife movement. The existing movement patterns of area wildlife between the two mentioned habitat blocks and across Davis Road will not be adversely impacted by the Project.

Person(s) Responsible for Response: Dori Barton
Title: Wetland Ecologist, Arrowwood Environmental
Date: July 15, 2022

Q.Landowners.2-13. Ms. Allen has testified that, given the forested wetlands, streams, and seeps on the project parcel, there is a potential for 3 stream salamanders - Northern two-lined, Northern dusky, and Spring to be present. Admit that without conducting a survey, you are not certain if these species are or are not present.

A.Landowners.2-13.

Denied. These are all common species and they are likely present in the stream resources on and adjacent to the project site. The project has been designed to avoid impacts to streams and the riparian zones associated with those resources.

Person(s) Responsible for Response: Dori Barton
Title: Wetland Ecologist, Arrowwood Environmental
Date: July 15, 2022

Q.Landowners.2-14. You testified that there are no RTE species that may inhabit the property for some portion of their life cycle. Admit that without conducting a survey at the appropriate time of year for the presence of the threatened Eastern Small-footed bat and the endangered Tri-colored bat and Northern long-eared bat, you are not certain if these species are or not present on the property.

A.Landowners.2-14.

Denied. I have not testified that there are no RTE species that may inhabit the property. As presented in our report, I have testified that with adherence to specified mitigation measures the Project will have no undue adverse impact on necessary wildlife habitat or Rare, Threatened, and Endangered species. These measures include time of year restrictions on clearing.

Dated at Burlington, Vermont on this 15th day of July, 2022.

As to Objections:



By:

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