

Q1. In Discovery, you asked Mr. Homsted: (Exhibit MB-38)

“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”

Petitioner responded (July 15, 2022): (Exhibit MB-38)

“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.”

How did you feel being thanked for pointing out the deficiency in the slope layer.

A1. I was very surprised.

Q2. Why were you surprised?

A2. Because I had pointed out the deficiency so many times. Here’s some history:

- From Intervenor’s Motion to Dismiss or Stay (3-1-22):

“The site plan (RDS MS-2A), as currently submitted (2/25/22), only shows the 25% layer in a small region of the disturbed area near the solar panels. Much more of the disturbed area is over 25% slope, based on examination of the contours in the submitted site plan, and as easily seen in the slopes layer in the ANR Atlas.”

- From Intervenor’s Reply to Petitioner’s Response to Motion to Dismiss or Stay (3-23-22):

“However, instead of providing a site plan showing the entire parcel’s slopes as promised at the Feb. 16 Scheduling Conference, Petitioner has provided an abbreviated slope layer encompassing only a tiny portion of the parcel. **This refusal by the Petitioner, to provide a site plan showing the slopes layer over the entire parcel and covering, at a minimum, the entire Limits of Disturbance** as defined by the PUC Net Metering Rule, is especially frustrating because Petitioner already possesses the slope information, which was contained on a map submitted to the Town of Randolph on October 22, 2021, which shows that much of the parcel’s land contains steep slopes greater than 25%.”

- From Intervenor's Opposition to Minor Amendment (3-30-22):

"Petitioner has not complied with the requirements to provide all of the details identified in Rule 5.107 (C) Filing Requirements and has failed to provide the slope layers requested by the Hearing Officer."

- From Order Re: Additional Information on Slope and Tree Clearing (4-4-22):

"In today's Order, I ask the Petitioner to update the revised site plan to include slopes greater than 25% within the limit of disturbance of the Project."

- From Intervenor's Motion to Change Schedule (4-6-22):

"Neighbor Intervenor respectfully request that the Hearing Officer postpone the Non-Petitioners Pre-filed Testimony and subsequent proceedings until 3 weeks after:

1) Petitioner complies with the Hearing Officer's Order of 4/4/22 for Additional Information, and..."

- From Petitioner's response (4-7-22):

"In the case of the survey and slope detail, previously provided additional detail was prepared and provided to the Town. **Such information is not required by Commission Rule 5.107 or Section 248(b)** and was provided to the Case to document responses to the Town planning and legislative bodies. Petitioner has previously briefed this in detail and **such work would cost significant additional time and expense.**"

- From Intervenor's reply to petitioner's response to Motion to Change Schedule (4-11-22):

"The Slopes Layer requested by the Hearing Officer **does not require the expense of a ground based land survey.** A greater than 25% slopes layer may be derived from the LIDAR contours that were used in Petitioner's Exhibit RDS MS-2 (as revised 2-16-22), and the Petitioner has already used that data to provide a slopes layer (more extensive than Exhibit RDS MS-2A) to the Town of Randolph."

- From Michael Binder's Rebuttal Testimony (6-24-22)

"The Site Plan has a very deficient 25% Slopes Layer applied to the Limits of Disturbance"

- From Intervenor's Motion to Change Schedule, Reopen Discovery, and more (6-28-22):

"The new Site Plan remains in non-compliance with the Hearing Officer's request to have a 25% slopes layer applied to the Limits of Disturbance."

and

"Landowners respectfully request that the Hearing Officer remind the Petitioner to produce a 25% slopes layer for the **entire** Limits of Disturbance of its new Site Plan."

- From Petitioner's reply to motion (6-30-22):

"The Project Site Plan submitted with Petitioner's rebuttal (Exh. RDS MS-2 (rev. 6-17-22)) includes slopes layers."