

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Norwich Upper Loveland Solar LLC)
for a certificate of public good pursuant to 30)
V.S.A. §§ 248 and 8010, authorizing installation) Case No. 21-3587-NMP
and operation of a 500 kW (AC) photovoltaic)
group net-metering system in Norwich, Vermont)

PETITIONER’S SECOND SET OF INFORMATION REQUESTS
SERVED ON LANDOWNERS

Norwich Upper Loveland Solar LLC (“Petitioner”) serves the following discovery upon intervenor landowners Steve Gorman; Jay & Heather Benson; Joy Kenseth; Jennifer & Daniel Goulet; Samin Kim & Jayoung Joo; and Larry Ufford (“Landowners”) dated March 23, 2023.

Petitioner respectfully requests that Landowners answer the following discovery requests in writing and under oath and deliver one complete copy of all documents, plus an electronic version of such responses, **by April 6, 2023, to the undersigned.**

DEFINITIONS

To the extent not already defined herein, the following definitions apply to these information requests:

1. Communication. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries or otherwise.

2. Document. The term “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Vermont Rule of Civil Procedure 34(a) and includes any and all writings or other materials, whether handwritten, typed, printed, recorded or reproduced by any other physical, mechanical, electronic or electrical means, including, but not limited to, records, papers, correspondence, telegrams, memoranda, notes, letters, photographs, photographic slides or negatives, films, filmstrips, computer diskettes, computer files, tapes and recordings, summaries or records of telephone conversations, summaries or records of personal conversations, and all carbons or photocopies bearing any underlining, highlighting, additions, corrections, or marginal notations which are in the possession, custody, or control of Landowners or its agents, employees, representatives, attorneys or experts, wherever located.

3. Identify (With Respect to Persons). When referring to a person to “identify” means to provide, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of the person need be listed in response to subsequent discovery requesting the identification of that person.

4. Identify (With Respect to Documents). When referring to documents, to “identify” means to provide, to the extent known, information about the (i) type of document; (ii) its general subject matter; (iii) the date of the document; and (iv) its author(s), and each recipient.

5. You or Your(s): you or your(s) means Landowners collectively or any one of them.

6. Person. The term “person” is defined as any natural person or any business, legal or governmental entity or association.

7. Produce. The term “produce” means to provide the original or an exact legible copy of a requested document to Petitioner’s counsel. A draft or non-identical copy is a separate document within the meaning of this term.

8. Project. The term “project” means the 500kW plant that is the subject of this case.

9. “Landowner” or “Landowners” means Steve Gorman; Jay & Heather Benson; Joy Kenseth; Jennifer & Daniel Goulet; Samin Kim & Jayoung Joo; and Larry Ufford and each of them.

The following rules of construction apply to all discovery requests:

1. All/Each. The terms “all” and “each” shall both be construed as all and each.

2. And/Or. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

3. Number. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. Provide a separate page for each separate question. Reproduce the discovery request made before presenting the response.
2. The response to each request should be made under oath by a person competent to testify concerning the response and all documents and exhibits produced as part of the response. With respect to each request, state (1) the name(s) and title(s) of the person or persons responsible for preparing the response; and (2) the date on which each question was answered.
3. Where information requested is not available in the precise form described in the question or is not available for all years (or other periods or classifications) indicated in a series of years (or other periods or classifications), provide all information with respect to the subject matter of the question that can be identified in your work papers and files or that is otherwise available.
4. These discovery requests are continuing in nature and require you to file supplementary answers pursuant to the Vermont Rules of Civil Procedure as incorporated by the Rules of the Vermont Public Utility Commission. Change, supplement and correct your responses to conform to all information as it becomes available to you, including the substitution of actual data for estimated data. Responses to requests covering a period not entirely in the past (or for which complete actual data are not yet available) should include all actual data available at that time.
5. Whenever responses include estimated information, include an explanation (or reference to a previous explanation) of the methods and calculations used to derive the estimates.
6. For any matter where a request for admission is being answered by a denial or objection, the answer should set forth in detail the reasons for the denial or objection, in conformity with Vermont Rule of Procedure 36.
7. In construing these discovery requests, the terms “refer to” and “relate to” shall include any and all logical or factual connections to the subject of the discovery request as specified.
8. Organize responses and supporting documents using the identifying number to which they respond.

DISCOVERY REQUESTS

Questions Directed to Ms. Jenn Goulet:

Q:PET:Landowners.2-1: With respect to your prefiled rebuttal testimony at A3, admit that you have not prepared a lifecycle carbon accounting analysis of estimated greenhouse gas emissions from the proposed Project. If denied, explain what qualifications you have to prepare such analysis, produce the analysis and all documents prepared and relied upon in connection with same.

Q:PET:Landowners.2-2: With respect to your prefiled rebuttal testimony at A3, admit that you have never prepared a lifecycle carbon accounting analysis of estimated greenhouse gas emissions for a solar photovoltaic energy generation project. If denied, produce the analyses and all documents prepared and relied upon in connection with same.

Q:PET:Landowners.2-3: With respect to your prefiled rebuttal testimony at A3, admit that the 2021 Vermont Forest Carbon Inventory reports that the net carbon flux of Vermont's forests remains negative, totaling about -5.5 M Mt CO₂e per year.

Q:PET:Landowners.2-4: With respect to your prefiled rebuttal testimony at A3, which states: "The total carbon footprint of the Upper Loveland solar array is estimated to be one quarter of its avoided emissions, 4,200 metric tons of carbon dioxide equivalents," admit that the Project, even with its associated tree clearing and site preparation, will result in a net decrease in carbon emissions.

Questions Directed to Mr. Stephen Gorman:

- Q:PET:Landowners.2-5:** With respect to A3 of your rebuttal testimony:
- Admit that the PDF document you reference is not currently posted on the Vermont's Department of Forests, Parks, and Recreation's website.
 - Did you review the Department of Forests, Parks and Recreation publication: [TreesCarbonClimateChange_1pgr_Aug2021.pdf \(vermont.gov\)](#)?
 - If the answer to the previous question is no, please explain why you did not review this document before submitting your testimony in this case?

Questions Directed to Ms. Joy Kenseth:

Q:PET:Landowners.2-6: Your exhibit NN JK-26 includes a map with a label below it that states:

"Exhibit NN-JK-26: A Schmidt Bog Trail map created using the "Make Your Own Map" feature on the Norwich Trails Committee Website. Available at <https://norwichtrails.org/trail-maps/>"

With respect to this website link:

- Admit that nowhere does it label "A Schmidt Bog Trail."
- Admit that the referenced Trails Committee website posts PDFs of 11 separate Norwich Trail Maps.

- c. Admit that the Schmidt Bog Trail is not included in any of the 11 Norwich Trails Committee Norwich Trail Maps. If denied, identify and produce the map and explain its origin and current location on the Norwich Trails Committee website.
- d. Admit that you, not the Norwich Trails Committee, created the map on Exhibit NN JK-26 using the backcountry mapping tool [CalTopo - Backcountry Mapping Evolved](#). If denied, explain what mapping tool you used to prepare the map.

Q:PET:Landowners.2-7: Your Exhibit NN JK-25 includes a map with a label below it that states:

“Exhibit NN-JK-25: An overview of Norwich trails. The yellow circle indicates the location of the Schmidt Bog trails, between Upper Loveland Road and Hawk Pine Road in Norwich, VT.”

With respect to this exhibit:

- a. Admit that it shows a portion of what is shown on the Norwich Trails Committee Website at [Trail Maps – Norwich Trails](#) of Norwich Trail Maps #1 and #2.
- b. Admit that the location of the yellow-circled area marked on your Exhibit NN JK-25 as “Schmidt Bog trails between Upper Loveland Road and Hawk Pine Road in Norwich, VT” is located east of and outside of both Norwich Trail Maps #1 and #2.
- c. Admit that the location of the yellow-circled area marked on your Exhibit NN JK-25 as “Schmidt Bog trails between Upper Loveland Road and Hawk Pine Road in Norwich, VT” is not shown as a “Trail” on Figure 20 of the Norwich Town Plan.

Q:PET:Landowners.2-8: With respect to A6 of your rebuttal testimony and your Exhibit NN JK-24:

- a. Admit that you are not now nor ever have been a member of the Norwich Trails Committee or the Norwich Conservation Commission.
- b. Explain why you omitted the July and August 2023 minutes from Exhibit NN JK-24.
- c. Admit that the August 6, 2023 minutes state with respect to Schmidt Bog:

“The Schmidt Bog boardwalk needs repairs to increase safety. On the afternoon of Thursday August 18, Nick Krembs, Gerry Plummer, and Cody Williams plan to visit the site to assess the situation. A number of questions remain unanswered. For example, are neighbors in favor of the presence of the boardwalk? Although public access across privately owned lands has been generously allowed in the past, it would be desirable to have more formal authorization to assure continued access into the future. Are there regulations about using pressure treated wood in such a location? If wire is to be used to increase traction for walking on the boardwalk, what are the specifications for such wire? For whatever work might be done, the Town Manager is to be kept informed.”

- d. Admit that the Town of Norwich parcel on which the Schmidt Bog trails are located is accessed solely through privately owned lands.
- e. On average, how many times per month over the past 5 years did you hike the Schmidt Bog trail network?

Dated at Burlington this 23rd day of March, 2023.

NORWICH UPPER LOVELAND SOLAR
LLC



By: _____

Kimberly K. Hayden, Esq.
Paul Frank + Collins P.C.
One Church Street
P.O. Box 1307
Burlington, VT 05402-1307

8806640_6:12602-00083