

**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)
and operation of a 500 kW (AC) photovoltaic)
group net-metering system in Norwich, Vermont) 21-3587-NMP

Order entered: / /2023

**PETITIONER’S REQUEST FOR JUDICIAL NOTICE OF
PETITIONER’S 6/29/21 REQUEST FOR PREFERRED SITE DESIGNATION**

NOW COMES Norwich Upper Loveland Solar LLC (the “Petitioner” or “Applicant”) and respectfully requests the Hearing Officer to take judicial notice of Petitioner’s June 29, 2021 Preferred Site Letter request submitted to the Town of Norwich Planning Commission and Selectboard (included herewith as Exhibit NUL Reply Brief-3).

Capitalized terms used herein not otherwise defined have the meaning set forth in Petitioner’s June 5, 2023 Reply Brief.

Legal Memorandum

The last section of Opposing Landowners’ Brief states that the Applicant submitted a Site Plan for the Planning Commission’s July 13, 2021 meeting that is different than the 45-Day Site Plan mailed the next day. This is incorrect. On June 29, 2021, the Applicant emailed its request for preferred site designation to the Town Planning Commission and Selectboard. *See* Exhibit NUL Reply Brief-3. The third page of the Exhibit includes the very same Site Plan image that was included in the 45-Day filing made on July 14, 2021:



Draft Site Plan for proposed solar project:

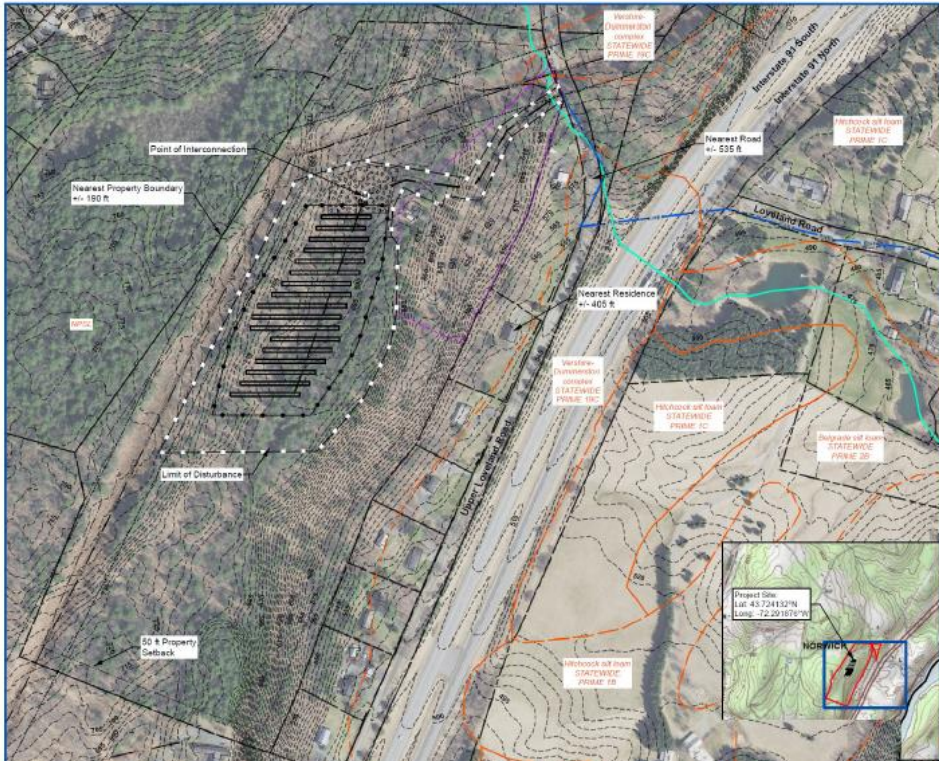
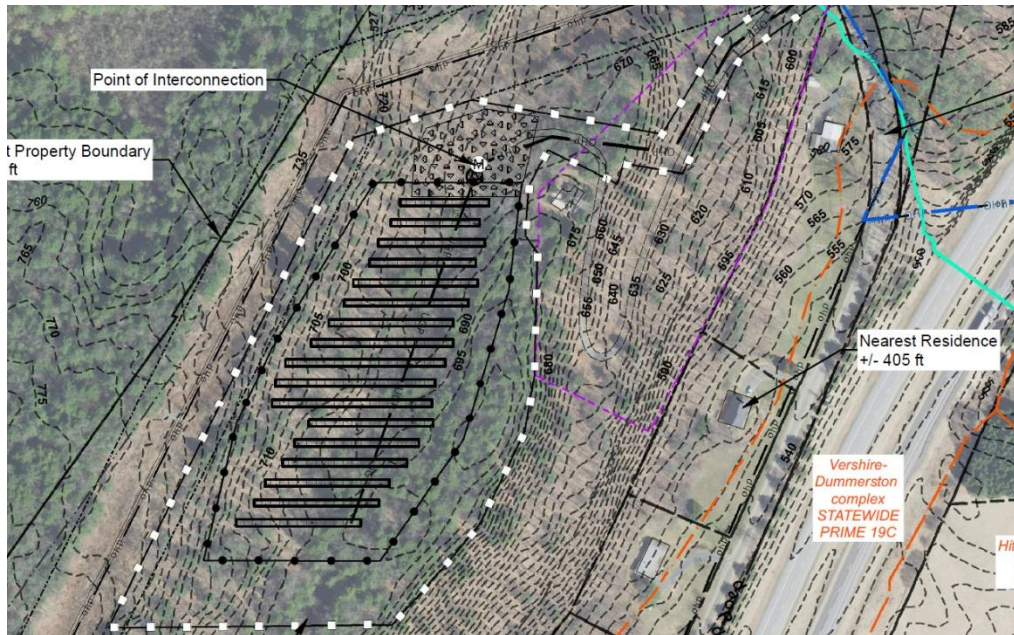


Exhibit NUL Reply-Brief-3 at Page 3.

The Applicant's June 29, 2021 Draft Site Plan is **identical** to the 45-Day package Site Plan, as reflected in Ms. Kenseth's Exh. NN-JK-17:



Exh. NN-JK-17 (45-Day Notice Site Plan).

Petitioner respectfully asks the Hearing Officer to take judicial notice of the June 29, 2021 Preferred Site request, as it is material evidence that is dispositive of the fact that the same Site Plan was provided in advance of and for the July 13, 2021 Planning Commission meeting and for the July 14, 2021 45-Day mailing.¹

There was no misrepresentation of material fact, as claimed in Opposing Landowners Brief at page 55.

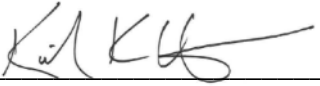
¹ Petitioner asks the Commission to take Judicial Notice of Exhibit NUL Reply Brief-3. “A judicially noticed fact must be one that is not subject to reasonable dispute in that it is . . . (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” V.R.E. 201(b). Petitioner submits that Exhibit NUL Reply Brief-3 is not subject to reasonable dispute in that it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. V.R.E. 201(b). It is a public document held by the Town of Norwich. Section 810(4) of the Vermont Administrative Procedures Act, as incorporated by Commission Rule 2.216(A), provides that “[n]otice may be taken of judicially cognizable facts” by an agency. Furthermore, Vermont Rule of Evidence 201(d), as incorporated by 3 V.S.A. § 810(1) and Commission Rule 2.216(A), directs that an agency “shall take judicial notice if requested by a party and supplied with the necessary information.” Judicial notice may be taken at any stage of a proceeding. V.R.E. 201(f).

Request for Relief

Wherefore, Petitioner respectfully requests that the Hearing Officer take judicial notice of Exhibit NUL Reply Brief-3, deny Opposing Landowners' request for dismissal, adopt Petitioner's Proposed findings and briefs, and promptly issue a certificate of public good for the Project.

DATED at Burlington, Vermont this 29th day of July, 2023.

Norwich Upper Loveland Solar LLC

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