

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 24-2945-PET

Petition of VT Real Estate Holdings 2 LLC for a	)	
certificate of public good, pursuant to 30	)	
V.S.A. § 248, authorizing the installation and	)	
operation of a 20 MW solar electric generation	)	<i>Filed via ePUC</i>
facility in Fair Haven, Vermont	)	

**FIRST ROUND INFORMATION REQUESTS OF THE VERMONT AGENCY OF
NATURAL RESOURCES ON VT REAL ESTATE HOLDINGS 2 LLC**

The Vermont Agency of Natural Resources (“Agency” or “ANR”) by undersigned counsel, hereby serves the following First Set of Information Requests upon VT Real Estate Holdings 2 LLC (“Petitioner” or “Fair Haven Solar” or “FHS”) in accordance with Public Utility Commission (“Commission”) Rules 2.214 and 2.230, and requests that the Petitioner answer the requests in accordance with Commission Rules 2.214 and 2.230, and deliver its answers and all requested documents and materials to the Agency’s offices as soon as possible but in no case later than April 11, 2025. Petitioner is requested to provide its answers in electronic format, that is, Word or another format readable by the Agency.

INSTRUCTIONS AND DEFINITIONS

1. Reproduce the request being responded to before the response. Provide one complete hard copy of your responses and an electronic copy. All spreadsheets and computer data should also be provided electronically.
2. Responses to any and all Agency requests that are contained herein or that may be filed later should be supplied to the Agency as soon as they become available to Petitioner. That is, Petitioner should not hold answers to any requests for which it does have responsive data, documents, etc., until responses to any or all other requests are compiled.
3. 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, please state (1) the name(s) and title(s) of the person or persons responsible for preparing the response; and (2) the administrative unit which maintains the

records being produced or maintains the data from which the answer was prepared; and (3) the date on which each question was answered.

4. 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), please provide all information with respect to the subject matter of the question that can be identified in Petitioner's work papers and files or that is otherwise available.

5. These requests shall be deemed continuing. Petitioner is directed to change, supplement and correct its answers to conform to all information as it becomes available, including the substitution of actual data for estimated data. Responses to requests for information 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 and supplementary data as it becomes available.

6. Wherever responses include estimated information, include an explanation (or reference to a previous explanation) of the methods and calculations used to derive the estimates.

7. Some of the Agency's requests may make particular reference to a portion of a filing in this matter. Notwithstanding this specific direction, these items should be understood to seek discovery of all information available to Petitioner that is responsive to the questions stated.

8. Documents produced pursuant to these requests shall be organized and labeled in correspondence with the paragraph number to which they are alleged to respond. With respect to each document produced by Petitioner, identify the person who prepared the document and the date on which the document was prepared.

9. If any request to admit is responded to by a denial or an objection, explain in detail the reason for such denial or objection.

10. If in response to any request for information, the responding party asserts attorney client privilege, attorney work product, or any other privilege, please provide in addition to the basis of the privilege the date of the allegedly privileged communication(s), the identity of all persons who were party to the allegedly privileged communication(s) or who received photocopies of such communication(s), and the subject matter of the allegedly privileged communication.

11. If any interrogatory or request is objected to in whole or in part, please describe the complete legal and factual basis for the objection and respond to all parts of the interrogatory or request to the extent it is not objected to. If an objection is interposed as to any requested documents, please identify the document by author, title, date and recipient(s), and generally describe the nature and subject matter of the document as well as the complete legal and factual basis for the objection.

12. “Document” shall be construed as broadly as possible, and means any and all means and media by which information can be recorded, transmitted, stored, retrieved or memorialized in any form, and shall also include all drafts, versions or copies which differ in any respect from the original. The term specifically includes and is not limited to written communications such as letters and e-mails.

13. “Identify” means:

a. With respect to a natural person with natural person(s) or legal entities other than a natural person, his or her name and present or last known business address;

b. With respect to a document, the type of document (e.g., letter, record, list, memorandum, report), date, title, contents; the person who prepared the document, and the person for whom the document was prepared, or to whom it was delivered; the persons who have possession, custody or control over the original and each copy of the document; provided however, that in lieu of identifying the document, you may attach a true and correct copy of the document to your answers; and

c. With respect to communication, where the communication occurred, e.g., if not in direct person to person conversation, the place from which each person involved actually participated; and what was said by each person involved during such communication and the order in which it was said. Identify communications in chronological order, when more than one is responsive.

14. “Information Requests” means the Interrogatories and Request for Production served on Petitioner.

15. “Person” means, but is not limited to, natural persons, partnerships, corporations, governmental agencies, boards of directors, and other legal entities.

16. “Person Responsible” means all Persons competent to testify concerning the response and all documents and exhibits produced as part of the response, with either personal knowledge about the Project and/or an expert opinion about the Project

17. “Petition” means all documents, materials, and evidence submitted by Petitioner to the PUC in Case No. 24-3571-PET.

18. “Petitioner” means to VT Real Estate Holdings 2 LLC.

19. “Proceeding” refers to the PUC’s review of the Petition in Case No. 24-2945-PET.

20. “Project” means the proposed 20 MW ground-mounted solar array in Fair Haven, Vermont, including the Project substation, all necessary transmission line upgrades, all related infrastructure, earth disturbance, vegetation clearing, improvements to existing access roads, construction of new access roads, and all site preparation, construction, maintenance and decommissioning activities, as described in the Petition.

21. “Project Site” means the approximately 119-acre portion of the Properties depicted in Petitioner Exhibit FHS-RW-2 within the limits of proposed clearing.

22. “Property” or “Properties” means the approximately 825 acres of privately-owned parcels of land in Fair Haven, Vermont that will host the Project Site.

23. “FHS” means VT Real Estate Holdings 2 LLC.

24. “PUC” means the Vermont Public Utility Commission.

25. “You” or “your” means VT Real Estate Holdings 2 LLC.

INTERROGATORIES

- Q.ANR:FHS.1-1.** Identify the Person Responsible for responding to each Information Request.
- Q.ANR:FHS.1-2.** Identify each Person consulted by the Person Responsible in responding to each Information Request.
- Q.ANR:FHS.1-3.** Identify each Person – including Person’s address – that may provide testimony in this Proceeding in Support of the Petition.
- Q.ANR:FHS.1-4.** Identify all documents Petitioner may rely on and/or offer as an exhibit in the Proceeding in Support of the Petition.
- Q.ANR:FHS.1-5.** Section 2.4.2 of the Project’s Natural Resources Report (Exhibit FHS-AC-2) states that “the Project design has largely avoided streams as well as riparian buffers” and then goes on to identify impacts that will occur within a riparian buffer zone. Appendix 4 (Stream Summary Table) of FHS-AC-2 lists all the delineated streams and identifies associated wetlands. Indicate whether the riparian buffer zones depicted in the Project Site Plans (Witness Wyman) were established by utilizing the upland edges of all wetlands in all instances where the wetland is contiguous to a stream. If not, identify each stream where this wasn’t done and explain why not.
- Q.ANR:FHS.1-6.** Refer to the “Construction and EPSC Notes” contained in Exhibit FHS-RW-5 (the GMP line upgrade) and answer the following.
- a. Note 1 states that the upgrade activities will be conducted “with no...vegetation disturbance beyond normal line maintenance by GMP.” Identify every type of vegetation disturbance that is associated with normal line maintenance.
 - b. Does normal line maintenance, at times, require limbing of trees?
 - c. Note 6 states that no tree cutting will occur within the ROW, “with the exception of brush maintenance.” Describe all activities that fall within the term brush maintenance, including the type(s), and range of heights and widths of vegetation involved.
 - d. Describe the make up of the vegetation within the area identified as “overland travel access” on Sheet 7 of 7.
 - e. Are there any trees that will need to be cut, limbed or trimmed in the overland travel access area on Sheet 7 of 7? If yes, identify the number and diameter at breast height.
 - f. Are there any trees that are 5 inches or greater diameter at breast height in the overland travel access area on Sheet 7 of 7? If yes, identify the number and diameter at breast height.

- g. Has a potential roost tree (PRT) survey been performed within the area identified as “overland travel access” on Sheet 7 of 7. If yes, provide the results. If not, explain why not.

Q.ANR:FHS.1-7. Exhibit AC-2, at page 25 states “the Project’s tree clearing of identified PRTs would be conducted during a time of year when bats are not actively roosting in trees, and would be restricted to the timeframe between November 1 and April 14.” Does this mean that Project’s clearing of trees that are not identified PRTs will not be limited to the referenced timeframe? Explain your basis for proposing the timeframe contained in the quoted language and include references to the material(s) you relied upon to support your proposal to utilize this time frame.

Q.ANR:FHS.1-8. Admit that the Agency’s recommended timeframe for a seasonal tree clearing restriction for avoiding impacts to Indiana bat (*Myotis sodalists*) is to avoid tree cutting of suitable habitat during the period of April 1 through October 31.

Q.ANR:FHS.1-9. Does the Project intend to perform tree clearing for trees that have not been identified as PRTs during the period of April 1 through October 31 when Indiana bats may be active and concentrated on the landscape? If yes, explain what measures you will take to avoid harming a listed bat species by virtue of the destruction or imperilment of habitat (e.g., removing existing trees from around a PRT so that the PRT is now isolated and exposed) such that essential behavioral patterns may be significantly impaired.

Q.ANR:FHS.1-10. Does the Project intend to perform tree clearing for trees that have not been identified as PRTs during the period of April 1 through October 31 when Indiana bats may be active and concentrated on the landscape? If yes, explain what measures you will take to avoid the potential for direct harm to a listed bat species that could result from a felled tree falling on a PRT that is occupied by bats at the time.

Q.ANR:FHS.1-11. The Natural Resources Map included with Exhibit FHS-AC-2 depicts the locations of PRTs. However, the referenced map does not depict the PRT locations relative to proposed Project infrastructure or tree clearing. Identify which, if any, exhibit depicts the PRTs in these contexts. If no such exhibit has been filed produce a map which depicts the PRTs in these contexts.

Q.ANR:FHS.1-12. FHS-AC-2 discusses the bat acoustic survey and provides Data Sheets in Appendix 10. However, the actual acoustic survey results were not included. Please provide these.

Q.ANR:FHS.1-13. Exhibit FHS-AC-3 (Vegetation Management Plan), at page 4 of 11 states: “To avoid impacts to RTE bats during operational phase tree cutting management, the Project will restrict regular management tree cutting activities of potential roosting habitat to occur within the bat hibernation season of November 1

through April 14 *if feasible*” (emphasis added). Identify all circumstances and conditions that would make limiting tree cutting to the hibernation season not feasible for the Project and explain why such a limitation would not be feasible.

Q.ANR:FHS.1-14. Refer to the prior request, and your response, and identify all measures you will take to ensure that RTE bats will not be impacted by operational phase tree cutting that is not limited to the hibernation season.

Q.ANR:FHS.1-15. Refer to the Planting Maintenance and Monitoring section (page 10) of the Vegetation Management Plan (FHS-AC-3) and explain why you are proposing as many as 19 mowing events during the 5-year post-seeding maintenance phase for the pollinator mix.

Q.ANR:FHS.1-16. Admit that the RTE snakes for which the Project will require takings permits may be present in the areas that will be subject to the above referenced mowing regime.

Q.ANR:FHS.1-17. Have you considered alternative seed mixes that would not require as many mowing events during the post-seeding period? If yes, identify what those are and what mowing regime(s) would they require. If not, explain why not.

Q.ANR:FHS.1-18. Will all mowing be restricted to periods when RTE snakes are overwintering below ground (November through March)? If not, identify all measures you will take to ensure that RTE snakes are not at risk of harm from mowing, describe how the measures will avoid harm, and identify all studies, publications, and all other resources that support the conclusion that such measures would be effective in avoiding harm.

Q.ANR:FHS.1-19. Refer to the RTE Animals section (page 24) of the Natural Resources Report (FHS-AC-2), which discusses limiting cutting of PRTs to the winter months but does not provide a similar cutting limitation on all trees other than PRTs and explain whether you have considered the potential for tree cutting outside the winter months to harm RTE snakes.

Q.ANR:FHS.1-20. If you have considered the potential for tree cutting outside the winter months to harm RTE snakes and have concluded there is no potential for harm, identify all studies, publications, and all other resources that support the conclusion that there is no such potential for harm.

Q.ANR:FHS.1-21. If you have not considered the potential for harm, explain why not.

Q.ANR:FHS.1-22. Refer to the Vegetation Management Plan (FHS-AC-3), Introduction section on page 1, and the bulleted outline in that section which identifies wetlands, wetland buffers, riparian buffers, significant natural communities, and RTE bats as being addressed by the document’s tree clearing management plan

and explain why RTE snakes are not included in the list of species and resources that are addressed.

Q.ANR:FHS.1-23. Have you analyzed the potential for the Project's operational phase activities related to tree and vegetation management to impact RTE snakes? If so, explain your analysis and conclusions. If not, explain why not.

Q.ANR:FHS.1-24. Refer to the Proposed Mitigation Measures section (page 2) of the Snake management Practices Memorandum (FHS-AC-4) and describe what the trench escape ramps will look like and what materials they will be constructed from.

Q.ANR:FHS.1-25. Indicate how escape ramps would be placed in each trench and how far apart would they be spaced.

Q.ANR:FHS.1-26. Refer to Adam Crary's September 17, 2024, testimony at page 14, which discusses the Project perimeter fencing and identify the dimensions (e.g. X inches by Y inches) of the larger mesh openings that will be at ground level and indicate how many rows of these larger mesh openings will there be.

Q.ANR:FHS.1-27. Have you considered the potential to modify the locations of the Project's perimeter fencing (depicted in FHS-RW-2) so that it does not present a barrier to larger wildlife movement through the Project site in areas where there are tree rows? Explain.

REQUESTS FOR PRODUCTION

RTP.ANR:FHS.1-1. Produce any and all documents identified, referenced, relied upon, or referred to in responding to these interrogatories and requests to admit.

DATED this 24th day of March 2025 at Waterbury, Vermont.

Respectfully submitted,

VERMONT AGENCY OF NATURAL RESOURCES



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