

**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	)	

**SECOND 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 Second 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 June 13, 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.2-1. Identify the Person Responsible for responding to each Information Request.

Q.ANR:FHS.2-2. Identify each Person consulted by the Person Responsible in responding to each Information Request.

Q.ANR:FHS.2-3. In your response to **Q.ANR:FHS.1-17**, you indicated that you considered a “lower diversity mix of herbaceous species to be applied within the Project site” than the mix you are currently proposing. Indicate how many lower diversity mixes were considered and, for each mix, answer the following.

- a. How many mixes were considered.
- b. Identify the species for each mix.
- c. Identify the number of years (e.g. up to 2 years, 3 years, 4 years, etc.) for the anticipated establishment phase for each mix.
- d. Identify how many mowings would be required for each mix during the applicable establishment phase.

Q.ANR:FHS.2-4. What would the anticipated operational phase mowing requirements be for each of the lower diversity mixes identified in your response to the previous request.

Q.ANR:FHS.2-5. Admit that the establishment phase mowing regime described in your response to **Q.ANR:FHS.1-15** (approximately every four to six weeks) presents a risk of harm to RTE snakes at the Project site.

Q.ANR:FHS.2-6. Did your process that resulted in selecting the pollinator mix as opposed to the lower diversity mix (or mixes) include an evaluation of the benefits associated with establishing and maintaining each mix as compared to the risks (or burdens) presented to RTE snakes? If yes, identify all the benefits and risks that were evaluated and the factors that resulted in your decision to select the pollinator mix over any of the others considered.

Q.ANR:FHS.2-7. On page 10 of **FHS-AC-3**, you indicate “If remedial actions are taken in response to initial seeding, then the Year 1 through Year 5 maintenance measures may need to be repeated. These Post-Establishment measures are intended to commence in Year 5 (or whatever year at which the seeding is considered established/developed on site).” Please elaborate on this by identifying what specific remedial actions might be taken, when they might be taken, and specifically what maintenance measures may need to be repeated.

Q.ANR:FHS.2-8. If the seed mixes are not adequately established after 5 years, will another seeding event take place? If yes, identify any measures that would be required to prepare for the seeding event.

Q.ANR:FHS.2-9. If the seed mixes are not adequately established after 5 years how many additional mowings would potentially be necessary. Include in your response the time of year for the mowings as well as how they will be performed, including what height the mowers will need to be set to.

Q.ANR:FHS.2-10. Admit that the mowing regime associated with the post-seeding maintenance phase of the vegetation management plan (**FHS-AC-3**) may last 10 years or longer and could consist of 38 mowings or more if the initial seeding event is not successful.

Q.ANR:FHS.2-11. Please identify the conditions that you anticipate could prevent the successful establishment of the seed mix.

Q.ANR:FHS.2-12. Explain how and when you will determine if the seed mix is successfully established?

Q.ANR:FHS.2-13. Please identify all types of the equipment that may be used to conduct the mowings.

Q.ANR:FHS.2-14. On page 10 of **FHS-AC-3**, you write “High mow to approximately 6-10 inches height every 4-6 weeks after seed installation until mid-September ...”. Is it your position that high mowings of 6-10 inches above ground do not present a risk of harm to RTE snakes? If so, please explain why and identify all sources your rely upon to support that position.

Q.ANR:FHS.2-15. In your response to **Q:ANR:FHS.1-24**, you indicate “Escape ramps would be a commonplace construction material, for example wooden boards such as a 2x4, a piece of chain link fence, or similar material that provides a suitable surface for snake travel.” Is it your opinion that Timber Rattlesnakes can climb out of trenches on a 2x4? If so, please provide the basis for that conclusion and identify all sources you relied upon to reach that conclusion.

Q.ANR:FHS.2-16. In your response to **Q:ANR:FHS.1-22**, you indicate that your proposed “vegetation maintenance plan would ultimately result in a dramatic reduction in the number of mowing and/or agricultural planting/harvesting cycles than are present under current conditions.” To your knowledge, are the current mowing and/or agricultural planting/harvesting cycles subject to any land use laws, regulations, or permits (i.e., Act 250 permit, Section 248 CPG, local zoning, etc.)? If yes, identify such laws or regulations and provide copies of all applicable permits.

- Q.ANR:FHS.2-17.** Admit that the current mowing and planting/harvesting cycles referenced in your response to **Q:ANR:FHS.1-22** are not subject to the Section 248(b)(5) review standard of no undue adverse impact on the natural environment.
- Q.ANR:FHS.2-18.** Admit that the current mowing and planting/harvesting cycles referenced in your response to **Q:ANR:FHS.1-22** are not subject to the 10 V.S.A. § 6086(a)(8)(A) Endangered Species criterion.
- Q.ANR:FHS.2-19.** Regarding the current mowing and planting/harvesting cycles referenced in your response to **Q:ANR:FHS.1-22**, please identify the timing (time of year) and frequency (number of mowing / planting / harvesting events) which are associated with each of the current uses (i.e., hay fields, row crops, etc.) at the Project site.
- Q.ANR:FHS.2-20.** Admit that, presently, approximately 45% of the Project site consists of hay fields and the remainder (approximately 55%) is in crop rotation.
- Q.ANR:FHS.2-21.** If your response to the prior request is anything other than “admit,” identify the percentages of the Project site that are in hay fields, row crops, and any other crops.
- Q.ANR:FHS.2-22.** Admit that the Town of Fair Haven is located in Indiana bat range according to the Agency’s Fish and Wildlife Department’s federally endangered bat range maps, which are viewable on the ANR Atlas (see: [Vermont ANR - Natural Resources Atlas HTML5 Viewer](#) under the Fish and Wildlife layers).
- Q.ANR:FHS.2-23.** Admit that the Agency’s Fish and Wildlife Department’s June 2009 forest management guidance document for Indiana bat habitat establishes April 1 to October 31 as dates for no tree cutting in Indiana bat range to avoid take of the species (see: [Forest Management Guidelines for Indiana Bat Habitat](#) available on the Agency’s Fish and Wildlife Department’s website).
- Q.ANR:FHS.2-24.** In your response to **Q:ANR:FHS.1-12** you provided a spreadsheet and summarized table related to the bat acoustic survey discussed in FHS-AC-2. Did you prepare a site by night table of acoustic bat survey results, as identified in Appendix C, item 13, of the USFWS Range-wide Indiana and Northern Long-eared Bat Survey Guidelines on page 35 (see: [Microsoft Word - FINAL USFWS Range-wide IBat & NLEB Survey Guidelines 2024.3.21.docx](#))? If yes, provide that document. If not, explain why not.
- Q.ANR:FHS.2-25.** Please explain why the sheet titled “Acoustic_Survey_Results” within the spreadsheet titled “Q.ANR.FHS.1-12_2 - FPS_FairHaven_June2022_USFWS-bat-spreadsheet-Northeastern-US-2020” (produced in response to **Q:ANR:FHS.1-12**) does not break out results by night for sites 3 and 4, but instead lists results only for the night of 6/14/2022 at these two sites.

Q.ANR:FHS.2-26. Indicate how many nights the bat survey detectors were functioning for each of the following during the period of June 14, 2022 through June 20, 2022.

- a. Site 1.
- b. Site 2.
- c. Site 3.
- d. Site 4.

Q.ANR:FHS.2-27. Did you perform any analysis as to why no bat calls were recorded at Sites 1 and 2? If yes, describe your analysis and provide any conclusion that you have reached. If not, explain why not.

Q.ANR:FHS.2-28. Do you have an opinion as to why no bat calls were recorded at Sites 1 and 2 when a few hundred bat calls were recorded at sites 3 and 4 over the same survey period? If yes, provide your opinion and the basis for it. If not, explain why not.

Q.ANR:FHS.2-29. Did the acoustic bat detector at Site 1 record any noise files? If yes, list how many noise files were recorded each night for this detector.

Q.ANR:FHS.2-30. Did the acoustic bat detector at Site 2 record any noise files? If yes, list how many noise files were recorded each night for this detector.

Q.ANR:FHS.2-31. In your response to **Q:ANR:FHS.1-9** you indicate that “non-PRT trees would not be subject to seasonal restrictions so it is possible that such trees would need to be cut during the period between April 1 through October 31” and that if such clearing does occur it would not be “of larger patches or trees or forest area, [but] rather small margins and fringes of tree and forest area edges.” Identify where these “small margins and fringes of tree and forest area edges” are and depict them on your site plans which depict the PRT locations.

Q.ANR:FHS.2-32. Is it your position that the Agency’s guidance concerning seasonal restrictions on tree cutting between April 1 through October 31 only applies to PRTs and not to non-PRTs which are proximate to the PRTs? If yes, explain the basis for your position.

Q.ANR:FHS.2-33. Is it your position that cutting non-PRTs which are proximate to PRTs during the time of year that bats are on the landscape (i.e., April 1 through October 31) does not have the potential to harm or harass an endangered species, such as causing an endangered bat to abandon a roost tree when trees around the roost tree are cleared, or by eliminating elements needed for a bat’s survival (e.g., a bat’s prey

base, foraging habitat, connectivity, or protection from predators)? If yes, explain the basis for this position and identify all sources you rely upon for support.

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 16th day of May 2025 at Waterbury, Vermont.

Respectfully submitted,

VERMONT AGENCY OF NATURAL RESOURCES



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