

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of ER Dunsmore, LLC for a)
Certificate of Public Good pursuant to 30)
V.S.A. § 248, authorizing the installation)
and operation of a 4.95 MW solar electric)
generation facility off Dunsmore Road in)
the Town of St. Albans, Vermont)

Case No. 25-0895-PET

**Stipulation between ER Dunsmore, LLC and
the Vermont Agency of Agriculture, Food and Markets**

Petitioner ER Dunsmore, LLC (“Petitioner”) and the Vermont Agency of Agriculture, Food and Markets (“AAFM”) (collectively “the Stipulating Parties”) stipulate and agree as follows:

WHEREAS, on May 5th, 2025, Petitioner filed with the Public Utility Commission, pursuant to 30 V.S.A. § 248, a Petition for Certificate of Public Good (“CPG”) for the installation and operation of a solar electric generation facility in the Town of Saint Albans, Vermont (“the Project”); and

WHEREAS, the Stipulating Parties have reviewed the Petition, engaged in discovery, and resolved all outstanding issues between them related to the Project;

NOW THEREFORE, in consideration of the above and the undertakings and covenants set forth herein, the Stipulating Parties agree as follows:

1. The Project will be located on a 114-acre parcel of land located off Dunsmore Road in the Town of Saint Albans, Vermont. Prefiled testimony of Taegan Kopfler at 3. The area within the limit of disturbance is 39.8 acres. Exhibit DRS-TK-2 at drawing C2.00.
2. Petitioner proposes to disturb 2.1 acres of primary agricultural soils (PAS) as defined in 10 VSA § 6001(15) to build access roads and associated stormwater improvements, construct pads for transformers, to stockpile PAS, and to clear trees. Together with all other construction activities, the petitioner proposes to potentially impact approximately 37.7 acres of PAS. Exhibit DRS-SW-3 at 3-4.
3. The Stipulating Parties agree that the following conditions shall be included in any CPG issued by the Commission in this matter to address the Project’s impacts on PAS:

- a. As provided in 30 V.S.A. § 248(t), notwithstanding any contrary provision of law, PAS, as defined in 10 V.S.A. § 6001, located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in the use of the site after construction of the facility shall treat the soils as if the facility had never been constructed.
- b. For areas of PAS disturbance on the project site, the CPG holder shall comply with AAFM's *Act 250 Procedure: Reclamation of Vermont Agricultural Soils* ("AAFM Guidelines") (rev. Oct. 30, 2014), https://agriculture.vermont.gov/sites/agriculture/files/documents/land_use/ReclamationGuidelinesforAgriculturalSoils.pdf. The CPG holder shall also comply with the AAFM Guidelines when sequencing returned soils at the conclusion of construction or project decommissioning. The requirements of this paragraph shall not apply to driven piles or posts to support the solar array, fence posts, and any other driven posts necessary to support infrastructure without the use of concrete or masonry.
- c. Stockpiled soil shall be placed so that its base is at least three feet away from any part of the site that has a slope of 15% or greater.
- d. In areas of tree clearing and grubbing, any grubbing will occur simultaneously with tree cutting and other construction activities. The process of grubbing will involve removal of tree stumps and roots to facilitate Project construction, using light equipment such as a skid steer or small excavator. Grubbing in the proposed tree cutting/grubbing area will minimize soil disturbance to include only what is necessary to effectively remove tree stumps and woody debris to construct the Project. Tree stumps that are removed will be shaken clean over the area from which they were removed. Stumps will either be chipped or ground up. Chips and ground wood will be used

to fill any minor depressions in areas from which trees were removed, widely dispersed so as not to form significant piles, and/or transported off the site for proper disposal.

- e. No wood in any form, stones, nor other debris from construction of the Project shall remain piled on PAS on the site after construction is complete.
- f. If installing electric conduit or other features with fill or other imported material of any kind in areas of PAS, the CPG holder shall remove soil in a manner that separates soil horizons, stockpile the layer(s) displaced by the layer of imported for the life of the Project, and replace the remaining soil horizons in their original sequence to fill the trench after installation of the conduit or other features. When decommissioning, the CPG holder shall excavate and replace soil horizons in the same way, this time removing the conduit (or other features) and imported material and replacing it with the stockpiled layer(s) that the imported material previously displaced. If no imported material is used, no stockpiling shall be required for the associated excavation, so long as the CPG holder ensures that any PAS removed during construction and again during decommissioning is replaced in a manner that retains the integrity of the PAS and the proper sequencing of soil horizons consistent with AAFM Guidelines.
- g. Except for grading to create the access road, bridge, transformer pads, and Project stormwater improvements, the Project shall not include any grading of PAS. Any fill or gravel used for roads or staging areas shall be separated from native soils by a suitable barrier such as geotextile fabric.
- h. To reduce impacts to PAS from soil compaction, the CPG holder shall not use any vehicle or equipment with an axle load (the fraction of the gross weight distributed over each axle) of over 12,000 pounds on wet soils. Wet soils exist

when the site has seen a higher-than-average rainfall for a trailing 30-day period, based on National Weather Service or similar state or federal rainfall data. This prohibition shall not apply to the use of any onsite gravel roads that are constructed with geotextile fabric, a minimum of 10" of gravel, and a 1" or thicker cap of crushed aggregate.

- i. Prior to construction and again at the end of decommissioning, the CPG Holder shall test bulk density of the soil on each mapped soil unit containing primary agricultural soils within the Project limits to ensure that the primary agricultural soils on the site are materially the same after the Project as they were before construction. "Materially the same" means an increase in soil bulk density of no more than 10 percent.

(I.) The CPG Holder shall undertake the soil tests and mitigate any material change in soil bulk density as follows:

- A. Before construction, for each area of direct impact such as staging areas, access roads, and any area on the Project site where axle loads (the fraction of the gross weight distributed over each axle) of construction vehicles or equipment will exceed 12,000 pounds per vehicle, the CPG Holder will collect two soil samples at least 100 feet apart and test them using the method "Bulk Density Test" described in the Natural Resources Conservation Service "Soil Quality Test Kit Guide." (Currently available online at [https://efotg.sc.egov.usda.gov/references/public/WI/Soil Quality Test Kit Guide.pdf](https://efotg.sc.egov.usda.gov/references/public/WI/Soil%20Quality%20Test%20Kit%20Guide.pdf).)
- B. In any areas of primary agricultural soils on the Project site where axle loads of construction vehicles or equipment will not exceed 12,000 pounds, the CPG Holder shall collect and test one sample for

each mapped soil unit before construction and shall otherwise follow the same testing protocols.

(II.) At the end of the decommissioning process, the CPG Holder shall repeat the testing at the same locations tested before construction. If the post-decommissioning soil bulk density for any sample shows an increase in soil bulk density from preconstruction soil bulk density that is greater than 10 percent, then the CPG Holder shall conduct agricultural subsoiling and/or other strategies to decompact soil until soil bulk density is materially the same as it was prior to Project construction.

(III.) The CPG Holder shall serve test results upon AAFM within 60 days of the test either by filing the results on ePUC or:

- A. By email to counsel of record in this matter, as listed in PUC records at the time of service; and
- B. By email to AGR.Notice@vermont.gov, as may be updated in PUC records at the time of service.

- 4. Subject to compliance with the above conditions, the Project, as described in the plans and specifications submitted with the Petition shall not have an undue adverse effect on PAS under 30 V.S.A. § 248(b)(5).
- 5. To the extent any testimony or evidence submitted in this proceeding differs from the provisions of this Stipulation, the provisions of the Stipulation control.
- 6. This Stipulation may be modified only upon mutual written agreement by the Stipulating Parties and is subject to any necessary Commission approvals.
- 7. This Stipulation shall not be construed by any party or tribunal as having precedential impact in any future proceeding involving the Stipulating Parties, except as necessary to implement this Stipulation or to enforce an order of the Commission resulting from this Stipulation.
- 8. Should the Commission fail to approve this Stipulation in all

material respects, this agreement shall terminate and the Stipulating Parties shall have the right to submit filings in this matter. The Stipulating Parties' agreements herein shall not be construed by any party or tribunal as having precedential impact on any testimony or positions that may be advanced in these proceedings.

9. Any disputes arising under this Stipulation shall be resolved by the Commission under Vermont law.
10. The Stipulating Parties hereby waive their rights under 3 V.S.A. § 811 to review and comment on any portions of a Proposal for Decision concerning PAS and to present oral argument thereon, provided that the Proposal for Decision is consistent in all material respects with the Stipulation.

Dated at Montpelier, Vermont this 26th day of September 2025.

STATE OF VERMONT
AGENCY OF AGRICULTURE, FOOD
AND MARKETS

By: PATRY.WILLYJANE.1007534279 Digitally signed by PATRY.WILLYJANE.1007534279
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Dated at Burlington, Vermont this 26th day of September 2025.

ER Dunsmore, LLC

By: 
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