

# DESMEULES, OLMSTEAD & OSTLER

GENERAL PRACTICE OF LAW IN  
VERMONT AND NEW HAMPSHIRE

2 BEAVER MEADOW ROAD  
POST OFFICE BOX 1090  
NORWICH, VERMONT 05055  
(802) 649-2001

PETER J. DESMEULES\*  
GEORGE H. OSTLER  
CHRISTOPHER A. DALL  
CABOT R. TEACHOUT  
ANDREW D. CLIBURN\*

\* ADMITTED IN VERMONT ONLY

TELECOPIER: (802) 649-2232

## Via e-File in ePUC

March 16, 2026

Vermont Public Utility Commission  
112 State Street  
Montpelier, VT 05620

A.J. Larosa, Esq.  
MSK Attorneys  
275 College Street  
Burlington, VT 05401  
Phone: (802) 861-7000  
ajlarosa@mskvt.com

Cindy Ellen Hill, Esq.  
Hill Attorney PLLC  
144 Mead Lane  
Middlebury VT 05753  
lawyerhill@yahoo.com  
802-989-6906

Michael Swain, Esq.  
Department of Public Service  
112 State Street  
Montpelier, VT 05620  
802-461-9755  
Michael.swain@vermont.gov

## RE: Notice of Cease and Desist Against Petitioner; PUC Case No. 25-2931-PET

Dear Commission and Parties of Record:

Please take notice that, pursuant the attached cease-and-desist letter, Petitioner in the above-captioned matter has indicated its intent to access the project by crossing Alvina Risinger-Harvey's real property without lawful right to do so. If it does not withdraw its petition, Mr. Risinger-Harvey will be filing suit in Vermont Superior Court seeking the same.

Thank you very much,

/s/ Andrew Cliburn

Andrew Cliburn

DesMeules Olmstead & Ostler

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**VIA FIRST CLASS, CERTIFIED MAIL RETURN RECEIPT REQUESTED, & EMAIL**

March 16, 2026

Attn: A.J. Larosa  
MSK Attorneys  
275 College Street  
Burlington, VT 05401  
Phone: (802) 861-7000  
[ajlarosa@mskvt.com](mailto:ajlarosa@mskvt.com)

Counsel for:

Vertex Towers, LLC and  
Bell Atlantic Mobile Systems, LLC, d/b/a Verizon Wireless

**RE: CEASE AND DESIST; 25-2931-PET - Petition of Bell Atlantic Mobile Systems, LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 248a, authorizing the installation of wireless telecommunications equipment at 1030 Route 100 South in Rochester, Vermont**

Dear Attorney Larosa,

I write on behalf of my client, Alvina Risinger-Harvey. Ms. Risinger-Harvey owns real property located at 118 River Bend Road, Rochester, Vermont 05767. Ms. Risinger-Harvey's property abuts the real property owned by Julia and Charles Martin, on whose property your clients propose to develop a telecommunications tower pursuant to the above-referenced petition before the Vermont Public Utility Commission (PUC). Ms. Risinger-Harvey and the Martins share a driveway to access their dwellings. Based on our research, your clients have no legal right to use the shared driveway to access the proposed site on the Martins' land.

Richard Harvey and Mary Harvey originally owned all the real property in question here as three separate parcels, called Lot A, Lot B, and Lot C in the attached.

The Harveys conveyed Lot A to the Martins via a quitclaim deed that was recorded in the Rochester Land Records in Book 51, Pages 174-76, in 1988. The property recital in this deed contains the following: “Included in this conveyance is a right of way from Route 100 to Grantee’s dwelling over lands retained by Grantors to be used in common by Grantees, their heirs and assigns and Grantors, their heirs and assigns.”

Mary Harvey passed away thereafter leaving Richard Harvey as the surviving tenant of Lots A and C.

Richard Harvey married Ms. Risinger-Harvey and they owned Lot B together. Ms. Risinger-Harvey survived Richard Harvey and now owns Lot B. Lot B is Ms. Risinger-Harvey’s homestead.

The Martins took title to Lot C in 2019 via quitclaim deed recorded in the Rochester Land Records in Book 103, Pages 397-398. There is no right of way to Lot C described in this deed. The tower is proposed to be developed on Lot C.

A Memorandum of Lease between your clients and the Martins was recorded in the Rochester Land Records in Book 109, Pages 38-39. The Memorandum references Parcel ID: 525-165-11355, and the quitclaim deed described above in Book 51, Pages 174-76, as the subject premises of the lease. However, the lands and premises recited in Book 51, Pages 174-76 describe Lot A, not Lot C. The lands and premises comprising Lot C are in a different chain of title, namely Book 103, Pages 397-398.

There is no right to access Lot C over the right of way described in Book 51, Pages 174-76. Furthermore, the use of the right to way to Lot A is to the “dwelling” located on, and within the boundaries of, Lot A, not to any other lands, structures, or for any other purposes.

As I am sure you are aware, recently, the Vermont Supreme Court, under strangely similar circumstances, vigorously affirmed that the plain language of easements control over any other possible interpretation, and that the Vermont Constitution and the state’s legal tradition of strong, individual property rights are to be accorded solicitous respect in engaging questions of the use of easements. Gladchun v. Eramo, 2023 VT 5, ¶ 21. In Gladchun, the developer wanted to install underground utilities in a right of way that referenced only ingress and egress, and argued that it had an implied right to do so under principles of deed construction drawn from other states and from the Restatement. Property owners closer to the road than the proposed development—the Gladchuns—objected that the plain language of the easement controlled, which said nothing of underground utilities. The Court unanimously reversed the trial court and stated in clear, unequivocal terms that, in Vermont, private property rights are to be accorded vigorous protection and that the Court’s long history of interpreting deeds and easements by their plain terms was a consequence of this history of strong private property interests.

However, Ms. Risinger-Harvey’s claim against your clients is much stronger than the question presented in Gladchun—whether underground utilities were implied in an ingress-egress grant—insofar as there is no deed access to Lot C using the shared drive, and furthermore that the plain language of the right of way limits the use to the “dwelling” only of Lot A. Purporting to develop Lot C using the right of way not only violates the plain terms of the grant, it would obviously overburden the easement.

It is clear that the petition your client has submitted with the PUC depends on access over the shared right of way. The entire project appears to turn on this access. Indeed, during your clients’ scoping activities, my client

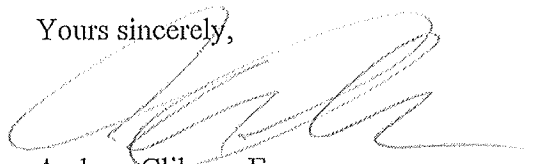
confronted your clients' agents who used the drive with impunity, including parking vehicles on my client's property over her protestations. Their response was rude, recalcitrant, and dismissive.

My client intends to vigorously protect her private property rights, including those specifically and forcefully lauded in Gladchun. Accordingly, she is serving herewith a Notice Against Trespass on your clients pursuant to 13 V.S.A. § 3705, which has been delivered to the Windsor County Sheriff and the Vermont State Patrol, and is prepared to install a gate to prohibit your clients' from accessing Lot C over her land.

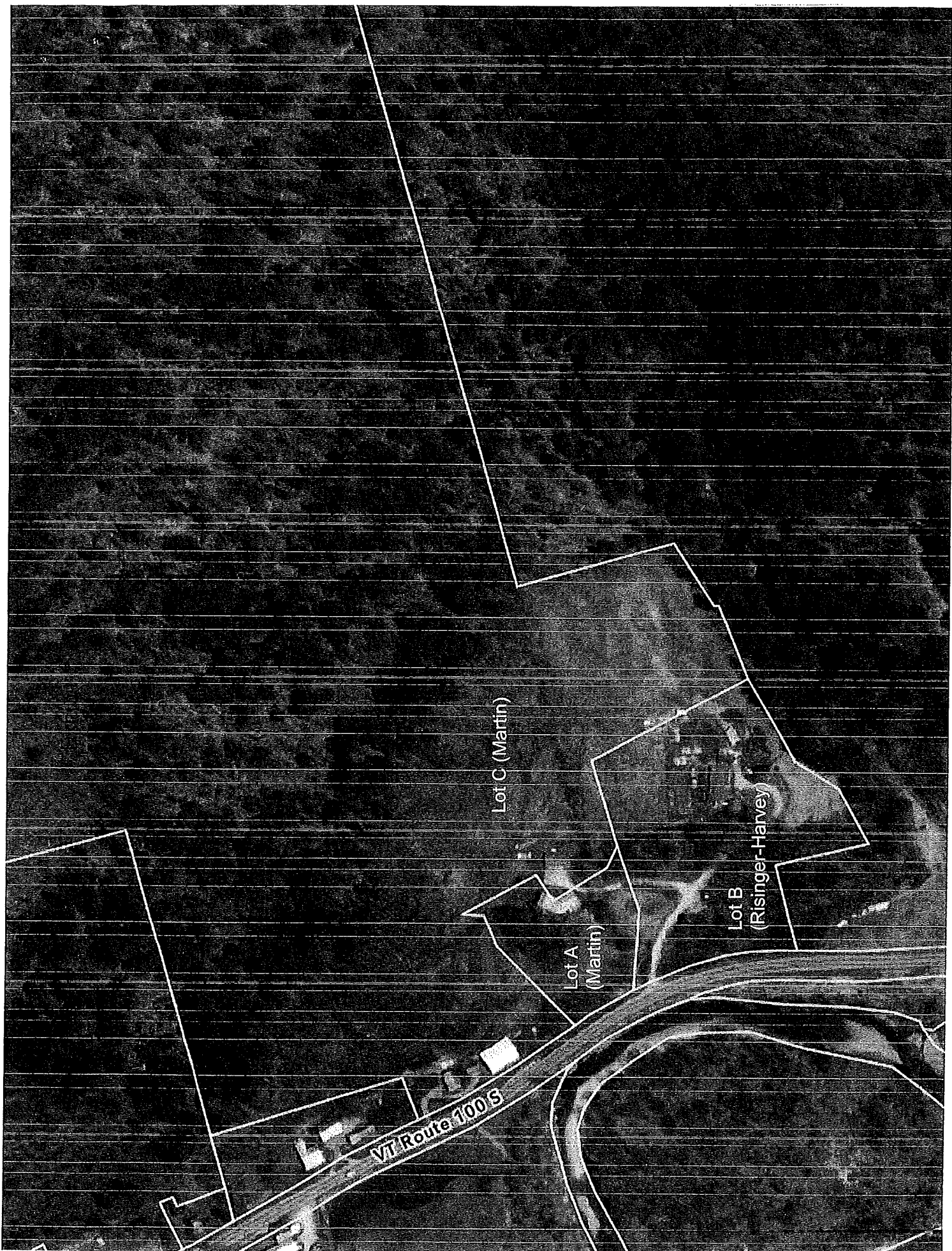
She demands that you cease and desist from your activities before the PUC under this petition, and will seek a preliminary injunction in the Vermont Superior Court, Civil Division, Windsor Unit if you do not withdraw the petition by 4:30 p.m. on March 27, 2026.

Copies of this letter have been filed simultaneously herewith in ePUC, and delivered to counsel for the Department of Public Service and the Town of Rochester.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Cliburn', written over a horizontal line.

Andrew Cliburn, Esq.  
DesMeules Olmstead & Ostler



Lot C (Martin)

Lot A  
(Martin)

Lot B  
(Risinger-Harvey)

VT Route 100 S