

Public Comment on PUC Case No. 21-2939-NMP
May 26, 2026

On April 28 and April 29 of 2026 Michael Binder filed CPG Violation Complaints with DPS because the developer was violating several AAFM conditions of the CPG.

On May 21, 2026 the developer filed a CPG Holder's Self-Report Of CPG Non-Compliance. The remedies that the developer proposed are unsatisfactory.

Since Surrebuttal testimony in September 2022 the Neighbor Intervenors have pointed out in testimony, exhibits, motions, briefs, and comments that the project, if built according to the Site Plan, would violate CPG conditions related to Prime Agricultural Soils (PAS). Intervenors' last word on these matters was in their Motion for Reconsideration (9/9/2024) which has a whole section on AAFM conditions.

Having been alerted repeatedly to their inevitable violation of CPG conditions, the developer's apology contained in the CPG Holder's Self-Report Of CPG Non-Compliance rings hollow, and is not offered in good faith. It appears that the developer's only regret is that they were caught.



This picture is taken from the town road and shows the staging area after excavation (about 4 ft deep) of prime agricultural soil. The disposition of the excavated soil is unknown but appears to have been taken off-site.

In their Motion for Reconsideration the Neighbor Intervenors pointed out that it was not plausible that the developer could develop the staging area without grading PAS. It is an outrage that the developer not only graded the PAS in violation of the CPG conditions, but also excavated it without following conditions that allow for the soil be restored in sequence at decommissioning. Those conditions require a separate PAS stockpile for each horizon of PAS soil that is stockpiled. Neighbor Intervenors pointed out repeatedly that proper sequencing would require at least two PAS stockpiles, and that the Site Plan did not comply with CPG conditions.

The developer wrote in its Self-Report Of CPG Non-Compliance:

If deemed necessary by the PUC, the CPG Holder will file a Notice of Non-Substantial Change in accordance with Commission Rule 5.109(B)(2)

It is to be noted that this project has not been commissioned and is regulated under the 2017 Rule 5.100. There is no “Rule 5.109(B)(2)” in the 2017 Rule 5.100. Amendments to this project fall under the 2017 Rules and must be treated as either Minor or Major amendments.

Further Public Comments, to be submitted later this week, will explain why the remedies suggested by the developer are unsatisfactory. In the meantime the PUC should immediately halt construction at the site until the issues are sorted out and the project amended to meet CPG conditions.

The two DPS Complaint Forms are included on the following 3 pages:

CPG VIOLATION COMPLAINT FORM

(Please complete and save this form to your computer, then upload it with your completed [Consumer Complaint](#).)

Are you a: Complainant State agency Other

Intake for Complainant:

Today's Date: 4/28/26

Complainant's Last Name: Binder **First Name:** Michael

Address (physical): 1953 Davis Rd., Randolph Center, Vermont 05061

Address (mailing): Same

E-mail: michaeljbinder@yahoo.com

Contact phone: 802 728-4830

How to you prefer to be contacted by CAPI: Phone E-mail In Writing

Type of project: Solar Array Wind Farm Cell tower Other; Please describe below:

Describe other type of project here.

Name of project and CPG number:

Randolph Davis Solar PUC Case 21-2939

Location of project:

0 Davis Rd, Randolph Center, Vermont

Proximity of the project to your home (approximate)

1000 ft

Details of complaint, please be as specific as possible, include dates of incidents, frequency of problems, dates that you contacted the CPG holder or a representative and what if any action the CPG holder took to resolve your issue.

The green slope layer on the applicant's Site Plan shows the south west corner of the Primary Agricultural Soil [PAS] stockpile is on greater than 25% slope. [see exhibit NI MB-41 or the final site plan] The entire western half of the PAS stockpile is on greater than 15% slope. [see exhibit NI MB-41]

From the first PFD 6/5/23 page 26:

Additionally, the Landowners have raised issues about a condition of approval proposed by AAFM, which would require that primary agricultural soils will not be stockpiled on slopes greater than 15%. Based on the evidence showing steep slopes in the areas where agricultural soils are planned to be stockpiled, it is not clear whether this condition is feasible. Considering these evidentiary gaps and because I believe the issue of the preferred-site letter discussed in this proposal for decision is dispositive, I have not made recommendations addressing the Section 248 criteria.

From the PUC Final Order page 9:

Should the Applicant need to relocate the soils stockpile on the Facility site to comply with AAFM's conditions, the Commission's rules permit applicants to make non-substantial modifications to their plans after approval.

The Applicant has begun excavation of PAS and has not filed a Motion to Amend the CPG. Building the project as shown on the site plan is a violation of the conditions in the CPG. Building the project differently than shown in the site plan is a violation of the CPG.

Are you currently waiting for follow-up from the CPG holder on this issue? Yes No

What resolution are you seeking?

Immediately halt construction until the project has been amended to meet all AAFM conditions in the CPG.

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A condition of the CPG is that no grading of Prime Agricultural Soils (PAS) is permitted except under the road.

The applicant has graded PAS in the staging area which is not permitted under the terms of the CPG. Furthermore, the excavated PAS has been trucked offsite. Another condition of the CPG is that stockpiled PAS be separated by soil horizon so that at decommissioning the soil horizons may be restored in sequence. It appears that the PAS is not being stockpiled onsite (if it is being stockpiled at all), and the applicant has never indicated in its filings to the PUC that PAS might be stockpiled offsite.

Are you currently waiting for follow-up from the CPG holder on this issue? Yes No

What resolution are you seeking?

Immediately halt construction until the project has been amended to meet all AAFM conditions in the CPG. Applicant must reveal where the PAS is now and whether its soil horizons have been segregated. Applicant must restore the PAS in the staging area to its pre-construction grade.

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