

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Randolph Davis Road Solar LLC for a Certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the Installation and operation of a 500kW group Net-metered solar electric generation system in Randolph, Vermont

Case No. 21-2939-NMP

**NEIGHBOR INTERVENORS' REQUEST FOR THE COMMISSION
TO TAKE JUDICIAL NOTICE OF A VIRGINIA DEQ MEMO**

September 9, 2024

Now come Neighbor Intervenors Joan Allen and Michael Binder, *pro se*, and respectfully request the Commission take Judicial Notice of exhibit NI Judicial Notice-2 which is a Memo from the Virginia Department of Environmental Quality. The provenance of the exhibit:

<https://www.deq.virginia.gov/home/showpublisheddocument/13985/637842474433400000>

On March 29, 2022 the Virginia Department of Environmental Quality issued Emergency regulations in a Memo requiring solar panels be immediately considered impervious. Less than 6 months later Mr. Binder wrote on Page 5 of his Surrebuttal testimony:

- Q11. What happens when a jurisdiction treats all elevated panels as pervious?
A11. When the precedent of treating the panels as pervious is abused by developers, environmental catastrophes occur and jurisdictions tighten up their regulations. The most recent example of this sequence of events that I am aware of is in Virginia.

Mr. Binder also referred to and described the Virginia memo in Oral Arguments.¹ An exhibit (a news article) that Mr. Binder submitted with his surrebuttal testimony reported on the DEQ memo and the events in Virginia, but the exhibit was stricken as hearsay. The Intervenors

¹ Oral Argument Tr. page 19

now respectfully request the Commission take Judicial Notice of the actual Virginia DEQ memo in order to fill a gap in the evidentiary record of this case.

Conclusion

Solar arrays may be sited on slopes and/or erodible soils, but the proper design, engineering, and permanent management of their concentrated runoff requires accurate calculation of impervious surface. Pretending that solar panels are not impervious does not lead to accurate calculations of impervious surface.

Environmental catastrophes have occurred when concentrated runoff from solar panels on steep slopes and/or highly erodible soils is not accounted for and managed. The Commission has authority and responsibility to protect Vermont's natural environment from the undue adverse effects of this project's unaccounted for and **unmanaged concentrated runoff** on steep slopes.

Dated at Randolph, Vermont this
9th day of September, 2024

/s/ Joan Allen

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Dated at Randolph, Vermont this
9th day of September, 2024

/s/ Michael Binder

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