

May 8, 2017

By E-Mail and First Class Mail

Stephanie Hoffman, Esq.
Vermont Public Service Department
112 State Street, 3rd Floor
Montpelier, VT 05620-2601

Re: **CPG #16-0042-NMP -- Application of Orchard Road Solar I, LLC
Round 1 Discovery Responses**

Dear Stephanie:

Orchard Road Solar I LLC ("ORS") hereby submits its Responses to your First Round of Discovery Requests. Also included are ORS's discovery responses and documents with respect to the Discovery Requests of Richard Spitalny, Robert & Karen Galloway, Daniel McKeen & Ellen Secord, and Neil & Thomas Russell.

Please contact me if you have any questions.

Sincerely,



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.

Enclosures

Cc: Service List

May 8, 2017

By E-Mail and First Class Mail

Brooke Dingleline, Esq.
Valsangiacomo, Detora & McQuesten, P.C.
172 North Main Street
Barre, VT 05641

Re: **CPG #16-0042-NMP -- Application of Orchard Road Solar I, LLC
Round 1 Discovery Responses**

Dear Brooke:

Orchard Road Solar I LLC ("ORS") hereby submits its Responses to your First Round of Discovery Requests. Also included are ORS's discovery responses and documents with respect to the Discovery Requests of the Department of Public Service.

Please contact me if you have any questions.

Sincerely,



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.

Enclosures

Cc: Service List

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a)
certificate of public good, pursuant to 30 V.S.A.)
§§ 219a and 248, to install and operate a 500 kW) CPG #16-0042-NMP
group net metered solar electric generation facility)
located on Orchard Road in Middletown Springs,)
Vermont, to be known as the “Orchard Road)
Solar Project”)

**Orchard Road Solar I, LLC’s Responses to the
First Set of Discovery Requests Served by the Department of Public Service**

Orchard Road Solar I, LLC (“ORS” or “Applicant”), by and through the undersigned counsel, hereby responds to the first set of discovery requests served by the Department of Public Service on April 28, 2017.

General Objections

The following General Objections of Applicant ORS are incorporated by reference into its responses to each Interrogatory, Request to Produce, and Request for Admissions reproduced below, whether or not an objection is stated in any particular response. Any response to one of the Interrogatories, Requests to Produce, or Requests for Admission given below is given without waiver of any objection, whether or not an objection is stated.

1. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is overbroad, irrelevant, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.
2. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure of information or production of material privileged under the attorney-client, work-product, or any other applicable privilege.
3. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is unreasonably cumulative or duplicative, or calls for the disclosure of information or production of material that is obtainable from some other source that is more convenient, less burdensome, or less expensive, including, but not limited to, information or material that is publicly available or that has already been disclosed or produced to you in connection with another proceeding.
4. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure or production of confidential or proprietary information, trade secrets, or material.

5. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is vague, unintelligible, requires speculation as to the information being sought, or is otherwise incapable of a reasonable answer.
6. Applicant objects to each Instruction and Definition listed in the requesting party's discovery requests to the extent that it exceeds the bounds of permissible discovery or is unduly burdensome.
7. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of Applicant's testimony and exhibits.
8. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request would require Applicant to conduct extensive document review, additional studies, analyses, and/or tests as part of its response.
9. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the requesting party's intervention.
10. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the issues on review.
11. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that it calls for a legal conclusion.

INTERROGATORIES AND REQUESTS TO PRODUCE

1. **Q.DPS:ORS.1-1:** Does the solar racking system described in Exhibit ORS-MK-2 as “nine feet from the ground at the top” take into account the slope of the site under the high side of the panels?

Response: The estimated distance of nine feet from the ground to the top of the panel is measured from the point of elevation (existing grade) at which the racking posts are installed to the top of the panel. Given the variations in topography, the exact distance from the top of the panel at a line drawn perpendicular to the ground may vary slightly, but will be approximately nine feet.

Person Responsible for Response: Lincoln Lande, groSolar

2. **Q.DPS:ORS.1-2:** Please explain why the Aesthetics Assessment Report, Exhibit ORS-MK-2, at page 7, describes the Project site as “not visible” from the intersection of Route 140 and Orchard Road.

Response: As discussed in response to Question 3 below, Photopoint D in Exhibit ORS-MK-2 shows the vantage point from the intersection of Route 140 and Orchard Road. As shown on ORS-MK-2, Figure 9 and ORS-MK-2, Figure 4, a narrow view of the project is possible from the location of Photopoint D, albeit somewhat filtered by existing vegetation along the south side of Westcott Road.

Person Responsible for Response: Mark Kane, SE Group

3. **Q.DPS:ORS.1-3:** Please explain why the Aesthetics Assessment Report, Exhibit ORS-MK-2, at page 7, describes the Project site as “not visible behind hillside” given Exhibit ORS-MK-2, Figure 4 – Photo D, where the Project is visible, and there is no intervening hillside apparent in the site section presented in Exhibit ORS-MK-2, Figure 9.

Response: See Response number 2 above. Photopoint D shows the hillside north of the Project location. This statement, along with the reference to the hillside on ORS-MK-2, Figure 4, Photopoint D, was a misstatement. From this particular location, there is no topographic obstruction, and limited views of the project are possible, as indicated in the cross section provided with the report (Figure 9). As stated in my response to Q2, there is existing vegetation along the south side of Westcott Road which will limit direct visibility of the project.

Person Responsible for Response: Mark Kane, SE Group

- 4. Q.DPS:ORS.1-4: Please describe any contact you have had with homeowners in Middletown Springs who have voiced concerns about the aesthetic impacts of the proposed project. If so, please identify the homeowner(s), the nature of the concern, and any response Petitioner has made regarding these concerns, including changes to the landscape mitigation plan. Please produce any and all notes and/or correspondence documenting interactions with Middletown Springs landowners. If Petitioner has not made changes in response to landowner feedback, please explain why not.**

Objection: Applicant reasserts General Objections 1, 4, and 10 to the extent that contractual agreements and correspondence between Applicant and landowner are confidential and/or are not relevant to, or likely to lead to information relevant to, issues of visual aesthetics, historic resources, and orderly development that are set for hearing. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Throughout this proceeding and during preliminary discussions following issuance of the 45-day notice, Applicant has spoken with Mr. Spitalny, the Fitzpatricks, and other members of the community during a public meeting to discuss the Project, as further described in the Application. Correspondence with homeowners in Middletown Springs is attached (see list of documents produced, including documents produced in response to Neighbor's Questions 93 and 94) as well as in the Neighbors' and Mr. Spitalny's filings with the Public Service Board. The nature of their concern focused primarily on the viewshed from Mr. Spitalny's property as well as the Fitzpatricks' property. Promptly following notification and outreach from the Neighbors identifying concerns with aesthetics of the Project, groSolar engaged with SE Group to assess any visual impacts that the Project may have on the surrounding area. This included SE Group's visit to the site and assessment of the Project in relation to surrounding viewshed, some of which included locations specified by Mr. Spitalny and other Neighbors. groSolar further requested that SE Group identify, evaluate, and include mitigation efforts for viewshed impacts they assessed within the landscape mitigation plan.

Person Responsible for Response: Lincoln Lande, groSolar

- 5. Q.DPS:ORS.1-5: Please explain why additional screening plants have not been proposed with a smaller spacing along the north, east, and west sides of the proposed array.**

Response: The current feedback received by Applicant is that the Neighbors would prefer the Project be located farther to the east. No specific feedback has been received regarding additional planting requests. However, Applicant is more than willing to work with the Neighbors to provide additional requested screening as may be appropriate.

Person Responsible for Response: Lincoln Lande, groSolar

6. **Q.DPS:ORS.1-6:** Please describe the method for “field locating” the white pines on the east side of the array (Exhibit ORS-MK-2, Figure 10) to ensure that future visibility will be screened “in consideration of the views towards the Project” from Route 140 (Exhibit ORS-MK-2, at page 15).

Response: During or following construction, during implementation of the landscaping mitigation plan, the contractor will be directed by the Applicant or its aesthetic consultant, in the field placement of all plant material. As part of this review, views from the site will be examined to ensure that the field location of the plantings will address existing conditions and maximize effectiveness as a visual screen.

Person Responsible for Response: Mark Kane, SE Group

7. **Q.DPS:ORS.1-7:** How many years will the white pines intended to screen from Route 140 need before screening the “upper portions of the project site” 140 (Exhibit ORS-MK-2, at page 15)?

Response: The trees will provide immediate screening from some vantage points, and this screening will increase as they mature. Rate of growth for the white pine is up to one foot per year. As stated in the report, the trees will need to grow to approximately 30 feet to screen the upper portion of the site, or approximately 20 years (trees will be installed at approximately 10 feet height).

Person Responsible for Response: Mark Kane, SE Group

8. **Q.DPS:ORS.1-8:** Please identify, relative to the Site Plan included in Exhibit ORS-RV-2, the area(s) over which Petitioner has, or will have, site control including through purchase, lease, easement, and/or other agreement.

Response: Applicant’s site control will include the fenced-in area of the array, as well as areas where the approved mitigation landscaping will be installed. At present, Applicant has an option to lease the site and will enter a Lease Agreement including these areas once a Certificate of Public Good (“CPG”) is issued for the Project.

Person Responsible for Response: Lincoln Lande, groSolar

9. **Q.DPS:ORS.1-9:** Please provide a detailed long-term maintenance plan for the Project’s plantings.

Response: Petitioner is committed to the long-term health of any plantings installed pursuant to a CPG. To that end, Petitioner will conduct annual inspection of the Project landscaping to ensure that plants are in good health. If any plants are dead or dying and in need of

replacement, Applicant will ensure that the plants are replaced in the next planting season. Applicant is willing to agree to a CPG condition that includes these maintenance measures.

Person Responsible for Response: Lincoln Lande, groSolar

Dated at Burlington, Vermont this 8th day of May, 2017.

As to Objections:



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
Burlington, VT 05402
(802) 860 – 1003
ghand@dunkielsaunders.com
vwestgate@dunkielsaunders.com
Attorneys for Orchard Road Solar I, LLC

Dated at White River Jct., VT this 5 day of May, 2017.
(city) (state)

Respondent Signature

By: 
Lincoln Lande

STATE OF Vermont
COUNTY OF Windsor

On this 5 day of May, 2017, before me personally appeared Lincoln Lande, to me known to be the person who executed the forgoing instrument, and he thereupon duly acknowledged to me that he executed the same to be his free act and deed.

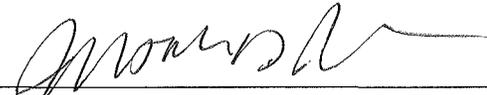
Subscribed and sworn to before me this 5 day of May, 2017.


Notary Public

My Commission Expires: 2/10/2019

Dated at Burlington, Vermont this 5th day of May, 2017.
(city) (state)

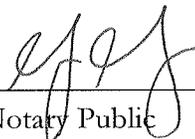
Respondent Signature

By: 
Mark Kane

STATE OF Vermont
COUNTY OF Chittenden

On this 5 day of May, 2017, before me personally appeared Mark Kane, to me known to be the person who executed the forgoing instrument, and he thereupon duly acknowledged to me that he executed the same to be his free act and deed.

Subscribed and sworn to before me this 5 day of May, 2017.


Notary Public

My Commission Expires: 2-10-19

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a)
certificate of public good, pursuant to 30 V.S.A.)
§§ 219a and 248, to install and operate a 500 kW) CPG #16-0042-NMP
group net metered solar electric generation facility)
located on Orchard Road in Middletown Springs,)
Vermont, to be known as the “Orchard Road)
Solar Project”)

Orchard Road Solar I, LLC’s Responses to the First Set of Discovery Requests Served by Richard Spitalny, Robert & Karen Galloway, Daniel McKeen & Ellen Secord, and Neil & Thomas Russell

Orchard Road Solar I, LLC (“ORS” or “Applicant”), by and through the undersigned counsel, hereby responds to the first set of discovery requests served by Neighbors Richard Spitalny, Robert & Karen Galloway, Daniel McKeen & Ellen Secord, and Neil & Thomas Russell (“Neighbors”) on April 28, 2017.

General Objections

The following General Objections of Applicant Orchard Road Solar I, LLC are incorporated by reference into its responses to each Interrogatory, Request to Produce, and Request for Admissions reproduced below, whether or not an objection is stated in any particular response. Any response to one of the Interrogatories, Requests to Produce, or Requests for Admission given below is given without waiver of any objection, whether or not an objection is stated.

1. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is overbroad, irrelevant, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.
2. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure of information or production of material privileged under the attorney-client, work-product, or any other applicable privilege.
3. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is unreasonably cumulative or duplicative, or calls for the disclosure of information or production of material that is obtainable from some other source that is more convenient, less burdensome, or less expensive, including, but not limited to, information or material that is publicly available or that has already been disclosed or produced to you in connection with another proceeding.

4. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it calls for the disclosure or production of confidential or proprietary information, trade secrets, or material.
5. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission reproduced below to the extent that it is vague, unintelligible, requires speculation, or is otherwise incapable of a reasonable answer.
6. Applicant objects to each Instruction and Definition listed in the requesting party's discovery requests and to each Interrogatory, Request to Produce, and Request for Admission to the extent that it exceeds the bounds of permissible discovery or is unduly burdensome.
7. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of Applicant's testimony and exhibits.
8. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request would require Applicant to conduct extensive document review, additional studies, analyses, and/or tests as part of its response.
9. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the requesting party's intervention.
10. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that the request exceeds the scope of the issues on review.
11. Applicant objects to each Interrogatory, Request to Produce, and Request for Admission to the extent that it calls for a legal conclusion.

INTERROGATORIES AND REQUESTS TO PRODUCE

- 1. Please produce or make available for inspection and copying any reports of investigations made or commissioned by the Applicant concerning the Project, the Project Site, the Querrey's 126 acre tract upon which the Project is sited, any other land owned by Querrey or others within the Town of Middletown Springs and within a 5 mile radius of the Site, or any other alternative project sites.**

Objection: Applicant reasserts General Objections 1, 6, 9 and 10 to the extent that it is beyond scope of issues set for hearing on which the Parties have been granted Party status.

Response: Please refer to reports submitted with the Application and the attached list of documents produced.

Person Responsible for Response: Lincoln Lande, groSolar.

- 2. Identify each person whom you expect to call as an expert witness at the time of trial.**

Objection: Applicant reasserts General Objections 5, 6 and 7 to the extent this question requires speculation as to a future event and is beyond the scope of proper discovery at this stage of the proceeding. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant may call any of the witnesses who submitted prefiled testimony or reports with the application, but given the scope of issues identified for hearing by the hearing officer, the Applicant currently anticipates calling Mr. Mark Kane to testify on orderly development and aesthetic issues. Applicant does not currently intend to call any expert witnesses who did not submit testimony with the application, but reserves the right to do so in response to any testimony filed by other parties, and will supplement as necessary if other witnesses are identified.

Person Responsible for Response: Lincoln Lande, groSolar.

- 3. State the subject matter on which each expert is expected to testify.**

Objection: Applicant reasserts General Objections 5, 6, and 7 to the extent this question requires speculation as to a future event and is beyond the scope of proper discovery at this stage of the proceeding. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to the application; the subject matter of each witnesses' testimony is identified in their respective testimonies and/or reports. Applicant reserves the right to call other witnesses who did not submit testimony with the application in response to any testimony filed by other parties, and will supplement as necessary if other witnesses are identified.

Person Responsible for Response: Lincoln Lande, groSolar.

4. State the substance of the facts and opinions as to which each expert is expected to testify.

Objection: Applicant reasserts General Objections 5, 6, and 7 to the extent this question requires speculation as to statements of fact and opinions of potential future witnesses not yet expressed and is beyond the scope of proper discovery at this stage of the proceeding. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to the application. Applicant reserves the right to call other witnesses who did not submit testimony with the application in response to any testimony filed by other parties, and will supplement as necessary if other witnesses are identified.

Person Responsible for Response: Lincoln Lande, groSolar.

5. State, in summary, the grounds for each opinion to be expressed by each expert.

Objection: Applicant reasserts General Objections 5, 6 and 7 to the extent this question requires speculation as to opinions of potential future witnesses not yet expressed and is beyond the scope of proper discovery at this stage of the proceeding. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to the application for grounds stated by witnesses for opinions expressed therein. Applicant reserves the right to call other witnesses who did not submit testimony with the application in response to any testimony filed by other parties, and will supplement as necessary if other witnesses are identified.

Person Responsible for Response: Lincoln Lande, groSolar.

6. Please produce copies of any and all reports issued by each expert which contain any opinions to be expressed by the expert.

Objection: Applicant reasserts General Objections 5, 6 and 7 to the extent this question requires speculation as to opinions of witnesses not yet expressed and is beyond the scope of proper discovery at this stage of the proceeding. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to application for all reports that have been issued by each expert on this Project to date. Applicant reserves the right to call other witnesses who did not submit

testimony with the application in response to any testimony filed by other parties, and will supplement as necessary if other witnesses are identified.

Person Responsible for Response: Lincoln Lande, groSolar.

7. Please produce copies of any and all exhibits that may or will be used to summarize or support the opinions of each expert.

Objection: Applicant reasserts General Objection 5 to the extent this question requires speculation as to exhibits that may be used in future. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to application for all exhibits that support to the opinions of each witness to date. Applicant reserves the right to call other witnesses who did not submit testimony with the application in response to any testimony filed by other parties.

Person Responsible for Response: Lincoln Lande, groSolar.

8. Please produce copies of any and all documents or other materials provided to, reviewed by, or relied upon by each expert in forming his or her opinions.

Objection: Applicant reasserts General Objection 1, 2, 3, 6, 7, 8, 9 and 10. Without waiving these objections, Applicant responds as follows.

Response: In addition to documents and materials already filed, see the attached list of documents produced, as well as documents produced in response to Questions 1, 93, 94, and DPS Question 4.

Person Responsible for Response: Lincoln Lande, groSolar.

9. The expert stated, "Our analysis, is significantly informed by overall societal benefits of the project." What overall societal benefits are being referred to? How did the expert consider "societal benefits" in determining that the project does not have an undue adverse impact on the area's aesthetics and scenic or natural beauty?

Response: We did not specifically consider "societal benefit" in the evaluation of the Project. The quote referenced above cited a Vermont Public Service Board docket that describes how the Board applies the Quechee Analysis and how, upon completing that analysis, they consider potential societal benefits in weighing the outcome.

Person Responsible for Response: Mark Kane, SE Group.

- 10. Please quantify any financial benefits from the Project including specific dollar amounts: of any municipal and education taxes to be paid per year and total over the life of the project; of the total cost of all contract fees to be paid to Vermont consultants for development work; of the total cost of equipment to be purchased for the Project from Vermont companies; and, of the total cost of all contract fees to be paid to local businesses for construction and installation work.**

Objection: Applicant reasserts General Objections 7, 8 and 10.

Response: To the extent that this question is asking about economic benefits of the Project, Criterion (b)(4) has been conditionally waived for net metering projects, and is outside the scope of issues on review.

Person Responsible for Response: Lincoln Lande, groSolar.

- 11. Please admit that the visual context of the area surrounding the Project is “beautiful” or “scenic.” If denied, please state the factual basis therefore.**

Objection: Applicant reasserts General Objection 5 as to the undefined terms “area” and “beautiful.” Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Admitted in part and denied in part. Applicant’s expert has concluded in the Report included in Exhibit ORS-MK-2 that the hillside where the Project sits is scenic. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

- 12. The expert stated, “We evaluated these technical factors (where can it be seen, what it would look like, etc.) against the qualities and sensitivities of the visual environment.” Please describe what the project will look like and what you consider the “sensitivities of the visual environment” to be in the vicinity of the project.**

Response: As described on page 3 of my report, the visual context for the Project identifies the project’s site as being elevated above Route 140 and set in the mid-ground of the landscape which is comprised of agricultural farmland and rural residential uses. The “sensitivities” identified include its elevated position relative to potential observers and the agricultural character of the landscape.

Person Responsible for Response: Mark Kane, SE Group.

- 13. Under the heading Views from Public Vantage Points, the expert described how topography and hillsides diminish visibility. Please explain how so? Are there any hillside locations overlooking Burnham Hollow where the topography accentuates visibility rather than diminishes visibility?**

Objection: Applicant reasserts General Objections 7 and 8 to the extent that the question requires additional analysis beyond what was submitted with the application. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: As shown on Figure 1 of my report, the terrain within the area considered has many undulations as expressed in the topographic contours. Given the low height of the panels relative to the ground plane, even changes in elevation of less than 10 feet can obscure the project from view, depending on the orientation of viewers. Viewers within the area who are elevated relative to the project would have a greater capacity to see the project, notwithstanding the potential screening effect of existing mature vegetation.

Person Responsible for Response: Mark Kane, SE Group.

- 14. The expert stated, "There are several residential properties in the vicinity of the project that may have views of the Project, predominantly from the opposite hillside north of Route 140. The residential clusters have intermittent views of the Project as the topography and existing vegetation both near the project site and near the residences will interrupt clear views of the project." Please admit that each of the following residential properties visited during the April 10, 2017 site visit have direct views of the project site, uninterrupted by topography and existing vegetation:**

Neil Russell (240 West St.)
Julie Sperling and Doug Freilich (22 Sundog Lane) Tom Russell (300 West St.)
Dan McKeen and Ellen Secord (320 West Street)
The meadow owned jointly by six neighbors on Rocks & Trees Lane
Rob and Karen Galloway (89 Norton St.)
Ted and Dina Fitzpatrick (59 Wescott Rd) Richard Spitalny (67 Wescott Rd).

If any are denied, please provide the factual basis therefore.

Response: Denied. Not all properties were visited during the site visit (Tom Russell residence), and not all properties contain residences (meadow owned jointly by six neighbors on Rocks & Trees Lane and Ted and Dina Fitzpatrick property). Admitted that each of the locations visited during the April 10th site visit have at least partial views of the project area.

Person Responsible for Response: Mark Kane, SE Group.

15. What is the topography of the site and surrounding area like?

Objection: Applicant reasserts General Objection 5. The term “surrounding area” is not defined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to Exhibit ORS-RV-2, which contains topographic contour lines.

Person Responsible for Response: Lincoln Lande, groSolar.

16. The expert stated that “The particular hillside where the Project sits does have some scenic value because of its function as part of the greater landscape.” What criteria were utilized to determine that the project site has “some scenic value?” Please describe the project site’s function in the greater landscape.

Response: As described on Page 7 of my report, hillside on which the project is planned acts as a transition point within the landscape between open fields in the foreground and the more wooded ridgelines beyond. The presence of the remnant apple orchard and agricultural buildings in the area further contribute to the existing scenic qualities.

Person Responsible for Response: Mark Kane, SE Group.

17. Please admit that the project site has “particular scenic value.” If denied, please state the factual basis therefore.

Response: Denied. As stated on page 6 in the Report included in Exhibit ORS-MK-2, Applicant’s expert has concluded that the particular hillside where the Project sits does have some scenic value because of its function as part of the greater landscape, but not “particular” scenic value.

Person Responsible for Response: Mark Kane, SE Group.

18. Please admit that the project is set on a site that has long-range views which have “high scenic qualities”. If denied, please state the factual basis therefore.

Response: Admitted that the view from the site has qualities that are highly scenic, primarily ridgelines. It should be noted that views of the site, not views from the site, are the basis of our analysis under the Quechee test.

Person Responsible for Response: Mark Kane, SE Group.

19. Please admit that each of the following residential properties north of the proposed project and visited during the site tour has particular scenic value:

Neil Russell (240 West St.)
Julie Sperling and Doug Freilich (22 Sundog Lane)
Tom Russell (300 West St.)
Dan McKeen and Ellen Secord (320 West Street)
The meadow owned jointly by 6 neighbors on Rocks & Trees Lane
Rob and Karen Galloway (89 Norton St.)

If any are denied, please state the factual basis therefore.

Objection: Applicant reasserts General Objection 5. The term “particular scenic value” is not defined. In addition, the it is not clear whether the question is asking if the properties referenced have “particular scenic value” or if the views from the properties have “particular scenic value.” Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. Not all properties were visited during the site visit (Tom Russell residence), and not all properties contain residences (meadow owned jointly by six neighbors on Rocks & Trees Lane). In addition, the term “particular scenic value” is not defined. Views from the properties visited during the site visit are scenic, and will remain so after the project is constructed.

Person Responsible for Response: Mark Kane, SE Group.

20. Please admit that the project's design is not compatible with its surroundings. If denied, please provide the factual basis therefore.

Response: Denied. Please see page 7 of the Report included in Exhibit ORS-MK-2.

Person Responsible for Response: Mark Kane, SE Group.

21. Please admit that the architectural style of the project is not compatible with buildings in the area. If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 5. The term “area” is not defined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. My analysis considered the project in context with the architectural character of surrounding buildings within the viewshed of the proposed project. As noted in my response to Q20, I have concluded that it is compatible.

Person Responsible for Response: Mark Kane, SE Group.

22. What structures exist in the area? Did you conduct an inventory of structures in the area? If so, please produce copies of such inventory.

Objection: Applicant reasserts General Objections 5 and 8. The term “area” is not defined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: As described on Page 3 of my report, the structures within the area included several agricultural buildings and private residences. These structures are depicted on Figure 1 and in the photographs taken from Photopoint A and Photopoint B (Figure 3). Neither I nor staff under my direction completed an inventory of structures.

Person Responsible for Response: Mark Kane, SE Group.

23. Please describe the architectural style of buildings in the area and the architectural style of the proposed project.

Objection: Applicant reasserts General Objection 5 and 8. The term “area” is not defined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: As noted in my response to Q21, my characterization of the architectural style in the area is defined by the agricultural uses which appear to dominate. Residential uses in the vicinity of the project are not uniformly agricultural in character.

Person Responsible for Response: Mark Kane, SE Group.

24. Please admit that the architectural styles of the buildings in the area and the proposed project are dissimilar and/or contrast with one another. If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 5 with respect to the phrase “dissimilar and/or contrast with one another,” which is vague and “area” is not defined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Admitted that some of the architectural styles of the buildings in the vicinity of the project are dissimilar and/or contrast with each other, and that the Project is also dissimilar from those architectural styles. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

25. Please describe the project's overall physical dimensions (height (from ground

level), length, and width of the proposed array).

Response: Please refer to page 3 of the prefiled testimony of Rod Viens and Exhibit ORS-RV-2.

Person Responsible for Response: Lincoln Lande, groSolar.

26. Please describe the project's scale. Please admit that the scale of the project is not appropriate to its surroundings. If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 6, as Rule 36 of Vermont Rules of Civil Procedure requires that each matter of which an admission is requested shall be separately set forth. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please refer to Exhibits ORS-RV-2 and ORS-MK-2, which depict the Project alongside a scale. See also Figure 2 of my report which illustrates the scale of Project with respect to the site. Denied that the Project's scale is "not appropriate" to the surroundings. As described in my determination of the adverse impact of the project, the "Project is a small portion of a much broader scenic view of the hillside and range" (Page 9). The approximately 5 acres which encompass the project is a small fraction (4%) of the overall parcel (126 acres).

Person Responsible for Response: Mark Kane, SE Group.

27. Please describe the project's mass. Please admit that the mass of the structures proposed for the site are inconsistent with land use and density.

Objection: Applicant reasserts General Objection 6, as Rule 36 of Vermont Rules of Civil Procedure requires that each matter of which an admission is requested shall be separately set forth, as well as General Objection 5 as the phrase "inconsistent with land use and density" is vague and unclear, and General Objection 8. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. The mass of a structure is essentially its volume. Mass alone does not necessarily have any direct correlation with land use. The question of density is relative. The proposed project only uses a small amount of the available parcel, but is more dense than the current use. However, the anticipated density is not inconsistent with surrounding land uses.

Person Responsible for Response: Mark Kane, SE Group.

28. Please describe the dimensions (height, length, and width), scale, and mass of a sampling of buildings in the area?

Objection: Applicant reasserts General Objections 5 and 8 for vagueness and would require Applicant to undertake additional analysis or study.

Response: I have not completed a detailed or quantitative analysis of the spatial dimensions, scale, or mass of buildings in the area.

Person Responsible for Response: Mark Kane, SE Group.

29. Please admit that the project is dissimilar in dimension, scale and mass to buildings in the area. If any part is denied, please provide the factual basis therefore.

Response: Denied. Please see Objections to Questions 26, 27, and 28 above.

Person Responsible for Response: Mark Kane, SE Group.

30. Please describe the colors and materials selected for the project as seen from all viewpoints or directions.

Objection: Applicant reasserts General Objection 5 as to the phrase “as seen from all viewpoints or directions” for being vague and overbroad. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: As stated in the Report included in Exhibit ORS-MK-2, the array frames and racks will be made from galvanized metal and are gray in color. The photovoltaic surfaces of the panels are non-reflective and a dull, dark blue color. The transformers and inverters are gray in color. The transformers will hang on the north side of Project while the inverters are positioned throughout the array and hang on the back of the racking. If Neighbors have a strong preference in color or appearance of the transformer, Applicant would consider moving to a pad-mounted transformer, dark green in color.

Person Responsible for Response: Lincoln Lande, groSolar.

31. Please describe the colors and materials of buildings in the area.

Objection: Applicant reasserts General Objection 5 as to the phrase “buildings in the area” for being vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: There are a variety of colors and materials on buildings in the area, including but not limited to barns, residences, and other buildings with metal roofs.

Person Responsible for Response: Mark Kane, SE Group.

32. Please admit that the colors and materials of the project are dissimilar or contrasting with the buildings in the area. If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 5 with respect to the phrase “dissimilar and contrasting.” Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. Please see response to Question 31.

Person Responsible for Response: Mark Kane, SE Group.

33. Please admit that the Project is not suitable for the context in which it will be located. If denied, please provide the factual basis therefore.

Response: Denied. Applicant’s expert concluded that the Project will alter the existing conditions and use of the site, but the Project is not unsuitable for the context of the location proposed. Please refer to pages 4-9 of Report in Exhibit ORS-MK-2.

Person Responsible for Response: Mark Kane, SE Group.

34. Please admit that the style, color, scale and mass of the existing buildings in the area contribute to the scenic beauty of the area. If any are denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the phrase “in the area,” which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Admitted in part. The style, color, scale, and mass of some buildings, but not all, may contribute to the scenic beauty of the area, such as outbuildings or working farm infrastructure. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

35. Are there any existing structures in the vicinity that diminish the area’s scenic beauty? If so please list and describe their address and location.

Objection: Applicant asserts General Objection 5 as to the phrase “the area,” which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: While I have not completed an aesthetic assessment of all existing structures in the area, I did observe some that were in a state of disrepair, which could impact the general scenic qualities of the area.

Person Responsible for Response: Mark Kane, SE Group.

36. Please admit that the project detracts from the area's scenic beauty. If denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the phrase "the area," which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. Applicant's expert has concluded that the Project will have an adverse aesthetic impact, but not that the impact is undue or will detract from the aesthetic value of the surrounding area.

Person Responsible for Response: Mark Kane, SE Group.

37. Please admit that the project's colors do not fit with the buildings in the area. If denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the phrase "the area," which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. The project materials are dark or neutral colors, as are many buildings in the area. Furthermore, many buildings have metal roofs, some of which are silver or gray in color.

Person Responsible for Response: Mark Kane, SE Group.

38. Please describe the views toward the project site, from each of these neighboring properties: Neil Russell (240 West St., Julie Sperling and Doug Freilich (22 Sundog Lane), Tom Russell (300 West St.), Dan McKeen and Ellen Secord (320 West Street), the meadow owned jointly by six neighbors on Rocks and Trees Lane, and Rob and Karen Galloway (89 Norton St.), Ted and Dina Fitzpatrick (59 Wescott Rd)?

Objection: Applicant asserts General Objection 8 to the extent that this request requires Applicant to conduct additional studies or analysis. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: During the PSB site visit, SE Group staff under my direction (Tom Hand) visited and took images from these private roads and residences, with the exception of Tom Russell's residence. Based on this visit, I have prepared the following descriptions of the views:

Neil Russell – This is a private residence. From this location the project is approximately 3,100 feet to the southwest. The view towards the project site has open lawn/meadow in the near foreground with a midground dominated by predominantly deciduous vegetation. Portions of the remnant orchard rise beyond this midground. The background is dominated by the forested ridgelines.

McKeen/Secord – This is a private residence. From this location the project is approximately 2,615 feet to the south. The view towards the project site has foreground vegetation more proximal to 140. The project site is elevated with respect to this viewpoint and in the midground, backdropped by dense, largely coniferous woods.

Fitzpatrick – This is a privately-owned property with no residence. From this location the project is approximately 450 feet away and oriented towards the north and east. The viewpoint is elevated above the remnant apple orchard within which the project is proposed. The orchard appears in the midground set between large open meadows. A few structures (barn, house) and access driveways are also visible within meadows. The background is dominated by the wooded ridgelines.

Spitnaly – This is a private residence. From this location the project is approximately 415 feet away towards the east. The viewpoint is within a wooded area near the cabin with the foreground dominated by mixed hardwoods. Considerable stem density in the woods was observed which breaks up the view beyond.

Sperling/Freilich – This is a private residence only accessible by a long private drive. Photos were taken from Sundog Lane across from the Freilich/Sperling driveway. From this viewpoint, the project is approximately 2,898 feet away and to the southwest. The existing view has several visible farms (in both the foreground and midground) with the remnant orchard visible elevated above the viewpoint. The hillside continues upwards to the forested ridgelines.

Galloway – This is a private residence. From this location the project is approximately 7,050 feet to the south. The remnant orchard is visible in the midground along with portions of Wescott Road. The project site is positioned such that it is backdropped by largely coniferous woodlands with the heavily forested ridgelines rising upwards further behind.

Rocks and Trees Field – This is a private parcel with no residence. From this location, set within an open meadow, the project is approximately 3,235 feet to the south. This view is characterized by a large open meadow foreground with the project site in the midground. The background is dominated by the forested ridgelines.

Person Responsible for Response: Mark Kane, SE Group.

39. Please admit that each of the properties listed in the preceding interrogatory are areas of “high visibility” of the project. If denied, please describe the level of visibility of the project and provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the phrase “high visibility,” which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Admitted in part and denied in part. Admitted that each of the properties listed above have some visibility of the Project, but denied that all have “high” visibility. When viewed from Neil Russell’s property, for example, a portion of the project site would be partially obscured by midground vegetation. Additionally, the view of the project from the Spitalny property is heavily wooded with mixed deciduous trees, which have a high stem density and greatly diminish visibility towards the project site. Further, as explained in my response to the preceding interrogatory, most of the properties are at a great distance away from the project site, which diminishes visibility. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

40. Presently, is there anything you deem “unattractive” in these properties’ views?

Objection: Applicant asserts General Objection 5 as to the term “unattractive,” which is vague and subjective, and General Objection 8, to the extent that the question calls for Applicant to evaluate the aesthetic value of the views from neighboring properties beyond considerations of potential Project impacts. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: No.

Person Responsible for Response: Mark Kane, SE Group.

41. Will the project be in the foreground, middleground or background of the view from each of these properties?

Response: See response to Q38. From these properties the project would be seen in the midground.

Person Responsible for Response: Mark Kane, SE Group.

42. From these properties, will the view of the project be of long or short duration? Will viewers likely be stationary at these properties, so that the view is of long duration or will the viewer be moving quickly by the site so that the length of view is short?

Objection: Applicant reasserts General Objection 5, as the duration of views at a residential property depends on what a viewer is doing while at the property.

Response: Views from various portions of these properties will generally be of a longer duration, but will be effected by what the viewer is doing at the time they observe the project.

Person Responsible for Response: Mark Kane, SE Group.

43. Please admit that the project does not “fit” in each of these views and will appear to be “out of context.” If denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the question is unclear as to what particular views it refers to. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: To the extent that this question refers to the private residences to the west and north of the Project area listed above in Question 38, admitted. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

44. Please admit that the project area is a “specific scenic resource of Vermont.” If denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 as to the phrase “specific scenic resource of Vermont,” which is vague as to source of this designation. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. The Project site is not a designated scenic resource in the Town or Regional Plan.

Person Responsible for Response: Mark Kane, SE Group.

45. Please admit that the Project will contribute to the loss of open space in the area. If denied, please provide the factual basis therefore.

Response: Denied. Applicant's expert concluded in the report included in Exhibit ORS-MK-2 that the Project would not result in long-term loss of open space in the region.

Person Responsible for Response: Mark Kane, SE Group.

46. Please admit that the project site as it exists today is considered “open space”? If denied, please provide the factual basis therefore.

Response: Admit.

Person Responsible for Response: Mark Kane, SE Group.

47. Please admit that the site as it exists today is considered part of a greater open space? If denied, please provide the factual basis therefore.

Objection: Applicant asserts General Objection 5 for vagueness as to the phrase “part of a greater open space.”

Response: Admitted in part and denied in part. While “greater open space” is vague, admitted that the site is within a rural area dominated by agricultural and forest lands that are essentially open with very sparse residential development. Otherwise denied.

Person Responsible for Response: Mark Kane, SE Group.

48. The application described that after construction is complete; the ground will be seeded and maintained as a meadow, being mowed once or twice annually. Will the completed project resemble a meadow? How so?

Response: No. The description stated that the ground would be seeded and maintained as a meadow, not that it would resemble a meadow. Portions of the larger site beyond the Project will remain as a meadow and orchard.

Person Responsible for Response: Mark Kane, SE Group.

49. The expert states that the project will not result in a long-term loss of open space in the region. Define what you mean by long-term. At what point (how much time must pass) before the loss of open space changes from short-term to long-term?

Response: I do not have a specific timeframe when considering the distinction between short and long-term. I generally recognize that for many land use forms (homes, farms, roads), the expectation is that they will be present and within the landscape permanently. This is in distinction to a solar project which, because of its form, is not a permanent structure and is more easily removed at the end of its useful life.

Person Responsible for Response: Mark Kane, SE Group.

50. Please admit that the project will contribute to a sense of loss of open space for the neighboring properties we visited on the April 10th site visit, for the duration of the existence of the project on the site. If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 5, as the question requires speculation as to a feeling (“sense of loss”) for an undefined amount of neighboring properties of various distances from the Project.

Response: Denied. While portions of the project will likely be visible from the residences visited on April 10th, the inclusion of the project itself does not mean the open space is “lost.” Rather, the character of the landscape will be different because of the solar project. Open space is not relegated to simply natural or undeveloped land. Parks, for example, can be considered open space and many have extensive improvement to them (parking lots, structures, etc.). Working farms can be considered part of open space, again with significant infrastructure (silos, barns, manure banks, equipment).

Person Responsible for Response: Mark Kane, SE Group.

51. The expert states that the project site is not identified for conservation in the Town or Regional plans. Are there any properties not identified for conservation in Town or Regional plans that are vulnerable to projects having adverse and undue adverse visual impacts on their scenic beauty?

Objection: Applicant reasserts General Objections 1, 5, and 8 as the question is overbroad in scope, vague, and would require Applicant to do additional study or analysis.

Response: I have not evaluated the “vulnerability” of all properties in Vermont that are not identified for conservation in a town or regional plan. I have concluded that the project does not create an undue adverse impact with respect to the visual resources of the area.

Person Responsible for Response: Mark Kane, SE Group.

52. The expert states that the Project does alter the existing conditions and use of the site and that the site is scenic. What specific characteristics does the project exhibit that cause you to conclude its aesthetic impacts on the visual resources of the area are adverse?

Response: Please see discussion in the Report included in Exhibit ORS-MK-2, pages 4-10, which explains what specific characteristics led to Applicant’s Expert’s conclusion of adverse impact.

Person Responsible for Response: Mark Kane, SE Group.

53. From the perspective of the neighbors on the north side of Burnham Hollow, what will the visual effect of the proposed mitigation planting be on the project at the time of installation?

Objection: Applicant reasserts General Objection 5 for vagueness, as the question does not specify which neighbors it refers to, and the visual effect of the planting would vary depending on distance and elevation of residence.

Response: The visual effect of the planting would vary depending on distance and elevation of residence, and whether other vegetation, topography, or other structures otherwise blocks the view of the Project.

Person Responsible for Response: Mark Kane, SE Group.

54. The expert states that topography of the surrounding landscape and existing vegetation helps diminish the visual impact of the Project. Having visited the residential properties on the north side of Burnham Hollow, do the topography and open meadows diminish or heighten the visual impact of the project from the north side of Burnham Hollow? Why? How so?

Response: The statement above is reflective of my analysis of the project primarily from public vantage points along Route 140, Orchard Road, Wescott Road, and Coy Hill Road. From all of the residential properties visited during the site visit, the project would be viewed at a distance, in the midground. This distance and the topographic location of the project diminishes the visual impact of the Project by limiting its viewshed (i.e. its lower on the hillside thereby effecting less potential area) and by allowing the wooded ridgelines beyond to terminate the observers view.

Person Responsible for Response: Mark Kane, SE Group.

55. What are the dimensions of the slim, gray mounting brackets that are referred to as one of the mitigating steps you've taken to improve the harmony of the proposed project with its surroundings?

Response: A sample specification sheet for the racking, or "slim, gray mounting brackets" referred to in SE Group's report is provided; see the attached list of documents produced. This refers to the fixed tilt racking system where posts are driven into the ground. Typical post size is 6" x 6".

Person Responsible for Response: Lincoln Lande, groSolar

56. What are the dimensions and colors of “regular” mounting brackets?

Objection: Applicant reasserts General Objection 5 with respect to the word “regular,” which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant does not know what is meant by “regular” mounting brackets. Different types of mounting brackets are used for different terrain. The mounting structures chosen by Applicant were selected based on the size of the Project and nature of the site, and for their generally low impact nature of the equipment. Alternative mounting foundations may include screw piles or concrete foundations, which would otherwise sit above the surface.

Person Responsible for Response: Lincoln Lande, groSolar

57. Please admit that the materials of the solar panels are not similar in any way to the existing hillside environment. If denied, please provide the factual basis therefore.

Response: Admitted in part and denied in part. The materials of the solar panels are not similar the existing natural conditions observed on the hillside. Otherwise denied. These materials (racking, panels, fencing) are similar to farm equipment and implements, residential solar panels, agricultural fencing, and other elements within the “environment”.

Person Responsible for Response: Mark Kane, SE Group.

58. Under mitigative zone A the expert states that visibility of new trees may be limited at first. Please define what you mean by “limited”? What height will they be when they're planted? How tall will they need to grow to screen the panels? What is the rate of growth expected? What are the maximum heights of the trees expected to be?

Response: Limited initially relates to their installed size versus the size they will eventually mature to. The mitigation planting plan (Figure 10) indicates the installed size or caliper. The trees will provide immediate screening from some vantage points based on size and species, and this screening will increase as they mature. Rate of growth will depend on species, with the deciduous trees (serviceberry and maples) growing from between 1 and 2 feet per year and the white pine growing perhaps 1 foot per year. The maximum height of the serviceberry will be between 15-18 feet. The maples will eventually grow to approximately 40-50 feet. The pines can get to between 60-80 feet at maturity.

Person Responsible for Response: Mark Kane, SE Group.

- 59. Please describe how long it will take for the trees to reach a height that will effectively screen the solar array from the neighbors' views from across the valley. Please specify what portion or percentage of the solar array will be effectively screened from the across-the-valley-neighbors' view each year of the project.**

Objection: Applicant reasserts General Objection 5 for vagueness, as the question does not specify which neighboring residences it is referring to, and the viewshed of the Project and plantings varies by location. Applicant has not conducted an assessment of the specific percentages of views screened from individual residences. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: See response to growth rates in Q58. I have not completed an assessment of the percentage of screening from these private residences. The proposed landscape mitigation plan does place all of the proposed plant materials along the north and west sides of the proposed array, in a location which intervenes with the "across-the-valley neighbors" though the plantings may not, and are not intended to, block all views of the entire project from all surrounding properties.

Person Responsible for Response: Mark Kane, SE Group.

- 60. The expert states that the grade of the site currently rises 30-40 ft. above the tops of the existing evergreens. Do the 9 ft. tall panels therefore project 39-49 ft. above those evergreen tops? If not, how high above the evergreen tops will the panels project? Please explain how you came up with those measurements.**

Response: Yes.

Person Responsible for Response: Mark Kane, SE Group.

- 61. Please admit that a topographic cross-section from the north side of Burnham Hollow across the Poultney River through the project site including properly scaled trees located north of the project and solar panels stepping uphill to the south would help clarify the effectiveness of the proposed mitigation? If denied, please provide the factual basis therefore.**

Response: Denied. Applicant believes the proposed mitigation is clearly identified in the mitigation plan in Figure 10 of Exhibit ORS-MK-2, and has provided a cross-section of the Project to Route 140 in Figure 9.

Person Responsible for Response: Lincoln Lande, groSolar.

62. The expert states, “We do not believe that the project would offend the average person. Its scale, mass and form are not so out of character that they are offensive nor do they diminish or distract from the scenic qualities of the area.” Please describe how the project’s scale, mass and form are in harmony with the existing character of the area and how you determined “the area” used for this project (as described in Criterion 8)?

Objection: Applicant reasserts General Objections 5 and 7 as the question misstates the conclusion of Applicant’s expert based on the quotation provided and is therefore vague and beyond the scope of testimony provided. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant’s expert did not state that the Project’s scale, mass, and form are in harmony with the existing character of the area. The question misstates the quote, which speaks for itself.

Person Responsible for Response: Mark Kane, SE Group.

63. Who is the average person? Are any of the intervenors an “average person”? If so, who? Are any of the

Objection: Applicant reasserts General Objection 5, as the question is unfinished and largely repetitive of Question 113.

Response: See response to Question 113.

Person Responsible for Response: Lincoln Lande, groSolar.

64. Please admit that the area has “historic character”? If denied, please provide the factual basis therefore.

Objection: Applicant reasserts General Objection 5 as to the phrase “historic character,” which is vague and undefined. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Neither admit nor deny based on the objection. There are properties eligible for the historic register in the surrounding area.

Person Responsible for Response: Mark Kane, SE Group.

65. Please admit that the word “industrial” is an accurate description of the project’s character. If denied, please provide the factual basis therefore.

Response: Denied. The word “industrial” is undefined and may refer to factories or manufacturing facilities.

Person Responsible for Response: Lincoln Lande, groSolar.

66. The expert states that the project is set on a site that does not permanently degrade or diminish long-range views, which are noted for having high scenic qualities. Please admit that the project temporarily degrades or diminishes long-range, highly scenic quality views so long as the project occupies the site. If denied, please provide the factual basis therefore.

Response: Denied. The Project will not temporarily or permanently degrade or diminish long-range highly scenic quality views because it occupies such a small portion of the viewscape. The majority of public and private views of the Project are from a distance, and the topographic location lower on the hillside, avoids direct impacts to scenic wooded ridgelines beyond to terminate the observer’s view.

Person Responsible for Response: Mark Kane, SE Group.

67. The expert states that impacts to adjacent residential properties, while not necessarily reflective of “average persons,” are minimized by the retention of existing vegetation and the addition of the mitigative steps. On April 10th we visited the lands of neighbors, Neil Russell (240 West St.), Julie Sperling and Doug Freilich (22 Sundog Lane), Tom Russell (300 West St.), Dan McKeen and Ellen Secord (320 West Street), the meadow owned jointly by six neighbors on Rocks and Trees Lane, Rob and Karen Galloway (89 Norton St.), Ted and Dina Fitzpatrick (59 Wescott Rd) and Richard Spitalny (67 Wescott Rd). When one views the project site from each of these locations, approximately what percentage of the visual impact will be minimized by the existing vegetation, what percentage will be minimized by the mitigative landscaping and what percentage of the project will not be minimized?

Objection: Applicant reasserts General Objection 5, as the residence of Tom Russell was not visited during the site visit, and General Objection 7 to the extent that responding to this question would require further analysis and study on the part of Applicant’s expert. Applicant has not conducted an assessment of the specific percentages of views screened from individual residences. Without waiving the objections, Applicant responds as follows.

Response: As noted in the response to Question 38, each of the residential neighbors are minimally 400 feet away from the project site, with most more than 1,925 feet away. All the views from the neighbors will be influenced by existing vegetation patterns, which either directly screen or filter visibility of the project site or act as a background against which the project

would be seen. In both conditions, the existing vegetation helps to minimize impacts. The proposed landscape mitigation, because of its placement on the north side of the project, directly intervenes between views from the many of the neighbors and the project site, though the plantings may not, and are not intended to, block all views of the entire project from all surrounding properties.

Person Responsible for Response: Mark Kane, SE Group.

- 68. The expert states that the project doesn't introduce secondary factors which often can contribute to how a project "fits" into its setting (traffic, noise, exterior lighting, dust, odors, glare or other nuisances which often are at the root of public objections). Which of these factors are not addressed by the Quechee test?**

Objection: Applicant reasserts General Objections 5, 10, 11 as Applicant does not understand the question, and to the extent that it is beyond scope of issues set for hearing and calls for a legal conclusion. Without waiving the objections, Applicant responds as follows:

Response: Depending on the project, and the extent of potential impacts, all or none of these factors may be relevant to whether the project fits into its setting.

Person Responsible for Response: Mark Kane, SE Group.

- 69. Will the solar array's metal framework be able to reflect sunlight?**

Response: As a general matter, metal can be reflective. However, given the generally low-profile and location of the supporting material, it is unlikely that much sun will be reflected by the framework.

Person Responsible for Response: Lincoln Lande, groSolar

- 70. The expert states that SEGroup believes that the Project has addressed its setting in a very balanced way and it has chosen a setting that provides visual isolation for the project and limits impact to the extent practical. Please admit that the setting does not provide "significant visual isolation" from the lands of neighbors, Neil Russell (240 West St.), Julie Sperling and Doug Freilich (22 Sundog Lane), Tom Russell (300 West St.), Dan McKeen and Ellen Secord (320 West Street), the meadow owned jointly by six neighbors on Rocks and Trees Lane, Rob and Karen Galloway (89 Norton St.), Ted and Dina Fitzpatrick (59 Wescott Rd), Richard Spitalny (67 Wescott Rd), and Route 140 and other public and private roads. If denied, please provide the factual basis therefore.**

Response: Denied. As noted in the response to Question 38 above, most of the aforementioned residential neighbors to the north are at last 1,925 feet away from the project site. Neighbors to

the west are at least 400 feet away. These distances do create significant visual isolation between observers at these properties and the project.

Person Responsible for Response: Mark Kane, SE Group.

- 71. Please admit that the project site is located in the middle ground of the view from most of the neighbors' homes, which viewshed also contains the Coy Mountain Ridgeline as the backdrop. If denied, please provide the factual basis therefore.**

Objection: Applicant reasserts General Objection 5 as to the phrase "most of the neighbors' homes" which is vague and undefined, and General Objection 6 to the extent that the question asks for two admissions, which is not permitted under V.R.C.P. 36.

Response: Admitted in part and denied in part. Views from some of the neighbors' homes in the area will have the project site in the midground, and the viewshed may contain Coy Mountain in the backdrop. Otherwise denied. From others, the project site might be entirely obscured by natural vegetation or terrain, and Coy Mountain may not be visible (Spitalny).

Person Responsible for Response: Mark Kane, SE Group.

- 72. How is it that "due to the topography and existing vegetation, the Project is generally screened from the majority of public vantage points and residences"? Please list all public vantage points and residences that you were referring to.**

Response: The aesthetic report documents the areas considered for visibility and identifies (See Figure 1) areas along public roadways with either direct or limited visibility. The residences referred to in this response were those homes along publicly accessible roadways within approximately one mile of the project.

Person Responsible for Response: Mark Kane, SE Group.

- 73. Please detail Seth D. Goddard's background, education, training and experience that qualifies him to testify as a Sound expert or acoustical engineer. Please list any previous expert testimony provided to a Vermont tribunal related to sound studies and predicting levels of noise at the project site.**

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14).

74. What are the U.S. Environmental Protection Agency's residential noise guidelines? How does the proposed project comply with such guidelines?

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14) and General Objection 3.

75. What are the Vermont PSB and Act 250 noise standards? Please describe the actual numerical dBA limits and how they are applied.

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14), and General Objection 3.

76. Please describe the duration of the sound levels predicted at the site and at the adjacent properties from the solar array.

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14).

77. Please describe how you accounted for "the attenuation of sound over distance" in predicting sound levels.

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14).

78. Please describe how if, according to the manufacturer's specifications, each inverter generates 65 dBA at a 1-meter distance, the expert opined that 21 inverters will generate a combined 65 dBA at a 1-meter distance, a combined 55.5 dBA at 3 meters, and a combined 32 dBA at "Building C Nearest Residence." Please correct these opinions if they are stated incorrectly and provide the mathematical calculations supporting the expert's opinions.

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14).

79. Please describe how if, according to the manufacturer's specifications, each transformer generates 55 dBA at a 1-meter distance, the expert opined that 3 transformers will generate a combined 45.5 dBA at 3 meters, and a combined 14 dBA at "Building C Nearest Residence." Please correct these opinions if they are stated incorrectly and provide the mathematical calculations supporting the expert's opinions.

Objection: Applicant reasserts General Objection 10, as the Hearing Officer's 2/22/17 Order re: Significant Issues rejected sound as an issue on review (see page 14).

80. What Vermont caselaw supports your expert opinion?

Objection: Applicant reasserts General Objections 3, 5, and 11, as the question does not specify what expert opinion it refers to, refers to publically available documents, and calls for a legal conclusion.

81. Please list and describe all buildings or structures in the surrounding area that were considered to be historic with regard to the analysis of historic sites.

Objection: Applicant reasserts General Objection 5 as to the phrase "the surrounding area" which is vague and undefined. Without waiving the objection, Applicant responds as follows:

Response: VDHP reviewed the Project and concluded that the Project would not have an undue adverse impact on historic resources in the area. VDHP's letter states that it considered the farm complex at 30 Orchard Road to be historic, and also considered impacts to "other standing historic sites with views of the sloping hillside location of the solar facility."

Person Responsible for Response: Lincoln Lande, groSolar.

82. Please describe any technical analysis, study, documentation, or correspondence related to the development of the Area of Potential Effect (APE) for Historic Sites and Architectural/ Built Environment Resources, including consideration of both indirect and direct potential adverse effects. Please produce a copy of any documents relating thereto.

Response: Applicant relied on VDHP's assessment of historic resources and conclusion that the Project would not have an adverse impact on any historic sites. Applicant provided the final Site Plan (Exhibit ORS-RV-2) to VHDP for review. In addition to documents and materials already filed, please see the attached list of documents produced for correspondence with or from VDHP.

Person Responsible for Response: Lincoln Lande, groSolar.

83. Please describe any APE justification that was developed. Please produce a copy of any documents relating thereto.

Response: Please see response to Question 82. Applicant relied on VDHP's assessment of no adverse impacts on historic resources.

Person Responsible for Response: Lincoln Lande, groSolar.

84. Did the Applicant develop a technical study or analysis by a Qualified Professional addressing potential effects to historic sites and architectural resources that have not yet been evaluated, including any potential historic districts? If so, please describe and produce a copy of all written documentation.

Objection: Applicant reasserts General Objection 5 as the question is vague and unintelligible. Without waiving the objection, Applicant responds as follows:

Response: No, Applicant has not developed a technical study or analysis by a qualified professional addressing potential effects to historic or architectural resources that have not yet been evaluated.

Person Responsible for Response: Lincoln Lande, groSolar.

85. In the Application materials, Applicant references a site visit discussing the Project with Scott Dillon, Survey Archaeologist from the Vermont Division for Historic Preservation (VHDP). Did any other VDHP staff visit the project site to review and assess the potential for direct and indirect adverse effects to historic sites and/or resources in the Project APE during the pre-application consultation process or at any time? Please describe the site visit including how long it lasted, what properties were visited, what information was shared, and produce a copy of any field notes or documentation of such site visit.

Response: Applicant did not visit the site with VDHP staff, VDHP conducted an independent site visit.

Person Responsible for Response: Lincoln Lande, groSolar.

- 86. Were any photographic simulations of Project build-out developed? Were any such simulations used to support analysis and consultation with VDHP regarding potential adverse visual effects, including any indirect adverse effects to historic structures? Please describe and produce a copy of any such simulations.**

Response: Photographic simulations are currently being developed based on requests from neighbors. As these simulations are not complete, they have not been used to support analysis or in consultation with VDHP regarding potential impacts to historic structures.

Person Responsible for Response: Lincoln Lande, groSolar.

- 87. Did any site visit with VDHP include field inspection/ field investigation in relation to the two Vermont State Register (VSR) historic sites adjacent to the Project Area, 30 Orchard Road (VSR 1111-16) and 300 West Street (VSR 1111-13)? If so, please describe and produce a copy of all written documentation of the field inspection/field investigation at these sites.**

Response: See response to Question 85 above. Applicant did not attend a site visit with VDHP beyond the public site visit held on April 10, 2017.

Person Responsible for Response: Lincoln Lande, groSolar.

- 88. Was 290 West Street, fronting the intersection of Orchard Road and State Route 140, considered as a resource in the APE? If so, was the resource subject to evaluation under the criteria of the VSR or National Register of Historic Places (NRHP) in consultation with VDHP in order to determine if it was a historic site that maybe affected by the Project? If so, how? Please produce a copy of any and all written documentation related thereto.**

Response: Please see response to Question 82. Applicant relied on VDHP's conclusion that the Project would not have an adverse impact on any historic resources.

Person Responsible for Response: Lincoln Lande, groSolar.

- 89. Have identified historic sites and resources in the Project APE been analyzed as contributors to a potential historic district or historic landscape, the bounds of which have yet to be determined? Please produce a copy of any and all written documentation related thereto.**

Objection: Applicant reasserts General Objection 5 to the extent that the question asks about a speculative designation for properties within an indeterminate distance. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: No. Applicant relied on VDHP's conclusion that the Project would not have an adverse impact on historic resources.

Person Responsible for Response: Lincoln Lande, groSolar.

90. Was the circa 1924 Apple Orchard in the Project Area evaluated for potential historic significance as a landscape resource? Please produce a copy of any and all written documentation related thereto.

Response: As noted above, the Applicant relied on VDHP's analysis. Applicant does not know if VDHP considered the abandoned orchard as part of its historic analysis. .

Person Responsible for Response: Lincoln Lande, groSolar.

91. Please provide copies of all correspondence between the Applicant and any Vermont State agency or department not previously submitted to the Board and parties in this proceeding.

Objection: Applicant reasserts General Objection 10 to the extent that the question requests documentation on issues beyond the scope of visual aesthetics, historic resources, and orderly development. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: In addition to documents and materials already filed, please see list of documents produced, including documents produced in response to Question 82.

Person Responsible for Response: Lincoln Lande, groSolar.

92. Please produce copies of all environmental, wetlands, aesthetic, historic, or orderly development reports obtained by Applicant with respect to any property located in Middletown Springs, VT.

Objection: Applicant reasserts General Objections 1, 3, 7 and 10 to the extent that the question requests environmental and wetlands reports, which are beyond the scope of visual aesthetic, historic resource, and orderly development issues set for hearing. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: All reports related to environmental, wetlands, aesthetic, historic, and orderly development that were obtained by Applicant are included in the application; see also documents produced in response to Question 1. No additional reports were procured regarding properties in Middletown Springs other than the Project site.

Person Responsible for Response: Lincoln Lande, groSolar.

93. Produce all correspondence between Applicant and any other person or agency regarding siting of the solar array, whether at the current proposed site or at other alternative sites.

Objection: Applicant reasserts General Objection 1, 3, 7 and 10 to the extent that the question requests documentation on issues beyond the scope of visual aesthetics, historic resources, and orderly development set for hearing. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: In addition to documents and materials already filed, please see the attached list of documents produced, including documents produced in response to Questions 1 and 93, and DPS Question 4.

Person Responsible for Response: Lincoln Lande, groSolar.

94. Please produce copies of all contractual agreements and correspondence between Applicant and Landowner.

Objection: Applicant reasserts General Objections 1, 4, and 10 to the extent that contractual agreements and correspondence between Applicant and landowner are confidential and/or are not relevant to, or likely to lead to information relevant to, issues of visual aesthetics, historic resources, and orderly development that are set for hearing. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Please see list of documents produced, including documents produced in response to Question 93 and DPS Question 4. Although contractual agreements are confidential business documents, Applicant wishes to clarify the extent of the land subject to a contractual agreement or Option to Lease for this Project. The only Option to Lease in effect is for the current Project location on up to 5 acres. However, Applicant believes there is confusion as to the extent of land that could be leased. To clarify, when Applicant originally approached the landowner to lease land, a number of options were explored including an option to lease for two separate 5-acre sites or an option to lease a single site of approximately 25 acres. Applicant determined that the property was best suited for one approximately 5-acre project. No additional projects are being pursued or are now subject to a contractual agreement between Applicant and landowner.

Person Responsible for Response: Lincoln Lande, groSolar.

95. Exactly what rights has the Applicant been granted, by the Landowners (the Querreys) that enable you to plant and maintain mitigation plantings on land outside of the proposed installation site?

Response: Applicant has been granted an Option to Lease for the property to lease up to 5 acres of land. In addition, Applicant is in the process of negotiating a full lease agreement for the Project, which will include easements necessary for the installation of and utility upgrades or

landscaping required by a CPG or otherwise agreed to. The final lease document will therefore include the ability to maintain the as-approved mitigation plantings for the life of the Project on land outside of the fenced-in area.

Person Responsible for Response: Lincoln Lande, groSolar.

96. How many acres in total have you leased or do you have an option to lease from the Querreys? Where is the leased land located? Please provide a copy of the lease and any map or other document evidencing such lease or option.

Objection: Applicant reasserts General Objections 1, 4 and 10 to the extent that the lease is a confidential business document and is not relevant to, or likely to lead to information relevant to, issues of visual aesthetics, historic resources, and orderly development that are set for hearing. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: See response to Question 94. The only Option to Lease in effect is for up to 5 acres at the current Project location. The Option to Lease is a confidential business document.

Person Responsible for Response: Lincoln Lande, groSolar.

97. Please admit that no alternative sites were considered for the location of the proposed array. If denied, please provide the factual basis therefore. Please describe all efforts to review, investigate and consider any alternative sites and why they were not chosen for this project.

Objection: Applicant reasserts General Objection 6, as Rule 36 of Vermont Rules of Civil Procedure requires that each matter of which an admission is requested shall be separately set forth. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Denied. Applicant did consider alternative sites for the Project, including the field on the same property on the east side of Orchard Road. See correspondence with Agency of Natural Resources staff provided in response to Question 1. As this correspondence confirms, that alternative site was deemed unacceptable due to the presence of significant wetlands.

Person Responsible for Response: Lincoln Lande, groSolar.

98. Is the currently proposed site more highly visible from route 140 and the Intervenor Neighbors' properties than it would be if it were sited on the alternative locations on this parcel or other property owned by Landowner which were pointed out during the site visit?

Objection: Applicant reasserts General Objection 8 to the extent that the question requests additional analysis to be conducted by Applicant's expert. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant has not conducted a specific visual assessment of the viewshed of the project from the alternative locations proposed by Neighbors. Without conducting additional analysis, Applicant cannot definitively state that the proposed site is more or less visible from all of Route 140 or Intervenors' residences.

Person Responsible for Response: Mark Kane, SE Group.

- 99. What is the lowest elevation of the ground level under the most northern row of the proposed array? What is the highest elevation of the ground level under the most southern row of the proposed array? How tall or high above the ground does any portion of the solar array equipment stand above the ground? What are the lengths of the fencing on the north, south east and west sides of the array? What are the total dimensions of the proposed solar array's coverage in terms of length, width and height of the overall installation?**

Response: Please see Site Plan in Exhibit ORS-RV-2, which contains topographic contour detail as well as the dimensions of the Project.

Person Responsible for Response: Lincoln Lande, groSolar.

- 100. What is the rate of the rise of land from the lowest section to the highest in the proposed Project Site?**

Objection: Applicant reasserts General Objection 8 as the question requests additional study or analysis. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant has not measured or calculated the rate of the lowest to the highest section of the proposed Project site. Please see site plan included in Exhibit ORS-RV-2 for topographical contours of the Project site.

Person Responsible for Response: Lincoln Lande, groSolar.

- 101. How can a view from an elevation across the hollow that is higher in elevation than the proposed site, be mitigated with plantings that are placed at the front/northern most portion of the proposed site which is the lowest in elevation?**

Response: The mitigation planting plan was not developed to shield all views of the project, including those from a significant distance, such as the houses across the hollow, which are a minimum of 1,925 feet away from the Project. Most views from the north are from elevations below the elevation of the project. Views from across the hollow are mitigated by the distance from the Project and the wider scope of the viewscape, of which the Project site is a small part.

Person Responsible for Response: Mark Kane, SE Group.

102. How can mitigation plantings on the western border of the proposed site screen the Fitzpatricks' view of the proposed solar array without blocking their panoramic, vista views north and east of the farms and mountains in and around Burnham Hollow and the Town of Middletown Springs itself?

Objection: Applicant reasserts General Objection 5, as the question requires speculation as to where the reference Fitzpatricks' views are located as there is not currently a residence on the property. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: The Fitzpatricks do not have a residence on the property from which to evaluate potential views of the Project. To the extent that the question is asking about views from the property generally, the intent of the mitigation plantings on the western border of the proposed site are not intended to entirely screen the view of the project from the entirety of the Fitzpatricks' land, but to lessen direct views of the Project. If the Fitzpatricks have specific requests for the design of these plantings, Applicant is willing to discuss this with them.

Person Responsible for Response: Lincoln Lande, groSolar.

103. Provide any and all photos, analysis or photo-simulations pertaining to this project in your possession and control which have not yet been filed with the PSB and the Intervenors. Please produce the two photo simulations you have promised to produce to the neighbors.

Response: See response to Q101 related to the photo simulations and the attached list of documents produced, which include photos taken during the site visit in response to Question 8. Please see response to Question 86 regarding the photo simulations being prepared.

Person Responsible for Response: Mark Kane, SE Group.

104. How many historic, above ground sites (houses, out buildings, barns, etc.) can be seen from anywhere on the proposed site? What are their addresses? Which have been assessed on your behalf by a qualified expert to determine if they will be adversely affected by the installation of the proposed solar array? Did your expert determine the adverse effect on one or more would be unduly adverse? If so, what is/ are their address(es)?

Objection: Applicant reasserts General Objection 8 as the question requests additional study or analysis. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: Applicant has not conducted an analysis of how many above-ground sites can be seen from the proposed site.

Person Responsible for Response: Lincoln Lande, groSolar.

105. What is the expected duration of the project? What is the “Project’s useful life?”

Response: The Project is designed for a useful life of at least 25 years. The expected duration of the Project is between 25 and 35 years.

Person Responsible for Response: Lincoln Lande, groSolar.

106. Have there been any recommendations of the municipal and regional planning commissions? If so what are they and from whom? Have there been any recommendations of municipal legislative bodies? If so what are they and from whom?

Response: The only comments and/or recommendations received from the municipal or regional planning commissions were addressed in the pre-filed testimony of Rod Viens and in supplemental filings to the Board under cover letter dated 8/18/2016, addressing the Rutland Regional Planning Commission questions/comments.

Person Responsible for Response: Lincoln Lande, groSolar.

107. How do the “form of the project, its scale and the potential continued use of remaining lands within the project parcel to retain agricultural function, all limit the impact the project will have on the orderly development of the region.”

Response: The project’s form has little long-term impact on the land use patterns of the region. Unlike most land use forms seen in the area (farms, residential uses), the components that comprise the solar project are more easily removed, preserving opportunities for future land use decisions. The project’s scale, at 5 acres within an overall 126-acre tract, maintains the opportunity for the balance of the property to have other functions or uses, including traditional agricultural ones. In addition, most views of the project are from a distance, and most views from publicly accessible areas and residences along Route 140 are shielded by topography and vegetation. These factors limit the long-term impact of the project on the orderly development of the region.

Person Responsible for Response: Mark Kane, SE Group.

108. Please admit that the municipal plan seeks to preserve the scenic qualities of the Town by protecting scenic ridgelines. If denied, please provide the factual basis therefore.

Response: Denied. The Town Plan generally states that the protection of scenic ridgelines is integral to the character of the Town, but in the "Highland Conservation Area" section does not include any specific clear written standards intended to preserve the aesthetics or scenic beauty of the ridgelines in town, and in fact acknowledges that logging takes place on some ridges and that "there are no existing local restrictions on development or use of these areas."

Person Responsible for Response: Mark Kane, SE Group.

109. Please admit that a goal of the municipal plan for the area proposed for the array is to "maintain attractive countryside with large tracts of open land in diversified agricultural uses." If denied, please provide the factual basis therefore.

Response: Admitted that the quoted language is a stated goal in the municipal plan, but denied that the Project is inconsistent with this goal.

Person Responsible for Response: Mark Kane, SE Group.

110. Please admit that the Regional plan states: "No land development should be promoted where the effect of the proposed use unnecessarily impacts highly scenic landscapes, ecologically sensitive lands, or irreplaceable natural resources. To do so would be incompatible with land use policies contained in the Regional Plan."

Response: Admitted that the Regional Plan contains this statement. The Project is not incompatible with this statement.

Person Responsible for Response: Lincoln Lande, groSolar.

111. How is the current project expected to not unnecessarily impact an identified "highly scenic landscape."

Objection: Applicant reasserts General Objection 5 to the extent that the question refers to an "identified 'highly scenic landscape'" but does not reference the source of this identification. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: The Project is not located in a designated "highly scenic landscape." The ridgeline behind the Project has highly scenic qualities, but the Project is not located on the ridgeline, and is separated from the ridgeline by a distance of trees. The location of the Project in the midground of a view that may have highly scenic aspects does not unnecessarily impact an identified highly scenic landscape.

Person Responsible for Response: Mark Kane, SE Group.

- 112. Describe each and every mitigation measure employed by the Applicant to address visual impacts of the project. What “context sensitive mitigation strategies to address potential visual impacts of the Project” has the Applicant developed and proposed for this project. Describe exactly what “SE Group has recommended a number of landscape mitigation measures” to be taken “to improve the harmony of the Project with respect to its surrounding and provide additional project screening.**

Response: The mitigation measures employed by Applicant are described in the Report included in Exhibit ORS-MK-2 in pages 14-16, and a mitigation planting plan was included with the application in Figure 10 of ORS-MK-2. These represent the extent of the mitigation measures proposed for the Project at this time. Applicant is willing to consider additional mitigation if there are specific requests from Neighbors.

Person Responsible for Response: Lincoln Lande, groSolar.

- 113. Who is the “average person” for purposes of the Quechee analysis? Are any of the neighbors or intervenors “average persons” for purposes of the Quechee analysis? Why or why not? Are experts hired and paid to testify in favor of or in opposition to an application “average persons” for purposes of the Quechee analysis? Why or why not? Are any citizens of Middletown Springs “average persons” for purposes of the Quechee analysis? Why or why not? Are any of the 118 town residents that signed a petition to oppose the project “average persons” for purposes of the Quechee analysis? Why or why not?**

Objection: Applicant reasserts General Objections 3 and 11 to the extent that this question calls for publically available information on how the Public Service Board applies the Quechee Analysis, or calls for a legal conclusion as to who is considered an average person. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: As noted in *In re Rutland Renewable Energy, LLC*, 2016 VT 50, ¶22, the Public Service Board has stated that the average person is “the average member of the viewing public who would see a particular project from the vantage point of the public.” The Supreme Court further stated that “while the Board must consider all vantage points, it does so from an objective, as opposed to subjective and neighborly, perspective.” Thus, no particular individual is intended to represent the average person for his or her particular purposes, as this would be a “subjective” or “neighborly” perspective.

Person Responsible for Response: Lincoln Lande, groSolar.

114. Why was the limited liability company formed for this project named “Orchard Road Solar I”? Why is the Roman numeral “I” used? Is that an indication that there will be future Orchard Road Solar projects in the future?

Objection: Applicant reasserts General Objection 10, as this question is not relevant to the issues on review. Without limiting or waiving the foregoing objections, Applicant responds as follows.

Response: The name of the project is not an indication that there will be future Orchard Road Solar projects in future. As discussed in the response to Question 94 above, this is the only Project being considered.

Person Responsible for Response: Lincoln Lande, groSolar.

115. Please identify the individual(s) who have participated or provided information in the preparation of these interrogatories and requests to produce.

Response: In addition to consulting with counsel, and in addition to the name of the responder listed below each response, Peter Bay of groSolar and Thomas Hand of SE Group assisted in the collection of information and/or preparation of these responses.

Person Responsible for Response: Lincoln Lande, groSolar.

Dated at Burlington, Vermont this 8th day of May, 2017.

As to Objections:



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
Burlington, VT 05402
(802) 860 – 1003
ghand@dunkielsaunders.com
vwestgate@dunkielsaunders.com
Attorneys for Orchard Road Solar I, LLC

Dated at White River Jct., VT this 5 day of May, 2017.
(city) (state)

Respondent Signature

By: 
Lincoln Lande

STATE OF Vermont
COUNTY OF Windsor

On this 5 day of May, 2017, before me personally appeared Lincoln Lande, to me known to be the person who executed the forgoing instrument, and he thereupon duly acknowledged to me that he executed the same to be his free act and deed.

Subscribed and sworn to before me this 5 day of May, 2017.


Notary Public

My Commission Expires: 2/10/2019

Dated at Burlington, Vermont this 5th day of May, 2017.
(city) (state)

Respondent Signature

By: 
Mark Kane

STATE OF Vermont
COUNTY OF Chittenden

On this 5 day of May, 2017, before me personally appeared Mark Kane, to me known to be the person who executed the forgoing instrument, and he thereupon duly acknowledged to me that he executed the same to be his free act and deed.

Subscribed and sworn to before me this 5 day of May, 2017.


Notary Public

My Commission Expires: 2-10-19

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a)
 certificate of public good, pursuant to 30 V.S.A.)
 §§ 219a and 248, to install and operate a 500 kW) CPG #16-0042-NMP
 group net metered solar electric generation facility)
 located on Orchard Road in Middletown Springs,)
 Vermont, to be known as the “Orchard Road)
 Solar Project”)

LIST OF RESPONSIVE DOCUMENTS PRODUCED

May 8, 2017

Requesting Party	Question Number	Document/Folder	Format
DPS	4	(PB and RS Corr. 4-5-16)	JPG
DPS	4	(PB and TF Corr. 6-9-16) Middletown Springs	JPG
DPS	4	DQ to RS 8-26-16	PDF
DPS	4	Fitzpatrick Letter rv edits	PDF
DPS	4	Fitzpatrick Letter to gro (002)	PDF
DPS	4	Hanwha_Q_CELLS_Data_sheet_QPLUS_L-G4.2_330-340_2015-09_Rev03_NA	PDF
DPS	4	LL to TH 6-30-16	PDF
DPS	4	Middletown Springs Property possible home loc (002) (002)	JPG
DPS	4	PB and RS 4-22-16	PDF
DPS	4	PB and RS 6-17-16	PDF
DPS	4	PB and TF 6-9-16	PDF
DPS	4	PB to Selectboard 6-9-16	PDF
DPS	4	PB to TH 6-10-16	PDF
DPS	4	RS to PB 7-18-16	PDF
DPS	4	RS to Selectboard 5-24-16	PDF
DPS	4	RS to SQ 12-2-16 Attachment	PDF
DPS	4	RS to SQ 12-2-16	PDF
DPS	4	Spitalny Cabin w Foliage (002)	JPG
DPS	4	TH to PB 6-30-16	PDF
DPS	4	TH to Robin State Rep. 6-30-16	PDF
Neighbors	1	VT - Mill Pond Road Solar, Wetlands Deliniaton	PDF
Neighbors	8	Folder: 160429_Site Photos	JPG
Neighbors	8	Folder: 2017 04 11_PSB Site Visit_TH	JPG
Neighbors	8	Folder: Aerial Photography and Street Views	JPG

Requesting Party	Question Number	Document/Folder	Format
Neighbors	8	Folder: DWG Data	DWG
Neighbors	8	Folder: KMZ Files- Google Earth	KMZ
Neighbors	8	Folder: Soils Map	PNG
Neighbors	8	Folder: USGS Maps	JPG/PDF
Neighbors	55	RBI Post Mount Specifications	PDF
Neighbors	82	(PB to SD 10-22 Corr) Middletown Springs - 30 Orchard Rd. Developed Area	JPG
Neighbors	82	(PB to SD 10-22 Corr) Middletown Springs Net Metering I Aerial	PDF
Neighbors	82	Attachment to FW_ Draft letter for Lincoln	PDF
Neighbors	82	Attachment to Middletown Springs Site Plan, VDHP	PDF
Neighbors	82	FW_ Draft letter for Lincoln	PDF
Neighbors	82	Middletown Springs Site Plan	PDF
Neighbors	82	PB to SD 2-1-16	PDF
Neighbors	82	PB to SD 2-19-16	PDF
Neighbors	82	PB to SD 5-6-16	PDF
Neighbors	82	PB to SD 10-22-15	PDF
Neighbors	82	RE_ Checking In	PDF
Neighbors	82	RE_ Draft letter for Lincoln (1)	PDF
Neighbors	82	RE_ Draft letter for Lincoln	PDF
Neighbors	82	RE_ Middletown Springs solar, image1	JPG
Neighbors	82	RE_ Middletown Springs solar, image2	JPG
Neighbors	82	RE_ Middletown Springs solar	JPG
Neighbors	91	(BP to PB 2-22 Corr) Middletown Springs solar	PDF
Neighbors	91	(BP to PB 10-22 Corr) Gro Solar.let	PDF
Neighbors	91	(PB to BP 2-11 Corr) 30 Orchard Road New Array Area (002)	JPG
Neighbors	91	(PB to BP 2-11 Corr) Middeltown Springs R, T, or E Review	PDF
Neighbors	91	(PB to BP 2-11 Corr) Middletown Springs ANR and New Developed Area	JPG
Neighbors	91	(PB to BP 2-11) Middletown Springs - 30 Orchard Rd Former Array Location (003)	JPG
Neighbors	91	(PB to BP 2-11) Middletown Springs - 30 Orchard Rd Former Developed Area (002)	JPG
Neighbors	91	(PB to BP 10-19 Corr) Middletown Springs Parcel (002)	JPG
Neighbors	91	(PB to BP 10-19) Middletown Springs - 30 Orchard Rd. ANR (002)	JPG
Neighbors	91	(PB to BP 10-19) Middletown Springs - 30 Orchard Rd. Array Location (002)	JPG
Neighbors	91	(PB to BP 10-19) Middletown Springs - 30 Orchard Rd. Developed Area (002)	JPG
Neighbors	91	(PB to BP 12-1 Corr) Exhibit B Revised (2016 500) (002)	JPG

Requesting Party	Question Number	Document/Folder	Format
Neighbors	91	(PB to BP 12-1 Corr) Middletown Springs ANR and New Developed Area (004)	JPG
Neighbors	91	(PB to ZC 11-5 Corr) Middletown Springs - 30 Orchard Rd. ANR (002)	JPG
Neighbors	91	(PB to ZC 11-5 Corr) Middletown Springs - 30 Orchard Rd. Array Location (003)	JPG
Neighbors	91	(PB to ZC 11-5 Corr) Middletown Springs Parcel (002)	JPG
Neighbors	91	BP to PB 2-22-16	PDF
Neighbors	91	PB to BP 10-22-15	PDF
Neighbors	91	PB to BP 12-1-15	PDF
Neighbors	91	PB to ZC 1-4-16	PDF
Neighbors	91	PB to ZC 11-5-15	PDF
Neighbors	93	PB to PK 5-21-16	PDF
Neighbors	93	PB to PK 6-10-16	PDF
Neighbors	93	PB to PK 6-22-16	PDF
Neighbors	93	PB to Selectboard 6-9-16	PDF
Neighbors	93	PB to Selectboard 7-18-16	PDF
Neighbors	93	PB to TR 2-26-16	PDF
Neighbors	93	PB to TR 5-24-16	PDF
Neighbors	93	PK to PB 5-17-16	PDF
Neighbors	93	RS to Town 5-24-16	PDF
Neighbors	93	RV to PK 5-5-16	PDF
Neighbors	93	TR to PB 3-10-16	PDF
Neighbors	94	DQ to PB 2-19-16	PDF
Neighbors	94	DQ to PB 5-12-16	PDF
Neighbors	94	DQ to PB 9-29-15	PDF
Neighbors	94	Error in quotes on VTWatchDog	PDF
Neighbors	94	PB to DQ & SQ 4-6-17	PDF
Neighbors	94	PB to DQ 3-10-16	PDF
Neighbors	94	PB to DQ 4-4-16	PDF
Neighbors	94	PB to SQ 11-21-16	PDF
Neighbors	94	Re_ Introductory Meeting	PDF
Neighbors	94	RE_ Introductory Meeting2	PDF
Neighbors	94	RE_ Introductory Meeting3	PDF
Neighbors	94	Re_ Introductory Meeting4	PDF
Neighbors	94	Re_ Update	PDF
Neighbors	103	Please see files in Folder: 2017 04 11_PSB Site Visit_TH under Question 8	JPG

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a)
certificate of public good, pursuant to 30 V.S.A.)
§§ 219a and 248, to install and operate a 500 kW) CPG #16-0042-NMP
group net metered solar electric generation facility)
located on Orchard Road in Middletown Springs,)
Vermont, to be known as the “Orchard Road)
Solar Project”)

CERTIFICATE OF SERVICE

I, Gillian Bergeron, certify that on May 8, 2017, I forwarded copies of Orchard Road Solar I, LLC's *Responses to the First Round of Discovery Requests served by the Department of Public Service* and *Responses to the First Round of Discovery Requests served by Richard Spitalny, Robert & Karen Galloway, Daniel McKeen & Ellen Secord, and Neil & Thomas Russell* to the service list below by the delivery method noted:

By E-Mail and First Class Mail:

Ms. Judith Whitney, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

Randy J. Miller, II, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901

Stephanie Hoffman, Esq.
Vermont Public Service Department
112 State Street, 3rd Floor
Montpelier, VT 05620-2601

John E. Arsenault, Chairman
Middletown Springs Planning Commission
P.O. Box 1232
Middletown Springs, VT 05757

David P. Wright, President
Middletown Springs Historical Society, Inc.
10 Park Avenue, P.O. Box 1121
Middletown Springs, VT 05757

Brooke Dingleline, Esq.
Valsangiacomo, Detora & McQuesten, P.C.
172 North Main Street
Barre, VT 05641
*(for Richard Spitalny, Neil & Thomas Russell,
Karen & Robert Galloway, and Daniel McKeen &
Ellen Secord)*

Ted & Dina Fitzpatrick
12525 Jot Em Down Lane
Odessa, FL 33556

Peter and Aileen Stevenson
97 Coy Hill Road
Middletown Springs, VT 05757

Karen L. Gutmann and Larry L. Springsteen
290 West Street
Middletown Springs, VT 05757

Douglas Freilich & Julie Sperling
PO Box 1041
Middletown Springs, VT 05757

Roy Cooper
327 West St.
Middletown Springs, VT 05757

Elizabeth W. Cooper
49 Rocks and Trees Lane
P.O. Box 1011
Middletown Springs, VT 05757

Dated at Burlington, Vermont this 8th day of May, 2017.

By:

A handwritten signature in black ink, appearing to read "Gillian Bergeron". The signature is stylized with a large, looped initial "G" and a long, sweeping horizontal stroke at the end.

Gillian Bergeron
Paralegal