

June 7, 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 Requests**

Dear Brooke:

Orchard Road Solar I LLC ("ORS") hereby submits its *First Round of Discovery Requests* served on Neighbors Richard Spitalny, Ted and Dina Fitzpatrick, Peter and Aileen Stevenson, Karen Gutmann and Larry Springsteen, Douglas Freilich and Julie Sperling, Neil Russell, Thomas Russell, Roy Cooper, Elizabeth Cooper, Daniel McKeen and Ellen Secord, and Karen and Robert Galloway.

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”)

CERTIFICATE OF SERVICE

I, Gillian Bergeron, certify that on June 7, 2017, I forwarded copies of Orchard Road Solar I, LLC's *First Round of Discovery Requests served on Neighbors Richard Spitalny, Ted and Dina Fitzpatrick, Peter and Aileen Stevenson, Karen Gutmann and Larry Springsteen, Douglas Freilich and Julie Sperling, Neil Russell, Thomas Russell, Roy Cooper, Elizabeth Cooper, Daniel McKeen and Ellen Secord, and Karen and Robert Galloway* 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 the Neighbors)

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 7th day of June, 2017.

By:

A handwritten signature in black ink, appearing to read "Gillian Bergeron". The signature is written in a cursive style with a large initial "G" and a long horizontal flourish extending to the right.

Gillian Bergeron
Paralegal

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**FIRST SET OF DISCOVERY REQUESTS ON NEIGHBORS SERVED BY ORCHARD
ROAD SOLAR I, LLC**

Pursuant to Public Service Board Rules 2.103 and 2.214, and Vermont Rules of Civil Procedure 33, 34, and 36, Orchard Road Solar I, LLC (“ORS” or “Applicant”) serves the following interrogatories, requests for production of documents, and/or requests for admission on Neighbors Richard Spitalny, Ted and Dina Fitzpatrick, Peter and Aileen Stevenson, Karen Gutmann and Larry Springsteen, Douglas Freilich and Julie Sperling, Neil Russell, Thomas Russell, Roy Cooper, Elizabeth Cooper, Daniel McKeen and Ellen Secord, and Karen and Robert Galloway (hereafter “Neighbors”) to be answered separately and fully under oath by delivering its answers and all requested documents and materials to Applicant’s counsel no later than the close of business on **June 21, 2017**.

I. INSTRUCTIONS AND DEFINITIONS

1. Reproduce the request being responded to before the response. Please provide a hard copy of your responses and an electronic copy. All spreadsheets and computer data should also be provided electronically.
2. The response to each request should be made under oath by a person competent to testify concerning the response and all documents and exhibits produced as part of the response. With respect to each request, please state (1) the name(s) and title(s) of the person or persons responsible for preparing the response; and (2) the administrative unit which maintains the records being produced or maintains the data from which the answer was prepared; and (3) the date on which each question was answered.
3. Where information requested is not available in the precise form described in the question or is not available for all years (or other periods or classifications) indicated in a series of years (or other periods or classifications), please provide all information with respect to the subject matter of the question that can be identified in your work papers and files or that is otherwise available.
4. These requests shall be deemed continuing to the full extent permitted by law. You are directed to change, supplement and correct your answers to conform to all information as it becomes available to you, including the substitution of actual data for estimated data. Responses to

requests for information covering a period not entirely in the past (or for which complete actual data are not yet available) should include all actual data available at that time and supplementary data as it becomes available.

5. Wherever responses include estimated information, include an explanation (or reference to a previous explanation) of the methods and calculations used to derive the estimates.

6. Some of Applicant's requests may make particular reference to a portion of a filing in this matter. Notwithstanding this specific direction, these items should be understood to seek discovery of all information available to you that is responsive to the questions stated.

7. "Identify," when used in connection with natural person(s) or legal entities, shall mean the full name and current business address of the person or entity. "Identify all relevant documents" requires you to:

(a) state whether there is or was any document(s) which bears upon, discusses, or pertains to the facts or issues to which the interrogatory and the question is addressed;

(b) set forth in detail: (i) a description of the nature (i.e., letter, memorandum, etc.) and the exact contents of each such document(s); (ii) the name and address of the author(s), signer(s), recipient(s), and addressee(s) of each said document; (iii) where each said document is located; (iv) the date of each said document; (v) the name and address of the person(s) or other entity having custody, control or possession of each said document; and (vi) if a document, or copy thereof, is no longer in existence or is no longer in your custody, control, or possession, the name and address of the person(s) or other entity last having custody and/or possession of said document to the best of your knowledge and the reason for it no longer existing or being under your custody, control or possession.

8. "Identify and set forth the contents of all oral communications" requires you to:

(a) state whether there were any oral communication(s) bearing upon, discussing, or pertaining to facts or issues to which the interrogatory and question is addressed;

(b) set forth in detail: (i) the contents of each said oral communication; (ii) where and when each said oral communication occurred; (iii) the name and address of each person participating in each or any said communication; (iv) the name and address of each person present at each or any said communication; and (v) the nature, identity, and location of each and every document which bears upon, discusses or pertains to each or any said communication, and attach a copy thereof.

9. "Document," as used herein, shall be construed as broadly as possible to include any and all means and media by which information can be recorded, transmitted, stored, retrieved or memorialized in any form, and shall also include all drafts, versions or copies which differ in any respect from the original. The term specifically includes and is not limited to written notes and

communications such as reports, workpapers, handwritten notes, letters and e-mails. All spreadsheets must have formulae intact and accessible.

10. "You" and "your" as used in these interrogatories includes all intervening Neighbors, each witness who has submitted testimony on its behalf, and each of their agents, employees, contractors and representatives.

11. Documents produced pursuant to these requests shall be organized and labeled in correspondence with the paragraph number to which they are alleged to respond. With respect to each document produced, identify the person who prepared the document and the date on which the document was prepared.

12. If in response to any request for information, the responding party asserts attorney client privilege, attorney work product, or any other privilege, please provide, in addition to the basis of the privilege, the date of the allegedly privileged communication(s), the identity of all persons who were party to the allegedly privileged communication(s) or who received copies of such communication(s), and the subject matter of the allegedly privileged communication.

13. If any interrogatory or request is objected to in whole or in part, please describe the complete legal and factual basis for the objection, and respond to all parts of the interrogatory or request to the extent it is not objected to. If an objection is interposed as to any requested documents, please identify the document by author, title, date and recipient(s), and generally describe the nature and subject matter of the document as well as the complete legal and factual basis for the objection. If any information is withheld on the grounds of privilege, immunity or qualified immunity, trade secrets, including without limitation, the work product doctrine or attorney client privilege, the following information shall be provided in a privilege log: (a) the basis upon which the privilege or protection is claimed; (b) the identity of the person who is the source of the information; (c) the identity of the person to whom the information has been communicated; (d) whether the information, or any part thereof, is based upon or evidenced by or is contained in any document and the identity of all such documents; and (e) the subject matter of the information and interrogatory to which it responds, sufficient for its identification.

II. INTERROGATORIES & REQUESTS TO PRODUCE

1. Please indicate all Neighbors that are not permanent residents of Vermont and provide the following information for each person:
 - a. Address of your permanent residence.
 - b. The average number of days per year you spend at your property in Middletown Springs.
 - c. The approximate number of days you spent at your property in Middletown Springs in the last year.
 - d. The seasons during which you spend time at your property in Middletown Springs.

2. Please provide the distance from each Neighbor's residential structure, if one exists, to closest solar panel proposed for the Orchard Road Project.
3. For each Neighbor, please provide a response to the following questions:
 - a. Do you currently have a residential structure on your property?
 - b. If so, do you have a view of the proposed project location from your residential structure during a) leaf off conditions and/or b) leaf on conditions?
 - c. If you responded yes to (b), from what area or areas of your residential structure can you view the proposed Project location? Please describe.
 - d. Please provide any photos showing the view of the proposed project site from your residential structure.
4. Please provide any documents, reports, analysis, or communications reviewed, relied on, or prepared by each expert in their assessment of this Project.

Questions related to the Testimony of Todd Thomas

5. Did either the Town of Morristown or the Village of Morrisville provide approval or authorization for you to provide testimony in this proceeding?
6. Have you ever testified as an expert before the Vermont Public Service Board or in court? If so, please indicate which proceedings and provide a copy of any testimony you submitted.
7. How did you come to be involved in this proceeding?
8. Do you have any personal interest in this proceeding? If so, please explain.
9. Have you drafted or participated in the drafting of a Town or Regional Plan? If so, please indicate which plan/s and the dates and extent of your participation.
10. Please provide your definition of "ridgeline."
11. In your opinion, has the project been sited on a ridgeline or below a ridgeline with an isolated viewshed?
12. Please admit that Chapter II, Section F of the 2012 Middletown Springs Town Plan states that "there are no existing local restrictions on development or use" of ridgeline areas. If denied, please provide an explanation.
13. Please admit that the Project site is located in the "Rural District" in the Future Land Use map in the 2012 Middletown Springs Town Plan.

14. Please admit that the Project site is not located in the "Highlands District" in the Future Land Use map in the 2012 Middletown Springs Town Plan.
15. Is it correct that the Town Plan indicates under Chapter 3, Section J, Progress, that several individual property owners have installed solar systems to harness renewable energy?
16. Does the project meet required roadway setbacks on-site?
17. What public community vantage points is the project visible from? How many vantage points is too many, as stated on Page 4 of your report?

Questions related to the Testimony of Michael Lawrence

18. Please identify which photographs and or figures in your report, if any, were taken from a residential structure.
19. Please provide the original electronic files for all photos and simulations included in your report.
20. Have you ever testified as an expert before the Vermont Public Service Board? If so, please indicate which proceedings.
21. From the list of proceedings on your resume, please provide any testimony and reports you prepared or submitted for the following projects:
 - a. Anbaric Green Line
 - b. Apple Hill Solar Project
 - c. Bowers Windturbine Project
 - d. Calais Celltower
 - e. All Fairpoint Communications Tower Projects
 - f. Lowell Windtowers
 - g. Prentiss Farm
 - h. Saddleback Wind Turbines
 - i. Seacoast Reliability Project
 - j. Senecal Quarry
 - k. South Village Solar Array
22. Are there areas of existing vegetation between Route 140 and the project site that provide screening of the project? If so, did you take these into account in your analysis?

Questions related to the Testimony of Ted and Dina Fitzpatrick

23. Do you have specific plans to build a house on your property? If so, when? Please provide any plans, layouts, studies, or other documentation for your proposed residence.
24. Please provide the basis for your statement that the Project “will emit frequencies that could interfere with our residential electronic equipment.”
25. Please provide the basis for your concern regarding the “electromagnetic field created by the equipment to be installed” and provide any documentation supporting your statement.
26. Please provide the basis for your statement that “persons suffering from certain health conditions would be exasperated by the glare and reflections from the sun from the proposed project. Disabling glare is sunlight that interferes with the clarity of a visual image and reduces contrast. In addition it can cause or intensify migraines headaches and eye pain.” Please provide any documentation supporting your statement.
27. Please provide the basis for your statements that the Project “would also create a continuous noise during daytime which is not congruent with a person’s quality of life” and that “24 hour a day noise pollution from this facility could cause or intensify their health issues” with an explanation for who “their” refers to. Please provide the “observational and experimental studies” referenced on page 4, and any other documentation supporting your assertion.
28. Please admit you do not have expertise on the following topics:
 - a. Electromagnetic fields
 - b. Sound measurement
 - c. Mitigation strategies for public healthIf denied, please provide your qualifications as an expert on the applicable topic/s.
29. Is there additional mitigation screening that you believe the Applicant should have considered as a part of the Project? If so, please describe.
30. Is there any additional mitigation screening that you would like the Applicant to consider installing as part of the project? If so, please describe.

Questions related to the Testimony of Peter and Aileen Stevenson

31. Please indicate the years in which you were employed as a realtor in Middletown Springs.
32. Please admit that property values in Middletown Springs are lower than they were in 2008. If denied, please provide an explanation.

Questions related to the Testimony of Karen Gutmann and Larry Springsteen

33. Please admit you do not have expertise in sound measurement. If denied, please provide your qualifications as an expert.
34. Please provide the basis for your statement that the Project will “generate noise during the day at a decibel level that can be heard from Affiants’ property; deck and house disrupting, if not completely eliminating Affiants’ ability to enjoy the property.” Please provide any documentation relied on to support this statement.
35. Please provide any documentation supporting the “current aural qualities of the property.”
36. Please provide the basis for your statement that noise from the Project will adversely impact your daily animals. Please provide any documentation relied on to support this statement.
37. Please provide the basis for your stated concern about radiation from the project. Please provide any documentation relied on to support this statement.

Questions related to the Testimony of Daniel McKeen

38. Please indicate the basis for your statement that Applicant’s “application includes 30 acres.”

Questions related to the Testimony of Roy Cooper

39. Please admit that you do not currently have plans to construct a camp or residential structure on the southeast corner of your property. If denied, please provide an explanation.

Questions related to the Testimony of Elizabeth Cooper

40. Is the shared Rocks and Trees, Inc. property conserved?
41. How often is the shared field used?
42. How many people share ownership of the Rocks and Trees, Inc. property? Please identify the owners.
43. Are all the members of Rocks and Trees, Inc. permanent residents of Middletown Springs? If not, please indicate how many members are residents of the Town.
44. Is the property open to the public? If not, is the property posted private?

45. Please indicate the distance from the field to the closest solar panel proposed for the Project.
46. Please admit that you do not have a view of the Project from your residential structure. If denied, please explain the facts supporting your denial.
47. Please admit that any members of Rocks and Trees, Inc. that do have a view of the Project from their residential structure did not choose to participate in the proceeding.
48. Please admit that the shared field on the Rocks and Trees property does not contain a residential structure.
49. Please provide the year each of the 7 photographs submitted as NN-8(a) through NN-8(g) was taken.

Questions related to the Testimony of Richard Spitalny

50. Please admit that you do not have expertise in the following areas:
 - a. Visual aesthetics
 - b. Historic structures
 - c. Sound measurementIf denied, please provide your qualifications as an expert.
51. Have you personally observed and/or do you have personal knowledge of the alleged glare you submitted photos of on Pages 18-19 of your testimony? If so, when did you come to have personal knowledge of this issue?
52. Did you take the photos included on Pages 18-19 of your testimony? If not, who did? Please explain how you came to obtain these photos.
53. Please provide the basis for your statement that the Project "will emit frequencies that could interfere with our residential electronic equipment."
54. Please provide the basis for your statement that the Project "would generate noise during the day at a decibel level that could be heard from some neighboring properties, disrupting owners' ability to enjoy their property in its natural state as remote, rural locations." Please provide any documentation supporting this statement.
55. Please provide the basis for your statement that the Project is proposed in "the extremely quiet rural area that now exists with nothing else emitting the type and frequency of the noise that would result from the Project." Please provide any documentation or data you have collected regarding the existing noise levels in the Project area.

56. Please provide the basis for your statement that the Project “would also create a continuous noise during daytime which is not congruent with a person’s quality of life.” Please provide the “observational and experimental studies” referenced on page 26, and any other documentation supporting your assertion.
57. Please provide the basis for your statement that the Project will “generate noise during the day at a decibel level that would be heard from my property; deck and house disrupting, if not completely eliminating my ability to enjoy the property.” Please provide any documentation relied on to support this statement.
58. Please provide any documentation, data, or reports regarding the “current aural qualities of the property.”
59. Please provide the basis for your stated concern about radiation from the project. Please provide any documentation relied on to support this statement.

Dated at Burlington, Vermont this 7th day of June, 2017.

Orchard Road Solar I, LLC

BY:



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
Counsel for Orchard Road Solar I, LLC