Draft Solar Siting Task Force Report v. Jan. 20, 2016

Overview

Charge

From Act. 56, Section 26.g - The Task Force shall study the design, siting, and regulatory review of solar electric generation facilities and shall provide a report in the form of proposed legislation with the rationale for each proposal.

Membership

Commissioner of Public Service or Designee: **Commissioner Christopher Recchia (Chair)**
Commissioner of Housing and Community Development or Designee: **Commissioner Noelle MacKay**
Secretary of Natural Resources or Designee: **Secretary Deb Markowitz**
Representative of the Vermont League of Cities and Towns: **Karen Horn**
Representative of the Vermont Planners Association: **Sharon Murray**
Representative of the Vermont Association of Planning and Development Agencies: **Adam Lougee**
Representative of Renewable Energy Vermont: **Andrew Raubvogel**
Representative of an electric distribution utility: **Robert Dostis**
Landscape architect: **Mitch Lefevre**
Vermont resident with public policy and environmental and energy expertise: **Sam Swanson (Vice Chair)**

Meetings

The Committee has met 10 times with a first meeting on July 28 and a final meeting on January 21.

Participants

The following individuals provided testimony to the Task Force, in order of appearance:

Dr. Asa Hopkins, Director of Planning and Energy Resource Development, Public Service Department, on State Energy Goals, Portfolio Options, and Solar Land Use Implications

David Raphael, Landscape Architect and Planner, LandWorks, on Solar Aesthetics Guidance

Lou Borie and Jon Groveman, Natural Resources Board and **Jeannie Oliver**, Public Service Department, providing an overview of Act 250 and Section 248

Sharon Murray, Vermont Planners Association, on Overview of VSA Title 24 Chapter 117, State Land Use Goals and Energy

Peter Rothschild, New Haven Planning Commission, on Town Experience and Suggestions for Solar Development

Chad Farrell, Encore Redevelopment, on Developer Experience and Suggestions for Solar Development

Jeannine McCrumb - Charlotte Town Planner, **Ron Bouchard** - Shelburne Planning Commission, **Peter Rothschild** - New Haven Planning Commission, and **Mel Adams** - Randolph Town Manager – panel discussion providing town perspective

Tom Garden - Triland Partners, **Rod Viens** - GroSolar**, Luke Shullenberger** - Green Lantern Development, and **Nathanial Vandal** - Green Peak Solar – panel discussion providing developer perspective

Jim Sullivan - Bennington County Regional Commission, **Taylor Newton** - Northwest Regional Planning Commission, **Chris Sargent** - Two Rivers Ottauquechee Regional Commission – providing an overview and update on the Regional Energy Planning Pilot

Jon Copans , Asa Hopkins, and Anne Margolis of the Public Service Department – providing an overview of the Public Service Board's draft Net Metering Rule.

Diane Bothfeld - Agency of Agriculture, Food, and Markets Deputy Secretary, – providing an update on Agricultural Soils and Solar Development

Public Comment

The Task Force also heard from many stakeholders through verbal and written public comment. Thirty-five members of the public spoke over the course of the Task Force's meetings, and the Task Force received an additional 122 written public comments.

Context

-Overview of solar development in Vermont (totals and trends, history and future; Total Energy Study and Comprehensive Energy Plan)

-Moving pieces: PSB's Draft Net Metering Rule, Standard Offer

-Act 56 Siting Provisions

Recommendations

The Solar Siting Task Force offers the following suite of recommendations, broken down into Planning, Incentives, Process, and Aesthetics/Environment categories. Generally, each of these recommendations can stand on their own (i.e., this does not constitute an interdependent "package" of recommendations). However, the Task Force agrees unanimously that all of these recommendations are worthwhile and important, and that implementing them all will greatly improve the siting, design, and regulatory review of solar electric generation facilities.

Planning

Effective planning has the potential to shape the municipal, regional and state energy future. The quality and degree of energy planning at the town and regional levels could be increased with resources and tools, such as an expansion of the regional energy planning work the Department of Public Service has undertaken with Bennington, Two Rivers-Ottauquechee, and Northwest regional planning commissions.

Findings

1. There is variability in the quality and degree of energy planning at the regional level.
2. Action is needed to improve the ability of regions and towns to contribute to the Board's decision making for solar projects.

Objectives

1. Strengthen the capacity of regional planning commissions and municipal planners to plan for increasing numbers of solar facilities and provide that information to the Board in a manner that will be meaningful in the 248 process.

Recommendations

1. *Strengthen Regional Energy Planning*

   Regional Planning Commissions (RPCs) have tools and expertise to analyze both comprehensive energy needs as well as potential energy resources and constraints for each of the 11 regions in the state. RPC energy plans have historically varied in terms of depth and specificity, both of which are necessary to help regions to develop meaningful goals, strategies, and recommendations that carry weight in the permitting process. Resources and training are necessary to help RPCs to carry out deep energy planning that involves their member communities.

   - DPS-RPC Energy Planning Pilot: The DPS has partnered with three regional planning commissions (RPCs) — Bennington, Two Rivers-Ottauquechee, and Northwest — to advance a total energy approach to regional energy plans, consistent with the goals and approach

embodied in the 2016 Comprehensive Energy Plan. This pilot program is underway, and will be complete in 2016. Each RPC, working with the Vermont Energy Investment Corporation, has modeled pathways to 90% renewable energy within its region, and will identify particular regional goals and actions on heat, transportation, and electric power. The updated plans will also include a mapping component, identifying promising areas for different kinds of renewable energy supply technologies. The DPS hopes the development and adoption of these revised plans will enable a bottom-up approach to energy planning that will complement the state-led CEP structure. The DPS has budgeted for support for an additional four RPCs to begin this work in 2016, taking advantage of the groundwork laid by the three pilot regions.

- Ongoing Support for RPC Energy Planning: The DPS hopes to be able to support this initial work by all the RPCs, but a contractual and funding mechanism for ongoing regional energy planning does not exist. This could be modeled, with funding support, on existing RPC contracts with the Vermont Agency of Transportation for regional transportation planning (under ***19 V.S.A. § 101***) and with the Agency of Natural Resources for basin planning (as enacted in 2015 under ***10 V.S.A. § 1253***).

2. Clarify and Enhance the Energy Planning Responsibilities of RPCs

State planning and development goals under ***24 V.S.A. § 4302*** specific to energy efficiency and renewable energy development – to be considered in the development of municipal, regional, and state agency plans – predate, and therefore do not reference or incorporate more recently enacted state renewable energy goals or comprehensive energy planning requirements under Title 30.

- Expand Role of Energy in the State's Planning and Development Goals: Current statutory language related to energy planning would benefit from revision to more specifically recognize and reference the State Comprehensive Energy Plan and current state energy goals, in a similar manner to that in which they were amended last year with respect to basin planning. ***24 V.S.A. § 4302(7)*** could be amended as: To encourage the efficient use of energy and the siting and development of renewable energy resources consistent with goals and recommendations developed in the State Comprehensive Energy Plan prepared under 30 V.S.A. § 202.

Additionally, powers and duties related to energy planning that are currently *optional* for RPCs under ***24 V.S.A. § 4345 Optional powers and duties of regional planning commissions*** could be made mandatory by moving them to ***24 V.S.A. § 4345a Duties of RPCs***:

24 V.S.A. § 4345(1) currently reads: (1) Develop an inventory of the region's fire and safety facilities; hospitals, rest homes, or other facilities for aging or disabled persons; correctional facilities; and emergency shelters; and work with regulated utilities, the Department of Public Service, the Department of Public Safety, potential developers of distributed power facilities, adjoining regional planning commissions, interested adjoining regional entities from

Commented [MA1]: VPA: include language under the **regional plan energy element (24 VSA § 4348a(3))** similar to that included for municipal plans – *or a version of this as recommended by the Siting Commission*. Incorporating siting (and a map) as part of the element is probably more relevant to our discussion than making their currently optional duties mandatory (which VPA would support, if $$/contracts were also cover the cost of doing "deep energy planning")

Also, any proposed revisions to planning goals under § 4302, through referenced in terms of regional planning, would also apply to municipal and other state agency plans…

adjoining states, and citizens of the region to propose and evaluate alternative sites for distributed power facilities that might provide uninterrupted local or regional power at least for identified critical service providers in time of extended national, statewide, or regional power disruption or other emergency.

24 V.S.A. § 4345(6) currently reads: Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, State capital investment plans, and wetland protection.

Additionally, the general planning purposes and goals in ***24 V.S.A. § 4302(c)(7)*** could be amended from: To encourage the efficient use of energy and the development of renewable energy resources; to something like: To provide for the conservation of energy, deployment of energy efficiency, and development of renewable energy resources, including identification of areas suitable for sufficient development of environmentally sound, cost-effective energy resources in alignment with state energy goals.

Commented [AR2]: It is unclear from what perspective "cost effective" is intended to be from. REV believes the intent should be to identify sites that environmentally sound and also feasible from a cost/engineering perspective, i.e., near transmission, affordable and available land, etc.

The language should reflect the above.

- Make RPCs Parties by Right in the § 248 Process: One of the required duties of RPCs in ***24 V.S.A. § 4345a(14)*** is to appear before the Public Service Board to aid them in making determinations. However, this duty does not come with a commensurate right to appear in those proceedings. This can be fixed by amending ***30 V.S.A. § 248(a)(4)(F)*** to read: The regional planning commission for the region in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection.

3. *Strengthen Municipal Energy Planning*

Town plan elements related to energy – including land use elements used in the § 248 process – have historically varied in terms of relevance and specificity, both of which are necessary to help towns to develop meaningful goals, strategies, and recommendations that carry weight in the permitting process. Resources and tools are necessary to help towns to carry out deep energy planning in coordination with and with assistance from their RPCs, which are carrying out this work on the regional level.

- Expand Town Energy Planning Responsibilities: Current statutory language related to energy elements in town plans would benefit from revision to acknowledge the comprehensive nature of energy planning that the state is now doing, and the need for sufficient detail to guide energy development decisions. ***24 V.S.A. § 4382 The plan for a municipality (9)*** could be amended as: An energy plan, including an analysis of comprehensive energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of distributed and utility-scale renewable energy resources, a statement of policy on patterns and densities of land use

likely to result in conservation of energy, and land-use suitability maps identifying potential areas for the development of renewable energy resources.

- Support for the Creation of Tools for Town Energy Planning: Towns would benefit from information gleaned through the RPC energy planning work, such as individual town energy usage data and map layers of energy resources and constraints. Other useful tools could include development of standard energy use modeling and resource mapping protocols, for towns that wish to undertake their own modeling and mapping exercises from scratch. With funding, other tools to universally benefit towns – such as model town energy plans and solar siting best practices – could be developed through the input of experts and stakeholders.

- Support for the Concept of Exploring the Feasibility of Town Review of Small Solar Systems: At present, the vast majority of applications received by the Public Service Board are for solar projects < 15 kW. These projects go through a "registration" process, where the Board, DPS, and utility have 10 days to review the application, and the CPG is deemed issued on the 11th day if no issue arise. Towns do not receive notice of these applications, though sometimes take an interest in them in terms of impacts on historic structures, flood hazard areas, rights-of-way, and other town-specific matters. The Task Force supports the idea of exploring the concept of assigning the responsibility of issuing registrations to towns, *as long as the process does not entail any additional burdens or delays for these smaller systems as compared with the existing PSB registration process*.

Incentives

Formatted: Heading 2

Aligning market signals with public policy objectives is one of the most effective ways to guide development. There is strong desire in the state for solar to be preferentially developed in already impacted areas, such as on buildings, parking lots, brownfields, landfills, and gravel pits. Solar is also generally desirable in locations where it provides the most value to the grid, and where there is a direct or tangible benefit to host communities and neighbors. Modest changes to existing incentive programs in the state offer a pathway toward achieving these goals.

Findings

1. Action is needed to improve the siting of ground-mounted solar projects, especially to counteract the tendency to site projects in the lowest-cost locations, which are often open fields in rural areas away from load, in close proximity to three-phase power lines.
2. Desirable siting of projects can be encouraged through both financial and regulatory incentives.
3. Financial incentives to achieve desirable siting outcomes require careful consideration with respect to their interplay with other societal objectives, such as cost to ratepayers.

Objectives

1. Incentivize projects to locate in preferred locations, including: ~~in~~ previously developed or in-fill sites~~the built/already degraded environment, on site~~, close to load~~,~~ (where feasible), and in areas designated for such use by towns, especially where multiple state objectives can be met at the same time.
2. Avoid the use of prescriptive siting requirements and allocations, especially in statute, particularly where context matters. Instead, provide objectives for siting that can be carried out programmatically.

Recommendations

1. *Create Regulatory and Financial Incentives For Siting in Preferred Areas*

- Encourage Solar Projects to Locate in Town-Designated Areas: At present, there is no formal mechanism for communities to direct solar development within their boundaries to preferred areas. If communities take the initiative to plan for solar, there should be regulatory and financial incentives put in place to encourage projects to locate in those areas.

- Maximize Solar Development in ~~Already Impacted Areas~~Previously-Developed or In-Fill Locations and Close to Load: Vermont's renewable energy programs, such as Net Metering and Standard Offer, ~~have not prioritized siting of solar in preferred locations.~~do not have program-based criteria for selecting solar sites. Modifications to these programs that incentivize maximum deployment of solar on existing structures, parking lots, brownfields, landfills, gravel pits, and other ~~disturbed~~ previously-developed areas, as well as close to load, should be prioritized. Regulatory processes for these types of projects should also be streamlined to the extent practicable.

2. *Incentivize Projects that Directly Benefit Neighbors*

- Create Incentives for Projects that Directly Benefit Local Communities: "Community solar" projects should directly benefit towns in which they are sited, and/or the loads to which they are adjacent. If project developers can demonstrate their projects benefit local communities (serving local participants or loads, or providing other meaningful community benefits), they should enjoy financial or regulatory incentives.

- Enable Portions of Large Projects to Benefit Neighbors and Host Towns: Current statutory language allowing portions of non-net metering projects to be net metered (30 V.S.A. § 8010) will expire at the end of 2016, and no equivalent provision exists in the draft proposed net metering rules to take effect in 2017. Enabling projects sponsors to allocate some portion of > 500 kW solar projects to neighbors and host towns, such that those entities enjoy a financial benefit, is one way to ~~mitigate any negative~~balance project impacts. If existing rule

language is retained, it should be modified to account for economies of scale enjoyed by > 500 kW projects.

Process

Participation in some aspects of the § 248 process can be difficult for some stakeholders, especially those participating for the first time or who choose to represent themselves in contested cases. Efforts to improve the availability of information on cases, create process guidance, and remove barriers to participation would be welcomed by the public, towns, neighbors, state agencies, developers, and other stakeholders.

Findings

1. It is difficult for even many regular participants in the § 248 process, let alone members of the public seeking to participate for the first time, to understand and effectively participate.
2. Intervention in a § 248 proceeding can be difficult and expensive, particularly for pro se interveners. A mechanism is needed to facilitate mediation of community and neighbor concerns with projects, outside of the formal contested case process.

Commented [AR3]: This statement is too broad – for regular participants in 248, there is nothing particularly complicated in understanding or participating. The issue is more with the lack of information provided by the PSB as to the status of projects, and the ad hoc nature of decision-making

Commented [AR4]: If they are pro se, why would it be expensive?

Commented [AR5]: This seems like a separate point, so make it its onw #3.

Objectives

1. Enhance customer service and access to information at the Board for those seeking to participate in the § 248 process.
2. Enable multiple mediation pathways for resolution of concerns between project developers and host towns/neighbors, with the goal of shortening and not lengthening the overall process.

Recommendations

1. *Create Pathways for Mediation of Concerns with Projects*

- Encourage Pre-Application Consultations: While there is a 45-day notice to towns and neighbors for projects > 150 kW, there are no formal requirements for developers, towns, and neighbors to constructively engage prior to an application being filed with the Board. Additionally, there are no consultation requirements for projects < 150 kW. The Board's draft net metering rule does attempt to address this need, by requiring a pre-application information session and consultation prior to application filing for all projects > 15 kW and < 500 kW. Projects > 150 kW must additionally respond to comments received at the information session and in response to the 45-day notice. The Task Force is encouraged by these recommendations and would like to see projects > 500 kW similarly engage with neighbors and communities beyond the 45-day notice. It may be worthwhile to further encourage these early discussions by offering projects with a streamlined § 248 process (something akin to the current § 248(j) application process) when the project is supported by the host municipality.

Commented [AR6]: Prior to?

- Create an Early Off-Ramp for Mediation of Concerns: The Board should develop a process to assist in resolution of concerns between developers, towns, and neighbors in the early stages of the application process. This could involve exploring the ability of Board staff (or outside mediators hired by the Board) to play a mediator role up to the point a case becomes contested (perhaps when a party formally files for intervention and is granted party status). The goal would be to shorten the overall process while satisfactorily resolving the concerns of towns and neighbors and avoiding the expense of litigation.

- Create a Mediation Process for Contested Cases: The Board should also develop a process to assist in resolution of issues between developers, towns, and neighbors after a case becomes contested, perhaps through ordering third-party mediations. It could consider using process similar to 18 CFR 385.603 (the Federal Energy Regulatory Commission settlement process): after appointing a settlement officer, there would be a finite period of discussions between the developer and person requesting the settlement conference (perhaps scaled to the size or project or type of proceeding); the settlement officer would make a recommendation to the Board on whether to extend the settlement period, accept the settlement proposal, or go to hearing.

    - Proposed statutory language for non-met metered projects: Add to ***30 VSA § 248(a)(4)(B)*** ~~:~~: The Public Service Board shall hold technical hearings at locations which it selects. Mediation may be requested by agreement between all parties to the proceeding or ordered by the Public Service Board on its own motion or on motion of a party to the proceeding. The Public Service Board shall adopt and implement rules that establish the standards and procedures governing mediation.
      -add to 30 VSA § 8007(b)(1)((B): … Provided however that the Board may not waive 30 VSA § 248(a)(4)(B) as it relates to mediation.

      Proposed statutory language for net-metered projects [if applicable]:
      -add to 30 VSA § 8010(c)(3)(B): … Provided however that the Board may not waive 30 VSA § 248(a)(4)(B) as it relates to mediation.

Commented [AR7]: +seems like an odd section to add mediation. Mediation will come well before the technical hearing.

Commented [AR8]: May not be necessary to have "all" – some state agencies may not need to get involved in the mediation.

2. *Provide § 248 Process Assistance to Developers and the Public*

    - Creation of Customer Assistance Roles at the Board: The § 248 process, particularly for net metered projects, has evolved into a large permitting process that lacks the administrative support, routinized permitting systems, and communication with stakeholders that this scale of process requires. Ultimately, the Board is encouraged to undertake a comprehensive review of its permitting and customer service needs and the skill sets that are required, including reviewing permitting programs at ANR that may provide a useful model to borrow from. In the short term, addition of the appropriate number and type of staff commensurate with the scale of permitting ~~happening~~ that is taking place is vital. Other state permitting programs, for instance, might employ three to five individuals to accommodate this scale of program.

Appropriate staff might include one or more permit program managers with broad program oversight, and one or more administrative staff. It is important to provide answers to both common, administrative-type questions as well as more detailed technical- or process-related questions. The Board will need appropriate resources to accommodate these needs. The electronic filing system initiative underway at the Board will be an integral tool toward achieving appropriate levels of customer service.

- Development of Forms and Templates: Citizens, developers, and other participants in the § 248 process would benefit from forms for routine requests, such as intervention requests. These could be added to the Board's *Citizen's Guide to the Vermont Public Service Board Section 248 Process*.

3. *Participation of State Agencies in the § 248 Process*

Certain state agencies, particularly the Agency of Agriculture, Food & Markets (AAFM) and the Vermont Division for Historic Preservation (VDHP) are charged with advocating for the protection particular state resources (agricultural soils and historic resources, respectively) but are limited in their ability to participate, either by resources or perceived procedural hurdles.

- Party Status for AAFM: Make AAFM a "party by right" in the § 248 process, and be given the right to intervene under Board Rule 2.209(A), *intervention as of right*.
  - 30 V.S.A. § 248(a)(4)(F) could be added to read:
    The Vermont Agency of Agriculture, Food & Markets shall have the right to appear as a party in any proceedings held under this subsection. For solar projects, participation of the Vermont Agency of Agriculture, Food & Markets shall be limited to ground-mounted solar projects that impact agricultural soils.

- VDHP Notice and Developer Agreements: Ensure that the Division for Historic Preservation is on the notice list for all projects and that any agreement between developers and the DHP is included in the applicant's application or petition.

Aesthetics/Environment

In § 248, aesthetics is primarily reviewed in the context of criterion (b)(5), which requires that a project "….will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety…." [emphasis added]. The PSB uses the two-part Quechee test adopted by the former Environmental Board (now the Natural Resources Board) to determine the project's effect on aesthetics. The Quechee test can be summarized as follows:

Part One: Determine whether the project will have an adverse impact on aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If yes, move to part two.

Part Two: Determine whether the adverse impact is undue, if any one of three questions is answered in the affirmative:
1) Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?
2) Does the project offend the sensibilities of the average person?
3) Have the applicants failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings?

Aesthetics is by its very nature subjective. While the Quechee test attempts to lend some objectivity to the review, details of how the review is conducted, and what information feeds into the review, are not always clear. There is also need for improvement in the information collected for the purpose of aesthetics review, the ability for those potentially affected to be involved, and the assurance that aesthetic mitigation requirements (such as screening) remain effective over time.

Findings

1. There is need for plain-language guidance on the Quechee test for participants in the § 248 process, particularly with respect to the role and consideration of neighbors and town plans.
2. Act 56 included provisions to improve the ability of towns to have a say in the siting of solar projects. The Act granted automatic right to party status in § 248 proceedings to host-town selectboards and planning commissions, created statewide setbacks for ground-mounted solar projects, and allowed municipalities to adopt solar screening bylaws that would be applied in the context of a § 248 proceeding. Towns have only just begun to take advantage of these provisions, so it is too soon to tell if they are achieving their purpose. However, members of the Task Force also have concerns about the direction of the changes and the complications they entail.
3. Because of the nature of most aesthetic mitigation (screening through installation of living plants), it is possible for screening to become less effective over time, especially without proper maintenance.
4. The scenic resources of non-host towns can be affected by solar projects on their borders.
5. Currently, some applications for solar projects lack detail on some infrastructure components that may have an aesthetic impacts.

Objectives

1. Ensure potentially affected towns receive notice of applications, and that the applications provide sufficient detail for thorough aesthetics review.
2. Provide guidance for towns and neighbors on the aesthetics review process.
3. Ensure aesthetic mitigation is successful.

Recommendations

1. *Improve Aesthetics Review Process, Transparency, and Compliance Provisions*

- Notification to Adjacent Towns: At present, projects that may affect the scenic resources of adjacent towns are not required to provide notice to those towns. Notification of projects within 500 feet of a town border to the adjacent municipal legislative body should be a requirement for all systems > 15 kW.

- Identification of Infrastructure on Site Plans: Applications for some projects, especially smaller net metering projects, do not always include identification of every piece of equipment that might have a bearing on aesthetics. Applicants for projects of all sizes should be required to identify all visible infrastructure, including any proposed utility lines, in the application or petition for any system > 50 kW.

- Quechee Analysis Guidance: It is not always clear to project neighbors how their views are considered, or to towns how community standards are considered, in the Quechee analysis. The Public Service Board should develop a plain-language guide to the Quechee Analysis for use by all stakeholders, including a description and examples of the role of town plans and neighbors in the analysis.

- Screening Compliance: Some projects may not be fully compliant with the aesthetics mitigation requirements of their CPGs. Therefore, a condition should be included in § 248 Certificates of Public Good for projects involving screening that once a system is installed, a landscape architect shall certify that screening has been installed and maintained according to approved plans. Additionally, the condition should require submission of documentation that the plantings have been maintained, for a period of three years after installation, to all parties in the proceeding.

2. *Recovering Wetlands Through Solar Transition*

- Support Development of Multi-Agency Proposal: There is currently little incentive for a farmer to stop the practice of cropping soils that were formerly wetland but which were tile-drained and historically exempted from wetlands regulation. One win-win solution is to facilitate recovery of these former wetlands by allowing ~~time-limited~~ solar development to occur at the same time agriculture is permanently ceased. The Task Force encourages Agency of Natural Resources and Agency of Agriculture, Food & Markets to continue their work toward development of a proposal for consideration by the Legislature.

Commented [MA9]: REV: Need to better define – is this the project footprint (within the fenceline)?

Commented [MA10]: REV: I think the Board believes they have already done this.

Commented [MA11]: REV: Why not included the language from a recent Board case, where the Board explains how it considers both the public views, and also private concerns when it comes to mitigation.+

Thus, we conclude that our adaptation of the *Quechee* test to focus on the impacts experienced by the average public viewer is necessary for the lawful administration of Section 248 and the effective implementation of its policy goals. We recognize that, at times, projects that we find to promote the general good will have impacts on nearby landowners; this Project is one of those cases. It is not our practice to turn a blind eye to such impacts. Instead, we carefully consider ways to mitigate these impacts by imposing conditions that require the implementation of generally available mitigating steps that a reasonable person would undertake given the circumstances of each case
3. *Petition of Rutland Renewable Energy, LLC*, Docket 8188, Order of 5/6/15 at 10, citations omitted.
Also
CPG # NMP 6314 (Procedural Order dated 9/15/15)