

November 30, 2012 - Energy Generation Siting Commission - Testimony from Brian Waxler

Good Afternoon! My name is Brian Waxler, and I am a passionate proponent of solar energy and a partner in the Ferrisburgh Solar Farm, which is a 1-Megawatt PV solar production facility located just off of US Route 7 in Ferrisburgh. The facility was commissioned and began production at the end of 2010 and I am proud to report that it is operating as planned and producing a little better than expected. I was asked to speak to you this afternoon about the permitting process that we followed in order to construct the solar project. I'd like to thank you for taking the time to consider our perspective of various permitting processes in Vermont. I believe that I'm in a unique position to comment as I am also a partner at Pomerleau Real Estate. Pomerleau has been developing commercial and residential real estate for over 60 years and we are intimately familiar with the Act 250 process. Therefore, my comments will be focusing on my experience with both processes, and how the two compare to one another.

At the time we were first awarded our SPEED contract, which was authorized by the Vermont Legislature, we had never before dealt with Section 248 and, so, we weren't sure what we were in for. But we put together our permit team of engineers and architects, and hired the law firm of Shems Dunkiel Raubvogel & Saunders to help guide us through the process. What we found was that a Section 248 application was a more straightforward Act 250 application. The substance of the two applications required providing the same information, but the inquiries and resulting responses were more direct in the Section 248 application. The general concerns were the same; the Section 248 process required us to properly plan and report on specific details, and to review the project with the town to determine its impact, if any, on local services and infrastructure such as public safety and education.

The major difference between Section 248 & Act 250, as we see it, is that the Vermont Public Service Board has final say in approving the Section 248 application. This difference allows the policies as prescribed by the State of Vermont to be enacted. It grants the State the ability to permit projects which have been determined to be in the best interest, also referred to as the public good, of all the people of Vermont. The State can prevail over the one or two folks who might not support the project, because the overall interest is not focused on solely the local impact, but the good for all in the state. Most important, I believe, is that Section 248, with its Public Comment process, allows people who are opposed to solar energy projects or who don't like the idea that the State might be promoting or participating in the production of renewable energy, to express themselves and voice their point of view. But this opposition won't necessarily cause endless delays or put a total stop to a project. This is an important distinction, as each of the District Environmental Commissions want to see local permits in hand before they will review an Act 250 submission.

I like that Section 248 acknowledges the concept that the needs of the many *should* outweigh the needs of the few. This is consistent with the democratic form of government we embrace here in Vermont. It allows the policymakers who are put into place by the electorate to *make policy* and to see those policies carried out without being stopped by a few dissenters.

Additionally, the appeal process under the Section 248 permit is more fair and efficient. All appeals are "on the record reviews" and look to the issues of law. The appellant is represented by an attorney and the reviews are not de novo. Under Act 250, the appeal process reopens the entire permit and is totally unpredictable.

This state needs to encourage renewable energy projects and should make every effort to ensure that the process is predictable and expeditious. We feel that the current Section 248 review process sufficiently regulates new projects and protects the citizens while allowing for a predictable and efficient permitting process.

Thank you for your time and consideration.