

Exhibit CS-BW-43

Docket 8302
Prefiled Testimony of Mark Kane

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Chelsea Solar LLC for a	)	
certificate of public good, pursuant to	)	
30 V.S.A. § 248, authorizing the	)	Docket No. _____
installation and operation of the	)	
“Sudbury Solar Project” consisting of a	)	
2.0 MW solar electric generation	)	
facility to be located at 500 Apple Hill	)	
Road in Bennington, Vermont	)	

**PREFILED TESTIMONY OF
MARK KANE
ON BEHALF OF
PETITIONER**

June 19, 2014

Mr. Kane’s testimony addresses the potential effect of the Project under 30 V.S.A. § 248(b)(5) & 10 V.S.A. § 6086(a)(8) and the criteria pertaining to aesthetics, visual impacts, and town and regional plans.

TABLE OF CONTENTS

1. Introduction.....	1
2. Visual Assessment [30 V.S.A § 248(b)(5) & 10 V.S.A. §6086(a)(8)]	3
3. Orderly Development of the Region [30 V.S.A § 248(b)(1)]	5
4. Conclusion	6

EXHIBITS

Exhibit CS - MK-1	Résumé of Mark Kane
Exhibit CS - MK-2	Aesthetic Analysis Report
Exhibit CS - MK-3	Excerpts from 2010 Town of Bennington Plan
Exhibit CS - MK-4	Excerpts from 2007 Bennington Regional Plan
Exhibit CS - MK-5	Town of Bennington Scenic Resource Inventory
Exhibit CS - MK-6	Bennington Parks and Open Space Plan (2007)

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Chelsea Solar LLC for a)
certificate of public good, pursuant to)
30 V.S.A. § 248, authorizing the) Docket No. _____
installation and operation of the)
“Sudbury Solar Project” consisting of a)
2.0 MW solar electric generation)
facility to be located at 500 Apple Hill)
Road in Bennington, Vermont)

**PREFILED TESTIMONY OF
MARK KANE
ON BEHALF OF
PETITIONER**

June 19, 2014

1. Introduction

Q1. Please state your name, occupation and business address.

A1. My name is Mark Kane. I am a land use planner and the Director of Community Planning and Design at SE Group, which is a multi-disciplinary consulting firm specializing in the planning, entitlement and design of public facilities, mountain and resort communities and other complex projects on challenging sites. SE Group has four offices across the United States, and the Vermont office is located at 131 Church Street, Burlington, Vermont 05401.

Q2. Please describe your educational background and work experience.

A2. I received my Bachelor of Science in Environmental Studies from the University of Vermont’s School of Natural Resources in 1991. After graduating I worked as an

1 environmental scientist at Wagner, Heindel, & Noyes, in Burlington, Vermont. Beginning
 2 in 1996, I worked as a land planner and principal of Dunn Hamelin Kane, also located in
 3 Burlington. I have been working at SE Group for 13 years, and have been a director of that
 4 group since 2005. I have worked and/or managed dozens of aesthetic and land use analyses
 5 for renewable energy projects, including Kingdom Community Wind Farm in Lowell,
 6 Vermont, New Haven Solar Farm in New Haven, Vermont, and the Addison Solar Farm,
 7 in Ferrisburgh, Vermont. In addition, I have extensive experience with Aesthetic and
 8 Environmental Impact Analysis, Regional and Land Use Planning, Permitting and
 9 Entitlement, and Geographic Information Systems (“GIS”). I am an affiliate member of
 10 the American Society of Landscape Architects, a member and executive council member
 11 of the Vermont Planners Association, and the Vermont Director for the Northern New
 12 England Chapter of the American Planning Association. My qualifications are set out in
 13 more detail in *Exhibit CS MK-1*.

14
 15 **Q3. Have you previously testified before the Public Service Board or in other judicial or**
 16 **administrative proceedings?**

17 A3. Yes. In addition to providing testimony to the Board through my work on the analysis of
 18 utility line location issues under PSB Docket 5496, I also provided aesthetic and noise
 19 consulting services and expert witness testimony on the application for a four-turbine wind
 20 turbine project in East Haven (PSB Docket 6911) and the proposed Sheffield Wind project
 21 (PSB Docket 7156). I’ve also provided similar services for Docket 7250 (Deerfield Wind).
 22 I was also under contract with the Department of Public Service to provide visual and land

1 resource analysis services for Docket 7526 (Vermont Community Wind, MET tower
2 application). In addition, I have prepared visual resource analyses for recent net-metered
3 wind projects including Heritage Aviation (NM-721) and Bolton Valley (NM-676). I have
4 also testified before the Board on several solar projects including the Ferrisburgh Solar
5 Farm (Docket 7594), the New Haven Solar Farm (Docket 7645), the Charlotte Solar Farm
6 (Docket 7844), and the Clarke Solar Center (Docket 7957).

7
8 **Q4. What is the purpose of your testimony?**

9 A4. My testimony presents and summarizes our Aesthetic Assessment Report (“Report”) for
10 Chelsea Solar LLC’s “Chelsea Solar” project and associated attachments, which were
11 prepared under my direction. Our Report describes the visual analysis undertaken by SE
12 Group that assesses visual change due to the planned Project, and determines whether these
13 changes create adverse or unduly adverse impacts to the visual character of the area and
14 viewshed around the Project. Our Report is included with this filing as *Exhibit CS -MK-*
15 *2*.

16
17 **2. Visual Assessment [30 V.S.A § 248(b)(5) & 10 V.S.A. §6086(a)(8)]**

18 **Q5. Please describe the Project site and surroundings.**

19 A5. The Project is located on a portion of a 27+/- acre tract just north of the US Route 7/VT
20 279 interchange in Bennington, Vermont. The Project site is bound on the western and
21 southern edges by the highway system, on the north by a shared property line with three
22 residential properties and on the east by a parcel of land formerly used as an apple orchard.
23 At present the Project site is almost entirely wooded with northern hardwood species and

1 is accessed via Apple Hill Road. The site gently slopes at 8% grade from the northeast
2 corner to the southwest, falling approximately 94 feet over the distance. While the grade
3 is gently sloping, the topography exhibits some slight undulations.

4 Q6. Please summarize your findings and conclusions regarding the Project's potential visual
5 impacts.

6 A6. As fully presented in my report, the visibility of the Project site is limited by the nature of
7 the terrain, the preservation and addition of landscaping on the periphery and by the
8 transient nature of the surrounding land uses. Other than the Vermont Welcome Center
9 (rest area), other areas within the viewshed are accessible only by car. In fact, the nature
10 of the roadways (on/off ramps, merge lanes) makes it a highly fluid environment. While
11 the extent of visibility is not large, the clearing associated with the Project will be
12 noticeable. While view duration might be low, the number of potential observers is high,
13 given the location. In due consideration of those factors and using the Quechee Test, I
14 concluded that the Project would create an adverse impact with respect to the visual
15 resources of the area.

16
17 Continuing through the Quechee Test, however, I ultimately concluded that the adverse
18 impact was not undue. While the broader landscape is clearly scenic, the presence of the
19 Project does not undermine its visibility or degrade its visual quality. While visible to
20 potentially a large number of people, the direct view of the Project components are partially
21 screened by retained vegetation on the periphery. While the Bennington Town Plan
22 (*Exhibit CS-MK-3*), Bennington Scenic Resource Inventory (*Exhibit CS-MK-5*) and

1 Bennington Regional Plan (**Exhibit CS-MK-4**) identify many areas of the community as
2 scenic, the Project does not affect those areas.

3
4 **3. Orderly Development of the Region [30 V.S.A § 248(b)(1)**

5 Q7. Please summarize your assessment of any specific land conservation measures contained
6 in the Bennington Town Plan that would pertain to the Project.

7 A7. The Town of Bennington has extensive public and conservation land holdings including
8 portions of the Green Mountain National Forest along with significant areas of private
9 conservation easements and recreation parks. The Project site is not located on or near an
10 identified conservation area. The Project site is zoned and identified in the 2010 Town Plan as
11 part of the Rural Conservation district. The language describing this district makes it clear that
12 while sensitivity to environmental and visual impacts for land use development is important,
13 development is not precluded. The Town has also prepared a Park and Open Space Plan (2007)
14 which states that “the inventory section of this report demonstrates that Bennington already has a
15 wealth of conserved open space, much of it public or available for public use, and several key
16 parks and recreation sites that are well-positioned to serve a majority of the population.”¹ While
17 this certainly does not imply that land conservation efforts are completed in the community, the
18 Open Space Plan and Town Plan have not identified new areas and have certainly do not suggest
19 that the property on which the Project site is proposed is a candidate for open space protection or
20 land conservation.

¹ Bennington Parks and Open Space Plan (2008), Town of Bennington, Page 8. See **Exhibit CS – MK -3 and 6**.

1 Q8. Does the Project affect the orderly development of the Region?

2 A8. No. The Bennington Regional Plan (2007) was developed by the Bennington Country
3 Regional Commission and provides broad objectives relative to growth and development
4 in the region. While the Regional Plan is very deferential to local town planning it does
5 contain a section related to “Development in Rural Areas” which essentially outlines
6 broader policy objectives for the region. These objectives include ensuring that
7 “development in rural areas reflects historic settlement patterns”.² The Regional Plan
8 goes on to state that “other land uses that rely on the region’s natural resources are
9 appropriate uses in rural areas”.³ In consideration of the appropriateness of these types of
10 uses, the Regional Plan stresses that “rural development must not be widely scattered
11 throughout the countryside, but should occur as relatively compact and cohesive units
12 that serve to reinforce, rather than replace the region’s rural character”.⁴ As described
13 more fully in my report, the Project site is at the edge of developed highway
14 infrastructure and the Project has been designed as compactly as possible. This location
15 and form of development seem to support the regional objectives.

16
17 **4. Conclusion**

18 Q9. Does this conclude your testimony at this time?

19 A5. Yes, it does.
20

² Bennington Regional Plan (2007). Bennington Regional Commission, Page 55. See *Exhibit CS – MK – 4*.

³ Ibid, Page 56.

⁴ Ibid