

**Exhibit CS-BW-77**

*Docket 8302*

*Second Partial MOU with ANR 06.15.15*

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Petition of Chelsea Solar LLC, pursuant to 30 )  
V.S.A. § 248, for a Certificate of Public Good )  
authorizing the installation and operation of a )  
2.0 MW solar electric generation facility to be )  
located at 557 Apple Hill Road in Bennington, )  
Vermont )

Docket No.8302

SECOND PARTIAL MEMORANDUM OF UNDERSTANDING AND AMENDMENT TO  
PARTIAL MEMORANDUM OF UNDERSTANDING

This Second Partial Memorandum of Understanding (the "Second MOU") dated as of June 15, 2015 is among Chelsea Solar LLC ("Chelsea" or "Petitioner") and the Vermont Agency of Natural Resources ("ANR" or "Agency"). Petitioner and ANR are also referred to collectively herein as the "Parties" and individually as a "Party."

PRELIMINARY STATEMENT

On June 19, 2014, Chelsea filed a petition and supporting testimony and exhibits with the Vermont Public Service Board ("Board") requesting a certificate of public good ("CPG") under 30 V.S.A. § 248 to install and operate a 2.0 MW solar electric generation facility to be located at 500 Apple Hill Road in Bennington, Vermont ("Project").

On January 16, 2015, ANR and the Petitioner entered into a Partial Memorandum of Understanding resolving all outstanding issues between them related to the solar array portion of the Project (the "First MOU").

ANR and the Petitioner have now resolved all outstanding issues between them related to that portion of the Project involving the Green Mountain Power ("GMP") distribution line

extension and placement of utility poles on the Project site and south and east of the Project (collectively, the "Line Extension") and as such wish to memorialize their mutual understandings in this Second Partial Memorandum of Understanding and stipulate as to certain conditions, as set forth below.

### STIPULATION

The Parties, having had an opportunity to fully review and assess that portion of the Project involving the Line Extension, hereby stipulate and agree that the Project (including the Line Extension), and subject to compliance with the below conditions, will satisfy the conditions under Section 248(b)(5). The Parties further agree that the below conditions shall be incorporated into any Certificate of Public Good ("CPG") issued by the Board.

1. All prefiled testimony and exhibits, all supplemental prefiled testimony and exhibits, the First MOU, this Second MOU, and the Petition shall be admitted without objection as evidence in the proceeding. The terms and conditions of the First MOU and this Second MOU shall supersede any inconsistent prefiled testimony and exhibits. The Hearing Officer and the Board may rely on this evidence to issue findings of fact, conclusions of law and an Order and a Certificate of Public Good consistent with the Proposal for Decision submitted to the Board.

2. If any authorization to discharge under Construction General Permit 3-9020 or other similar permit is required by the Agency for the discharge of stormwater runoff from construction activities in connection with the Line Extension, then neither GMP nor the Petitioner shall commence construction on the Line Extension prior to obtaining any such authorization. All Line Extension construction shall be performed in accordance with such permit.

4. Petitioner shall perform post-construction, as-built, field verification of all impervious surfaces associated with both the Solar Array and Line Extension portions of the Project and report the total impervious surface area to the Department of Environmental Conservation's Stormwater Management Program. If it is determined by the Stormwater Program that the total impervious surface area associated with the Project, in combination with the total impervious surface area of any other project deemed by the Stormwater Program to be part of a common plan of development (as defined in the Department's stormwater rules), results in a total amount of impervious surfaces that exceeded the 1 acre threshold, Petitioner shall obtain an operational stormwater discharge permit and the Project shall be retrofitted with required stormwater treatment practices pursuant to the Vermont Stormwater Management Manual, Volume I.

4. If any Wetlands Permit is required by Department of Environmental Conservation's Wetlands Program, neither the Petitioner nor GMP will commence construction on the Line Extension prior to obtaining any such Wetlands Permit. All Line Extension construction shall be performed in accordance with any such permit.

5. Petitioner's environmental consultant, Arrowwood Environmental, LLC ("AE"), identified very rare, rare and uncommon plant species within the proposed Project development area in the summer of 2014. Due to the early season field conditions during the May 2015 field investigation, an RTE plant survey has not yet been conducted along the proposed interconnect route for the Line Extension. Petitioner agrees to complete the appropriate RTE survey, and implement appropriate avoidance and mitigation measures, if warranted, prior to commencement of any work on the Line Extension. The RTE survey will be conducted during the summer of 2015. Petitioner agrees that the protocol for this RTE survey shall be as outlined

in the "RTE Plant Survey Approach for Interconnection Line Area" attached hereto as **Exhibit**

**A.**

6. This Second MOU is governed by Vermont law and any disputes under this Memorandum of Understanding shall be decided by the Board.

7. The Parties agree that this Second MOU shall not be construed by any party or tribunal as a waiver as to jurisdiction or otherwise having precedential impact on any future proceeding involving either Party, except as necessary to implement this Second MOU or to enforce an order of the Board resulting from this Second MOU.

8. The Parties have made specific compromises to reach this Second MOU. In the event that the Board fails to approve this Second MOU in its entirety or acts to overrule or disapprove any portion hereof, each such Party agrees that the agreement set forth herein may terminate, if such Party determines in its sole discretion, and each shall have the same rights as each would have had absent this Second MOU.

[SIGNATURE PAGES TO FOLLOW]

Dated this 15<sup>th</sup> day of June, 2015.

CHELSEA SOLAR, LLC

By:

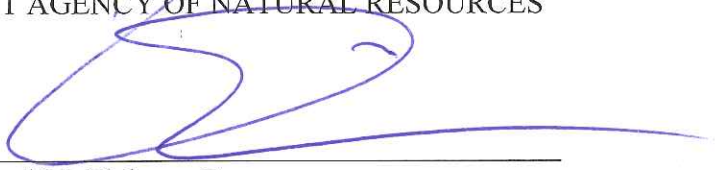
A handwritten signature in black ink, appearing to read 'M Melone', written over a horizontal line.

Michael Melone, Esq.

Dated this 15<sup>th</sup> day of June, 2015.

VERMONT AGENCY OF NATURAL RESOURCES

By:



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Donald J. Einhorn, Esq.  
Legal Counsel

## Appendix A

### Docket 8302 - Chelsea Solar

#### RTE Plant Survey Approach for GMP Interconnection Line Area

It is acknowledged that the plant survey previously performed for the solar array portion of the project confirmed the presence of Arrow-Leaved American-Aster (*Symphotrichum urophyllum*), an S1-ranked very rare species, and Nimblewill Muhly (*Muhlenbergia schreberi*), an S2-ranked rare species. A plant survey now needs to be performed for the interconnection line portion of the project, which is located in the vicinity of the solar array portion.

Due to contractual obligations related to the SPEED program, Chelsea Solar needs to commence construction by the Fall of 2015 to meet its recently extended commissioning deadline. Chelsea must obtain a Certificate of Public Good from the Public Service Board prior to commencing site preparation or construction. The timing of the plant survey for the interconnection line is impacted by the timing of Chelsea's construction schedule, and the CPG process. In order to maintain the schedule, the plant survey would need to be completed by mid-July. However, the Arrow-Leaved American-Aster does not flower until mid-August. While aster plants will be vegetative in early July, it could be difficult to positively identify plants at the species level at that time. There are about 28 different American-aster species (*Aster* spp. Sensus lato) in Vermont. The Arrow-Leaved American-Aster is not the only rare American-aster species.

Chelsea, through Arrowwood Environmental (Chelsea's natural resource consultants), and the Agency have developed the following two-phase approach that would allow an initial plant survey to be completed by mid-July, to be followed, if necessary, by second survey to identify plants at the species level. The second phase could be completed after the issuance of a CPG, but must be completed prior to commencement of site preparation or construction. Should the second phase confirm the presence of the Arrow-Leaved American-Aster, or any other RTE plants, Chelsea will be required to attempt to avoid any impacts, and if they demonstrate this is not feasible, then provide for mitigation, subject to the Agency's approval, prior to commencement of site preparation or construction.

1. Arrowwood shall conduct an initial RTE plant survey for the interconnection line area sometime between July 6 and 15.
2. Chelsea shall provide the results of the initial plant survey to the Agency by July 22.
3. If the survey confirms that there are no unidentifiable plants of American-Aster, or any other potential RTE plants, then Chelsea may proceed with construction (subject to obtaining a CPG and compliance with the terms and conditions of the First and Second MOUs).
4. If the survey confirms the presence of unidentifiable plants of American-Aster, or any other potential RTE plants, then Chelsea may proceed with construction provided it completely avoids the areas where the plants are present (subject to

obtaining a CPG and compliance with the terms and conditions of the First and Second MOUs).

5. If Chelsea is unable to avoid the plants, as provided for in condition 4, then Chelsea shall perform a second survey to identify the American-Aster and any other potential RTE plants at the species level. This second survey shall be performed at a time when the plants in question are at a stage in their life cycle that allows them to be positively identified at the species level.
6. If the second survey confirms that none of the plants in question are RTE plants, then Chelsea may proceed with construction (subject to obtaining a CPG and compliance with the terms and conditions of the First and Second MOUs).
7. If the second survey confirms the presence of the Arrow-Leaved American-Aster, or any other RTE plants, and Chelsea still cannot avoid them, then Chelsea shall provide for mitigation, subject to the Agency's approval, prior to any site preparation or construction.