

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Chelsea Solar LLC for a certificate of)
public good, pursuant to 30 V.S.A. § 248,) Case No. 17-5024-PET
authorizing the installation and operation of a)
2.0 MW solar electric generation facility located)
off Willow Road in Bennington, Vermont)

**PETITIONER'S FIRST SET OF DISCOVERY REQUESTS
TO THE APPLE HILL HOMEOWNERS ASSOCIATION**

In accordance with Vermont Public Utility Commission Rule 2.214 and V.R.C.P. 33 and 34, Chelsea Solar LLC (the “Chelsea” or “Petitioner”) hereby serves the following First Set of Discovery Requests upon the APPLE HILL HOMEOWNERS ASSOCIATION (“AHHA” or “Respondent”) in this matter (Case No. 17-5024). Petitioner requests that Respondent answer the requests in accordance with V.R.C.P 33 and 34 and deliver its answers and all requested documents and materials to Petitioner via email in electronic format, and to provide any spreadsheets and word documents in native, unlocked format, no later than July 20, 2018.

INSTRUCTIONS

1. Reproduce the request being responded to before the response per V.R.C.P. 33.
2. Responses to any and all Petitioner requests that are contained herein or that may be filed later should be supplied to the Petitioner as soon as they become available to Respondent. That is, Respondent should not hold answers to any requests for which they have responsive data, documents, etc. until responses to any or all other requests are compiled.
3. V.R.C.P. 33 requires the response to each request to 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.

4. 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 Respondent's workpapers and files or that is otherwise available.

5. These requests shall be deemed continuing and must be supplemented in accordance with V.R.C.P. 26(e). Respondent is directed to change, supplement and correct its answers to conform to all information as it becomes available to Respondent, 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.

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

7. Some of the Petitioner's requests may make particular reference to a portion of Respondent's filing(s). Notwithstanding this specific direction, these items should be understood to seek discovery of all information available to Respondent that is responsive to the questions stated.

8. The words "relate," "relating," "pertain," "pertaining," "reference," "referencing," "refer," "referring," and/or derivatives thereof, whether followed by a preposition or not, have the

broadest meaning that may be accorded to them and include, but are not limited to, the following: directly or indirectly mentioning, describing, referring to, pertaining to, being connected with, setting forth, discussing, commenting upon, analyzing, supporting, contradicting, proving, disproving, referring to, mentioning, quoting, incorporating, attaching, analyzing, constituting, concerning, and/or connected, or reflecting in any way upon the stated subject matter of a given request.

9. The term “concerning” means relating to, referring to, describing, evidencing, or constituting.

10. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

11. The use of the singular form of any word includes the plural and vice versa.

12. “Communication” includes any form of intended, attempted, or actual oral, written, graphic, electronic, or other representation or articulation from one or more persons to one more persons, including but not limited to emails, and text messages.

13. The terms “each” and “every” include the term “each and every.” “Any” shall include the term “any and all.” The terms “all” and “each” shall be construed as all and each.

14. The singular of words includes the plural and the plural includes the singular. Masculine, feminine, or neuter pronouns include the other gender(s).

15. “You” or “Your” shall mean and refer to the APPLE HILL HOMEOWNERS ASSOCIATION.

16. The words “and” and “or” have either a disjunctive or conjunctive meaning so as to bring within the scope of these document requests all information that might otherwise be

construed to be outside their scope by use of a more restrictive meaning.

17. “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. All spreadsheets provided must have all formulae intact and accessible.

18. “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.

19. “Project”, as used herein, shall mean the Chelsea Solar project in this Case 17-5024.

20. “Solar Screening Ordinance” means “Article 29. Screening of Solar Facilities” adopted by the Town of Bennington on November 9, 2015.

21. “Town” means the Town of Bennington.

22. With respect to each document produced by Respondent, identify the person who prepared the document and the date on which the document was prepared.

23. If any interrogatory or request requires a response that Respondent believes to be privileged, please state the complete legal and factual basis for the claim of privilege, provide the information required by the 5/16/95 order in Docket No. 5771 and respond to the parts of the interrogatory or request as to which no privilege is asserted.

24. 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 any 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. All drafts and non-identical copies of responsive documents should be produced.

25. For each document or portion thereof withheld under a claim of privilege, submit a sworn or certified statement from Your counsel or You identifying the withheld document by author, addressee, date, number of pages, subject matter, and document control number, specifying the nature and basis of the claimed privilege and the paragraph of this Request to which the withheld material is responsive; and identifying each person to whom the withheld material was sent and each person to whom the withheld material or its contents, or any part thereof, was disclosed. Denote all attorneys identified with an asterisk.

26. **This Request shall be deemed continuing as provided in the Vermont Rules of Civil Procedure, so as to require further and supplemental production if additional documents called for by this Request are obtained or created by the You between the time of the Request and the time of the evidentiary hearing.**

27. To expedite the discovery process and the resolution of this docket, Respondent should contact the Petitioner as soon as possible, and prior to the above deadline for response, if it seeks clarification on any of these information requests.

28. **If any request to admit is denied in whole or in part, please explain with specificity what is denied and the basis for the denial, and produce all documents relating to the denial.**

29. The Petitioner reserves any right it may have to submit additional information requests to Respondent.

INTERROGATORIES AND REQUESTS TO ADMIT AND TO PRODUCE

1) Reference the testimony of LORA BLOCK (“BLOCK”) at page 4, A10.

- i. Identify and describe with specificity the basis on which BLOCK asserts that the noise “study is inadequate” as that phrase is used on page 4, line 2 and produce all Documents relating to same.
- ii. Identify and describe with specificity the basis on which BLOCK asserts that the noise will be made worse if the Project is built and produce all Documents relating to same.
- iii. Identify with specificity all properties in “Our neighborhood” as BLOCK uses that phrase on page 4, lines 4-5.
- iv. Admit that the “traffic noise” referenced on page 4, line 3 is generated by a source that is not an element of the Project or the Project site.
- v. Admit that the neither the Petitioner nor the Project site owner are responsible for controlling traffic noise generated by vehicles traveling on Route 7.
- vi. Admit that You have never contacted the Vermont Agency of Transportation regarding your concerns about traffic noise generated by vehicles traveling on Route 7.

2) Reference the testimony of BLOCK at page 4, A11.

- i. Identify and list the owners and addresses of the “many neighborhood homes” that BLOCK asserts would experience increased wind noise and produce all Documents relating to same.
- ii. Identify and list the owners and addresses of the “many neighborhood homes” that BLOCK asserts would experience increased wind damage and produce all Documents relating to same.
- iii. Identify and list the owners and addresses of the “many neighborhood homes” that BLOCK asserts have experienced wind damage, the dates of such wind damage, and the cause of such wind damage and produce all Documents relating to same.
- iv. Identify and describe with specificity exactly the basis on which BLOCK asserts that the “expert testimony is partial and faulty,” as that phrase is used on page 4, line 13 and produce all Documents relating to same.
- v. Identify and describe who is included in the term “we” as that term is used by BLOCK at page 4, line 15 and produce all Documents relating to same.

- vi. Identify and define the term “routinely” as that term is used by BLOCK at page 4, line 15.
- vii. Admit that wind is a naturally occurring phenomenon.
- viii. Admit that wind is generated by a source that is not an element of the Project or the Project site.
- ix. Admit that neither the Petitioner nor the Project site owner are responsible for controlling naturally occurring wind.

3) Reference the testimony of BLOCK at page 4, A12.

- i. Identify and describe with specificity the basis on which BLOCK asserts that the trees on the Project site “reduce highway pollution,” and produce all Documents relating to same.
- ii. Define with specificity the term “highway pollution” as that phrase is used on page 4, line 22 and produce all Documents relating to same.
- iii. Identify and describe with specificity the basis on which BLOCK asserts that the trees on the Project site “are providing benefit to our community by absorbing air pollutants,” and produce all Documents relating to same.
- iv. Admit that the “highway pollution” referenced on page 4, line 22 is generated by a source that is not an element of the Project or the Project site.
- v. Admit that neither the Petitioner nor the Project site owner are responsible for controlling highway pollution generated by vehicles traveling on Route 7.
- vi. Admit that You have never contacted the Vermont Agency of Transportation regarding your concerns about highway pollution generated by vehicles traveling on Route 7.

4) Reference the testimony of BLOCK at page 5, A13.

- i. Identify and describe with specificity all measures that each homeowner in the area identified by You as being within your “neighborhood” have taken to remediate PFOA from their soil and produce all Documents relating to same.
- ii. Identify and describe with specificity all measures that each homeowner in the area identified by You as being within your “neighborhood” have taken to remediate PFOA from their groundwater and produce all Documents relating to same.

- iii. Identify and describe with specificity all measures that each homeowner in the area identified by You as being within your “neighborhood” have taken to address the PFOA in their well water and produce all Documents relating to same.
- iv. Identify each homeowner in the area identified by You as being within your “neighborhood” that continue to use well water to water grass or gardens and produce all Documents relating to same.
- v. Identify each homeowner in the area identified by You as being within your “neighborhood” that DO NOT continue to use well water to water grass or gardens and produce all Documents relating to same.
- vii. Identify and describe with specificity the basis for BLOCK’s assertion that “tree cover” is providing a benefit to “our health” as those terms are used on page 5, lines 13-14 and produce all Documents relating to same.
- viii. Identify and describe with specificity the basis for BLOCK’s assertion that “tree cover” is providing a benefit to “resale value of homes” as those terms are used on page 5, lines 13-14 and produce all Documents relating to same.
- ix. Identify and describe with specificity the effect the presence of PFOA has had on the resale value of homes that are within the area You identified as being in Your neighborhood and produce all Documents relating to same.
- x. Admit that groundwater does not flow from the Project site towards the AHHA neighborhood.
- xi. Admit that groundwater flows from the Project site away from the AHHA neighborhood.
- xii. Admit that the PFOA contamination in flowing groundwater is currently traveling away from the AHHA neighborhood and will continue to travel away from the AHHA neighborhood whether or not the Chelsea project is built.
- xiii. Admit that PFOA currently in the groundwater beneath the Project site (if any) is incapable of traveling back upgradient towards the AHHA neighborhood.
- xiv. Admit that there is a definitive amount of PFOA in the groundwater (i.e. there is no new source leaking PFOA in the groundwater of the Apple Hill neighborhood).
- xv. Admit that neither the Petitioner nor the Project site owner are responsible for controlling PFOA contamination caused by ChemFab.

5) Reference the testimony of BLOCK at page 5, A13.

- i. Identify and describe with specificity the “studies” referred to on page 5, line 7, and produce all Documents relating to same.
 - ii. Identify the page and line numbers of the “studies” identified in response to request 5.i, that show “the groundwater flows” that you describe on page 5, line 7, and produce all Documents relating to same.
 - iii. For each page and line identified in response to request 5.ii, explain the basis on which You assert that groundwater flows to the Project Site, and identify and describe with specificity the volume of groundwater flows to the Project site and produce all Documents relating to same.
 - iv. Identify what measures You have taken or implemented to prevent or reduce groundwater flows to the Project site and produce all Documents relating to same.
 - v. Identify and describe with specificity what is meant by the term “contamination” on page 5, line 10 and produce all Documents relating to same.
 - vi. Identify and describe with specificity the evidence supporting BLOCK’s assertion that “clear-cutting so much forest may draw the contamination downhill through our wells” as stated on page 5, lines 9-10 and produce all Documents relating to same.
 - vii. Identify and describe with specificity the evidence supporting BLOCK’s assertion that vegetation removal on the Project site could “possibly increase the PFOA levels in our wells” as stated on page 5, lines 10-11 and produce all Documents relating to same.
 - viii. Identify and list by owner and address who is included in the phrase “our wells” and produce all Documents relating to same.
 - ix. For each well owner identified in response to request 5.viii, list the corresponding level of PFOA in such well, and produce all Documents related to same.
 - x. Admit that connecting the residences identified by You as in the neighborhood to the municipal water supply is a permanent solution for PFOA to address those residences’ well-water supply.
 - xi. Identify all residences that are connected to the municipal water supply in the area identified by You as in the neighborhood and produce all Documents relating to same.
- 6) Reference the testimony of BLOCK at pages 5-6, A14.
- i. Identify and list with specificity from which locations there would be a negative visual impact to “our neighbors” and produce all Documents relating to same.

- ii. Identity and describe with specificity the changes that would occur from the locations identified in response 6.i, and produce all Documents relating to same.
- iii. Identify and list with specificity from which locations there would be a negative visual impact to “Southern Vermont College” and produce all Documents relating to same.
- iv. Identity and describe with specificity the changes that would occur from the locations identified in response 6.iii, and produce all Documents relating to same.
- v. Identify and list with specificity from which locations You assert the MODULES FOR THE SOLAR ARRAY would be visible, and produce all Documents relating to the same.
- vi. Identify and provide the address for each location You identified and listed in response 6.v.

7) Reference the testimony of BLOCK at page 6, A15.

- i. Identify and list with specificity the locations included in the phrase “long distance views” at page 6, line 10 and produce all Documents relating to same.
- ii. Identity and describe with specificity the changes that would occur from the locations identified in response 7.i, and produce all Documents relating to same.
- iii. Identify and list with specificity the locations included in the phrase “numerous other vantage points” at page 6, line 11 and produce all Documents relating to same.
- iv. Identity and describe with specificity the changes that would occur from the locations identified in response 7.iii, and produce all Documents relating to same.
- v. Identify and describe with specificity the basis on which BLOCK asserts that the simulations are “not adequate” as that phrase is used on page 6, line 8 and produce all Documents relating to same.

8) Reference the testimony of BLOCK at page 6, A16.

- i. Identify and list with specificity the neighbors included in that term as used on page 6, line 20 and produce all Documents relating to same.
- ii. Identity and describe with specificity all necessary wildlife habitat that you claim is located on the Project site, and produce all Documents relating to same.

- iii. With respect to each habitat area listed in the preceding response (8.ii), identify and describe with specificity the characteristics of each habitat area that meet the definition of necessary wildlife habitat given in 10 V.S.A. § 6001(12).
 - iv. Identify and describe with specificity each rare, threatened or endangered species that use the Project site as a necessary wildlife habitat.
 - v. Identity and describe with specificity all wildlife corridors that you claim are located on the Project site, and produce all Documents relating to same.
- 9) List each of the 30 V.S.A. §248 criteria with respect to which you assert the Petitioner has failed to meet its initial burden of proof, and produce all Documents relating to same.
- 10) With respect to the prior interrogatory, state with specificity your education, training and experience to offer an opinion with respect to each criterion and produce all documents concerning same.
- 11) With respect to each criteria listed in the response to #9, identify and explain with specificity the basis for Your assertion, and produce all Documents relating to same.
- 12) Identify all evidence that You will sponsor that supports the bases listed in the response to #11, and produce all Documents relating to same.
- 13) Admit that the Project satisfies the following 30 V.S.A. §248 criteria:
- i. 30 V.S.A. §248(b)(1)(Orderly Development of the Region);
 - ii. 30 V.S.A. §248(b)(2)(Need for the Project);
 - iii. 30 V.S.A. §248(b)(3)(System Stability and Reliability);
 - iv. 30 V.S.A. §248(b)(4)(Economic Benefit to the State);
 - v. 30 V.S.A. §248(b)(5)(Aesthetics);
 - vi. 30 V.S.A. §248(b)(5)(Noise);
 - vii. 30 V.S.A. §248(b)(5)(Historic Sites);
 - viii. 30 V.S.A. §248(b)(5)(Air Purity);
 - ix. 30 V.S.A. §248(b)(5)(Water Purity);
 - x. 30 V.S.A. §248(b)(5)(Natural Environment);
 - xi. 30 V.S.A. §248(b)(5)(Natural Resources);
 - xii. 30 V.S.A. §248(b)(5)(Public Health and Safety);
 - xiii. 30 V.S.A. §248(b)(5)(Outstanding Resource Waters)
 - xiv. 30 V.S.A. §248(b)(5)(Primary Agricultural Soils)
 - xv. 30 V.S.A. §248(b)(5)(Outstanding Resource Waters)
 - xvi. 30 V.S.A. §248(b)(5)(Greenhouse Gas Impacts)
 - xvii. 30 V.S.A. §248(b)(5)(Headwaters)
 - xviii. 30 V.S.A. §248(b)(5)(Ground Water)
 - xix. 30 V.S.A. §248(b)(5)(Water Conservation)
 - xx. 30 V.S.A. §248(b)(5)(Floodways)

- xxi. 30 V.S.A. §248(b)(5)(Streams)
- xxii. 30 V.S.A. §248(b)(5)(Shorelines)
- xxiii. 30 V.S.A. §248(b)(5)(Wetlands)
- xxiv. 30 V.S.A. §248(b)(5)(Water Use)
- xxv. 30 V.S.A. §248(b)(5)(Water Supply)
- xxvi. 30 V.S.A. §248(b)(5)(Soil Erosion)
- xxvii. 30 V.S.A. §248(b)(5)(Traffic Impacts)
- xxviii. 30 V.S.A. §248(b)(5)(Municipal and Education Services)
- xxix. 30 V.S.A. §248(b)(5)(Rare and Irreplaceable Natural Areas)
- xxx. 30 V.S.A. §248(b)(5)(Necessary Habitat)
- xxxi. 30 V.S.A. §248(b)(5)(Endangered Species)
- xxxii. 30 V.S.A. §248(b)(5)(Public Investments)
- xxxiii. 30 V.S.A. §248(b)(6)(Integrated Resource Planning)
- xxxiv. 30 V.S.A. §248(b)(7)(Comprehensive Energy Plan)
- xxxv. 30 V.S.A. §248(b)(8)(Outstanding Resource Waters)
- xxxvi. 30 V.S.A. §248(b)(10)(Transmission Facilities)

To the extent you deny any of the above, explain in detail why denied and the basis for the denial and produce all documents relating to your response.

- 14) Admit that if the Project is not built, the owner of the Project site has the right to remove any or all vegetation on the site.
- 15) Identify the parcel number of the parcel BLOCK refers to in A18 as the “apple orchard owned by” PLH LLC.
- 16) Admit that the apple orchard parcel owned by PLH LLC identified in response 15 is not part of the Apple Hill Homeowners Association but rather part of an entirely separate 3 parcel subdivision that includes only LIBBY HARRIS’ residence, the PLH LLC apple orchard, and the property directly to the east of the PLH apple orchard parcel.
- 17) Admit that the deed attached as Exhibit LB-AHHA1 is a deed for the property that is now LIBBY HARRIS’s residence.
- 18) Admit that the deed attached as Exhibit LB-AHHA1 describes the property description as “taken from a certain survey map entitled ‘Apple Hill Development – Orchard Lot, ... July, 1988, revised August 1988,” and that such Apple Hill development is NOT part of the Apple Hill Homeowners Association development.
- 19) Admit that permissible development on the PLH apple orchard property would include a large-scale commercial greenhouse operation.
- 20) Identify and describe your education, training and experience in connection with energy planning, land use planning, and climate change. Produce all documents relating to same.

21) Identify and produce all EMAILS on or after JANUARY 1, 2014, and OTHER documents relating, pertaining, referencing, referring to, any of, in whole or in part any of the following terms:

- i. Chelsea solar;
- ii. Apple Hill solar;
- iii. Melone;
- iv. Brad Wilson;
- v. Ecos Energy;
- vi. Allco;
- vii. Libby Harris;
- viii. Annette Smith;
- ix. Rick Carroll;
- x. Peter Lawrence;
- xi. Paper Mill solar;
- xii. Landworks;
- xiii. David Raphael;
- xiv. Solar siting

22) Please produce all documents you expect to offer as exhibits at the technical hearing of these proceedings.

Dated June 27, 2018

CHELSEA SOLAR LLC

/s/Michael Melone

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