

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

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

TOWN OF BENNINGTON'S RESPONSE TO PETITIONER'S FIRST SET OF
INFORMATION REQUESTS

NON-WAIVER AND RESERVATION OF OBJECTIONS

The Town's responses and any objections made hereafter are made without in any way waiving or intending to waive, but on the contrary intending to reserve and reserving:

1. All questions as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose and subsequent proceeding in, or the hearing of, this proceeding, of any of the documents or their subject matter;
2. The right to object on any ground, at any time, to a demand for further production or responses involving or related to the subject matter or the requests for interrogatories;
3. The right to interpose additional responses and objections and to move for an appropriate protective order; and,
4. The right to object to any inference that can be drawn from any discovery requests or responses to them, that the information requested actually exists or events occurred. The Town's failure to object to any such inference does not constitute an admission that the information exists or events occurred.

GENERAL OBJECTIONS

1. The Town objects to any request to the extent that it is overbroad or unduly burdensome or imposes upon The Town any duty or obligation that is inconsistent with or in excess of those obligations that are imposed by the Vermont Rules of Civil Procedure, or any other applicable rule.

2. The Town objects to any request to the extent that it calls for information not relevant to the claims or defenses of the parties in this action or seeks information that is not reasonably calculated to lead to the discovery of admissible evidence.
3. The Town objects to any request to the extent that it seeks publicly available information or information that is already within Petitioner's possession, custody, or control.
4. The Town objects to any request to the extent it seeks information or documents that are outside of the Town's possession, custody, and control.
5. The Town objects to any request to the extent that it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense or common interest privilege, or any other applicable privilege or immunity. The Town intends to and does claim all such protections and privileges. The inadvertent disclosure by The Town of information protected from disclosure by any privilege or doctrine shall not constitute a waiver by The Town of such objections or protections.
6. The Town objects to any request to the extent that it seeks information that The Town or its witnesses are under an obligation to a third party or a court order not to disclose. The Town will only produce responsive, non-privileged, non-proprietary information after receiving approval from the relevant third parties and/or entering into a protective agreement that would sufficiently protect the confidentiality of such information.
7. The Town objects to any request to the extent that it demands documents or information previously provided in any testimony, filing or response.
8. The Town objects to any request to the extent that it employs imprecise specifications of the information sought and will provide only that information which can reasonably be identified in response to the requests.
9. The Town objects to any request to the extent it seeks to require The Town to produce documents or information beyond what The Town is able to locate upon a reasonable inquiry.
10. The Town objects to any request to the extent that it is compound or contains subparts. Any response by The Town to one portion or subpart of a question shall not be deemed to be an admission, waiver of objection, or response to any other portion or subpart of the question or to the question as a whole.
11. The Town objects to any request to the extent that it calls for speculation or asks The Town or its witnesses to predict future actions over which they have no

control or to opine upon the effects of any hypothetical future actions or conditions.

12. The Town objects to any request to the extent it seeks to require The Town or its witnesses to generate information or documents that do not already exist.
13. The Town objects to any request to the extent that it uses language incorporating or calling for a legal conclusion or making incorrect statements of law. The Town's responses shall be as to matters of fact only and shall not be construed as stating or implying any legal conclusions concerning the matters referred to in any request.
14. The Town objects to any request to the extent it requires The Town to draw a legal or expert conclusion to make a proper response.
15. Neither these General Objections nor the Specific Objections and Responses set forth below are an admission relative to the existence of any information sought, the relevance or admissibility of any response, or the truth or accuracy of any statement or characterization contained in any particular request.

RESPONSES

- 1) Admit that the Project is sited within a "Preferred Area" for solar facilities, per the April 11, 2016 version of the Bennington Town Plan.

RESPONSE: Denied.

- 2) Admit that the ER Bennington I Solar Project, Docket No. 16-0044-NMP (the "ER Project") is located within a visual gateway area, per the 2004 Bennington Scenic Resource Inventory.

RESPONSE: Objection. This request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "ER Project" is not at issue in the present proceeding, and any determinations made with respect to the "ER Project" were made in the context of evidence presented in that proceeding. The materials presented in that proceeding speak for themselves. The petitioner is free to review the public records and evidence in Docket No. 16-0044 NMP to determine what evidence was presented and what determinations were made with respect to that proceeding.

- 3) Admit that the proposed Chelsea project is not located within a visual gateway area, per the December 2004 Bennington Scenic Resource Inventory.

RESPONSE: Denied.

- 4) Admit that the ER Project is located on a parcel of land shown in a photograph on page 22 of the December 2004 Bennington Scenic Resource Inventory.

RESPONSE: Objection. The Bennington Scenic Resource Inventory speaks for itself.

- 5) List the landscape mitigation required for the Project that would satisfy the Solar Screening Ordinance.

RESPONSE: Please refer to the Town Screening Ordinance. This determination is to be made by the Selectboard based on proposed landscape mitigation in front of the Selectboard for the purpose of making such determination; it is not a determination to be made by a single administrative officer.

- 6) Two car dealerships and a shopping plaza are located directly west of the Battle Creek Solar project site in PUC case 17-3727. When these developments are permitted, what visual mitigation was required or requested by the Town with respect to views of these developments. If no mitigation was required or requested, why not? Produce all documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Neither of the referenced projects concerned a petition for a Certificate of Public Good pursuant to 30 V.S.A. § 248.

- 7) Admit that the ER Project satisfies the Solar Screening Ordinance.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "ER Project" is not at issue in the present proceeding, and any determinations made with respect to the "ER Project" were made in the context of evidence presented in that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review the public records and evidence in Docket No. 16-0044 NMP to determine what evidence was presented and what determinations were made with respect to that proceeding.

- 8) Admit that the 500 kW ER Paper Mill Village Solar, LLC Project, Docket No. 16-0049-NMP (the "Paper Mill Project") satisfies the Solar Screening Ordinance.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "Paper Mill Project" is not at issue in the present proceeding, and any determinations made with respect to the Paper Mill Project were made in the context of evidence presented on that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented, and what determinations were made with respect to that proceeding.

- 9) Admit that the Project is not located within the Route 7A Corridor Overlay District.

RESPONSE: Admitted.

- 10) Admit that the Project satisfies the Solar Screening Ordinance.

RESPONSE: Denied.

- 11) List each solar facility in the Town that satisfies the Solar Screening Ordinance, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 12) With respect to each solar facility in the Town that satisfies the Solar Screening Ordinance, list each screening recommendation, requirement, or restriction imposed or recommended by the Town as a condition to or with respect to such solar facility and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 13) Explain how the ER Project is sited and screened so that visual impacts are mitigated as viewed from public streets and thoroughfares, scenic viewpoints and/or adjacent properties and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called “ER Project” is not at issue in the present proceeding, and any determinations made with respect to the “ER Project” were made in the context of evidence presented in that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 14) Explain how the Paper Mill Solar Project is sited and screened so that visual impacts are mitigated as viewed from public streets and thoroughfares, scenic viewpoints and/or adjacent properties and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called “Paper Mill Project” is not at issue in the present proceeding, and any determinations made with respect to the Paper Mill Project were made in the context of evidence presented on that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented, and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 15) Identify and list with specificity any and all screening requirements determined by the Selectboard or the Development Review Board to be necessary for the Paper Mill Solar Project to satisfy the Solar Screening Ordinance and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called “Paper Mill Project” is not at issue in the present proceeding, and any determinations made with respect to the Paper Mill Project were made in the context of evidence presented on that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented, and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 16) Identify and list with specificity any and all screening requirements determined by the Selectboard or the Development Review Board to be necessary for the Paper Mill Solar Project to satisfy the Solar Screening Ordinance and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "ER Project" is not at issue in the present proceeding, and any determinations made with respect to the "ER Project" were made in the context of evidence presented in that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 17) With respect to each of the requirements listed in the answer in 15) above, list the corresponding standards in the Solar Screening Ordinance upon which such requirements were based and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "Paper Mill Project" is not at issue in the present proceeding, and any determinations made with respect to the Paper Mill Project were made in the context of evidence presented on that matter. The materials presented in that proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented, and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 18) With respect to each of the requirements listed in the answer in 16) above, list the corresponding standards in the Solar Screening Ordinance upon which such requirements were based.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "ER Project" is not at issue in the present proceeding, and any determinations made with respect to the "ER Project" were made in the context of evidence presented in that matter. The materials presented in that

proceeding speak for themselves. The petitioner is free to review public records and the evidence in Docket No. 16-0044 NMP to determine what evidence was presented and what determinations were made with respect to that proceeding. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 19) Identify and list with specificity List [sic] each time the Selectboard or the Development Review Board has requested recommendations from the Town of Bennington Planning Commission (the "Planning Commission"), or from other boards or advisory groups with respect to the screening requirements of a solar facility, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 20) Identify and list with specificity all solar energy electric generating facilities in excess of 150Kw (AC).

RESPONSE: Objection. This request is overbroad, unduly burdensome, and far exceeds the needs of the case. There are no parameters applied to "all solar energy electric generating facilities in excess of 150Kw (AC)." Moreover, the Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the petition of Chelsea Solar, LLC for a Certificate of Public Good.

- 21) With respect to each facility identified in response to the immediately preceding interrogatory identify and list with specificity:

- i. The address of such facility
- ii. The zoning district in which such facility is located;
- iii. The screening requirements determined by the Selectboard or the Development Review Board to be necessary for such facility to satisfy the Solar Screening Ordinance and produce all documents related to same.

RESPONSE. Objection. Refer to response to No. 20. This request is overbroad, unduly burdensome, and far exceeds the needs of the case. There are no parameters applied to "all solar energy electric generating facilities in excess of 150Kw (AC)." Moreover, the Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the petition of Chelsea Solar, LLC for a Certificate of Public Good. The

petitioner is free to examine the referenced Screening Ordinance and any other public records related to “all solar energy generating facilities in excess of 150Kw (AC).”

- 22)Identify and list with specificity what buildings, developments, structures, and solar facilities have been built or proposed in the Town since the Solar Screening Ordinance was adopted (other than the Project).

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 23)With respect to each buildings, developments, structures, and solar facilities identified in response to the immediately preceding interrogatory identify and list with specificity:

- i. The address of such facility;
- ii. The zoning district in which such facility is located;
- iii. The screening requirements determined by the Selectboard or the Development Review Board to be necessary for such buildings, developments, structures, and solar facilities and produce all Documents related to same.

RESPONSE. Objection. Refer to response to No. 22. This request is overbroad, unduly burdensome, and far exceeds the needs of the case. Moreover, the Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the petition of Chelsea Solar, LLC for a Certificate of Public Good. The petitioner is free to examine the referenced Screening Ordinance and any other public records related to “buildings, developments, structures, and solar facilities . . . built or proposed in the Town since the Solar Screening was adopted.”

- 24)Admit that portions of the ER Project are currently visible from Route 7 directly to the west of the ER Project.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called “ER Project” is not at issue in the present proceeding. The petitioner is free to review the public records and/or examine the visibility of the so-called ER Project from any public vantage point.

- 25)Admit that the Paper Mill Solar Project are currently visible from Murphy Road directly to the south of the Paper Mill Solar Project.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "Paper Mill Solar Project" is not at issue in the present proceeding. The petitioner is free to review the public records and/or examine the visibility of the Paper Mill Solar Project from any public vantage point.

26) Admit that the Project satisfies all requirements set forth in the Town Plan.

RESPONSE: Denied. Refer to the Prefiled Testimony of Dan Monks and the Prefiled Testimony of David Raphael.

27) Admit that the Project satisfies all requirements set forth in the Town's Land Use & Development Regulations.

RESPONSE: Denied.

28) Admit that the Paper Mill Solar Project is located in the RCON and produce all documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "Paper Mill Solar Project" is not at issue in the present proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files.

29) Admit that the Kobelia Bennington GLC Solar Project, Docket No. NMP-6523 ("Kobelia Project") is located in the RCON.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The so-called "Kobelia Project" is not at issue in the present proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files.

30) Section (B)(1) of the Solar Screening Ordinance states that the screening requirements of solar facilities "are consistent with the screening requirements applied or adapted to commercial development in all zoning districts as set forth in the Town of Bennington Land Use and Development Regulations." List each such screening requirement applied or adapted to commercial development in all zoning districts and produce all Documents related to same.

RESPONSE: Objection. The referenced materials are matters of public record and speak for themselves.

- a. The Land Use Regulations require that all parking areas within the Central Business District, Office Apartment District, Village Commercial District, Industrial District, the Route 7A Corridor Overlay District be screened from view of public roads.
 - (i) List all such parking areas within the Central Business District, Office Apartment District, Village Commercial District, Industrial District, the Route 7A Corridor Overlay District.
 - (ii) Are all parking areas within the Central Business District, Office Apartment District, Village Commercial District, Industrial District, the Route 7A Corridor Overlay District screened from view of public roads.
 - (iii) If so, identify and list with specificity how are such parking areas screened? Produce all documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine the visibility of any such areas from the vantage point of public roads.

- b. Supplemental District Standard (7) of the Village Industrial District requires that all uses other than dwellings provide year-round screen adjacent to residential uses.
 - (i) List all such uses other than swellings in the Village Industrial District.
 - (ii) Do all such uses other than dwellings in the Village Industrial District provide a year-round screen adjacent to residential uses? Produce all Documents related to same.
 - (iii) If so, identify and list with specificity how are such uses screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- c. List each development within the Industrial District where the Selectboard or the Development Review Board has required a buffer as referred to in Section 2c. of the Supplemental Review Standards of the Industrial District, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours.

- d. The Land Use Regulations require that all outdoor storage of equipment and materials in the Industrial District shall be adequately screened from off-premises.
 - (i) List all locations where there is outdoor storage of equipment and materials in the Industrial District, and produce all Documents related to same.
 - (ii) Are all locations with outdoor storage of equipment and materials in the Industrial District adequately screened from off-premises?
 - (iii) If so, identify and list with specificity how are such locations screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- e. Section 4.10(D) of Article 4 of the Land Use Regulations requires that all loading docks, trash collection, recycling areas, and similar service areas of developments that require the frequent or regular loading and unloading of people or goods to be “screened on all sides so that no portion of such areas are visible from public streets and adjacent properties.”
 - (i) List each such loading docks, trash collection, recycling areas, and similar service areas of developments in the Town, and produce all Documents related to same.
 - (ii) Are each such loading docks, trash collection, recycling areas and similar service areas of developments in the Town screened on all sides so that no portion of such areas are visible from public streets and adjacent properties?

- (iii) If so, identify and list with specificity how are such loading docks, trash collection, recycling areas and similar service areas of developments screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- f. Section 4.13(E) of Article 4 of the Land Use Regulations requires that all dumpsters regardless of the principal use of the property, be screened from view of streets and adjacent properties.
 - (i) List each location of dumpsters in the Town.
 - (ii) Are all such dumpsters screened from the view of streets and adjacent properties?
 - (iii) If so, identify and list with specificity how are such dumpsters screened? Produce all documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- g. Section 5.7(A)(2) of Article 5 of the Land Use Regulations requires landscaping and/or fencing along the property boundaries of RV Parks as appropriate for screening, security, and privacy.
 - (i) List each location of RV Parks in the Town.
 - (ii) Are all such RV Parks appropriately screened (i.e. satisfying the requirements of Section 5.7(A)(2) of Article 5 of the Land Use Regulations)? Produce all Documents related to same.
 - (iii) If so, identify and list with specificity how are such RV Parks screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far

exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- h. Section 5.7(A)(7) of Article 5 of the Land Use Regulations requires screened facilities for the sanitary collection and disposal of trash and recyclables in RV parks.
 - (i) List each location for collection and disposal of trash and recyclables in RV Parks in the Town.
 - (ii) Are all such areas appropriately screened (i.e. satisfying the requirements of Section 5.7(A)(7) of Article 5 of the Land Use Regulations? Produce all Documents related to same.
 - (iii) If so, identify and list with specificity how are such areas screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- i. Section 5.8(C)(6)j. of Article 5 of the Land Use Regulations states that the Development Review Board may consider imposing landscaping and screening requirements for safety and aesthetic reasons with respect to the extraction of earth resources.
 - (i) Has the Development Review Board imposed any screening restrictions with respect to the extraction of earth resources within the Town?
 - (ii) If so, identify and list with specificity list each such location and corresponding screening restriction imposed and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- j. Section 5.10(B)(3) of Article 5 of the Land Use Regulations states that the Development Review Board may impose additional screening with respect to service stations as appropriate to minimize adverse impacts to adjoining properties.
 - (i) Has the Development Review Board imposed any screening restrictions with respect to service stations within the Town?
 - (ii) If so, identify and list with specificity each such service station and the corresponding restrictions imposed and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- k. Section 5.10(B)(8) of Article 5 of the Land Use regulations states that the Development Review Board states that all automobile parts and dismantled vehicles at a service station shall be stored within an enclosed building or suitable screened area.
 - (i) List all service stations in the Town where automobile parts and dismantled vehicles are stored “within a suitable screened area.”
 - (ii) How are such areas screened? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- l. Section 5.13 of Article 5 of the Land Use Regulations states that contractors in the RR District may operate a home occupation provided all equipment (including vehicles) and material are fully and completely screened from the public right-of-way and adjoining properties.
 - (i) List each location in the RR District where a home occupation includes the use of equipment and materials.
 - (ii) Are all such home occupations appropriately screened (i.e. satisfying the requirements of Section 5.13 of Article 5 of the Land Use Regulations)?

- (iii) If so, identify and list with specificity how such areas screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- m. Section 5.14(C)(1) of Article 5 of the Land Use Regulations states that the entire area of operation of junk yards shall be screened from view from off premises by a fence, at least 8 feet up in height, or with other screening with Development Review Board approval where topography and location warrant. In addition, screening along the fence may also be required to minimize adverse visual impacts to public roads and neighboring properties.
 - (i) List each location of a junk yard in the Town.
 - (ii) Are all such junk yards appropriately screened (i.e. satisfying the requirements of Section 5.14(C)(1) of Article 5 of the Land Use Regulations)?
 - (iii) If so, identify and list with specificity how such areas screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- n. Section 5.14(C)(2) of Article 5 of the Land Use Regulations states that no vehicles associated with the junk yard or any other waste, scrap, parts or materials shall be placed within 200 feet of a stream, wetland or other surface water, or 150 feet from a public road.
 - (i) List each location of a junk yard in the Town.
 - (ii) Do all junkyards in the Town satisfy the requirements of Section 5.14(C)(2) of the Land Use Regulations?
 - (iii) Identify and list with specificity whether the Development Review Board increased or decreased such setback requirements in any particular case? If so, why? Produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- o. Section 5.17(D)(2) of Article 5 of the Land Use Regulations states that all mobile home parks must have a landscaped buffer strip, not less than 20 feet in width along all property and street lines and that the Development Review Board may require increased set back distances and/or buffering and screening to minimize or avoid adverse impacts to adjoining properties and public rights-of-way.
 - (i) List each location of each mobile home park in the Town.
 - (ii) Are all mobile home parks appropriately screened (i.e. satisfying the requirements of Section 5.17(D)(2) of Article 5 of the Land Use Regulations?
 - (iii) If so, identify and list with specificity how such mobile home parks screened and produce all documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- p. Section 5.17(D)(3) of Article 5 of the Land Use Regulations states that all open space for recreation within mobile home parks must be screened or protected from parking and service areas.
 - (i) List each location of open space recreation areas within each mobile home park in the Town.
 - (ii) Are all such open space recreation areas within mobile home parks appropriately screened (i.e. satisfying the requirements of Section 5.17(D)(3) of Article 5 of the Land Use Regulations?
 - (iii) If so, identify and list with specificity how such open space recreation areas of mobile home parks screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this

Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- q. Section 5.18 of Article 5 of the Land Use Regulations states that the Development Review Board may regulate the screening requirements of public facilities.
 - (i) List each public facility location where the Development Review Board implemented screening requirements.
 - (ii) List such screening requirements imposed.
 - (iii) Are all such public facilities appropriately screened (i.e. satisfying the applicable screening requirements imposed by the Development Review Board)? If so, identify and list with specificity how such public facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- r. Section 5.19(F)(5)a. of Article 5 of the Land Use Regulations states that the Development review Board may require an assessment of potential visual impacts of telecommunications facilities and may consider the degree to which the tower would be screened by existing vegetation, the topography of the land and existing structures.
 - (i) List each telecommunications facility where the Development Review Board implemented screening requirements.
 - (ii) List such screening requirements imposed.
 - (iii) Are all such telecommunications facilities appropriately screened (i.e. satisfying the applicable screening requirements imposed by the Development Review Board)? If so, identify and list with specificity how such telecommunications facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- s. Section 5.19(F)(5)e. of Article 5 of the Land Use Regulations states that “Telecommunications facilities shall be designed to blend into the surrounding environment, to the greatest extent feasible, through the use of natural topography, existing vegetation, landscaping and screening, the use of compatible materials and colors, and/or other camouflaging techniques. Camouflaging techniques which may be required by the Board include designing the facility to mimic natural or architectural features, depending upon the context of the surrounding landscape and applicable zoning districts.”
 - (i) List each telecommunications facility in the Town.
 - (ii) Are all such telecommunications facilities appropriately designed (i.e. satisfying the applicable screening requirements of Section 5.19(F)(5)e of the Land Use Regulations)? If so, identify and list with specificity how such telecommunications facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- t. Section 5.19(F)(6) of Article 5 of the Land Use Regulations states that with respect to telecommunications towers, “The Board may require that appropriate landscaping materials be planted adjacent to the security fence to screen it from view of neighboring properties and public roads.”
 - (i) Has the Development Review Board ever required such screening of telecommunications towers?
 - (ii) List all such telecommunications towers and the screening requirements.
 - (iii) Are all such telecommunications facilities appropriately screened (i.e. satisfying the applicable screening requirements of Section 5.19(F)(6)? If so, identify and list with specificity how such telecommunications facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- u. Section 5.19(F)(9) of Article 5 of the Land Use Regulations requires that all ground-mounted equipment of telecommunications towers be screened from view.
 - (i) List each telecommunications facility in the Town with ground mounted equipment.
 - (ii) Are all such telecommunications facilities with ground mounted equipment appropriately screened (i.e. satisfying the applicable screening requirements of Section 5.19(F)(9) of the Land Use Regulations)? If so, identify and list with specificity how such telecommunications facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- v. Section 5.19(G)(1) of Article 5 of the Land Use Regulations allows for certain small scale wireless telecommunications equipment provided that any accompanying equipment shall be screened from view and requires that all ground-mounted equipment of telecommunications towers be screened from view.
 - (i) List each such small scale wireless telecommunications equipment in the Town and how such equipment is screened.
 - (ii) Is all such wireless telecommunications equipment appropriately screened (i.e. satisfying the applicable screening requirements of Section 5.19(G)(1) of the Land Use Regulations)? If so, identify and list with specificity how such telecommunications facilities are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- w. Section 6.3(B)(6) of Article 6 of the Land Use Regulations states that in approving outdoor display or storage, the Design Review Board may place conditions on the area and location of such storage or display, and shall require appropriate screening.
- (i) List all such areas where the Design Review Board has placed screening conditions on the outdoor display of goods, supplies, vehicles, equipment, machinery or other materials.
 - (ii) List all such screening requirements and restrictions imposed.
 - (iii) Are all such outdoor displays of goods, supplies, vehicles, equipment, machinery or other materials appropriately screened (i.e. satisfying the applicable screening requirements imposed by the Design Review Board)? If so, identify and list with specificity how such outdoor displays of goods, supplies, vehicles, equipment, machinery or other materials are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- x. Section 6.3(B)(7) (“Screening”) of Article 6 of the Land Use Regulations allows the Design Review Board to impose specific conditions or require modifications to ensure that certain screening requirements are satisfied (see “Screening”).
- (i) List each instance in the last ten years where the Design Review Board has placed screening conditions on the developments pursuant to Section 6.3(B)(7) (“Screening”) of Article 6 of the Land Use Regulations.
 - (ii) List all such screening requirements and restrictions that were implemented.
 - (iii) Are all such developments appropriately screened (i.e. satisfying the applicable screening requirements imposed by the Design Review Board pursuant to Section 6.3(B)(7) (“Screening”) of Article 6 of the Land Use Regulations)? If so, identify and list with specificity how such developments are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this

Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- y. Section 8.4(B)(2) and (3) of Article 8 of the Land Use Regulations allow the Design Review Board to acquire additional screening with respect to subdivisions on wooded sites.
 - (i) List each instance in the last ten years where the Design Review Board has placed screening conditions on such sites.
 - (ii) List all such screening requirements and restrictions that were implemented.
 - (iii) Are all such subdivisions appropriately screened (i.e. satisfying the applicable screening requirements imposed by the Design Review Board pursuant to Section 8.4(B)(2) and/or (3) of Article 8 of the Land Use Regulations)? If so, identify and list with specificity how such subdivisions are screened and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours. Petitioner is also free to examine any such areas from public vantage points.

- 31) What measures, if any, DID THE TOWN ASK BE TAKEN to ensure that screening the proposed site will provide a year-round visual screen of the location FOR THE FOLLOWING PROJECTS and produce all Documents related to same:
 - a. ER Bennington I Solar Project (Docket No. 16-0044-NMP)
 - b. Paper Mill Solar Project (Docket No. 16-0049-NMP)
 - c. Kobelia Bennington GLC Solar Project (Docket No. NMP-6523)
 - d. All other solar facilities identified in the response to interrogatory number 19
 - e. All other solar facilities identifies in the response to interrogatory number 21

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. It is also overly broad, unduly burdensome, and far exceeds the needs of the case. None of the identified projects are at issue in the present proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files.

32) Describe the process that will be implemented for monitoring screening plantings, including (1) name of person tasked with monitoring plantings; (2) person responsible for making determination whether plantings are diseased; (3) person responsible for making determination as to whether plantings are dead; (4) credentials of persons named in (1)-(3); (5) frequency of monitoring FOR THE FOLLOWING PROJECTS and produce all Documents related to same:

- a. ER Bennington I Solar Project (Docket No. 16-0044-NMP)
- b. Paper Mill Solar Project (Docket No. 16-0049-NMP)
- c. Kobelia Bennington GLC Solar Project (Docket No. NMP-6523)
- d. All other solar facilities identified in the response to interrogatory number 19
- e. All other solar facilities identified in the response to interrogatory number 21

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. It is also overly broad, unduly burdensome, and far exceeds the needs of the case. None of the identified projects are at issue in the present proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files.

33) Admit that the Town did not, and has not, asked OF THE FOLLOWING PROJECTS the process that will be implemented for monitoring screening plantings, including: (1) name of person tasked with monitoring plantings; (2) person responsible for making determination as to whether plantings are diseased; (3) person responsible for making determination as to whether plantings are dead; (4) credentials of person named in (1)-(3); (5) frequency of monitoring:

- a. ER Bennington I Solar Project (Docket No. 16-0044-NMP)
- b. Paper Mill Solar Project (Docket No. 16-0049-NMP)
- c. Kobelia Bennington GLC Solar Project (Docket No. NMP-6523)
- d. All other solar facilities identified in the response to interrogatory number 19
- e. All other solar facilities identified in the response to interrogatory number 21

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. It is also overly broad, unduly burdensome, and far exceeds the needs of the case. None of the identified projects are at issue in the present proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files.

- 34) Admit that no portion of the solar modules for the Project will be visible from
- i. Vermont Welcome Center within the Route 7/279 interchange;
 - ii. The portion of Route 7 located directly west of the Project site;
 - iii. Residences in the Apple Hill Homeowner's Association neighborhood;
 - iv. the Bennington Battle Monument;
 - v. Southern Vermont College;
 - vi. Any "gateway" to Bennington;
 - vii. Libby Harris's property; or
 - viii. Mt. Anthony Country Club.

RESPONSE: The Town does not have sufficient information to determine whether the solar modules for the Project will be visible from the listed locations, as discovery is ongoing in this case, thus denied.

- 35) Admit that NONE of the solar modules of the Project are located in a "gateway to Bennington."

RESPONSE: Denied.

- 36) Reference the testimony of Daniel Monks at page 5, lines 12-20.

- i. Identify and list the dates of all meeting in which the Select Board voted on the recommendations listed by Monks, and provide the names of the Select Board members in attendance, the record of the vote of such meeting, a copy of the formal notice for such meetings and the minutes of such meetings and produce all Documents related to same;

RESPONSE: Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

- ii. Identify with specificity all the "undue adverse impacts on aesthetics" that Monks refers to at page 5, line 13 of his testimony and produce all Documents related to same;

RESPONSE:

The Monks prefiled testimony already does "identify with specificity all the 'undue adverse impacts on aesthetics.'" Please refer to Monks' prefiled testimony, which states in most relevant part:

The Project will have an undue adverse impact on aesthetics because the site is situated in a “gateway to Bennington.” According to the Town Plan, “Special attention should be given to visual gateways: points of transition along a public highway where it is evident that the traveler is arriving at a unique place. Gateways are located at entry to the historical downtown and at places along rural highways where significant visual elements of the town’s landscape first appear.” Gateways offer an important first visual impression to Town. Route 7 from the north and south, and Route 279 are both identified as “gateways.” In fact, Route 7 (north/south) and Route 279 are explicitly identified in the Town Plan as “particularly important” scenic gateways. It is a policy in furtherance of the protection of scenic resources that the Town not only seek to protect, but to enhance visual gateways to the community. The proposed Project would have an adverse impact on a “gateway” and would therefore contravene that goal.

Such scenic resources are unduly adversely impacted when they are no longer “intact,” but rather broken up by incongruous structures, buildings, and other development.

Furthermore, the plans for aesthetic screening and the size and dimension of the Project (particularly in conjunction with the neighboring, pending Apple Hill Solar Project), would create significant aesthetic, visual, safety, and environmental impacts involving Route 7, 279, the Bennington Welcome Center.

With reference to these areas, they are part of Bennington’s scenic landscape. The scenic quality of the landscape is one of Bennington’s most important assets. The Project is sited in a prominent location on a hillside, is out of character with its surroundings, including the major roadways into town, the Welcome Center, woodlands, and limited, well set-back and screened residential areas.

The Project would significantly diminish the scenic qualities of the area. The Welcome Center is a carefully designed and sited facility with scenic views of the Bennington Monument and the Green Mountains. It is the first stopping point in Vermont for visitors entering from the west. The large-scale, modern, industrial visual of the proposed solar arrays is inconsistent with the wooded setting of the surrounding area.

Mark Kane’s Visual Assessment Report states only that retained vegetation surrounding the Project would “obscure[e] the array,” and “provides considerable buffering from any direct or unfiltered view,” but does not conclude that the array would not be visible from the Welcome Center or from other vantage points within the surrounding “gateway” area.

The Town Plan requires development to employ earth tone colors and non-reflective materials. According to Mr. Kane's Visual Assessment Report, the Project will employ "low-reflective" photovoltaic modules which are by definition not non-reflective, as well as a black chain-link fence with black metal posts, which are not earth-tone colors (nor are the modules). The Petitioner's aesthetics expert does not state that the dark screening fencing and dark black panels for the racking system would be "earth-toned," only that they will have "a more neutral visual quality."

Development in the Rural Conservation District should be designed to preserve the agricultural and forest lands and to protect the extraordinary scenic resources such lands provide. Development in this area cannot be sited in prominently visible locations on hillsides and ridgelines, and must minimize clearing of natural vegetation. The Project fails to meet those standards. Thus, the adverse aesthetic impact is undue because it violates clear, written community standards in the Town of Bennington Town Plan and the Scenic Resources Inventory, which are intended to preserve the aesthetics and scenic beauty of the Rural Conservation District and the important scenic gateway areas into Bennington.

In planning for development of the Project area, the Town has emphasized the crucial importance of preserving the scenic quality of this community gateway. The size of the Project (in conjunction with the proposed Apple Hill Project) and its location on a hill in direct lines of sight from the Welcome Center and Battle Monument would make the Project visible to thousands of visitors and motorists every day.

The Project will degrade the natural visual appeal of the hillside, and will encroach visually upon a natural area and gateway to the Town.

Screening must provide a year-round visual screen, and must be placed on property owned or controlled by the owner and/or operator of the solar facility. A diversity of materials must be used to create a diverse, naturalized screen rather than a large expanse of uninterrupted, uniform material. When plantings die or become diseased, they must be replaced within six months. In response to the Town of Bennington's requests for discovery concerning monitoring of plantings, Petitioner indicated that it would do no more than comply with PUC Rule 5.800(D), which requires once per year inspection. The Petitioner has not provided an explanation as to how a once per year inspection would be sufficient to comply with the Town Screening Ordinance, which requires diseased or dead plantings to be replaced within six months. Petitioner has also not sought or obtained approval from the Selectboard for its proposed screening (as would be required under the Screening Ordinance).

The Visual Assessment Figures incorporated in Mark Kane's Report also show that some of the plantings that Petitioner relies on are outside of the property owned or controlled by it.

The Petitioner's expert reports also fail to address the following requirements: (1) how the Petitioner will ensure that diseased or dead plantings will be replaced within six months; (2) the absence of required Selectboard approval of proposed screening measures; (3) degradation of the visual appeal of the hillside upon which the Project is sited; (4) aesthetic and visual encroachment upon a natural area and upon a gateway to the community; and (5) screening outside of the property owned/controlled by the Petitioner.

Reference is also made to the Bennington Town Plan, the Regional Plan, the Town's Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- iii. Identify with specificity all the "undue adverse impacts on ... orderly development of the region" that Monks refers to at page 5, line 13-14 of his testimony and produce all Documents related to same;

RESPONSE: The Monks prefiled testimony already does "identify with specificity all the 'undue adverse impacts on orderly development of the region.'" Please refer to Monks' prefiled testimony, which states in most relevant part:

The Project would interfere with the orderly development of the region. The purpose of the Rural Conservation District in which the Project is sited is to preserve the District's distinctive rural and open space character while accommodating low density residential development. The Town Plan specifies that any development in the Rural Conservation District must protect the extraordinary scenic resources that agricultural and forest lands provide and, further, that it cannot be sited in prominently visible locations on hillsides or ridgelines and must minimize clearing of natural vegetation.

The Town Plan calls for the protection and enhancement of visual gateways in town, including points of transition along a public highway, where significant visual elements of the town's landscape first appear.

The proposed Project contravenes these standards. It is sited in a prominently visible location on a hillside and in a gateway area of Bennington. In conjunction with the nearby Apple Hill Project, over 14 acres of natural vegetation would be clearcut. The

Project would abruptly interrupt the intact forest lands with development that is not low density or residential; and which would interrupt the distinctive rural character of the area that is also a visual gateway to Bennington.

Bennington is the regional business, residential, and industrial center; thus, the gateways to Bennington serve the entire region—not only the Town. Additionally, the proposed site is located at the intersection of the main north-south and east-west travel corridors in southwestern Vermont, and is thus regionally significant as a busy thoroughfare. According to the Department of Transportation, the 2015 Average Annual Daily Traffic (AADT) volume for Route 7 at Route 279 is 10,800. [Note: this is a Public Record, available online at:

<http://vtrans.vermont.gov/sites/aot/files/operations/documents/traffic/AADT%20Route%20Log%202015%20State.pdf>]. As such, the Project is inconsistent with the Town Plan and unduly interferes with the orderly development of the Town and the surrounding area.

Reference is also made to the Bennington Town Plan, the Regional Plan, the Town's Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- iv. Identify with specificity all the “undue adverse impact on ... public health and safety” that Monks refers to at page 5, line 13-14 of his testimony and produce all Documents related to same;

RESPONSE: The Monks prefiled testimony already does “identify with specificity” the undue adverse impact on public health and safety. Please refer to Monks’ prefiled testimony, which states in most relevant part:

The proposed Project is inconsistent with the land conservation measures contained in the current and previous versions of the Town Plan. The Selectboard has determined that the Project violates every one of the standards set forth in both versions of the Town Plan, the Siting Amendment, and the Solar Screening Ordinance. Conservation measures are created and implemented in furtherance of the public health and safety. Thus, the violation of those standards, as detailed in the Monks prefiled testimony, results in an undue adverse impact on the public health and safety.

Reference is also made to the Bennington Town Plan, the Regional Plan, the Town's Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening

Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- v. Identify with specificity the undue adverse impact on aesthetics on Route 7 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same;

RESPONSE: Refer to the Response to Question 36(ii).

- vi. Identify with specificity the undue adverse impacts on aesthetics on Route 7 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(ii).

- vii. Identify with specificity the undue adverse impacts on aesthetics on the Bennington Welcome Center that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(ii).

- viii. Identify with specificity the undue adverse impacts on the orderly development of the region with reference to Route 7 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(iii).

- ix. Identify with specificity the undue adverse impact on the orderly development of the region with reference to Route 279 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(iii).

- x. Identify with specificity the undue adverse impact on the orderly development of the region with reference to the Vermont Welcome Center that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(iii).

- xii. Identify with specificity the undue adverse impact on the public health and safety with reference to Route 7 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(iv).

- xiii. Identify with specificity the undue adverse impact on the health and safety with reference to Route 279 that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:

RESPONSE: Refer to the Response to Question 36(iv).

- xiv. Identify with specificity the undue adverse impact on the public health and safety with reference to the Vermont Welcome Center that Monks refers to at page 5, line 13-20 of his testimony and produce all Documents related to same:.

RESPONSE: Refer to the Response to Question 36(iv).

37) Reference the testimony of Daniel Monks at page 6, lines 11-14.

- i. Identify and list the dates of all meetings in which the Selectboard voted on the opposition listed by Monks, and provide the names of the Select Board members in attendance, the record of the vote of such meeting, a copy of the formal notice for such meetings and the minutes of such meetings and produce all Documents related to same;

RESPONSE: Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

- ii. Identify with specificity all the environmental damage that Monks refers to at page 6, line 11 of his testimony and produce all Documents related to same;

RESPONSE: Refer to the Response to Question 36(iv).

- iii. Identify with specificity all the safety damage that Monks refers to at page 6, line 11 of his testimony and produce all documents related to same.

RESPONSE: Refer to the Response to Question 36(iv).

- iv. Identify with specificity all the visual damage that Monks refers to at page 6, line 11 of his testimony and produce all Documents related to same.

RESPONSE: Refer to the Response to Question 36(ii).

- v. Identify all the citizens Monks refers to at page 6, line 14 of his testimony and produce all Documents related to same;

RESPONSE: The citizens refers to the constituency of the Selectboard. We cannot “identify all the citizens” in the Selectboard’s constituency, nor does such a task comport with the needs of the present case.

- 38) Reference the testimony of Daniel Monks at page 6, lines 15-21.

- i. Identify and list the dates of all meetings in which the Select Board voted on the statement that the “Project would have an undue adverse impact on aesthetics,” and provide the names of the Select Board members in attendance, the record of the vote of such meeting, a copy of the formal notice for such meetings and the minutes of such meetings and produce all Documents related to same;

RESPONSE: Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

- ii. Identify and define with specificity what is meant by the term “hillside” on page 6, line 19 and produce all Documents related to same;

RESPONSE: Please refer to an English dictionary for common English usage of the word “hillside.”

- iii. Identify and define with specificity what is meant by the term “prominent” and “location” on page 6, line 19 and produce all Documents related to same;

RESPONSE: Please refer to an English dictionary for common English usage of the words “prominent” and “location.”

- iv. Identify with specificity how the Project is out of character with “the major roadways into Town,” as stated on page 6, line 20 and produce all Documents related to same.

RESPONSE: The Monks prefiled testimony contains a discussion of how the Project is out of character with its surroundings. The areas surrounding the major roadways into Town (Routes 7, 9, and 279) are set against a scenic gateway featuring the Bennington Battle monument set against a bucolic background of mountain, agricultural lands, and woodland scenery. The area in question is currently “intact”; further development incongruent with the mountain, agricultural lands, and woodland scenery is in contravention of the goals of protecting those particularly important scenic gateways and the scenic resources around them. Though some development in those areas has been necessary, the goal of protecting those scenic resources is served by limiting future development that would cause greater disruption to the landscape.

Reference is also made to the Bennington Town Plan, the Regional Plan, the Town’s Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- v. Identify with specificity how the Project is out of character with Welcome Center as stated on page 6, line 20 and produce all Documents related to same;

RESPONSE: The Monks prefiled testimony contains a discussion of how the Project is out of character with its surroundings. The areas surrounding the Welcome Center are set against a scenic gateway featuring the Bennington Battle monument set against a bucolic background of mountain, agricultural lands, and woodland scenery. The area in question is currently “intact”; further development incongruent with the mountain, agricultural lands, and woodland scenery is in contravention of the goals of protecting those particularly important scenic gateways and the scenic resources around them. Though some development in those areas has been necessary, the goal of protecting those scenic resources is served by limiting future development that would cause greater disruption to the landscape.

Reference is also made to the Bennington Town Plan, the Regional Plan, the Town’s Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- vi. Identify with specificity how the Project is out of character with “woodlands” as stated on page 6, line 20 and produce all Documents related to same.

RESPONSE: The Monks prefiled testimony contains a discussion of how the Project is out of character with its surroundings. Clearcutting woodland scenery for the development of a commercial solar array is inconsistent with maintaining those woodlands. Further development such as that proposed is incongruent with the surrounding woodland scenery and is in contravention of the goals of protecting those particularly important scenic gateways and the scenic resources around them.

- vii. Identify with specificity how the Project is out of character with “well set-back and screened residential areas” as stated on Page 6, line 20-21 and produce all Documents related to same;

RESPONSE: The Monks prefiled testimony contains a discussion of how the Project is out of character with its surroundings. Clearcutting an area of woodlands to develop a commercial solar array is out of character with set-back and screened residential areas and diminishes the scenic value of the areas surrounding the set-bac, screened residential areas.

- viii. Identify and define with specificity what is meant by the term “well set-back” as stated on page 6, line 21 and produce all Documents related to same;

RESPONSE: “Set-back” is used here as an adjective in its commonly understood manner in the context of land use. In this context, “set-back” is referring to the location of the residences in question in relation to neighboring property lines. “Well” is used in this context as an adverb modifying the adjective “set-back.” It is a positive modifier.

- ix. Identify and define with specificity what is meant by the term “screened” as stated on page 6, line 21 and produce all Documents related to same:

RESPONSE: Please refer to an English dictionary for common English usage of the words “Screen” or “Screened.” For context, please also refer to the testimony of Brad Wilson (using the word “screen,” “screened,” or “screening” 29 times) and the visual assessment report of Mark Kane (using the words “screen,” “screened,” or “screening” 59 times). It is evident that Petitioner’s witnesses understand the meaning of the word “screened” in the instant context.

Reference is also made to the Bennington Town Plan, Zoning Ordinances, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of

Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

- x. Identify and define with specificity what is meant by the term “residential areas” as stated on page 6, line 21, and list those residential areas and produce all Documents related to same.

RESPONSE: Please refer to an English dictionary for common English usage of the words “residential” and “area.” Here, “area” means a geographical location or tract. “Residential” is an adjective modifying the word “area,” and it means of or relating to residence or residences. “Residence(s)” means the place (especially a house) where persons live or reside. It generally refers to dwellings or homes. In the land use context (and here) “residential” is often contrasted with “commercial,” which means of or relating to or characteristic of commerce. In this specific instance, “residential area” is referring to the residential (as defined above) areas (as defined above) in the vicinity of the proposed Project, as the testimony in question is discussing the “surroundings” of the proposed Project.

Reference is also made to the Bennington Town Plan, Zoning Ordinances, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record), and the prefiled testimony and report of David Raphael, which have been filed in this Docket.

39)Reference the testimony of Daniel Monks at page 6, lines 7-8.

- i. Identify with specificity what infrastructure Monks claims is shared between the Project and the Apple Hill solar project and produce all Documents related to same:.

RESPONSE: Any and all roadways, access points, and interconnection points shared in any capacity between the Apple Hill and Chelsea solar projects, or shared portions thereof. Equipment and/or system upgrades designated for common use by both the proposed Chelsea Solar Project and the proposed, adjacent Apple Hill Solar Project. Due to the insufficient responses on this topic provided by the Chelsea Solar in response to a question or questions contained in the Town of Bennington’s discovery requests, the Town will have to supplement this response following further discovery and may ultimately be left to address this on cross examination at the Technical Hearing.

40) Reference the testimony of Daniel Monks at page 7, line 1.

- i. Identify with specificity how the Project would “significantly reduce the scenic qualities of the area” and produce all Documents related to same;

RESPONSE: Refer to the Response to Question 36(ii).

41) Reference the testimony of Daniel Monks at page 7, lines 12-14.

- i. Identify and define with specificity what is meant by the term “non-reflective” as stated by Mr. Monks at page 7, line 12-13 and produce all Documents related to same;

RESPONSE: Please refer to an English Dictionary for the common English usages of the words “non” and “reflective.” “Non” is a prefix meaning “not” and is freely used as an English formative, usually with a simple negative force as implying negation or the absence of something (rather than the opposite or reverse of it). In this context, the commonly understood usage of “reflect” is used, and here it means to cast back light from a surface. So, non-reflective means the absence of light being cast back from the surface.

For further context, please refer to the visual assessment prepared by Mark Kane, which uses the term “reflect” or “reflective” 17 times in a relevant context.

- ii. Provide technical specification of what is meant by the term “non-reflective” as stated by Mr. Monks at page 7, line 12-13 and produce all Documents related to same;

RESPONSE: See response to Question 41(i), above.

- iii. Identify the manufacturer and model number of one photovoltaic solar module that is non-reflective as Mr. Monks uses the term at page 7, lines 12-13 and produce all Documents related to same;

RESPONSE: Mr. Monks makes no reference in his testimony to non-reflective photovoltaic solar modules. Mr. Monks testimony is as follows:

“The Town Plan requires development to employ earth tone colors and non-reflective materials. According to Mr. Kane’s Visual Assessment Report, the Project will employ “low-reflective” photovoltaic modules. . . .”

- iv. Admit that the Town has not previously raised the issue of non-reflective solar modules for any solar project in Bennington with the exception of Chelsea and Apple Hill Solar and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files, as well as any other public filings made by the Town in any other § 248 proceedings.

- v. Identify with specificity all other solar projects in Bennington with respect to which the Town has raised the issue of non-reflective solar modules, and produce all documents evidencing the Town having raised the issue and produce all Documents related to same;

RESPONSE: Refer to Response to Question 40(iv), above.

- vi. Admit that the solar modules used in the following projects are not non-reflective as the term is used by Mr. Monks:
 - a. Paper Mill Solar Project;
 - b. ER Bennington I Solar Project;
 - c. Kobelia Bennington GLC Solar Project
 - d. All other solar facilities identified in the response to interrogatory number 19
 - e. All other solar facilities identified in the response to interrogatory number 21

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

42)Reference the testimony of Daniel Monks at page 7, lines 15-16.

- i. Identify and define with specificity what is meant by the term “earth-tone colors” as stated by Mr. Monks at page 7, lines 15-16 and produce all Documents related to same;;

RESPONSE: “Earth-tone colors” is used here having its commonly understood meaning in the English language. Generally, earth-tone means any of various warm, muted colors

ranging basically from neutral to deep brown. (See, e.g.: <https://www.dictionary.com/browse/earth-tone?s=t>).

- ii. Identify and list with specificity are colors that qualify as “earth-tone colors” as the term is used by Mr. Monks at page 7, lines 15-16 and produce all Documents related to same:

RESPONSE: Refer to response to Question 42(ii), above.

- iii. Admit that equipment used in the following projects are not “earth-tone colors” as the term is used by Mr. Monks:
 - a. Paper Mill Solar Project;
 - b. ER Bennington I Solar Project;
 - c. Kobelia Bennington GLC Solar Project
 - d. All other solar facilities identified in the response to interrogatory number 19
 - e. All other solar facilities identified in the response to interrogatory number 21

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

- iv. Identify and list with specificity the equipment in the following projects that qualify as “earth-tone colors” as the term is used by Mr. Monks:

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

- v. Admit that the Town has not previously raised the issue of earth-tone colors for any other solar project in Bennington with the exception of Chelsea and Apple Hill Solar

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

- vi. Identify with specificity all other solar projects in Bennington with respect to which the Town has raised the issue of earth-tone colors, and produce all documents evidencing the Town having raised the issue;

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding. The petitioner is free to review the public records including applicable public zoning regulations and zoning files, as well as any other public filings made by the Town in any other § 248 proceedings.

- 43) Reference the testimony of Daniel Monks at page 7, lines 19-21 and page 8, lines 1-2.

- i. Identify and define with specificity what is meant by the phrase “minimize clearing of natural vegetation” as used by Mr. Monks at page 8, line 1 and produce all documents relating to same.

These words and phrases are all defined as in common English usage. “Minimize” here means to reduce to the smallest possible degree or amount. “Clearing” refers to the removal of vegetation. “Natural vegetation” refers to vegetation that is allowed to grow in its undisturbed, natural state, as opposed to cultivated land or vegetation being planted or tended by human hand.

- ii. Identify and list with specificity how You assert the Project does not meet the phrase “minimize clearing of natural vegetation” as used by Mr. Monks at page 8, line 1 as he contends at page 8, lines 1-2 and produce all Documents related to same:.

RESPONSE: The Project proposal involves clearcutting the vegetation in the area. Clearcutting is not minimizing clearing; as it involves the maximum amount of clearing in the area being clearcut.

- 44) Reference the testimony of Daniel Monks at page 8, line 2-6.

- i. Identify with specificity what “clear, written community standards” in the Town Plan Mr. Monks refers to at page 8, line 2-3 and produce all Documents related to same;

The Town Plan specifies that “agriculture, forestry, very low density single-family residential development, and certain limited uses that are suitable in rural areas are permitted” in the RCON District.

The Town Plan language for the Rural Conservation District also includes four specific benchmarks for determining what development is permitted in the RCON District: (1) limited, residential development is permitted; (2) development must not be sited in prominently visible locations on hillsides or ridgelines; (3) any development must utilize earth-tone colors and non-reflective materials on exterior surfaces of all structures; and (4) development must minimize the clearing of natural vegetation.

The Town Plan also includes the following design standards applicable to new development in the Rural Conservation Districts:

Specific design standards shall apply to new development in the Rural Conservation Districts in recognition of the existence of a concentration of agricultural and forest lands and to protect the extraordinary scenic resources such lands and uses provide. Any use in the Rural Conservation District, including single family dwellings, shall require approval under those regulatory guidelines. Development in this area cannot be sited in prominently visible locations on hillsides or ridgelines, shall utilize earth tone colors and non-reflective materials on exterior surfaces of all structures, and must minimize clearing of natural vegetation.

(Bennington Town Plan, at 26).

This language is specific in nature, is specifically applicable to the Project site, and seeks to conserve scenic resources by identifying specific, actionable requirements. These standards are established as a site-specific set-aside for the purposes of aesthetics and conservation. They are established to conserve the rural character of a particular area of Bennington. They also identify specific actionable requirements.

The Scenic Resource Inventory also includes language concerning protection and enhancement of visual gateways of Bennington, including north-south corridor of Route 7 and the east-west corridor of Route 279.

- ii. Identify with specificity what “clear, written community standards” in the Scenic Resources Inventory Mr. Monks refers to at page 8, line 2-4 and produce all Documents related to same;

The Scenic Resource Inventory also includes language concerning protection and enhancement of visual gateways of Bennington, including north-south corridor of Route 7 and the east-west corridor of Route 279.

- iii. Admit that the following projects meet the “clear, written community standards” in the Town Plan Mr. Monks refers to at page 8, lines 2-3:
 - a. Paper Mill Solar Project;
 - b. ER Bennington I Solar Project;
 - c. Kobelia Bennington GLC Solar Project

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

- iv. Admit that the following projects meet the “clear, written community standards” in the Scenic Resources Inventory Mr. Monks refers to at page 8, lines 2-4:
 - a. Paper Mill Solar Project;
 - b. ER Bennington I Solar Project;
 - c. Kobelia Bennington GLC Solar Project

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

45)Reference the testimony of Daniel Monks at page 8, lines 7-11.

- i. Admit that the solar modules of the Project would not be visible from the Welcome Center

RESPONSE: Discovery is ongoing. The Town is without sufficient information to admit or deny.

- ii. Admit that the solar modules of the Project would not be visible from the Battle Monument;

RESPONSE: Discovery is ongoing. The Town is without sufficient information to admit or deny.

- iii. Admit that from the viewpoint of the Welcome Center, the Project satisfies the Screening Ordinance (as referenced on page 3, line 3 of Mr. Monks' testimony)

RESPONSE: Denied; the Screening Ordinance is not taken on a view-by-view basis, but rather concerns assessment of a Project as a whole.

- iv. Admit that from the viewpoint of the Battle Monument, the Project satisfies the Screening Ordinance (as reference on page 3, line 3 of Mr. Monks' testimony)

RESPONSE: Denied; the Screening Ordinance is not taken on a view-by-view basis, but rather concerns assessment of a Project as a whole.

- 46) Reference the Testimony of Daniel Monks at page 8, lines 12-21.

- i. Identify and list the dates of all meetings in which the Select Board voted on the statement that the "Project would unduly interfere with the orderly development of the region," and provide the names of the Select Board members in attendance, the record of the vote of such meeting, a copy of the formal notice for such meetings and the minutes of such meetings and produce all other Documents related to same;

RESPONSE: Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

- 47) Reference the testimony of Daniel Monks at page 9, lines 18-21.

- i. Identify and list the dates of all meetings in which the Select Board voted on the the [sic] conclusion that the Project is inconsistent with land conservation measures contained in the "Previous Town Plan." "Project would unduly interfere with the orderly development of the region, and provide the names of the Select Board members in attendance, the record of the vote for such meeting, a copy of the formal notice for such meetings and the minutes of such meetings and produce all other Documents related to same;

RESPONSE: Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

- 48) Reference the testimony of Daniel Monks at page 10, line 19.
- i. Identify and list with specificity the “many public vantage points” from which You assert the solar modules of the Project will be able to be seen as claimed by Mr. Monks and produce all Documents related to same.

RESPONSE: Mr. Monks’ testimony is as follows:

“Furthermore, the Project is sited in a location that will adversely impact scenic views, roads, and other areas identified in the Scenic Resources Inventory, in that it is sited on a hillside that can be seen from many public vantage points, and which forms a natural backdrop for a “gateway” to the community.”

No reference is made to the visibility of the solar modules.

- 49) Reference the testimony of Daniel Monks at page 10, line 20, and page 11, lines 1-2.
- i. Identify and list with specificity the evidence that supports Mr. Monks’ statement that a solar facility that exceeds an area of 10 acres ‘cannot be adequately screened or mitigated to blend into the landscape’ and produce all other Documents related to same

RESPONSE: This is a policy determination that has been made by the Town of Bennington Selectboard. Reference is made to the Solar Siting Amendment.

- ii. Identify and list with specificity how the Town determines the area occupied by a solar facility and produce all other Documents related to same;

RESPONSE: It is determined by the footprint of the solar facility, including areas that must be cleared, roads, accesses, facilities, equipment, impervious surfaces and other similar or related surfaces, clearings, and structures.

- iii. Admit that the Town Energy plan states: “When evaluating impacts of a proposed solar facility under the criteria set forth in this Town Plan, the

cumulative impact of existing solar facilities, approved pending solar facilities, and the proposed solar facility shall be considered.”

RESPONSE: Admitted. It goes on: “It is explicitly understood that a proposed solar facility which by itself may not have an adverse impact may be deemed to have an adverse impact when considered in light of the cumulative impacts of the proposed solar facility and existing solar facilities and pending already approved solar facilities.”

- iv. Admit that the Apple Hill solar project in PUC docket 8454 is not an existing solar facility

RESPONSE: As of the date of this response, admitted.

- v. Admit that the Apple Hill solar project in PUC docket 8454 is not an “approved pending solar” facility.

RESPONSE: As of the date of this response, admitted.

- 50) Reference the testimony of Daniel Monks at page 12, lines 1-6.

- i. Identify and list with specificity the plantings that Mr. Monks claims are outside property owned or controlled by Petitioner and produce documents related to same.

RESPONSE: Mr. Monks testimony specifically refers to the Visual Assessment Figures incorporated in Mark Kane’s Report. Please refer to the Visual Assessment Figures incorporated in Mark Kane’s Report. Specifically, some of the screening vegetation surrounding the Project appears to be located outside of the “Tax Parcel Boundary” marked with a yellow line on Figures CS-01, CS-03, and CS-07 of Exhibit CS-MK-3.

- ii. Admit that approval from the Select Board of a screening plan is not required in this case;

RESPONSE: Denied.

- iii. Admit that the Petitioner submitted the plans for the Project to the Town in a timely manner, and the Town never sent any screening concerns or recommendations to the Petitioner.

RESPONSE: Denied. It is unclear what is meant by “sent any screening concerns or recommendations to the Petitioner.” This Project is currently in the discovery process and the Town has expressed its concerns about screening in discovery. The Town cannot know what the concerns there may be in the absence of (1) adequate discovery from Petitioner; and (2) any proposed screening plan presented to the Town for consideration. The Petitioner still has not adequately responded to the Town’s requests for discovery on this topic.

- iv. Identify and list with specificity all communications by the Town to the Petitioner evidencing any screening concerns or recommendations to the Petitioner for the Project and produce all Documents related to same;

RESPONSE: See response to Question 50(iv), above.

51) Reference the testimony of Daniel Monks at page 13, lines 5-6.

- i. Identify and define with specificity the term “naturally” as used by Monks at page 13, line 6 and produce all other Documents related to same.

RESPONSE: The word “naturally” is used here as in common English usage.

- ii. Identify and define with specificity the term “screen” as used by Mr. Monks at page 13, line 6 and produce all other documents related to same.

RESPONSE: Please refer to the Response to Question 38(ix).

52) Reference the testimony of Daniel Monks at page 3, lines 20-21 and page 4, lines 1-3.

- i. Identify and list with specificity the “significant visual elements of the town’s landscape” that You assert first appear term “naturally” as used by Mr. Monks at page 4, line 3 in gateway to Bennington that Mr. Monks refers to at page 3, line 20 and produce all other Documents related to same.

RESPONSE: This question is unintelligible, and the Town is therefore unable to provide a response.

53)Reference the testimony of Daniel Monks at page 5, lines 7-9.

- i. Identify and list with specificity the areas along Route 7 that You assert are “particularly important scenic gateways;

RESPONSE: Please refer to the Response to Question 36(ii).

- ii. Identify and list with specificity the areas along Route 297 [sic] that You assert are “particularly important scenic gateways.

RESPONSE: Please refer to the Response to Question 36(ii).

- 54) Admit that the SOLAR MODULES OF THE PROJECT will not be visible to vehicles traveling along Route 7 west of the Project site.

RESPONSE: Admit that the solar modules themselves may not be visible to vehicles traveling along Route 7 west, although it is not yet clear for what times of year this is true.

- 55) Admit that the Public Utility Commission’s order in Docket 8302, dated February 16, 2016, contains the following language beginning on page 59:

“The ‘visual gateway’ language is not an example of a clear, written community standard.”

RESPONSE: Admitted that the Order contains the language quoted.

- 56) Admit that the Public Utility Commission’s order in Docket 8302, dated February 16, 2016, contains the following language beginning on page 59:

“The ‘visual gateway’ language, while specific to the Project site, simply makes the areas adjacent to the Project site ‘important’ and ‘special,’ but does not set a specific standard that the Project would violate.”

RESPONSE: Admitted that the Order contains the language quoted.

- 57) Please identify with specificity the financial arrangement between the Town of Bennington and the ER Project and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding.

58) Please identify the dates that the ER Project and the Paper Mill Solar Project were reviewed by the Town of Bennington and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Only the Chelsea Solar Project is at issue in this proceeding. Notices, agendas, and meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

59) Reference the testimony of Daniel Monks at page 5, lines 3-4. Identify all documents, exhibits, and other materials referenced when writing the statement "Such scenic resources are unduly adversely impacted when they are no longer "intact," but rather broken up by incongruous structures and buildings" and produce all Documents related to same.

RESPONSE: Reference is made to the Bennington Town Plan, the Regional Plan, the Town's Scenic Resource Inventory, the Solar Siting Amendment, and the Solar Screening Ordinance (all of which are matters of Public Record).

60) Reference the testimony of Daniel Monks at page 7, lines 1-3. Admit that the scenic views from the Welcome Center are in the opposite direction from the Project, and pointed away from the Project site.

RESPONSE: Denied.

61) Admit that the Project will not be in direct line of sight from the Welcome Center.

RESPONSE: Denied.

62) Admit that the Town and the Petitioner engaged in multiple conversations, including formal public hearings, regarding revisions to the Project site plan and the Project's proposed screening in 2017.

RESPONSE: Denied.

63) Admit that the Petitioner implemented every request or recommendation from the Town in 2017 regarding revisions to the Project site plan and the Project's proposed screening.

RESPONSE: Denied.

- 64) Admit that approval from the Selectboard is not required for proposed screening with respect to forms of development other than solar projects.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. It is not clear what “forms of development other than solar projects” are being referred to. Therefore, denied.

- 65) Admit that the Town’s land use regulations require replacement of dead and dying screening plants within one year of death for forms of development other than solar projects.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. It is not clear what “forms of development other than solar projects” are being referred to. Therefore, denied.

- 66) Identify and 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 related to same.

RESPONSE: 30 V.S.A. § 248(b)(1), (5).

The Town reserves the right to supplement its response to this question as discovery develops.

- 67) With respect to the prior interrogatory, state with specificity the respondent’s education, training and experience to offer an opinion with respect to each criterion and produce all documents concerning same.

RESPONSE: Refer to the prefled testimony of Daniel Monks, in which he is identified as the Planning Director for the Town. A summary of Mr. Monks experience will also be produced once it has been prepared. Additionally, the recommendations of the municipality in which the Project is located are specifically solicited by statute, so the Town’s recommendations are offered on that basis.

- 68) With respect to each criteria in the response to #65, identify and explain with specificity the basis for Your assertion and produce all Documents relating to same.

RESPONSE: Question #65 is a Request to Admit and does not reference any criteria. If this question was intended to refer to Question #66, then please refer to the prefiled testimony of Daniel Monks, and the responses to Question #36, above.

- 69) Identify and produce all evidence that You will sponsor that supports the bases listed in the response to #67, and produce all Documents related to same.

RESPONSE: Refer to the response to Question No. 67, and to the prefiled testimony of Daniel Monks.

- 70) Produce Daniel Monk's [sic] resume or Curriculum Vitae.

RESPONSE: A summary of Mr. Monks' experience will be generated and supplied in due course.

- 71) Admit that there exist other factors affecting the general good of the State that individually and cumulatively outweigh the application of the Town's attempt to use its Town Plan to prevent the Project from being built.

RESPONSE: Calls for a legal conclusion as to which no response is required. That is a determination for the PUC to make.

- 72) 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);

RESPONSE: Denied.

- ii. 30 V.S.A. §248(b)(2)(Need for the Project);

RESPONSE: The Town is without sufficient information to admit or deny.

- iii. 30 V.S.A. §248(b)(3)(System Stability and Reliability);

RESPONSE: The Town is without sufficient information to admit or deny.

- iv. 30 V.S.A. §248(b)(4)(Economic Benefit to the State);

RESPONSE: The Town is without sufficient information to admit or deny.

- v. 30 V.S.A. §248(b)(5)(Aesthetics);

Response: Denied.

- vi. 30 V.S.A. §248(b)(5)(Noise);

RESPONSE: The Town is without sufficient information to admit or deny.

- vii. 30 V.S.A. §248(b)(5)(Historic Sites);

RESPONSE: The Town is without sufficient information to admit or deny.

- viii. 30 V.S.A. §248(b)(5)(Air Purity);

RESPONSE: The Town is without sufficient information to admit or deny.

- ix. 30 V.S.A. §248(b)(5)(Water Purity);

RESPONSE: The Town is without sufficient information to admit or deny.

- x. 30 V.S.A. §248(b)(5)(Natural Environment);

RESPONSE: The Town is without sufficient information to admit or deny.

- xi. 30 V.S.A. §248(b)(5)(Natural Resources);

RESPONSE: The Town is without sufficient information to admit or deny.

- xii. 30 V.S.A. §248(b)(5)(Public Health and Safety);

RESPONSE: Denied.

- xiii. 30 V.S.A. §248(b)(5)(Outstanding Resource Waters)

RESPONSE: The Town is without sufficient information to admit or deny.

- xiv. 30 V.S.A. §248(b)(5)(Primary Agricultural Soils)

RESPONSE: The Town is without sufficient information to admit or deny.

- xv. 30 V.S.A. §248(b)(5)(Outstanding Resource Waters)

RESPONSE: The Town is without sufficient information to admit or deny.

xvi. 30 V.S.A. §248(b)(5)(Greenhouse Gas Impacts)

RESPONSE: The Town is without sufficient information to admit or deny.

xvii. 30 V.S.A. §248(b)(5)(Headwaters)

RESPONSE: The Town is without sufficient information to admit or deny.

xviii. 30 V.S.A. §248(b)(5)(Ground Water)

RESPONSE: The Town is without sufficient information to admit or deny.

xix. 30 V.S.A. §248(b)(5)(Water Conservation)

RESPONSE: The Town is without sufficient information to admit or deny.

xx. 30 V.S.A. §248(b)(5)(Floodways)

RESPONSE: The Town is without sufficient information to admit or deny.

xxi. 30 V.S.A. §248(b)(5)(Streams)

RESPONSE: The Town is without sufficient information to admit or deny.

xxii. 30 V.S.A. §248(b)(5)(Shorelines)

RESPONSE: The Town is without sufficient information to admit or deny.

xxiii. 30 V.S.A. §248(b)(5)(Wetlands)

RESPONSE: The Town is without sufficient information to admit or deny.

xxiv. 30 V.S.A. §248(b)(5)(Water Use)

RESPONSE: The Town is without sufficient information to admit or deny.

xxv. 30 V.S.A. §248(b)(5)(Water Supply)

RESPONSE: The Town is without sufficient information to admit or deny.

xxvi. 30 V.S.A. §248(b)(5)(Soil Erosion)

RESPONSE: The Town is without sufficient information to admit or deny.

xxvii. 30 V.S.A. §248(b)(5)(Traffic Impacts)

RESPONSE: The Town is without sufficient information to admit or deny.

xxviii. 30 V.S.A. §248(b)(5)(Municipal and Education Services)

RESPONSE: The Town is without sufficient information to admit or deny.

xxix. 30 V.S.A. §248(b)(5)(Rare and Irreplaceable Natural Areas)

RESPONSE: The Town is without sufficient information to admit or deny.

xxx. 30 V.S.A. §248(b)(5)(Necessary Habitat)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxi. 30 V.S.A. §248(b)(5)(Endangered Species)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxii. 30 V.S.A. §248(b)(5)(Public Investments)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxiii. 30 V.S.A. §248(b)(6)(Integrated Resource Planning)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxiv. 30 V.S.A. §248(b)(7)(Comprehensive Energy Plan)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxv. 30 V.S.A. §248(b)(8)(Outstanding Resource Waters)

RESPONSE: The Town is without sufficient information to admit or deny.

xxxvi. 30 V.S.A. §248(b)(10)(Transmission Facilities)

RESPONSE: The Town is without sufficient information to admit or deny.

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.

RESPONSE: Refer to responses to Question 36, above.

73) Identify and describe with specificity why the Town did not object to clearcutting involved when the house occupied by Libby Harris was built, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request also exceeds the needs of the case.

74) 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.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Moreover, this question is a hypothetical that involves too many variables to be reasonably responded to.

75) Admit that permissible development on the apple orchard parcel owned by PLH LLC adjacent to the Project site would include a large-scale commercial greenhouse operation.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Moreover, it is unclear whether “permissible” refers to applicable Town regulation or to deed restrictions and/or covenants as they may apply to that parcel. In any case, the Town cannot admit or deny based on the information provided in the question.

76) Have the residents of the Town voiced concerns over climate change at public meetings or otherwise?

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Additionally, meeting minutes of Public Meetings are matters of public record. The petitioner is free to examine the public records responsive to this Request.

77) Have the residents of the Town voiced any concerns at public meetings or otherwise that Vermont may not meet its greenhouse gas reduction goals if more in-state renewable energy projects are not built?

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. Additionally, meeting minutes of Public Meetings are matters

of public record. The petitioner is free to examine the public records responsive to this Request.

- 78) Admit that global warming caused by carbon emissions from the electric generation sector has been identified as a significant cause of increase CO₂ emissions that has been linked to extreme weather events in this country and around the world.

RESPONSE: The Town is without adequate first-hand knowledge and can neither admit nor deny this request.

- 79) Admit that the Chelsea Solar Project will have a lower carbon footprint than fossil fuel based electric generation.

RESPONSE: The Town is without adequate first-hand knowledge and can neither admit nor deny this request.

- 80) Identify and list with specificity exactly what locations You assert the MODULES FOR THE SOLAR ARRAY of the Project would be visible and produce all Documents relating to same.

RESPONSE: It is still unclear from discovery whether or not the modules would be visible during any seasons. The Town may supplement this response upon further discovery, or it may be left to address this issue upon cross-examination.

- 81) Identify and describe with specificity the changes in view that would occur from the locations identified in response 80, and produce all Documents relating to same.

RESPONSE: Refer to response to Question 80.

- 82) Identify and describe with specificity the overall societal benefits of the Town's opposition to the Project and produce all Documents relating to same

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good.

The Town's position as to the Project is premised on the terms of the Town Plan and other documents governing development in the Town of Bennington.

- 83) Identify and describe with specificity how the general good of the State of Vermont is benefitted by the Town's opposition to the Project and produce all documents relating to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good.

The Town's position as to the Project is premised on the terms of the Town Plan and other documents governing development in the Town of Bennington.

- 84) Identify and describe with specificity how the Town's opposition to the Project is consistent with each of the following goals contained in the Bennington Town Plan and produce all Documents related to each:
- i. "Support efforts to develop renewable energy facilities." P.3.
 - ii. "[E]fforts must be made to establish reliable local energy from renewable sources." P. 7.
 - iii. The economic sectors and needs identified earlier in this chapter will remain important to the community, but will need to be adapted over time to take advantage of opportunities offered by things such as local renewable energy resources." P. 12.
 - iv. "Produce as much of the community's energy demand as possible using local resources." P.12.
 - v. "support [] local foods and renewable energy." P.14.
 - vi. "Incentives for investment in conservation and renewable energy systems should be supported." P.55.
 - vii. "Future electricity supply constraints are a concern because of expiring contracts with Vermont Yankee and Hydro Quebec as well as possible fuel shortages at regional fossil-fuel based generating plants. Resolving these problems will require implementation of a "smart grid" where supply can be more closely matched with demand as well as through development of a large number of small renewable energy-based generating facilities distributed throughout the region." P. 83.
 - viii. "[T]he great majority of fuel used for transportation and heating and cooling homes and businesses is derived from nonrenewable fossil fuels. In addition to the negative environmental impacts associated with burning oil, gas, and similar fuels, the available supply of those fuels is strictly limited and within a relatively short period of time, production will not be able to keep pace with demand (for further details, see Bennington Regional Energy Plan, 2009). The result will be escalating prices and physical shortages of energy products

that will begin to cause severe problems if we have not reduced our reliance on those fuels.” P.92.

- ix. “The town [] should support [] development of renewable energy resources.” P.94.
- x. “Generation of energy from renewable energy resources supports conservation of non-renewable energy resources while helping to maintain a clean environment.” P. 94.
- xi. “Potential renewable energy resources in Bennington include: *** Solar energy to heat buildings, water, and to power photovoltaic cells. Pp. 94-95.
- xii. “It is likely that the smart grid will rely on many distributed small generators located closer to the points where the electricity is used; consequently, the town should support economically and environmentally sound development of local electricity generating capacity.” P. 95.
- xiii. “Actively promote the energy-related benefits of town policies that:*** Support development of renewable energy resources.” Pp. 95-96.
- xiv. “Create and support programs and facilities that provide stable, affordable, and clean renewable sources of energy, including wood (and other biomass), wind, water (hydroelectric), solar, and geothermal. Give strong consideration to the energy needs of the community when evaluating the environmental and economic affects of such programs and facilities.” P. 96.
- xv. “The town should continue to pursue [] renewable energy projects.” P.96.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The Town Plan aims to balance the promotion of the principles reflected in the above provisions against undue adverse impact on aesthetics, orderly development of the region, and the public safety. The Town Plan addresses how to promote renewable energy where appropriate and the need for responsible development of renewable energy projects. The two are not at odds. The issue at hand is whether the Project will have an undue adverse impact on aesthetics, orderly development, and public safety.

85) Identify and describe with specificity how the Town’s opposition to the Project is consistent with the each of the following goals contained in the Bennington Town Energy Plan and produce all Document related to each:

- i. “Alternative energy sources such as solar, [] and biomass-based fuels can provide significant amounts of clean energy well into the future. Developing these resources is extremely important.” P.2.
- ii. “Commercial Renewable Energy Opportunities in Bennington *** The amount of money spent on energy in Bennington—as pointed out in previous

sections—suggests that real economic benefits can be realized if some significant portion of that energy is generated from local sources.” P.38.

- iii. “renewable energy must focus on local resources.” P.38.
- iv. “Available resources that potentially can provide for some of the area’s energy needs include: biomass (wood and field crops), [] and direct solar radiation. []. Developing those resources now also will help provide energy security for the community, assuring availability of the energy needed to sustain economic prosperity well into the future.” P. 38.
- v. “Biomass Energy Potential *** Any discussion of renewable energy in Bennington County must include wood, which together with direct solar energy, is the most obvious and ubiquitous source of locally available energy. The Bennington Regional Energy Plan estimates that forests, just within Bennington County, could sustainably provide over 150,000 cords of wood per year for fuel (in addition to timber harvested for sawlogs, veneer wood, and pulpwood). That quantity of wood could easily satisfy all of the residential space heating needs for the region, with a significant volume of biomass remaining for use in commercial/industrial applications and for electricity generation. Forest resources in nearby areas of New York and Massachusetts provide additional resources that could be available for local energy utilization (Biomass Energy Resource Center data).” P.38.
- vi. “Although widely available, a significant increase in the utilization of local wood products for commercial energy production poses some serious challenges. Much of the forested land in Bennington County is not currently available for harvesting because it is located in federally designated wilderness or other protected areas.” P.38.
- vii. “Despite the hurdles that must be overcome to make wood a significant, and perhaps primary, local source of heat energy, its abundance, reliability, and the fact that reliance on this fuel provides jobs and recycles money in the local economy suggest that planning for greater utilization of the resource should be pursued. The reduced net carbon and sulfur dioxide emissions realized through combustion of biomass rather than coal, oil, or gas provides an additional reason to pursue greater use of this renewable resource.” P.38.
- viii. Space heating in homes and small businesses can be accomplished with wood or wood-pellet burning stoves or furnaces. Cord wood is readily available from local suppliers and requires little preparation beyond splitting and drying.” P.38.
- ix. “Solar energy technologies are proven and [] have a relatively minor environmental impact.” P.43
- x. “there are compelling reasons to attempt to implement solar technologies wherever possible.” P.43.

- xi. The town energy committee should “advocate for [] renewable energy projects. P. 45
- xii. “All developments should be planned to take maximum advantage of opportunities for utilization of solar energy.” P.45.
- xiii. “The town should support efforts to develop appropriate cost-effective biomass energy resources.” P.47.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The Town Energy Plan aims to balance the promotion of the principles reflected in the above provisions against undue adverse impact on aesthetics, orderly development of the region, and the public safety. The Town Plan addresses how to promote renewable energy where appropriate and the need for responsible development of renewable energy projects. The two are not at odds. The issue at hand is whether the Project will have an undue adverse impact on aesthetics, orderly development, and public safety.

- 86) Identify and describe with specificity how the Town’s opposition to the Project is consistent with the each of the following goals contained in the Bennington Regional Energy plan and produce all Documents related to each:
 - i. “Alternative energy in the form of ‘renewable’ sources such as solar [] can provide significant amounts of clean energy well into the future. Developing those resources is extremely important.” P. i.
 - ii. “To maintain a good quality of life, vibrant communities, and prospering economies, we will have to [use] energy obtained from clean renewable sources.” P. i.
 - iii. “Decrease our reliance on non-local energy sources through [] development and use of local renewable energy sources.” P.i.
 - iv. “Renewable energy will become increasingly important in the coming decades, and the most efficient and valuable energy sources will be the ones that are closest to the end users.” P.ii.
 - v. “it will be important to supplement any out-of-region generating capacity (nuclear, hydro, and other sources) with locally generated electricity.” P. ii.
 - vi. “A ‘smart grid’ that relies on many smaller scale distributed sources of electricity will need to be developed.” P.ii.
 - vii. “By taking a lead in efforts to [] develop local renewable energy sources [] Bennington County can become a uniquely vibrant and successful region.” P.ii.
 - viii. “The impacts on climate, the so-called ‘global warming’ that has resulted from the rapid release of billions of tons of carbon dioxide that had been locked in solid and liquid fossil fuels, has been well-documented. The disruption of

natural ecosystems, human settlements, and economic activity, together with the other adverse environmental impacts of fossil fuel combustion (e.g., smog, acid rain) further compel us to seek and use alternative sources of energy.”

P.6.

- ix. “Transportation is an energy-intensive and complex process, whether the commodity being transported is food in a truck or electricity over a transmission line. Because we need to conserve energy in every way possible, local production of energy for use in our region will become increasingly important. We must find ways to [] use the renewable energy resources available locally for [] electricity generation.” P. 6.
- x. “[N]ew large-scale generating sources will need to be found and supplemented with locally generated electricity from renewable resources.” P. 7.
- xi. “Decrease our reliance on non-local energy sources through [] development and use of local renewable energy sources.” P.8.
- xii. “Give full consideration to use of locally available renewable energy resources for [] and electricity.” P.24.
- xiii. “Seek additional electric generating capacity from local renewable resources to provide energy for electric vehicles.” P.30.
- xiv. “Such present day objectives as watershed protection, [] will need to be partially retracted to make way for the compelling future demand for energy.” P.32.
- xv. “Support development of local and regional industries that produce energy through conservation and renewable sources of energy.” P.32.
- xvi. “We must transition from nonrenewable to renewable energy sources, and because of net energy constraints resulting from acquisition, processing, and transportation of energy, much of that renewable energy will need to be derived from local sources.” P.34.
- xvii. “Energy from renewable sources can help address space and water heating needs, provide fuel for transportation, and generate electricity (that can, in turn, be used for heating, transportation, and many other functions). Space and water heating can be accomplished using solar energy, wood (cordwood, pellets, or chips).” P.34.
- xviii. “[C]ommercial generation of electricity using [] large scale arrays of pv panels, [] can offset coal, natural gas, and nuclear fuel use, adding valuable years to the generating capacity of those energy sources.” p.36.
- xix. “Any discussion of renewable energy in Bennington County must include wood, which together with direct solar energy, is the most obvious and ubiquitous source of locally available energy. The 1982 Regional Energy Plan estimated that forests, just within Bennington County, could provide over 150,000 cords of wood per year for fuel (in addition to timber harvested for sawlogs, veneer wood, and pulpwood). That quantity of wood could easily satisfy all of the residential space heating needs for the region, with a significant volume of biomass remaining for use in commercial/industrial applications and for electricity generation.” P.36.

- xx. “Despite the hurdles that must be overcome to make wood a significant, and perhaps primary, local energy source, its abundance, reliability, and the fact that reliance on this fuel provides jobs and recycles money in the regional economy suggest that planning for greater utilization of the resource should be pursued.” P.38.
- xxi. “Obtaining energy from wood is a relatively simple process using simple and time-tested technologies. Many homes can be heated with a single wood or pellet burning stove or furnace. Cord wood used in stoves or furnaces is readily available from many local suppliers and requires little preparation beyond splitting and drying.” P.38.
- xxii. “In addition to a concerted effort at conservation in all energy sectors, the most feasible future sources of electricity for the region come from smaller renewable resource based generating facilities distributed throughout the area.” P.47.
- xxiii. “The value of energy conservation and development of renewable energy resources should be given significant weight when evaluating new projects and programs.” p.51.
- xxiv. “Recognize and support economically and environmentally sound development of the region’s renewable energy resources.” P. 52.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The Regional Plan aims to balance the promotion of the principles reflected in the above provisions against undue adverse impact on aesthetics, orderly development of the region, and the public safety. The Regional Plan addresses how to promote renewable energy where appropriate and the need for responsible development of renewable energy projects. The two are not at odds. The issue at hand is whether the Project will have an undue adverse impact on aesthetics, orderly development, and public safety.

- 87) Identify and describe with specificity how the Town’s opposition to the Project is consistent with the each of the following goals contained in the Bennington Regional Plan, and produce all Documents related to each:
 - i. “Energy planning should emphasize the use of diverse and reliable supplies of energy resources in an efficient and environmentally sound manner.” P.6.
 - ii. “Particular attention should be given to the development of renewable energy resources in the area.” P.6.
 - iii. “Land use, transportation, economic development, and housing policies and strategies should support the efficient use of energy resources.” P.6.

- iv. “Reduce the flow of energy dollars leaving the Bennington region by decreasing our reliance on non-local energy sources.” P.65.
- v. “Encourage the development of renewable energy resources.” P.65.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This Request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The Regional Plan aims to balance the promotion of the principles reflected in the above provisions against undue adverse impact on aesthetics, orderly development of the region, and the public safety. The Regional Plan addresses how to promote renewable energy where appropriate and the need for responsible development of renewable energy projects. The two are not at odds. The issue at hand is whether the Project will have an undue adverse impact on aesthetics, orderly development, and the public safety.

- 88) Identify all buildings or structures (and their respective locations) that have been built in the Town’s RCON zone since January 1, 2010, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Petitioner is free to examine public records relating to this Request during Town Office business hours.

- 89) With respect to each building or structure identified in response 80, identify and describe the total acreage of clearing that occurred on the site either prior to or after the construction of such building or structure and produce all Documents related to same.

RESPONSE: Refer to the Response to Question No. 80.

- 90) Admit that the groundwater in the vicinity of the Project site and the surrounding properties is contaminated with poly - and perfluoroalkyl substances (“PFOA”)

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 91) Admit that the well water in the vicinity of the Project site and the surrounding properties is contaminated with PFOA.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 92) Admit that because of the contamination of well water in the vicinity of the Project site and the surrounding properties, no new residential buildings will be constructed in those areas for at least 25 years.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 93) Admit that because of the contamination of well water in the vicinity of the Project site and the surrounding properties, it would be uneconomical for any developer to build new residential buildings in those areas for at least 25 years.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. The Town cannot answer what would or would not be economical for a developer in the next 25 years.

- 94) Admit that the REPORT makes no analysis of the effects of the presence of PFOA in the well water in the vicinity of the Project site and the surrounding properties and orderly development of the region.

RESPONSE: RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

It is unclear what REPORT is referred to.

- 95) Admit that the REPORT makes no analysis of the effects of the presence of PFOA in the ground water in the vicinity of the Project site and the surrounding properties and orderly development of the region

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

It is unclear what REPORT is referred to.

- 96) Explain how MONKS accounted for the contamination of the well water and ground water by PFOA in the vicinity of the Project site and the surrounding properties and its relationship to orderly development of BENNINGTON COUNTY in this Case, and produce all Documents related to same

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The Monks prefiled testimony did not address the impact of the contamination of well water and ground water by PFOA in the vicinity of the Project site.

- 97) Identify and list with specificity what measures the Town has taken and is taking to address the contamination of the well water and ground water by PFOA in the vicinity of the Project site and the surrounding properties, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

- 98) Identify and explain with specificity how the Town accounts for PFOA contaminated well water areas in its planning of development in Town, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a

Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The potential contamination of wells is an ongoing concern, undergoing study and litigation.

- 99) One of the stated purposes of the RCON district is “accommodating very low density residential development in a manner that avoids the need for public water supply.” Explain how development on the Project site and the vicinity is possible without being on public water supply in light of the PFOA contamination in the area, and produce all Documents related to same.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case.

The potential contamination of wells is an ongoing concern, undergoing study and litigation.

- 100) 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. ER Project;
- xv. Paper Mill Project;
- xvi. Kobelia;

- xvii. Encore Renewable;
- xviii. MHG Solar or MHG;
- xix. Maple Leaf solar.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. This request is also overbroad, unduly burdensome, and far exceeds the needs of the case. Objection is also made on the basis of privilege and attorney work product.

- 101) Admit that the Town has known for decades that carbon dioxide (“CO₂”) pollution from burning fossil fuels was causing global warming and dangerous climate change.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing.

- 102) Admit that the Town has known and currently knows that continuing to burn fossil fuels and purchase electricity from fossil fuel energy sources would destabilize the climate system on which present and future generations of our nation depend for their well-being and survival, and the economy depends.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing.

- 103) Admit that the Town knows of the unusually dangerous risks of harm to human life, liberty, and property that would be caused by continued fossil fuel burning.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing.

- 104) Admit that the overarching public trust resource is our country’s life-sustaining and property sustaining climate system, which encompasses our atmosphere waters, oceans, and biosphere.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing.

- 105) Admit that the Town must exercise their governmental power consistent with protecting those trust resources.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing. Calls for a legal conclusion as to which no response is required. Notwithstanding the objection, denied.

- 106) Admit that as a sovereign trustee, the Town has a duty to refrain from actions which further impair these essential natural resources.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing. Calls for a legal conclusion as to which no response is required. Notwithstanding the objection, denied.

- 107) Admit that the affirmative aggregate acts of the Town in opposing the Project contribute to higher levels of fossil fuel electricity production than would otherwise occur.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing. Calls for a legal conclusion as to which no response is required. Notwithstanding the objection, denied.

- 108) Admit that as a sovereign trustee, the affirmative aggregate acts of the Town opposing the Project are unconstitutional.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing. Calls for a legal conclusion as to which no response is required. Notwithstanding the objection, denied.

- 109) Admit that as a sovereign trustee, the affirmative aggregate acts of the Town opposing the Project are in contravention of their duty to hold the atmosphere and other public trust resources in trust.

RESPONSE: Objection. This Request is not reasonably calculated to lead to the discovery of admissible evidence with respect to the Petition of Chelsea Solar, LLC for a Certificate of Public Good. The request is vague and confusing. Calls for a legal conclusion as to which no response is required. Notwithstanding the objection, denied.

110) Admit that the Project site is not located in a gateway area.

RESPONSE: Denied.

111) Admit that the Project site is not located within any gateway area shown on the last page of Exhibit CS-BW-24. (Scenic Resource Inventory).

RESPONSE: Denied.

112) Produce a map detailing the boundaries of all gateway areas in Bennington.

RESPONSE: Refer to prefiled testimony of Daniel Monks, Town Plan, Town Scenic Resources Inventory.

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

RESPONSE: Discovery is ongoing. The Town will provide a list of documents for use at the technical hearing in due course.

As to Objections



Merrill E. Bent, Esq.

As to Interrogatories



Daniel Monks