

**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 Project,” a	)	
2.0 MW solar electric generation facility	)	
located off Willow Road in Bennington,	)	
Vermont	)	Case No. 17-5024-PET

PREFILED SURREBUTTAL TESTIMONY OF MARU LEON

September 14, 2018

Exhibits

- 1-Aesthetic Report
- 2-Vermont Public Radio story about Southern Vermont College’s Mansion
- 3-Transcript of Southern Vermont College President Deposition
- 4-Photo of Wal-Mart Clearing
- 5-Land Use Plan Map
- 6-Urban Growth Area Map
- 7-RCON Standards p. 4
- 8-Transcript of Bennington Town Administrator Dan Monks

Summary of Testimony:

Maru Leon is co-owner of Mt. Anthony Country Club. In her testimony she rebuts testimony by Petitioner’s experts regarding the aesthetic impact of the Chelsea Solar development on the Country Club and other areas of Bennington as it relates to the Town Plan and she explains the importance of the views of natural areas for her customers, tourists, artists, and Bennington residents, and gives her opinion of the Project’s compliance with Bennington’s 2010 Town Plan and Rural Conservation District Standards. She also discusses the Town of Bennington’s Settlement in this case.

PREFILED SURREBUTTAL TESTIMONY OF MARU LEON

Q1. Please state your name, occupation and address.

A1. Maru Leon, co-owner of Mt. Anthony Country Club with my husband, David Griffin. I am a Graphic Designer and Marketing Consultant, Event Planner. I reside on the grounds of the golf course at Mt. Anthony Country Club at 1 Bank Street, Bennington, Vermont.

Q2. Please describe your professional experience.

A2. I have a Bachelor of Fine Arts in Communication Design from Parsons School of Design. I have worked in the design and marketing fields for over 33 years. I serve on the following Boards:

- Bennington Museum Board of Trustees since 2012.
- Bennington Chamber of Commerce Board of Trustees since 2016.
- Grow Bennington Initiative Task Force 2018
- Shires of Vermont Destination Marketing Organization Committee Member
- Marketing Bennington Task Force 2018
- Shires of Vermont Hospitality Task Force 2018

Q3. Have you previously testified before the Public Utility Commission or in other judicial or administrative proceedings?

A3. Yes. I submitted pre-filed testimony in this case.

Q4. What is the purpose of your testimony?

A4. To respond to testimony submitted by Petitioner regarding the aesthetics and compliance with the Town Plan.

Q5. What documents have you reviewed in preparation of your testimony?

A5. The files and documents available at the Public Utility Commission website on ePUC, especially the 2010 Town Plan which the PUC has determined applies in this case, and the RCON Standards.

Q6. Please explain how your background qualifies you to testify about aesthetics and compliance with the Town Plan.

A6. My Father was an engineer and developer and my mother a gallery owner and art dealer. Aesthetics have always been part of my life and DNA. I studied communications design at Parsons and have worked as an Art Director for many magazines, including Vogue, SELF, Conde Nast Traveler, ELLE, as well as in advertising campaigns for Donna Karan. I have worked on presentations for many brand launches and now as an owner of MACC I work on all aspects of marketing my business and Bennington including photographing the golf course, food, weddings, holidays and most life celebrations.

Q7. What have you done to evaluate the aesthetic value of Apple Hill, and in particular the proposed Chelsea Solar Project Site?

A7. As an art director I work with photographers in my business and love to see their work and have found so many of our local photographers and artists depend on the beautiful views of our valley heading north to serve as inspiration for their work. I serve on the Bennington Museum Board and through this role I am impressed and moved by the large amount of paintings depicting the pristine rural beauty of our region. As owner of the MACC, I routinely walk the grounds and take in the views toward Apple Hill and

the area proposed for the Chelsea Solar Project from the course, This golf course was established in 1897 and together with its views, is an important part of the heritage of Bennington.

Q8. Petitioner's second aesthetics expert, Michael Buscher, submitted rebuttal testimony in which he makes the following statement on p. 15, "Although the Project will have some limited visibility from nearby private properties, the site is not located in a prominent location and the retained vegetation around the Project would prevent visibility from public areas." Do you agree with his statement, and if not, why not?

A8. I completely disagree with this statement. The clearing of the site which is a "Hillside", will open up more extensive views from the Country Club and other public areas such as the hiking trails, Lonnie's Lookout and the Everett Mansion on the campus of Southern Vermont College, as well as Southern Vermont Orchards. See my Aesthetic Report [Exhibit MACC-ML-1] which shows how prominent the hillside is from numerous public places. Professional photographers sell photos that include the prominently visible Apple Hill and they profit from the sale of those photos. This view holds high financial value not only to the Country Club, but to the greater community as well.

Vermont Public Radio recently ran a story about Southern Vermont College's Everett Mansion, also known as "The Orchard House" [Exhibit MACC-ML-2] in which the President of the College says, "when it comes to The Orchard House, the views are its *raison d'être*." In his deposition [Exhibit MACC-ML-3], SVC President David Rees

Evans was asked what the best views are and he responded that they are about 200 yards due North of the mansion and offer a long view North up the valley that do not show much of the development of downtown Bennington that is visible in a more Westerly or Easterly direction. [Ibid. pp. 6-7]. He goes on to say about the Chelsea Solar Project,

“We would be concerned if it infringes on the view, because the view is one of our major marketing advantages....It would have to be invisible or extremely well concealed, visually comparable to other things that are visible from up here.” [Ibid. p. 14]

SVC President Evans stated that

“I think they’d have to be, you know, more or less completely screened. The view changes a great deal during the winter when the trees are bare. And so that would be a matter of concern. I think at this time of year the views are constrained by the trees a lot, but much less so during the winter.” [Ibid. p. 18].

He also expressed concern for the impact of the Chelsea Solar Project on the views from the College’s trails because “the trails are both part of our marketing and one of our key kind of enterprises for community relations.” [Ibid p. 20]

Q9. On p.13 of Michael Buscher’s report, he says, “the Project is not likely to be significantly visible from the dining patio outside the Country Club’s main building, but would potentially be visible from the southern fairways on the property. The southern fairways are located up the hill, and other development in the Bennington valley are currently visible from the fairways, including residential and commercial uses and the Route 7 and Route 279 corridors.” What is your response to this evaluation of the aesthetics of the Project site from the Country Club?

A9. The project will not be significantly visible in the summer from the Patio or dining areas but would be very visible from many fairways, tee boxes, greens throughout the

golf course. There is some industrial zone visibility from a few areas on the course. See Walmart Clearing Exhibit MACC-ML-4. Golfers see it, but note that it can be fixed if Walmart were to plant multiple layers of trees to create a buffer that previously existed by the forest there. The clearing for the solar project and the addition of an industrial element into the view cannot be fixed and will be there for at least 40 years, which is the Petitioner's testimony regarding the project life. His use of the words "potentially visible" from the southern fairways, are 100 % inaccurate and misleading. The site visit served as proof of that.

See the next page for my evaluation of the visibility of the Project site from the golf course holes:

Mt. Anthony Country Club - Bennington, VT *Established in 1897*

List of Holes with visibility or exposure to the Chelsea & Apple Hill Solar Developments

Entrance to Clubhouse	Development visible from the second your drive into the MACC property directly across and above the Clubhouse
Hole #1	Development not visible from this hole
Hole #2	Development visible from the WHITE and BLUE tee Box
Hole #3	Development partially visible from the WHITE and BLUE tee Boxes and RED Tee box
Hole #4	Development not visible from this hole
Hole #5	Development partially visible from the Fairway and by the Green and Bunker by Bank Street
Hole #6	Development visible from the BLUE tee Box, not from WHITE tee box, very visible from RED tee box and Fairway and Green
Hole #7	Development is very visible from the BLUE and WHITE tee Boxes, partially visible from RED tee box and VERY visible from Fairway and Green complex surround area
Hole #8	Development is very visible from the WHITE tee Box (directly across), and partially visible from RED tee box and VERY visible from downhill Fairway and Green complex surround area
Hole #9	Development partially visible from the BLUE and WHITE tee Boxes and very visible from RED tee box and Fairway
Hole #10	Development is not visible from this hole's Tee Boxes, however it is very visible from the Fairway and approach to the greens surrounds
Hole #11	Development visible from the BLUE tee Box, WHITE tee box, and RED tee box
Hole #12	Development is not visible from this hole's Tee Boxes, however it is very visible from Fairway and Green surround complex area
Hole #13	Development is visible from this hole's WHITE, BLUE and RED Tee Boxes, however it is not visible from green
Hole #14	Development visible from the WHITE tee box, partially visible from RED tee box
Hole #15	Development not visible from this hole
Hole #16	Development is visible from this hole's WHITE, BLUE and RED Tee Boxes
Hole #17	Development not visible from this hole
Hole #18	Development is visible from this hole's RED Tee Box only and partially from the Fairway

Even though the highway and parts of the industrial zone are visible, the overall effect for visitors, except for the Wal-Mart clearing, is that of natural beauty which is consistent with the Town Plan's Land Use Districts. [Exhibit MACC-ML-5].

Q10. Can you point to any simulations that Petitioner has submitted into the record that show what the Project would look like from the Mt. Anthony Country Club or Southern Vermont College?

A.10. No. None.

Q11. You mentioned the Town Plan. Please discuss your review of the Town Plan as it relates to the Town of Bennington's guidance for where to encourage development and where to discourage development.

A11. Please refer to the Urban Growth Area Map 3.1 on p. 16 [Exhibit MACC-ML-6] and the Land Use Plan on p. 30 [Exhibit MACC-ML-5] in the 2010 Town Plan [Exhibit CS-BW-81]. Bennington has historically done a good job designating areas for development. The industrial areas are carefully thought out, and are plentiful. The plan directs different types of commercial and industrial growth to appropriate areas, which do not include Apple Hill.

Q12. You mentioned the RCON district. Please discuss the specific guidance that the RCON Design Standards provides regarding development on Hillsides.

A12. Please refer to p. 4 of the RCON Design Standards [Exhibit MACC-ML-7]. The plan carefully protects prominent hillsides from clearing openings that will stand out and

will damage the overall aesthetics of the town. In the image on the left, 4A, the house was well planned to blend with the natural beauty of the hillside. In the image on the right, 4B, unfortunately the clearing exposes the home and this is what the Chelsea Solar Project effect would be on Apple Hill if the Project is approved. While the Project plan was amended from the initial proposal in Case No. 8302, the current proposal to clear-cut 9.64 acres of mature forest is not consistent with the RCON Design Standards which say that "Development shall be blended into the existing natural landscape to minimize its visual impact from public roads and lands," calls for "the retention of mature forest cover," and that "Tree removal shall not cause undue alteration of the natural vegetation patterns of the hillside or ridgeline." Chelsea Solar does not comply with these standards. [RCON Design Standards Exhibit CS-BW-26]

Q13. Based on the photos you have gathered and your review of the Town Plan and RCON Standards, what is your opinion about the Chelsea Solar Project's compliance with the Town Plan?

A13. It quite literally does not comply. This area was not planned for commercial or industrial development. The proposed project is just that, commercial/industrial development not planned for in this area.

Q14. On the recent PUC Site Visit, did you observe the 500 kW solar array that can be seen from the campus of Southern Vermont College's Lonnie's Lookout and from Southern Vermont Orchards?

A14. Yes.

Q15. How is that solar array different from the Chelsea Solar Project?

A15. It is in the Industrial Park and is not visible from the important vantage points that are shown in my Aesthetic Report. It shows that the Town of Bennington thought carefully about how the town should develop and grow in planning for industrial facilities outside of the core area of Bennington, protecting the natural scenic beauty in the Rural Conservation District. While there are other solar projects in the RCON district referenced by the Petitioner, none of them are visible from the area that is most important to maintain the aesthetic beauty of Bennington.

Q16. Are you aware that the Town of Bennington has entered into a settlement agreement regarding this and other solar projects proposed for Bennington?

A16. Yes, I am.

Q17. Were you at the meeting where the settlement agreement was discussed, and have you read the final version?

A17. Yes I was and I have not read the final agreed upon version yet but have read the draft. The final version has not been released.

Q18. What is your response to the Town of Bennington's Settlement Agreement in this case?

A18. The Petitioner has just confirmed that their strategy of endless legal harassment is a good business decision. The Town's newly arrived at position on these projects listed in the draft agreement contradicts its earlier held positions in this regard. This sudden

reversal of the Town's position in terms of the Chelsea Solar project's conformance with the Town Plan is not the result of an oversight or misinterpretation, but is wholly the result of a financial agreement, having nothing to do with the meaning of the Town Plan language.

The Town has been compromised and cannot be seen any longer as objective in any way with respect to their interpretations of the Town Plan. As part of the settlement agreement, they have agreed to remove Dan Monks' deposition transcript [Exhibit MACC-ML-8] which is clear evidence that neither the developer nor the Town's representatives can be seen as credible and objective evaluators of the Town Plan. The Town Plan language has not changed as a result of the settlement agreement. It remains the same. The Town is now attempting to politicize the planning process. The terms of the settlement all happened outside of any public planning or plan development process.

The Select Board has yielded the public planning process to the threat of costly, unending litigation by developers who are simply buying away any Town opposition to their business ventures. This precedent, were it allowed by the PUC, would set the stage for allowing highly financed developers to undermine not only Bennington's, but Vermont's revered planning processes designed to protect our threatened natural resources from speculators. What value is the public's hard work in developing such plans if threats and acts of unrelenting and costly litigation can bring our small communities to their financial knees? The integrity of Bennington's, and Vermont's, statutory planning processes hang in the balance at this very moment in time with regard to the decision impending with this commercial development project.

It is a very sad moment for Bennington and myself as business owner when I see that an outside developer can come in and create havoc to our protected rural conservation areas with their investments that do not bring a direct financial benefit to Bennington. The damage that this development will do to our views will have a permanent negative effect in the aesthetics and how we are perceived by the tourism industry. We would become less attractive as a tourist destination in the very competitive fall foliage billion dollar industry. The Select Board's settlement sets a precedent for the future erosion of the integrity of our Town's planning process, economy and aesthetic beauty.

Q19. Does this conclude your testimony?

A19. Yes.