

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Apple Hill Solar LLC for a certificate	)	Docket No. 8454
of public good, pursuant to 30 V.S.A. § 248,	)	
authorizing the installation and operation of a 2.0	)	
MW solar electric generation facility at 1133	)	
Willow Road in Bennington, Vermont	)	

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

**VERMONT AGENCY OF NATURAL RESOURCES PRELIMINARY
COMMENTS IN RESPONSE TO COMMENT OF VERMONTERS FOR A
CLEAN ENVIRONMENT**

On June 19, 2020, Vermonters for a Clean Environment (VCE) filed a comment with the Vermont Public Utility Commission (“Commission”) in each of the above captioned cases. VCE’s comment indicated that forest clearing was occurring at the proposed Apple Hill and Willow Road (formerly Chelsea) solar project sites. On that same day, the Clerk of the Commission notified the parties in the Apple Hill and Willow Road cases of VCE’s comment and of the Commission’s desire to receive from the parties “any comments in response to VCE’s comment as soon as possible.”¹

The Vermont Agency of Natural Resources (“Agency”) is a party in these cases and files these preliminary comments in response to the Commission’s request. The Agency intends to file more comprehensive comments with the Commission by June 26.

¹ Email from Judith C. Whitney, Clerk of the Commission, dated 6/19/2020.

The Agency has confirmed that site clearing activity is in fact occurring on the 27-acre parcel on which the Apple Hill and Willow Road solar projects are proposed to be constructed (“Willow Road Parcel”). The site clearing raises two concerns with the Agency at this time. The first relates to compliance with the process established by the regulatory framework which governs proposals to construct electric generation facilities such as the ones which are the subject of these cases.² The second relates to the substantive criteria established by the regulatory framework to ensure that such proposals will not result in an undue adverse effect on the natural environment.³

On June 16, 2020, an Agency Environmental Enforcement Officer visited the Willow Road Parcel and observed that site clearing activity was occurring. The officer spoke with the individual conducting the site clearing. This person informed the officer that he was clearing the site on behalf of the owners. The officer raised the issue of the existence of the rare plants at the site but was not given any indication that measures were being taken to avoid impacting the plants.

The Agency believes that the activity observed constitutes site preparation in violation of the prohibition, contained in 30 V.S.A. § 248(a)(2), on conducting site preparation or construction prior to issuance of a certificate of public good (“CPG”) and that this activity also presents a threat of substantial harm to the very rare and rare plants which exist at the Willow Road Parcel.⁴

The Agency believes that the site clearing activity is within the purview of the Commission and warrants further investigation. It also appears that a cease and desist

² 30 V.S.A. § 248 generally and, in particular, 30 V.S.A. § 248(a)(2).

³ 30 V.S.A. § 248(b)(5).

⁴ Arrow-Leaved American Aster (*Symphyyotrichum urophyllum*) plants, an S1-ranked very rare species, and Nimbewill Muhly (*Muhlenbergia schreberi*), an S2-ranked rare species, are documented to occur at the Willow Road Parcel. *See*, Case Nos. 8302, 8454 and 17-5024.

order may be necessary to prevent irreparable harm to the very rare and rare plants which exist at the Willow Road Parcel.⁵ The Agency intends to follow these preliminary comments with more comprehensive comments as indicated above.

Dated June 23, 2020, at Waterbury, Vermont.

Respectfully submitted,
State of Vermont
Agency of Natural Resources



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⁵ Pursuant to 30 V.S.A. § 209(a)(6), the Commission is vested with the authority to restrain from violations of law companies subject to the Commission's jurisdiction under Chapter 5 (including Section 248), and owners or operators of plants, or properties subject to the Commission's jurisdiction. PLH LLC, the owner of the land, Allco Renewable Energy Limited, Chelsea Solar LLC and Apple Hill Solar LLC are all related entities under common ownership and control. *See*, Case No. 17-5024, Petition of Chelsea Solar, Order dated 6/12/2019, at page 56, fn. 70; *see also*, Case No. 8454, Procedural Order Re: PLH Motion to Intervene, dated 6/15/2017, at page 2.