

**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	)	

AFFIDAVIT OF ROBERT POPP

I, Robert Popp, hereby state that the following is true and accurate to the best of my knowledge, information and belief.

1. My name is Robert Popp. I am the Botanist for the Vermont Fish and Wildlife Department (“Department”), Agency of Natural Resources (“Agency”). I am stationed in Barre and am part of the Department’s Natural Diversity Program.
2. I have been employed as the Department Botanist for 30 years. I am responsible for determining the status and distribution of Vermont’s rare flora and assessing impacts due to proposed activities such as Act 250 and Section 248 projects.
3. I am familiar with the Apple Hill and Willow Road (formerly Chelsea) solar electric generation projects (collectively “Projects”) which are proposed to be

constructed at the 27-acre parcel located off of Willow Road (Willow Road Parcel), in Bennington, Vermont.

4. I was, and continue to be, involved in the Agency's review of these Projects in the Section 248 proceedings before the Public Utility Commission ("Commission") as related to Projects' potential to impact very rare and rare plants.
5. My involvement has included reviewing the various site plans for the Projects, including the revised site plan for the Apple Hill Project (Sheet C-100) which the Project developer filed with the Commission on March 23, 2020 (the "Sheep Farm Plan") (attached to this Affidavit as **Exhibit A**); reviewing the natural resource assessments prepared by the developer's environmental consultants in connection with the Projects, including the plant surveys; communicating with the developer's environmental consultants concerning avoiding, minimizing and mitigating impacts to very rare and rare plants at the Willow Road Parcel; and reviewing the environmental consultants' rare plant monitoring reports.
6. The developer's consultants identified Arrow-Leaved American Aster (*Symphyotrichum urophyllum*), an S1-ranked very rare species, and Nimblewill Muhly (*Muhlenbergia schreberi*), an S2-ranked rare species, at the Willow Road Parcel. I will refer to these collectively as "rare plants" throughout this Affidavit. The developer proposed two rare plant conservation areas on the Willow Road Parcel for the purpose of receiving and conserving rare plants to be transplanted from areas that would be

disturbed by the Projects. One rare plant conservation area is in the southwest part of the Parcel and the other one is in the southeast part of the Parcel (near Willow Road). The rare plant conservation areas are depicted on the site plan which is attached as **Exhibit B** (the "Conservation Area Plan") to this Affidavit. The Conservation Area Plan was sent to me by the developer's environmental consultant via email on September 8, 2014. I approved of the developer's proposal to utilize the rare plant conservation areas for the purpose of avoiding, minimizing and mitigating the Projects' impacts to rare plants.

7. The developer's consultants have transplanted rare plants to the rare plant conservation areas on several occasions and have monitored and reported on the status of those efforts, with the monitoring reports submitted to the Agency annually. A copy of the 2018 Rare Plant Monitoring Report submitted to the Agency in connection with the Apple Hill Project is attached as **Exhibit C**.
8. The 2018 Rare Plant Monitoring Report shows the locations of rare plants within the footprint of the proposed Apple Hill solar array as well as rare plants (both naturally occurring and transplants) within the southeastern rare plant conservation area which was established by the developer in the vicinity of Willow Road.
9. The Sheep Farm Plan does not show the southeastern rare plant conservation area which was established by the developer. Nor does it show the locations of the rare plants within or adjacent to the proposed solar array. The Sheep

June 24, 2020

Farm Plan does not indicate that any flagging, fencing, or any other measures that would be taken to avoid impacts to the rare plants at the Willow Road Parcel. Neither does the testimony filed by the developer on March 23, 2020.

10. I have been informed that the developer has begun clearing the Willow Road Parcel. I have reviewed photos of the site clearing activity at the Willow Road Parcel taken by Environmental Enforcement Officer Lowkes on June 16, 2020. While it is not clear from the photos whether the site clearing activity is occurring in areas where rare plants are located, I have not been informed of any measures being taken to avoid rare plants at the Willow Road Parcel in connection with the site clearing that is taking place.

11. It is my opinion that the site clearing activity documented in the photos would result in destruction of the rare plants at the Willow Road Parcel if it were to occur in areas where these plants are located.

Dated: 24 June 2020

Affiant:


Robert Popp

[Note: Pursuant to Public Utility Commission Case No. 20-0789-INV, Order dated 03/26/2020, this affidavit is not required to be notarized.]