

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Investigation pursuant to 30 V.S.A. §§ 30 and)
209 into whether the petitioner initiated site) Case No. 20-1611-INV
preparation at Apple Hill in Bennington,)
Vermont, for electric generation in violation of)
30 V.S.A. § 248(a)(2))

APPLE HILL HOMEOWNERS ASSOCIATION,
LIBBY HARRIS & MOUNT ANTHONY COUNTRY CLUB'S
COMMENTS TO PUC'S ORDER DATED 6/29/20

NOW COME Apple Hill Homeowners Association ("AHHA"), Libby Harris & Mount Anthony Country Club ("MACC") (collectively the "Intervenors"), by and through their attorney, L. Brooke Dingledine, Esq., and hereby provides the following evidence for the Vermont Public Utility Commission's ("PUC") consideration in its investigation of this matter in response the PUC's Order of 6/29/20:

COMMENTS OF THE INTERVENORS

The Intervenors have filed documents in response to the PUC's request for immediate comments in its June 29, 2002 Order. Joseph Schoenig's Affidavit #2 and Exhibits 2 through 8 are offered into evidence for the PUC's consideration and directs the Commission's attention to the following excerpts of those exhibits:

1. **Joseph Schoenig Affidavit #2** – direct eye and ear witness testimony that trees were pushed over by the earth moving equipment on Saturday morning in violation of the TRO. Also establishes that road work continued after the police visited the site.
2. **Exhibit 2 – Melones' Motion to Amend the Petition** filed 3/23/20 which was denied.
(Petitioner was cross examined on this exhibit during the TRO hearing.)

3. **Exhibit 3 – PUC’s Order dated 9/28/18** which states on page 38:

Additional landscape plantings at strategic locations to fill in the gaps in the screening. These plantings occur in three landscape mitigation zones. The first zone is along the western edge of the array between the Project and the Route 7 corridor. This zone would consist of 223 individual trees and shrubs (including cedars). The second area is along the northern edge of the Project, approximately in the center of the array. **In this zone, about 10-12 large (20-24 feet) conifers will bolster natural vegetation in screening the Project from the most proximate residential neighbor to the north. The last area is along the southern property boundary of the Harris residence, separating that parcel from the intervening remnant apple orchard. In this location, 742 mixed deciduous shrubs and trees are planned to strengthen the screening provided by the remnant orchard.**

4. **Exhibit 4 – Settlement Agreement with the Town of Bennington** – see paragraph 7

which states:

7. PLH agrees not to develop 557 Apple Hill Road, Bennington, Vermont (the “Apple Orchard”) into any other use other than its existing use for the life of the Apple Hill and Chelsea Projects. For the avoidance of doubt, neither PLH nor the Developer shall have any obligation to maintain the current condition of the Apple Orchard. This provision is not intended to and does - 3 - not waive any legal obligations that may otherwise exist, or the rights of any non-parties to this agreement.

5. **Exhibit 5 – AHS Mark Dane’s 3rd Supplemental Direct Testimony**

See Question and Answer #3

6. **Exhibit 6 – AHS-MK-7 – Revised Visual Simulations**

7. **Exhibit 7 – AHS-MK-12 – Revised Site Plan**

8. **Exhibit 8 – CS-MK-2 – Visual Assessment Report** – see page 21 of the report which states:

Site Sections: Residence 1: This cross-section highlights the distance and grade relationships between the Project and the viewpoint. **The preservation of existing trees (apples)** in the midground, coupled with the significant grade change, provides buffering from any direct or unfiltered view. The inclusion of landscaping along the property line and the 10-foot screening fence also bolster the efficacy of these other factors

in eliminating negative visual impacts. (See Figure CS-21.)

DATED AT Randolph, County of Orange and State of Vermont this 30th day of June,
2020.

APPLE HILL HOMEOWNERS ASSOCIATION,
MOUNT ANTHONY COUNTRY CLUB and
LIBBY HARRIS, Intervenors

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