

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

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

AFFIRMATION OF JIM MCCLAMMER

This document has been filed on ePUC

March 16, 2023

I, Jim McClammer, being duly sworn, over 18 years of age, and competent to testify on these matters. Based on my personal knowledge and experience, I am able to testify to the validity of the following information:

1. My name is Jim McClammer. I am an Environmental Consultant and President of Connecticut Valley Environmental Services, Inc. (“CVES”). My business address is 391 River Road, Charlestown, New Hampshire 03603.
2. Exhibit PLH-TMM-5 indicates that 12 white arrow-leaved aster plants (the “Aster”) were “impacted” by the clearing, 12 plants were potentially “impacted” and 73 would have been impacted if clearing had been completed. For purposes of this Exhibit, the word “impacted” does not mean the plant was “destroyed”. At this time, no site visits have been conducted to confirm whether or not the “impacted” plants were actually destroyed by the clearing.

3. It is my experience that areas where vegetation has been cleared can actually increase the number of aster individuals at a locality. Our Aster inventory along the railroad corridor on the west side of the Warner project (to the west of the Apple Hill solar site across Route 7) indicates Aster densities are greatest in areas where vegetation is cleared (ANR-RP-5).
4. There is no evidence on the number of Aster or nimblewill muhly (the “Nimblewill”) individuals that may have been destroyed nor how many may have been recruited as a result of the clearing activity. The only way to determine the current status of Asters and Nimblewills near the Apple Hill solar site is to perform a plant survey, which has not been done since 2017.
5. Even if no Asters were recruited and all of the impacted and potentially impacted plants were destroyed (24 total) along with the 73 would have been impacted if clearing had been completed (PLH-TMM-5), such destruction would be well below a loss of 10% of the population which Bob Popp uses as a standard for determining “harm” to a population of an S1 (very rare) species (Tr. 12/4/20 at 153). Based on recent NatureServe Guidance¹ for distinguishing element occurrences (which Bob Popp appears to mistakenly ignore in his delineation of the Aster population), it is my opinion that the Warner, Apple Hill and Chelsea 2 Hill occurrences (and the Battle Creek and Stark occurrences) are all part of the same population and the population may be as high as 5,000 to 9,000 (See Exhibit PLH-JM-3).
6. Similarly, if all 27 acres of site were cleared and such clearing would have resulted in the destruction of Nimblewills, that does not constitute a harm to the natural

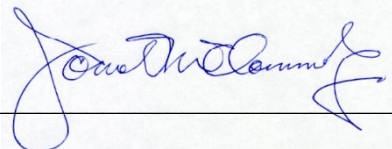
¹ NatureServe Biotics5 Habitat-based Plant Element Occurrence Delimitation Guidance;
https://www.natureserve.org/sites/default/files/eo_specs-habitat-based_plant_delimitation_guidance_may2020.pdf

environment. Nimblewill can still inhabit Anthropogenic, man-made or disturbed habitats, (<https://gobotany.nativeplanttrust.org/species/muhlenbergia/schreberi/>).

7. Lastly, the removal of the trees, the Asters and the Nimblewill from these 27 acres would also not constitute a harm to the environment. By right Vermonters can clear up to 40 acres of trees without a permit under Vermont's Heavy Cut Law. 10 V.S.A. § 2625. By right a landowner can also remove any plant species from its property that is not protected by the Vermont Endangered Species Law ("ESL") and neither the Aster, the trees, nor the Nimblewill are protected in any way by the ESL.

Dated: March 16, 2023

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I may be subject to sanctions by the Commission pursuant to 30 V.S.A. § 30.



Jim McClammer