

provisions specified in the Act,³ files a waiver petition with the Board and receives approval from it to proceed.⁴ Among the land use areas that require a waiver before siting a solar project is permitted are wetlands, forested lands, and the Highlands Preservation Area.⁵ The Act requires that the “petition shall set out the unique factors that make the project consistent with the character of the specific parcel.”⁶ In such cases, the Board is required to consult with the NJDEP or Secretary of Agriculture, as appropriate, and “may [...] grant a waiver if it determines that a project is in the public interest.”⁷

By Board Order dated December 7, 2022, the Board approved the establishment of the CSI Program.⁸ The CSI Program is open to qualifying grid supply solar projects (i.e., those selling into the wholesale markets), grid supply solar projects in combination with energy storage, and net metered non-residential projects greater than five (5) MW in size.

On September 18, 2023, the proposed rules for siting grid supply and large net metered solar facilities (“CSI Siting Rules”) were adopted with non-substantial changes and published in the New Jersey Register at 55 N.J.R. 2015(a). The CSI Siting Rules include a mechanism to allow siting of CSI-eligible facilities on otherwise restricted land uses if the developer seeks and receives a waiver of the siting prohibition. The CSI Siting Rules also provide for an administrative waiver in appropriate circumstances.

In compliance with the Act, the CSI Siting Rules at N.J.A.C. 14:8-12.6(a) require any petitioner to include documentation of “sufficient facts and circumstances” to demonstrate why siting a CSI-eligible project on a prohibited land use is in the public interest. In such cases, the Board requires consultation with other State agencies, as appropriate, to determine if a project is in the public interest.⁹ The Board, or its designee, may request additional evidence prior to approving or denying a request for any waiver requested, pursuant to this section.¹⁰

On January 20, 2026, Governor Mikie Sherill signed Executive Order (“EO”) 2,¹¹ directing the BPU to initiate a solicitation for qualifying solar facilities or solar facilities in combination with storage under the CSI Program within forty-five (45) days. By Order dated March 4, 2026, the Board set the pre-qualification window for the fourth CSI Program solicitation to open on March 11, 2026, and close to bids on April 24, 2026, at 11:59:59 PM EST; with Board awards anticipated in June.¹²

³ N.J.S.A. 48:3-119(f).

⁴ N.J.S.A. 48:3-119(c).

⁵ Id.

⁶ N.J.S.A. 48:3-119(f).

⁷ Id.

⁸ In re Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169, Order Launching the CSI Program, BPU Docket No. QO21101186, Order dated December 7, 2022. (“CSI Program Order”).

⁹ N.J.A.C. 14:8-12.6(a)(1).

¹⁰ N.J.A.C. 14:8-12.6(c).

¹¹ Exec. Order No. 2 (Jan. 20, 2026), 58 N.J.R. 1041(a), available at <https://nj.gov/infobank/eo/057sherrill/pdf/EO-2.pdf>.

¹² In re Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169, Establishing the Fourth Solicitation of the CSI Program, BPU Docket No. QO21101186, Order dated March 4, 2026 (“March 4,

Kober submitted a prequalification application in the fourth solicitation of the CSI Program on March 27, 2026 in Tranche 3.¹³ On April 10, 2026, Board Staff sent a letter to Kober indicating that the facility would require a petition for a waiver of the CSI Program siting rules at N.J.A.C. 14:8-12.3(a)(4) because it was located in the Highlands Preservation Area on land that met the definitions of wetlands and forested land. On April 22, 2026, Staff notified all prospective applicants that pre-qualification includes an evaluation of all proposed project sites to confirm whether any projects were located on land uses prohibited in the Solar Act; those projects seeking to site on prohibited land use types require a waiver issued by the Board pursuant to the CSI Siting Rules for Grid Supply and Large Net Metered Solar Facilities at N.J.A.C. 14:8-12. Furthermore, prospective applicants were notified that in order to be considered in the fourth CSI Program solicitation, applicants in need of a land use waiver must submit a petition to the Board prior to the close of the solicitation on April 24, 2026.

Petition

On April 24, 2026, Kober filed a petition with the Board seeking: (1) confirmation that the Project satisfies applicable siting requirements at N.J.A.C. 14:8-12.3, and (2) a waiver in the public interest of certain siting prohibitions pursuant to N.J.A.C. 14:8-12.6., as well as any additional relief the Board deems proper. The petition concerns a 24.998 MW solar facility (“Project”) proposed to be located in Block 9, Lots 11 and 11.01 in Franklin Township, Warren County, New Jersey (“Property”).

Kober claims that the Property is a former automotive salvage and industrial site that has been utilized for the storage and dismantling of vehicles, heavy equipment, and associated materials since at least the 1950s through the early 2000s. According to Kober, these prior industrial operations resulted in documented contamination impacts, including soil and solid waste contamination, and the Property is currently listed as a Known Contaminated Site under the oversight of the NJDEP. Kober stated that remediation efforts have been ongoing for several years through a Licensed Site Remediation Professional (“LSRP”), including removal of waste materials and coordination with NJDEP regarding ongoing remediation obligations. In addition, Kober asserted that it had recently agreed with NJDEP to the form of an Administrative Consent Order to govern remediation of the Property.

With respect to the Highlands Preservation Area designation, Kober asserted that the Property’s location within the Highlands Preservation Area is “a function of regional designation and mapping, not the presence of undisturbed environmental resources in its current condition.” Kober further claimed that the Highlands Act expressly recognizes the importance of promoting the remediation and redevelopment of brownfield sites within the Preservation Area and stated that the Project is eligible for a Highlands Exemption pursuant to N.J.S.A. 13:20-28 (Exemption 15) for site remediation.

Regarding the forested land designation, Kober asserted that the vegetation primarily consists of “low-resource-value scrub growth” that developed over a previously disturbed and contaminated

2026 Solicitation Order”).

¹³ Kober Solar Farm was previously considered for TREC eligibility under the TI Program. For more details, see: In re the New Jersey Solar Transition Pursuant to P.L. 2018, c. 17 – Application for Certification of Solar Facility as Eligible for TRECs Pursuant to Subsection (t) of the Solar Act of 2012 – Kober Solar Auto Parts, Inc., BPU Docket No. QO21081098, Order dated June 27, 2024.

land surface. Kober argued that treating such revegetated areas as equivalent to undisturbed forestland would be “inconsistent with the purpose of the siting rules, which are intended to protect natural resources – not to prevent the redevelopment of previously degraded industrial sites.”

With respect to wetland delineation, Kober did not concede that a waiver is required pursuant to the prohibition set forth in N.J.A.C. 14:8-12.3(a)(4). Kober acknowledged that NJDEP GIS mapping identifies wetlands on or near the Property but argued that such mapping is not determinative. Kober maintained that the facility would be designed to avoid all jurisdictional wetlands and transition areas, comply with all applicable NJDEP permitting requirements, and that final design of the facility would be informed by site-specific delineation conducted in accordance with accepted NJDEP methodology.

Finally, Kober claimed that granting the requested relief is firmly in the public interest because the Project would transform a long-standing contaminated and underutilized industrial property into a productive source of renewable energy consistent with the State’s clean energy and environmental policy objectives. In Kober’s opinion, denial of relief would effectively perpetuate the Property’s status as a contaminated site undergoing remediation, with limited viable alternative use and without advancing any of the goals underlying the Board’s siting restrictions. Kober also contended that granting relief would be consistent with prior Board action that “approved solar development on similarly situated properties, including brownfield sites with complicating historical classifications, where appropriate mitigation measures were implemented.”

Consultation with State Agencies

Pursuant to the Act and the CSI Siting Rules, Staff consulted with the Highlands Council and NJDEP. On April 29, 2026,¹⁴ the Council provided a memorandum to the Board containing its summary and evaluation of the proposed Project. The Highlands Council confirmed that Franklin Township issued a Highlands Act Exemption for the solar project on February 22, 2023 (“2023 Exemption”). The 2023 Exemption stated that the Highlands Council and NJDEP both “feel the conversion of the former salvage yard to a solar field would best serve the environment.” The Highlands Council, noting that the Project is exempt from the requirements of the Highlands Act, stated that it has no objection to the redevelopment of the site into a solar field and its inclusion in the Competitive Solar Incentive Program. The extension of utilities to the project, on the other hand, is not covered by this exemption, and the Highlands Council noted that this activity may be subject to regulation under the N.J. Department of Environmental Protection’s Highlands Rules as a Major Highlands Development.

On May 21, 2026, NJDEP provided a memo¹⁵ to the Board detailing their review of the petition. NJDEP confirmed that the Project is proposed on a New Jersey Known Contaminated Site where an LSRP has been hired to conduct remediation that is currently ongoing. However, NJDEP noted that the site is out of compliance with the Contaminated Site Remediation and Redevelopment (“CSRR”) Program for missing a regulatory timeframe to submit a Remedial Investigation Report. As such, NJDEP stated that CSRR and the party responsible for conducting the remediation must enter an Administrative Consent Order (“ACO”) to comply. In addition, NJDEP noted that Kober has begun discussions with the Bureau of Solid Waste Compliance and Enforcement (“SWCE”) and that SWCE has provided an ACO, which should be executed to

¹⁴ April 29, 2026, Highlands Council letter at Attachment A.

¹⁵ May 21, 2026 NJDEP Memo at Attachment B.

address outstanding Solid Waste compliance issues at the site.

The New Jersey Fish and Wildlife (“NJFW”) Division reviewed the petition and found that the proposed array includes parcels valued for several Endangered and Threatened Species (“E&T”) and “Special Concern” wildlife species. NJFW therefore recommended specific preventative measures to protect such species detailed in the memorandum.

The Division of Land Resource Protection (“DLRP”) confirmed that the Highlands Act Exemption received by the Project did not cover extensions of utilities to the site, which may be subject to NJDEP permitting under the Highlands Rules. DLRP also noted that there is an active Letter of Interpretation (“LOI”) for the site that has delineated the wetlands and that, based on the information provided, it appears that the applicant intends to avoid wetlands. However, DLRP noted that if any remedial investigations or activities will encroach into the wetland area, permits will be required. DLRP also recommended that the applicant obtain a Flood Hazard Area Verification to map any onsite streams and avoid riparian zones.

NJDEP stated that “should the New Jersey Highlands Council recommend that Kober Solar Farm, LLC be granted a waiver to participate in the CSI program solicitation, NJDEP would be in support of that recommendation,” provided that Kober resolves all outstanding compliance issues described previously and obtains all permits for any work that may impact regulated wetlands and riparian zones. The NJDEP determined that the Project “meets the public interest by proposing reduction in environmental stressors via the remediation of the contaminated industrial site.”

DISCUSSION AND FINDINGS

The Board recognizes the significant benefits associated with the expansion of local, distributed, renewable, non-polluting sources of energy. The Board’s design for the CSI Program implements the directive of the Solar Act to target grid supply solar “toward marginal land and the built environment and away from open space, flood zones, and other areas especially vulnerable to climate change,” and to promote a land use policy for grid supply siting “to affordably expand New Jersey’s commitment to renewable energy while not compromising the State’s commitment to preserving and protecting open space and farmland.”¹⁶ In addition, the CSI Program implements the directive of the Act to “ensure that the environmental and public health benefits of solar electric power generation facilities on contaminated sites or landfills are recognized.” The Board has long recognized the benefits of solar development on contaminated sites and landfills, with approximately 314 MW installed pursuant to Subsection (t) of the Solar Act of 2012 and the Transition Incentive (“TI”) Program as of April 30, 2026.

The Board has effectuated siting policy priority through the creation of the CSI Siting Rules in cooperation with the NJDEP, the Department of Agriculture, and the State Agriculture Development Committee. In addition to implementing the statutory protections on prohibited land-use types, the CSI Siting Rules at N.J.A.C. 14:8-12.6 require that when the Board considers a petition seeking to waive the prohibitions for good cause shown, the Board may make a positive finding with regard to any such petition only after: (1) consultation with other state agencies, as appropriate; (2) a determination that a petitioner has documented sufficient facts and circumstances to establish the public's specific interest in siting the CSI-eligible facility on or within a specific prohibited land use; and (3) a finding that the waiver is in the public interest, wherein

¹⁶ N.J.S.A. 48:3-114(c).

the specific project at issue provides a benefit that outweighs the public interest in preserving the land. The waiver framework established by the Board contemplates a site-specific review that places the onus on the petitioner to demonstrate the unique circumstances that would support a Board finding that a proposed project remains in the public interest and consistent with the character of the parcel.

The Board **FINDS** that the process for considering a siting waiver request was properly followed with respect to the Project. The Board **FINDS** that, as required by the Act and codified at N.J.A.C. 14:8-12.6(a), Staff consulted with the Highlands Council and with the NJDEP as the State agencies with regulatory authority over the site. The Board **FINDS** that the Highlands Council has no objections to the redevelopment of the site into a solar facility. The Board **FINDS** that the NJDEP supports the findings of the Highlands Council and has identified the applicable regulatory requirements and made specific recommendations based on the specific facts and circumstances of the Property. The Board **FINDS** that the NJDEP determined that, provided the appropriate permits are acquired and the necessary remediation pursued, the Project is in the public interest via the remediation of a contaminated industrial site.

Based on the information contained in the Petition, and the recommendations made by the Highlands Council and the NJDEP, the Board **FINDS** that granting the waiver of the Board's CSI Siting Rules pursuant to N.J.S.A. 48:3-119(f) and N.J.A.C. 14:8-12.3 is in the public interest, and **APPROVES** the waiver for the Project.

The Board **FINDS** that the Project must follow all permitting and approval requirements established by the Highlands Council and the NJDEP under their respective permitting and/or approval authorities; the waiver granted pursuant to N.J.S.A. 48:3-119 does not waive any of these requirements. More specifically, prior to an issuance of post-construction certification, the Petitioner must receive all approvals and permitting from NJDEP, which may include, but are not limited to, the specific permits mentioned in the advisory memo, such as an Administrative Consent Order relative to the CSRR Program and specific preventative measures for the affected E&T and "Special Concern" wildlife species.

After careful consideration of the information provided by the Petitioner in the petition and in materials submitted to the CSI Program as a part of prequalification application, the Board **FINDS** that, upon the receipt of the land use waiver, the Petitioner has provided sufficient evidence of meeting CSI Program prequalification requirements set forth in the Board's rules at N.J.A.C. 14:8-11.10(d). The Board therefore **DIRECTS** that the Petitioner's bid shall be considered for an SREC-II award in Tranche 3 in the fourth CSI Program solicitation. Should the Project not be awarded in the fourth CSI Program solicitation, the waiver granted herein will still apply if the applicant chooses to submit in a subsequent CSI Program solicitation.

The effective date of this Order is June 30, 2026, effective immediately.

DATED: June 30, 2026

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT

ABSTAINED


DR. ZENON CHRISTODOLOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER


EMMA REBHORN
COMMISSIONER


JOSEPH COVIELLO
COMMISSIONER

ATTEST: 
SHERRI L. LEWIS
BOARD SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

IN THE MATTER OF THE VERIFIED PETITION OF KOBER SOLAR FARM, LLC FOR A WAIVER OF THE CSI SITING PROHIBITIONS AT N.J.A.C. 14:8-12.3 TO ALLOW FOR PARTICIPATION IN THE COMPETITIVE SOLAR INCENTIVE PROGRAM

DOCKET NO. QW26040133

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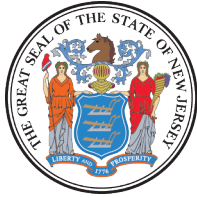
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CARL J. RICHKO
Chairman

BENJAMIN L. SPINELLI, ESQ.
Executive Director

MEMORANDUM

TO: Diane M. Watson, Ph.D.
Research Scientist, Division of Clean Energy, New Jersey Board of Public Utilities

FROM: Benjamin L. Spinelli, Esq. Executive Director

DATE: April 29, 2026

SUBJECT: Township of Franklin, Warren County
Block 9, Lots 11 and 11.01

In response to your request for an evaluation and recommendation for the proposed solar project on Block 9, Lots 11 and 11.01 in Franklin Township, we have reviewed our files and provide the following summary and evaluation.

The property in question is located in the Highlands Preservation Area. The property is a former automotive junkyard. On February 22, 2023 Franklin Township issued a Highlands Act Exemption for the solar project (attached). As the project is exempt from the requirements of the Highlands Act, the Highlands Council has no objection to the project to redevelop the site into a solar field and its inclusion in the Competitive Solar Incentive Program. Please note that the extension of utilities to the project is not covered by this exemption and may be subject to regulation under the N.J. Department of Environmental Protection's Highlands Rules as a Major Highlands Development.

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FRANKLIN TOWNSHIP
Highlands Exemption Determination Application

P.O. Box 547
Broadway, NJ 08808

Municipal Building - 2093 Rt. 57, Broadway, NJ 08808
908-689-3994 Fax: 908-689-5803

The purpose of this application is to determine whether or not a proposed project is exempt from the provisions of the Highlands Water Protection and Planning Act (see note below).

Instructions for Completing Form

1. Complete page 1.
2. Review the seven exemptions eligible for municipal determinations (see pages 2-3) to determine which may be applicable to the proposed project. Applicants need only qualify for one of the exemptions, although more than one may apply. Below each exemption is a list of documentation that is required to determine whether the exemption applies.
3. Initial as indicated by the applicable exemption.
4. Sign the application form.
5. Submit completed application along with all supporting documentation to the municipal office at the address above.

Important Note

This application will be evaluated by the municipality to determine whether a proposed activity, improvement or development project involving lands within the Highlands Region is exempt from the provisions of the Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq., "Highlands Act"). Any proposal that is exempt from the Highlands Act is also exempt from the Highlands Water Protection and Planning Act Rules ("Highlands Rules," N.J.A.C. 7:38-1 et seq.) and from any Highlands Area land use ordinance adopted by the municipality pursuant to approval of its Petition for Plan Conformance by the Highlands Water Protection and Planning Council ("Highlands Council"). The municipality has been authorized and certified by the Highlands Council to issue Highlands Exemption Determinations, pursuant to a July 19, 2012 Memorandum of Understanding (MOU) between the Highlands Council and the New Jersey Department of Environmental Protection (NJDEP). The local ordinance effectuating this delegation of authority is Ordinance #2015-4, "Township of Franklin Highlands Act Exemption Determinations Ordinance," adopted April 6, 2015.

Please note that all references to professional preparers indicated in this application shall be construed to include any and all qualified individuals licensed, certified, or otherwise eligible and authorized to complete such work, in accordance with the applicable laws and legal requirements of the State of New Jersey, including but not limited to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq) and Title 13 of the New Jersey Administrative Code, Law and Public Safety.

Please note that this application only addresses whether or not your project is exempt from Highlands regulations (as listed above). Certification that a project is exempt from the Highlands Act does not relieve one from other regulatory requirements that may apply, including the need to apply for any other permits, whether under municipal, state or other jurisdictional authority. Please also note that in accordance with the MOU, Ordinance #2015-4 requires that the municipal Exemption Designee retain Highlands Council certification to exercise the authority to issue Municipal Exemption Determinations. In the event of personnel changes or other extenuating circumstances that leave the municipality without the services of a certified municipal Exemption Designee, applicants seeking a Highlands Act Exemption Determination may apply to the NJDEP for projects located in the Preservation Area.

FRANKLIN TOWNSHIP
Highlands Exemption Determination Application
P.O. Box 547
Broadway, NJ 08808
908-689-3994 Fax: 908-689-5803



Receipt Stamp - Municipal Use Only

Date: 12/14/2022 Application #:

Applicant Name: Gary Cicero/Kober Solar Farm, LLC c/o Steve Guoin, Esq. Giordano, Halleran & Cielsa

Property Information

Street Address: 470 Montana Road -Franklin Township , NJ, 07882

Block(s) & Lot(s): Block 9 Lot(s) 11 & 11.01

Date Lot Created: Prior to August 10, 2004 If after August 10, 2004:

Existing Uses: Junk Yard

Property Owner Information

Same as Applicant Owner Name: The Estate of William G. Kober, deceased c/o Sarah E. William, Esq, Executor

Owner Address: 840 Beach Drive NE Petersburg, Florida 33701

Applicant Information

Applicant Address: 125 Half Mile Road - Suite 300 Red Bank, NJ 07701

Phone #: (786) 626-6606 Fax #: email: Sguoin@ghclaw.com

Engineer, Attorney or Other Principal Contact Information

Name: Mr. Robert L. Streker, P.E Bohler Engineering NJ, LLC

Address: 30 Independence Blvd, Suite 200 Warren, NJ 07059

Phone #: (908) 668-8300 Fax #: email: Rstreker@bohlereng.com

Project Information

Brief Project Description (Attach Additional as Necessary):

Proposed ground mounted solar panel development.

Exemption 1: For the construction of a single-family dwelling for an individual's own use or the use of an immediate family member, on a lot owned by the individual on August 10, 2004, or on a lot for which the individual entered into a binding contract of sale to purchase on or before May 17, 2004.

I hereby certify that the single-family dwelling proposed for construction on the subject lot is intended for my own use or the use of the following immediate family member (as defined by ORDINANCE #2015-4).

Applicant Initial: Name of Family Member:

Relationship of Family Member:

Lot Legally Owned by the Applicant on August 10, 2004:

Copy of a deed, closing or settlement statement, title policy, tax record, mortgage statement or any other official document showing that the lot was legally owned by the applicant as of August 10, 2004 and indicating the lot and block as designated by the municipal tax mapping, the municipality and county in which the lot is located, and the street address.

I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of August 10, 2004

Applicant Initial:

Lot Under Contract of Sale to Applicant as of May 17, 2004:

Copy of the binding contract of sale executed by the seller and the applicant on or before May 17, 2004 for the lot on which the house is to be constructed.

I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of the date of the executed contract of sale.

Applicant Initial:

Exemption 2: For the construction of a single-family dwelling on a lot that lawfully existed as of August 10, 2004, provided that construction does not result in the ultimate disturbance of 1 or more acres of land or a cumulative increase in impervious surface by 1/4 acre or more.

A copy of the recorded deed or plat showing that the lot was created on or before August 10, 2004.

A property survey certified by a licensed New Jersey professional indicating the property boundary lines and overall lot size, and showing what structures currently exist on the lot, if any.

A parcel plan certified by a qualified licensed New Jersey Professional showing all existing and proposed development, including all structures, grading, clearing, impervious surface and disturbance, areas of existing disturbance to be restored (if any), and including calculations demonstrating that impervious surfaces and areas of disturbance are within the 1/4 acre and 1 acre limit as prescribed.

A metes and bounds description by a qualified licensed New Jersey professional showing the area of the lot to be disturbed, limited to less than one acre.

I hereby affirm that the metes and bounds of the subject property have not been altered from those lawfully existing as of August 10, 2004.

Applicant Initial:

Exemption 4: For the reconstruction of any building or structure for any reason within 125% of the footprint of the lawfully existing impervious surfaces on the site, provided that the reconstruction does not increase the lawfully existing impervious surface by 1/4 acre or more.*

**The date of lawfully existing impervious surface is August 10, 2004 in the Preservation Area.*

A parcel plan certified by a qualified Licensed New Jersey professional showing all existing property improvements, including all structures, grading, clearing, impervious surfaces and limits of disturbance, existing on the site as of August 10, 2004 for the Preservation Area; and all proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading. Also include supporting calculated values for existing and proposed impervious surfaces for the project/activity.

A copy of any official documentation indicating the original date of construction of the existing buildings and/or structures, or otherwise establishing the lawfulness of their existence, inclusive of that of existing impervious surfaces.

Exemption 5: For any improvement to a single family dwelling in existence as of August 10, 2004, including but not limited to an addition, garage, shed, driveway, porch, deck, patio, swimming pool, or septic system. (Such improvements include only those that maintain the use as a single family dwelling; the exemption does not apply to or permit the creation of multiple dwelling units.)

- A copy of any official documentation proving the single family dwelling was in existence on August 10, 2004.
- A description of the proposed improvements.
- I hereby affirm that the subject property was in existence as of August 10, 2004 and that all proposed improvements are intended and will continue to be used for single family dwelling purposes.
Applicant Initial:

Exemption 6: For any improvement, for non-residential purposes, to a place of worship owned by a non-profit entity, society or association, or association organized primarily for religious purposes, or a public or private school, or a hospital, in existence on August 10, 2004, including, but not limited to new structures, an addition to an existing building or structure, a site improvement, or a sanitary facility.

- A copy of any official documentation indicating that the place of worship, public or private school or hospital was in existence on August 10, 2004.
- For improvements to a place of worship, documentation showing that the entity, society or association, or association organized primarily for religious purposes has non profit status.
- A site plan certified by a qualified Licensed New Jersey Professional showing all existing property improvements, including all structures, grading, clearing, impervious surface and limits of disturbance, existing on the site on August 10, 2004; and all proposed development including all structures, impervious surfaces, clearing limits, and limits of disturbance, including grading.

Exemption 7: For any activity conducted by a landowner in accordance with an approved woodland management plan issued pursuant to Section 3 of the Farmland Assessment Act, N.J.S.A. 54:4-23.3 or the normal harvesting of forest products in accordance with a forest management plan approved by the State Forester.

- A brief description of the total area of woodlands that is the subject of the approved woodland management plan and indication of the length of time that the area has been in woodland management (may be submitted in this form).
- A brief description of the activities for which the exemption is claimed (may be submitted in this form).

For a private landowner with an approved woodlot management plan:

- A copy of the applicant's tax bill showing that the site has farmland assessment tax status under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq. if applicable.
- A copy of the approved woodland management plan.

For a forest management plan approved by the State Forester:

- A copy of the forest management plan approved by the State Forester.

Exemption 8: For the construction or extension of trails with non-impervious surfaces on publicly owned lands or on privately owned lands where a conservation or recreational use easement has been established.

- A site plan certified by the appropriate qualified Licensed New Jersey professional showing the proposed trail construction with details including the location and width of existing and proposed trails and those off-site trails to which they connect, if any.
- A written description of the non-impervious materials to be used.
- For privately owned property, a copy of a deed for the property, including the language establishing the conservation or recreational use easement on the property.

I, the undersigned, hereby certify that the information given herein is correct to the best of my knowledge.

Applicant Signature: Date:

I, the undersigned, hereby grant permission for the submission of this application for the property reference herein.

Owner Signature: Date:

Municipal Use Only
Exemption Review Worksheet

Information Submitted:

The project has been thoroughly reviewed and approved by the Franklin Township Land Use Board. All documents and information is readily available within Franklin Township or by contacting Bohler Engineering.

Project Summary:

The conversion of a former auto salvage site to 53 acres of ground mounted solar.

Exemption Review:

I have reviewed the information and data related to the Kober Solar Farm, which is in the Highlands Preservation Area, and after several discussions between members of the Highlands Council and representatives of the NJDEP both agencies feel the conversion of the former salvage yard to a solar field would best serve the environment. Further, with the removal of several buildings the imperious coverage of the site would be substantially reduced. Therefore, I have issued an exemption of the project conforming to the criteria contained #4 of the Highlands application

Comments:

The proposed project will permit a contaminated site to become a positive rateable for the Township of Franklin.

As the Certified Municipal Exemption Designee, I hereby certify the following finding for this application:

JAMES N. OMEMBO, ZONING

Date: 2/22/23

Signature:





State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION OFFICE OF PERMITTING AND PROJECT NAVIGATION

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Ed Potosnak
Acting Commissioner

Mikie Sherrill
Governor

Dr. Dale G. Caldwell
Lt. Governor

May 21, 2026

Sherri L. Golden, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08625

**Subject: Kober Solar Farm, LLC
Waiver of the CSI Siting Prohibitions
Block: 9, Lots 11 and 11.01
Franklin Township, Warren County, New Jersey**

Dear Ms. Golden,

The New Jersey Department of Environmental Protection's (NJDEP) Office of Permitting and Project Navigation (OPPN) has reviewed a petition for a waiver to the siting requirements under the New Jersey Board of Public Utilities (Board) Competitive Solar Incentive Program (CSI) for the Kober Solar Farm Project. According to the Solar Act of 2021 (P.L. 2021, c. 169), grid-supply solar generation facilities that are eligible for the CSI program are prohibited from siting in the Highlands Preservation Area, forested lands, and wetlands without a waiver granted by the Board (N.J.A.C. 14:8-12.3). The applicant proposes to develop a 24.998 MW dc solar facility located on Block 9, Lots 11 and 11.01 in Franklin Township, Warren County, New Jersey.

Based on the information reviewed, the project is proposed on a New Jersey Known Contaminated Site List where remediation is currently on-going. A Licensed Site Remediation Professional has been hired to conduct the remediation however the site is out of compliance with the Contaminated Site Remediation and Redevelopment Program (CSRR) for missing a regulatory timeframe to submit a Remedial Investigation Report. Because of this missed timeframe, CSRR and the party responsible for conducting the remediation must enter an Administrative Consent Order (ACO) to comply. In addition, there are compliance discussions that the applicant has begun with the Bureau of Solid Waste Compliance and Enforcement (SWCE). SWCE has provided an ACO which should be executed to address outstanding Solid Waste compliance issues at the site.

The proposed solar array includes parcels valued for Endangered and Threatened Species (E&T) and "Special Concern" wildlife species which include, Bog Turtle, Wood Turtle, Bobcat, Bobolink, Grasshopper Sparrow, Savannah Sparrow, Eastern Meadowlark, Veery, and Wood Thrush. There are also listed bat species that are found across northern NJ, including Indiana Bat, Northern Myotis, Tri-colored Bat, and Little Brown Bat, all of which are Endangered in NJ. New Jersey Fish and Wildlife (NJFW) would recommend any ground clearing or site preparation be done outside the nesting season (April 1 to August 31) to avoid impact to ground nesting birds. The area is potential summer roosting habitat for bats. Removal of highly suitable roost trees including snags (dead trees), shagbark hickories (*Carya ovata*), other trees

with shaggy or exfoliating bark, and trees of any species over 3 inches dbh should be avoided between April 1 and September 30.

The Wood Turtle active period occurs March 15 through November 15. For out-of-stream work during the active period, NJFW recommends the applicant have a qualified herpetologist be on-site to clear the work area of any turtles prior to work beginning and have temporary fencing erected to keep turtles from moving into the work area. This is especially critical when the work site is from 0-250 meters from a stream edge. Out-of-stream work is safe to do from December 1 - March 1 at any distance from the stream. Out of stream work conducted during November 16 - November 30 or March 1 to March 14 that is less than 10 meters from a wood turtle stream should still have a qualified herpetologist on staff to clear the work area of any turtles prior to work beginning. NJFW recommends that a drift/silt fence be installed and maintained along southwest boundaries of the site to preclude wildlife access, prior to and throughout any alteration to the habitat and project activity. Any turtles found on site should be reported to NJFW and relocated to suitable habitat outside the project's limit of disturbance and silt/drift fencing.

The NJDEP's Division of Land Resource Protection (DLRP) is aware of the Highlands Act Exemption that was issued for the project in 2023. This exemption covers the solar project itself, however any extensions of utilities to the site may be subject to NJDEP permitting under the Highlands Rules. There is an active Letter of Interpretation (LOI) for the site that has delineated the wetlands. Based on the information provided, it appears that the applicant intends to avoid wetlands, however if any remedial investigations or activities will encroach into the wetland area, permits will be required. It is recommended that the applicant obtain a Flood Hazard Area Verification to map any onsite streams and should avoid riparian zones.

Should the New Jersey Highlands Council recommend that Kober Solar Farm, LLC be granted a waiver to participate in the CSI program solicitation, NJDEP would be in support of that recommendation, provided that the applicant enter into an ACO with both CSRR and SWCE for outstanding compliance issues associated with the contamination and remediation of the site. In addition, all permits should be obtained from the DLRP for any necessary work that may impact regulated wetlands and riparian zones. The NJDEP determined the project meets the public interest by proposing reduction in environmental stressors via the remediation of the contaminated industrial site. The recommendation to grant this waiver is not indicative that the NJDEP has made any decisions on whether the proposed project will be permitted.

Should circumstances or conditions become other than as set forth in the information that was provided to the NJDEP, the regulatory requirements and recommendations are subject to change and may no longer hold true. Thank you for providing the New Jersey Department of Environmental Protection the opportunity to review the proposed Kober Solar Farm project. Should you have any questions or need additional information, please contact Katherine Nolan with the Office of Permitting and Project Navigation at Katherine.Nolan@dep.nj.gov.

Sincerely,



David Pepe, Director
Office of Permitting and Project Navigation

