



Agenda Date: 6/30/26
Agenda Item: 8L

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF)
PASADENA PEMBERTON SOLAR FARM, LLC FOR A) ORDER
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. QW26040166

Parties of Record:

Steven P. Gouin, Esq., Counsel for Pasadena Pemberton Solar Farm, LLC

BY THE BOARD:

This Order concerns a petition filed on April 24, 2026, by Pasadena Pemberton Solar Farm, LLC (“Pasadena” or “Petitioner”). Petitioner seeks a prohibited land use eligibility waiver under the Competitive Solar Incentive (“CSI”) Program pursuant to N.J.S.A. 48:3-119(f) for a solar project within the preservation area of the pinelands area, as designated at N.J.S.A. 13:18A-11(b).

BACKGROUND

The Solar Act of 2021 (“Solar Act” or “Act”) directed the Board to create two solar incentive programs, one of which is a competitive solicitation process for grid supply solar facilities and net metered facilities greater than five (5) MW. The Act also directed the Board, in consultation with the New Jersey Department of Environmental Protection (“NJDEP”) and the Secretary of the New Jersey Department of Agriculture (“Secretary of Agriculture”), to establish solar siting rules that will apply to all grid supply solar facilities and net metered solar facilities greater than five (5) MW in size.¹

In connection with the establishment of siting criteria, the Act lists a series of land uses that are not authorized for solar project siting unless the applicant, in accordance with the waiver provisions specified in the Act,² files a waiver petition with the Board and receives approval from it to proceed.³ Among the land use areas that requires a waiver before siting a solar project is

¹ N.J.S.A. 48:3-119(b).

² N.J.S.A. 48:3-119(f).

³ N.J.S.A. 48:3-119(c).

permitted is the preservation area of the pinelands area. N.J.S.A. 48:3-119(c)(2). The Act requires that the “petition shall set out the unique factors that make the project consistent with the character of the specific parcel.”⁴ 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.”⁵

By Board Order dated December 7, 2022, the Board approved the establishment of the CSI Program.⁶ The CSI Program is open to qualifying grid supply solar projects (i.e., those selling into the wholesale markets) and net metered non-residential projects greater than five (5) MW in size.

On the same date, the Board approved for publication in the New Jersey Register a rule proposal that amended the Successor Solar Incentive (“SuSI”) Program Rules to establish the CSI Program and a proposal for siting rules for grid supply and large net metered solar facilities (“CSI Siting Rules”). On September 18, 2023, the proposed CSI Siting Rules were published, with non-substantial changes, 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.

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.⁷ The Board, or its designee, may request additional evidence prior to approving or denying a request for any waiver requested, pursuant to this section.⁸

On January 20, 2026, Governor Mikie Sherill signed Executive Order (“EO”) 2,⁹ 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.

Petitioner submitted a prequalification application in the fourth solicitation of the CSI Program on March 27, 2026, in Tranche 3. On or about April 10, 2026, Board Staff (“Staff”) corresponded with the counsel for Petitioner advising that the proposed facility would require a waiver from the CSI Siting Rules at N.J.A.C. 14:8-12.3 because the property is located within the Pinelands Preservation Area. 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 of 2021; those projects seeking to site on

⁴ N.J.S.A. 48:3-119(f).

⁵ *Id.*

⁶ 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”).

⁷ N.J.A.C. 14:8-12.6(a)(1).

⁸ N.J.A.C. 14:8-12.6(c).

⁹ Exec. Order No. 2 (Jan. 20, 2026), 51 NJR 1041(a), available at <https://nj.gov/infobank/eo/057sherrill/pdf/EO-2.pdf>.

prohibited land use types require a waiver issued by the Board pursuant to the 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, counsel for Pasadena filed a petition with the Board seeking either: (1) a determination that the proposed 10 megawatt direct current (“MWdc”) solar facility (“Facility”) satisfies the applicable CSI Siting Rules pursuant to N.J.A.C. 14:8-12.3; or, (2) in the alternative, a waiver of the applicable CSI siting prohibitions pursuant to N.J.A.C. 14:8-12.6 and N.J.A.C. 14:1-1.2(b) to permit participation in the CSI Program. The Facility is proposed to be located on property identified as Block 906, Lots 1.01 and 12 on the Township of Pemberton tax map in Burlington County, New Jersey (“Property”). Two of the statutory siting restrictions apply to the Property: it is located in the Pinelands preservation area, and it is characterized as a forested site.

Petitioner acknowledged that the Property is subject to the jurisdiction of the New Jersey Pinelands Commission. Petitioner also stated that the Property is the site of a former municipal landfill that operated from approximately 1971 through 1980 and accepted household, commercial, bulky waste, and other materials associated with municipal landfill operations during that time period. According to the petition, although the landfill ceased operations around 1980 and was covered with material following the end of operations, the site was never properly closed in accordance with modern landfill closure requirements and remains an unclosed legacy landfill.

The Property has been designated by Pemberton Township as an “area in need of rehabilitation” pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. Petitioner stated that it was designated as the redeveloper of the Property through a redevelopment agreement with the Township. The petition went on to state that Petitioner has committed to purchase the Property upon receipt of all necessary project approvals.

Solar development on properly closed landfills, or landfills that are the subject of a closure application, is expressly permitted in the Pinelands Preservation Area District under the Pinelands Comprehensive Management Plan (“CMP”), provided such development is limited to previously disturbed areas. According to Petitioner, the Facility is proposed in conjunction with the closure, remediation, and long-term maintenance of the landfill and is designed to be located entirely within the limits of prior landfill disturbance. Thus, in Petitioner’s opinion, the Facility does not implicate the environmental concerns that underly the general prohibition on development within the Pinelands Preservation Area.

With respect to the forested nature of the Property, Petitioner argued that any forested or vegetated conditions presently existing on portions of the landfill are the result of the landfill’s long-term unclosed and unmanaged condition and do not constitute intact or high-value forest resources. In addition, Petitioner stated that the growth of trees and woody vegetation on the landfill is inconsistent with accepted landfill closure and post-closure care standards and proper closure of the landfill will require removal of trees and woody vegetation as part of the installation of an engineered cap and vegetative cover system.

Petitioner asserted that granting the requested relief is in the public interest because the Facility

would facilitate the proper closure, remediation, and long-term maintenance of a legacy landfill while converting a disturbed and environmentally constrained site into a productive source of renewable energy generation. Petitioner further contended that denying relief would perpetuate the current condition of the unclosed landfill without advancing environmental protection or public health objectives. In addition, Petitioner stated that the Facility is consistent with longstanding State policy favoring the development of solar facilities on landfills and other previously disturbed sites, while remaining consistent with the Pinelands CMP. Therefore, Petitioner requested that the Board determine that the Facility satisfies the applicable requirements of the CSI Siting Rules or, alternatively, grant a waiver of the applicable siting restrictions to permit participation in the CSI Program.

Consultation with Sister Agencies

Pursuant to the Act and the Board's waiver provisions for siting on prohibited land uses at N.J.A.C. 14:8-12.6, Staff consulted with the Pinelands Commission ("Commission") and NJDEP. By advisory memorandum dated May 7, 2026,¹⁰ the Commission provided the Board its review and conclusions on the Facility. The Commission advised that it had not received a complete application for development of a solar facility at this site. The Commission further advised that an application to close the landfill was initiated in May 2021 and that on April 24, 2024, the Petitioner submitted a threatened and endangered species survey indicating that the site contains habitat critical to the survival of two local populations. By letter dated May 24, 2024, the Commission advised the Petitioner that the landfill closure would result in an irreversible adverse impact on critical habitat, and that approval to do so would require a waiver of strict compliance based on a compelling public need as laid out at N.J.A.C. 7:50-4.64. Specifically, the Petitioner would need to demonstrate that the capping of the landfill would serve an essential health or safety need of the Township, and that the development would result in an overall improvement of the resources of the Pinelands Area pursuant to N.J.A.C. 7:50-4.65(c). The Petitioners requested a waiver of strict compliance and submitted materials in support of the request; however, following consultation with the New Jersey Department of Environmental Protection, Division of Sustainable Waste Management, the Commission advised the Petitioner on February 19, 2025, that insufficient information was submitted to establish compelling public need. The Commission stated that to date, no additional information has been submitted in support of the waiver request. Although the Commission acknowledged that there is a potential pathway for landfill closure, the Commission noted that receiving a waiver of strict compliance based on a compelling public need is a rigorous process and that these types of waivers are rarely granted; the Commission stated that only one such waiver has been approved in the past twenty years.

On May 13, 2026, Staff requested that the Petitioner provide any documentation, correspondence, or other evidence demonstrating how the siting of the Facility could comply with the CMP, including information addressing the February 2025 letter from the Commission, by close of business on May 14, 2026. Staff has received no response from the Petitioner as of this date.

In a letter dated May 2026,¹¹ the NJDEP's Office of Permitting and Project Navigation advised

¹⁰ May 7, 2026 Pinelands Commission letter; Attachment A.

¹¹ May 21, 2026 NJDEP Letter; Attachment B.

that the NJDEP supports the Pinelands Commission’s recommendation and would defer to the Commission’s expertise regarding whether the Facility should be granted a waiver to participate in the CSI solicitation. The NJDEP provides guidance on landfill activity and wildlife-related issues. Specifically, the NJ Fish and Wildlife’s Endangered and Nongame Species Program (“ENSP”) has determined that the closure and cap of the Pemberton Landfill would harm state-listed species and may violate the NJ Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq. (“ENSCA”), the CMP, and the Pinelands Protection Act (1979). NJDEP stated that the closure and capping of the landfill would result in the destruction of habitat features, and therefore, cause direct and/or indirect mortality to its inhabitants which is a violation of ENSCA. NJDEP further noted that the landfill has been overgrown with vegetation for decades, making for a strong likelihood that other federal- and state-listed and special concern species of bats, songbirds, and invertebrates inhabit the parcel.

NJDEP acknowledged that if the Petitioner successfully demonstrated “compelling public need” to the Commission and received approval for the landfill closure and capping, then ENSP, the Bureau of Solid Waste Permitting (“BSWP”) and the Commission would need to coordinate on activities impacting the critical habitat, and a Landfill Closure and Post-Closure Plan. NJDEP also noted that any site consultations related to landfill closure should include a representative from the Bureau of Forest Management to ensure best practices are followed, and that any work performed on proximal state-owned property during any phase of the Facility would require a Request for Use of State Property submitted to the Office of Transactions and Public Land Administration.

In the event that the Pinelands Commission denies the landfill closure and capping but authorizes the installation of the solar array, the ENSP requested that the applicant be required, at a minimum, to include biologically appropriate protective buffers and biologically appropriate travel corridors through the project parcel to adjacent conserved and undeveloped private land to both the east and west. These buffers and travel corridor requirements would be determined by the ENSP, as would long-term site management incorporating “minimize harm” strategies to reduce the risk of harm to state-listed species inhabiting the parcel.

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 Program¹² implements the directive of the Act to steer 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.”¹³ Additionally, the Board’s siting framework seeks to encourage development that prioritizes redevelopment, repair, rehabilitation, or replacement of existing facilities while discouraging development that would impair or destroy natural resources or environmental qualities vital to the health and well-being of present and future residents.¹⁴

¹² N.J.S.A. 38:3-114(c).

¹³ N.J.S.A. 48:3-114(c).

¹⁴ See, e.g., In re Petition of NextGrid for an Order Issuing a Waiver for the Development of a Solar

The Board has effectuated this policy priority through the creation of CSI Siting Rules for CSI-eligible facilities 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 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 upon completing three steps: consultation with other state agencies, as appropriate; a determination that the 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 a finding that the waiver is in the public interest, wherein 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 Facility. 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 NJDEP and with the Commission, as the State agencies with regulatory authority over the Property.

The Commission advised the Board that the proposed Facility faces significant barriers to compliance with the Pinelands CMP. Specifically, the Commission noted the presence of habitat critical to threatened and endangered species and the consequent need for a waiver of strict compliance based on a compelling public need for development to be permitted within the Pinelands Preservation Area. The Commission further detailed correspondence with the Petitioner regarding an application for such a waiver, and the subsequent notification that insufficient information had been provided by the Petitioner to make a determination that a compelling public need existed. The Board **FINDS** that Petitioner has not yet provided the documentation identified by the Commission in its February 19, 2025, letter to demonstrate a compelling public need justifying waiver of strict compliance with the CMP.

The Board **FURTHER FINDS** that the NJDEP defers to the Commission and supports their recommendation that the Board not grant a waiver to permit the Facility to participate in the CSI Program.

After reviewing the Facility prequalification application, material supplied in the Petition and documentation received from both the Commission and NJDEP, the Board **FINDS** that the Facility does not have positive support from the NJDEP and has not provided the information needed to enable the Commission to support the Facility's award in the CSI Program. In addition, the Board **FINDS** that Staff also requested supporting information from Petitioners to enable a timely decision on this waiver request and that Petitioners again have not provided additional information by Staff's requested deadline to support meeting the Commission's detailed requirements.

Electricity Generation Facility in the New Jersey Pinelands Preservation Area Pursuant to the Competitive Solicitation Incentive Program Siting Requirements, BPU Docket No. QW23070456, Order dated January 10, 2024 (granting a waiver to CSI Siting Rules for a project in the Pinelands Preservation Development Area that would help close the landfill on which it was sited.)

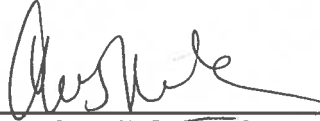
The Board **FINDS** that the requirements for a waiver of strict compliance set by the Commission must be addressed before the Board can make a positive finding with regard to this petition. The Board **FINDS** that unless and until this information is provided, the Petitioner has not documented sufficient facts to establish the public's specific interest in siting the CSI-eligible Facility on or within the Pinelands Preservation Area. Should the Petitioner provide the information required by the Commission to demonstrate a compelling public need, the Board notes that there may be a path forward for the Facility that is likely to result in environmental improvements associated with the landfill closure.

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(a)(2) is not in the public interest and **DENIES** the waiver. The Board **FINDS** that the Petitioner is not eligible to participate in the fourth CSI Program solicitation. Thus, the Board **DIRECTS** the CSI Program Administrator not to process a prequalification package for the Pasadena Pemberton Solar Farm, LLC, and **DIRECTS** that any bid submission fee submitted in association with an application be returned to the Petitioner. The Board **FINDS** that the Petitioner may be eligible to participate in a future solicitation under the CSI Program if additional information is provided and the specific requirements discussed herein are met.

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 PASADENA PEMBERTON 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. QW26040166

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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

MEMORANDUM

To: Sherri Golden, Secretary of the Board, NJ Board of Public Utilities

From: Susan R. Grogan 
Executive Director

Subject: Pasadena Pemberton Solar Farm project site

Date: May 7, 2026

This memorandum responds to Diane Watson's April 24, 2026 request for a summary of the Pasadena Pemberton Solar Farm project as it relates to the Pinelands Comprehensive Management Plan (CMP), to support the New Jersey Board of Public Utilities (NJBPU) in its consideration of a land use waiver petition submitted by Pasadena Pemberton Solar Farm, LLC.

Commission staff have reviewed the Pemberton Solar Electrical Site Plan, last revised May 20, 2021, as well as the associated land use waiver petition, both of which were transmitted by the NJBPU. The project site is located on Block 906, Lots 1.01 and 12, in Pemberton Township. It lies within the Pinelands Preservation Area District (PAD) and is the site of a closed but uncapped municipal landfill.

The Pinelands Comprehensive Management Plan (CMP) permits solar energy facilities within the PAD under limited circumstances. The CMP establishes standards for solar energy facilities applicable throughout the Pinelands Area (N.J.A.C. 7:50-5.36(a)), as well as additional standards specific to the PAD (N.J.A.C. 7:50-5.36(b)). With respect to landfill sites, solar energy facilities are permitted on landfill sites that have been closed in accordance with the CMP, provided the facility is located on portions of the parcel comprised of previously disturbed lands that have not been subsequently restored. Any proposed solar energy facility must also comply with the CMP's minimum environmental standards (N.J.A.C. 7:50-6).

To date, a complete application has not been submitted to the Pinelands Commission for development of a solar facility at this site. However, Commission staff held a pre-application meeting with the applicant on August 27, 2024, at which time the applicant was informed that the landfill must be closed in accordance with the CMP prior to the development of any solar energy facility. After landfill closure is completed in accordance with the CMP, a solar energy facility is permitted to be sited on the lands that were permitted to be disturbed as part of the landfill closure.

To date, the Pemberton municipal landfill has not been closed in accordance with the CMP. An application to close the landfill was initiated in May 2021. On April 24, 2024, Pasadena Pemberton Solar Farm, LLC submitted a threatened and endangered species survey indicating that the site contains habitat critical to the survival of local populations of [REDACTED]. In accordance with N.J.A.C. 7:50-6.33, the CMP requires that development be designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of threatened or endangered species designated by the New Jersey Department of Environmental Protection (NJDEP) pursuant to N.J.S.A. 23:2A-1 et seq. [REDACTED] are designated by the NJDEP as endangered and threatened species, respectively.

By letter dated May 24, 2024, the applicant was advised that the proposed soil capping of the landfill would result in an irreversible adverse impact on critical habitat, and that any approval would require a waiver of strict compliance based on a compelling public need. The Pinelands Commission has authority to waive strict compliance with the CMP in limited circumstances (N.J.A.C. 7:50-4 Part V). The CMP contains standards for demonstrating a compelling public need (N.J.A.C. 7:50-4.64). In this case, the applicant would need to demonstrate that the capping of the landfill would serve an essential health or safety need of Pemberton Township. Given the critical habitat on the site, the applicant would have to further demonstrate that the development, including any special measures that are part of the development proposal, will result in an overall improvement of the resources of the Pinelands Area (N.J.A.C. 7:50-4.65(c)).

The applicant subsequently requested a waiver of strict compliance and submitted additional materials in support of that request. By letter dated February 19, 2025, the applicant was advised that insufficient information had been submitted to establish a compelling public need. This determination was made in consultation with the New Jersey Department of Environmental Protection, Division of Sustainable Waste Management. To date, no additional information has been submitted in support of the applicant's request for a waiver of strict compliance.

As outlined above, the proposed solar energy facility at this site faces significant barriers to meeting CMP standards. The site contains documented habitat critical to threatened and endangered species. While there is a potential pathway for landfill closure through the granting of a waiver of strict compliance based on a compelling public need, the CMP establishes rigorous standards for demonstrating such need as well as a lengthy public process for the Commission's consideration of an application. As a result, these types of waivers are rarely granted, as evidenced by only one such waiver having been approved in the past twenty years.

Please feel free to contact me if you have any questions or require additional information.

Enclosures:

1. Pinelands Commission letter dated May 24, 2024
2. Pinelands Commission letter dated February 19, 2025

cc: Diane Watson, Research Scientist, NJBPU
Katherine Nolan, NJDEP
David Pepe, NJDEP



State of New Jersey

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Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

May 24, 2024

Gary Cicero (via email)
Pasadena Pemberton Solar Farm, LLC
125 Half Mil Road, Suite 300
Red Bank NJ 07701

Re: Application # 2021-0112.001
Block 906, Lot 1.01
Pemberton Township

Dear Mr. Cicero

We have reviewed the information submitted on April 24, 2024 regarding the proposed soil capping of an existing landfill on the above referenced parcel.

If soil capping of the landfill is approved, it is also proposed to develop a solar energy facility on the parcel.

The submission included a 2021-2023 [REDACTED] Surveys of [REDACTED] prepared by EcolSciences, Inc. and dated March 7, 2024. The submission also included one-third of the required application fee. This application fee was provided in accordance with the Commission's regulations to allow our staff to review and respond to the submitted threatened and endangered (T&E) animal species survey.

The Pemberton Township land use ordinance and the Pinelands Comprehensive Management Plan (CMP) require that development be designed to avoid irreversible adverse impacts on habitats that are critical to the survival of any local populations of T&E animal species designated by the New Jersey Department of Environmental Protection (NJDEP) pursuant to N.J.S.A. 23:2A-1 et seq. [REDACTED] [REDACTED] are designed by the NJDEP as an endangered species and a threatened species, respectively.

The submitted survey documents the extensive presence of [REDACTED] on the parcel. In addition, [REDACTED] are utilizing the parcel. The survey indicates that the parcel is used by a local population of [REDACTED] for feeding, breeding, gestation, birthing and resting and by a local population of [REDACTED] for feeding and resting. No information was provided addressing whether either [REDACTED] species is utilizing the parcel for hibernating.

Based on the information contained in the survey, the above referenced parcel contains habitat that is critical to the survival of the local populations of [REDACTED]. It appears that the proposed soil capping of the existing landfill will result in an irreversible adverse impact on

habitats that are critical to the survival of the local populations of [REDACTED].

The proposed soil capping of the existing landfill requires a Waiver of Strict Compliance (Waiver) based upon a compelling public need. The CMP Waiver regulations (N.J.A.C. 7:50-4.64) provide that for an applicant to establish a compelling public need, the proposed development must serve an essential health or safety need of the municipality and meet the following four criteria:

- I. The public health and safety require the requested Waiver;
- II. The public benefits from the proposed use are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the Federal Act;
- III. The proposed use is required to serve existing needs of the residents of the Pinelands; and
- IV. No feasible alternatives exist outside of the Pinelands Area to meet the established public need and no better alternatives exist within the Pinelands Area.

To pursue a Waiver and address the four above criteria, please provide groundwater and soil sampling and testing information including but not limited to:

- a. The results of the completed evaluations of the landfill, including the groundwater and soil sampling data and the landfill material data.
- b. Whether any soil or groundwater sampling results identified contamination that would constitute a threat to public health or safety.
- c. The approximate number and location of homes that are affected by any groundwater and/or soil contamination associated with the landfill.
- d. The number and location of residential and nonresidential potable water wells that could be impacted by groundwater contamination.
- e. An explanation as to how the proposed soil capping will address any public health and safety issues created by the landfill. For instance, will the installation of just the soil cap eliminate all health and safety issues created by the landfill?

Once we have completed a review of this information, we will provide guidance regarding the prospects for the proposed soil capping of the landfill to qualify for a Waiver based upon a compelling public need. Additional information, such as a site plan, possible additional T&E species surveys and public notice requirements, would thereafter need to be submitted to complete a waiver application.

Please note that development which results in an irreversible adverse impact on habitats critical to the survival of a local population of a T&E animal species is defined by the CMP (N.J.A.C. 7:50-4.65) as “substantial impairment of the resources of the Pinelands.” Therefore, if you elect to pursue a Waiver application, it must be demonstrated that the development, when evaluated in its entirety, including any special measures that are proposed by the applicant, will result in an overall improvement of the resources of the Pinelands Area. As part of the Waiver application, the applicant must identify and

describe any such special measures that will be incorporated in the waiver application. However, initially please only provide the above requested groundwater and soil sampling and testing information.

Please submit all application-related materials, including large reports and plans, in digital format to appinfo@pinelands.nj.gov. All plans must be in .pdf format and multiple plan sheets must be consolidated into one .pdf.

Please include your application number on any submitted information. Within 30 days of receipt, the Commission will review and respond in writing to any submitted information.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest M. Deman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ernest M. Deman, CPM
Supervising Environmental Specialist

c: Steven Gouin. Esq. (via email)



State of New Jersey

THE PINELANDS COMMISSION

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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

February 19, 2025

Gary Cicero (via email)
Pasadena Pemberton Solar Farm, LLC
125 Half Mil Road, Suite 300
Red Bank NJ 07701

Re: Application # 2021-0112.001
Block 906, Lot 1.01
Pemberton Township

Dear Mr. Cicero:

We have reviewed your submitted request to proceed with an application for a Commission Waiver of Strict Compliance based upon a compelling public need (Waiver) for the proposed soil capping of a former Pemberton Township Landfill on the above referenced parcel. Your request necessitated discussions and coordination between the New Jersey Department of Environmental Protection (NJDEP) staff and our staff. I regret the extended delay in responding to your request.

On May 24, 2024, our staff issued a letter indicating that the proposed soil capping of the existing landfill would result in an irreversible adverse impact on habitats that are critical to the survival of a local population of [REDACTED]. The letter indicated that for the application to move forward, the proposed soil capping of the existing landfill would require a Waiver based upon a compelling public need. Our letter further indicated that to establish a compelling public need, the proposed soil capping of the existing Pemberton Landfill must serve an essential health or safety need of the municipality and meet the following four criteria:

- I. The public health and safety require the requested Waiver;
- II. The public benefits from the proposed use are of a character that override the importance of the protection of the Pinelands as established in the Pinelands Protection Act or the Federal Act;
- III. The proposed use is required to serve existing needs of the residents of the Pinelands; and
- IV. No feasible alternatives exist outside of the Pinelands Area to meet the established public need and no better alternatives exist within the Pinelands Area.

The Commission sought the expertise of the NJDEP, Division of Sustainable Waste Management in the review of previously submitted landfill information, including the Sanitary Landfill Minor Disruption and Investigation Report (Report) for the Pemberton Landfill prepared by PennJersey Environmental

Consulting for the solar developer, Pemberton LF Solar Farm LLC, to determine whether the landfill poses a threat to public health and safety.

Based on the review of the submitted information, NJDEP has advised our staff that to date there is insufficient information to determine that the existing landfill poses a threat to public health and safety. NJDEP identified the following recommendations from the Report that need to be completed to make such a determination:

1. The Quick Domenico Fate and Transport Model must be updated with a more robust groundwater evaluation;
2. The background investigation will require the installation of additional monitoring wells since the current monitoring well network does not provide horizontal or vertical delineation of compounds in the groundwater;
3. Additional investigation is required to confirm the soil sampling results; and
4. A background investigation for inorganics is required to determine if additional investigation is required of the encroachment area.

If, after reviewing this letter, you wish to discuss the need for this information, we will schedule a meeting. The meeting will include the NJDEP staff.

Please note that you reserve the right to complete an application for a Waiver without providing the above information. If you wish to proceed in that manner, please inform the Commission in writing and we will itemize the other information required to complete such a Waiver application. However, in the absence of a determination that the existing landfill poses a threat to public health and safety, it is unlikely that the Commission could approve such a Waiver. However, each application is reviewed on a case-by-case basis.

Please submit all application-related materials, including large reports and plans, in digital format to appinfo@pinelands.nj.gov. All plans must be electronically signed and sealed, in .pdf format and multiple plan sheets must be consolidated into one .pdf.

Please include your application number on any submitted information. Within 30 days of receipt, the Commission will review and respond in writing to any submitted information.

Please contact me if you have any questions.

Sincerely,



Ernest M. Deman, CPM
Supervising Environmental Specialist

c: Steven Gouin, Esq. (via email)
Rodger Ferguson, LSRP (via email)
Janine MacGregor, Director, NJDEP Division of Sustainable Waste Management (via email)



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: Pasadena Pemberton Solar Farm, LLC
Waiver of the CSI Siting Prohibitions
Block: 906, Lots 1.01, 12
Pemberton Township, Burlington 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 request for a waiver to the siting requirements under the New Jersey Board of Public Utilities (Board) Competitive Solar Incentive Program (CSI) for the Pasadena Pemberton Solar 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 Pinelands Preservation Area and forested lands without a waiver granted by the Board (N.J.A.C. 14:8-12.3). The applicant proposes to develop a 10 MW dc solar facility located on Block 906, Lots 1.01, 12 in Pemberton Township, Burlington County, New Jersey.

The Pemberton Landfill is under the regulatory purview of the New Jersey Pinelands Commission (Pinelands Commission) but warrants guidance from NJDEP regarding the potential landfill closure and capping, and wildlife-related issues. The NJ Fish and Wildlife's Endangered and Nongame Species Program (ENSP) has determined that the closure and cap of the Pemberton Landfill would harm state-listed species and may violate the NJ Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq. (ENSCA), the New Jersey Pinelands Commission's Comprehensive Management Plan (2025, CMP), and the Pinelands Protection Act (1979).

The Pemberton Landfill is valued for multiple state-listed and special concern snake species in New Jersey's Landscape Project Map (v 3.4) including state endangered timber rattlesnake and corn snake, state threatened northern pine snake, and special concern eastern kingsnake and eastern hog-nosed snake. Due to the presence of state-listed species and potential violations of the regulations and CMP, the applicant must demonstrate a "compelling public need" to close and cap the landfill. The closure and capping of the landfill will result in the destruction of habitat features, and therefore, cause direct and/or indirect mortality to its inhabitants which is a violation of ENSCA. In addition, the landfill has been overgrown with vegetation for decades, there is a strong likelihood that other federal- and state-listed and special concern species of bats, songbirds, and invertebrates inhabit the parcel.

If the applicant *can* demonstrate a “compelling public need” and the Pinelands Commission approves the closure and capping of the landfill and installation of the solar array, the ENSP would propose to conduct a study on the state-endangered timber rattlesnakes inhabiting the parcel. This requires significant coordination between the applicant, the ENSP, the Pinelands Commission, and the NJDEP’s Division of Solid Hazardous Waste including but not limited to, the applicant complying with an ENSP-specific project timeline.

If the applicant *is not able* to demonstrate a “compelling public need” and/or the Pinelands Commission denies the landfill closure and capping but authorizes the installation of the solar array, the ENSP requests the permitting authorities require the applicant to amend their footprint to include biologically-appropriate protective buffers and biologically appropriate travel corridors through the project parcel to adjacent conserved and undeveloped private land to the east and west, respectively, at a minimum. Protective buffers and travel corridor requirements would be determined by the ENSP. Additionally, long-term site management would be required to incorporate “minimize harm” strategies to reduce the risk of harm to state-listed species inhabiting the parcel. Such strategies would also be developed and provided by the ENSP.

As the site is an unclosed landfill, the project would require the Bureau of Solid Waste Permitting’s (BWSP) approval of a Landfill Closure and Post-Closure Plan to address proper closure including the addition of the solar array. BWSP would coordinate with the Pinelands Commission and ENSP to ensure that the closure plan is consistent with the Pinelands Comprehensive Management Plan. BWSP will not issue any decisions on a closure and post-closure plan until the proposal has been approved by the Pinelands Commission.

Lastly, the site appears to be almost entirely forested. Because forested areas are a prohibited site type, the NJDEP has concerns regarding clearing the site for solar development unless such clearing is demonstrated to be necessary to implement an approved landfill closure plan or required environmental remediation. If the solar project proceeds, NJDEP recommends that the Bureau of Forest Management be included in all site consultations related to landfill closure to ensure that best management practices are followed. The site is located directly adjacent to Brendan T. Byrne State Forest. If any work is proposed on state-owned property during any phase of the project, a Request for Use of State Property must be submitted to the Office of Transactions and Public Land Administration. Please refer to [Request for Use of State Property](#) for further information.

The NJDEP supports the Pinelands Commissions recommendation and would defer to their expertise regarding whether the project should be granted a waiver to participate in the CSI solicitation. The NJDEP’s ENSP has significant concerns with how the closure of the landfill would impact State listed T&E species and would therefore recommend consistent collaboration with the Pinelands Commission and the applicant on how to avoid and/or minimize impacts to the species and their habitat. Should the Pinelands Commission and the Board decide that a waiver be granted, NJDEP would also recommend further coordination regarding Solid Waste permitting at the site.



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 Pasadena Pemberton Solar 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

