



Agenda Date: 7/16/25  
Agenda Item: 8D

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF THE NORTH )  
JERSEY DISTRICT WATER SUPPLY COMMISSION, IN ) ORDER  
CONJUNCTION WITH NEXAMP SOLAR, LLC., FOR A )  
RENEWED FLOATING SOLAR PROJECT ELIGIBILITY )  
WAIVER UNDER THE COMPETITIVE SOLAR )  
INCENTIVE PROGRAM, (P.L. 2021, c. 169) ) DOCKET NO. QW25040187

**Parties of Record:**

**Ted Del Guercio, III, Esq.**, McManimon, Scotland & Baumann, LLC, on behalf of North Jersey District Water Supply Commission and Nexamp Solar, LLC

**BY THE BOARD:**

This Order concerns a petition filed on April 3, 2025, by the North Jersey District Water Supply Commission ("NJDWSC"), in conjunction with Nexamp Solar, LLC ("Nexamp") (collectively, "Petitioners") ("Petition"). Petitioners seek a prohibited land use eligibility waiver under the Competitive Solar Incentive ("CSI") Program pursuant to L. 2021, c. 169 ("Act"), codified at N.J.S.A. 48:3-119(f). Petitioners seek to locate a floating solar project within the Highlands Preservation Area, as designated in subsection b. of section 7 at L. 2004, c. 120. N.J.S.A. 13:20-7b.

**BACKGROUND**

On July 9, 2021, Governor Murphy signed the Act into law, effective immediately. Among other requirements, the Act directed the New Jersey Board of Public Utilities ("Board") to establish a comprehensive program to provide incentives for the development of at least 3,750 megawatts ("MW") of new solar generation by 2026. This target was informed by New Jersey's 2019 Energy Master Plan ("EMP") and Governor Murphy's goal of achieving 100% clean energy by 2050.<sup>1</sup> Specifically, the Act directed the Board to create two (2) solar incentive programs: a small facilities incentive program for community solar facilities and net metered facilities up to five (5) MW in size, and 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

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<sup>1</sup> 2019 New Jersey Energy Master Plan: Pathway to 2050, [https://nj.gov/emp/docs/pdf/2020\\_NJBPU\\_EMP.pdf](https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf).

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.<sup>2</sup> The Act specifically requires that the solar siting criteria must minimize potential adverse environmental impacts as much as is practicable, taking appropriate site-specific criteria into consideration.<sup>3</sup>,

The Act also 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,<sup>4</sup> files a waiver petition with the Board and receives approval from it to proceed.<sup>5</sup> Among the land use areas that requires a waiver before a solar project siting is permitted is the Highlands preservation area. N.J.S.A. 48:3-119(c)(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.”<sup>6</sup> 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.”<sup>7</sup>

By Board Order dated December 7, 2022, the Board approved the establishment of the CSI Program.<sup>8</sup> 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. The CSI Program provides for solar projects to qualify in one of five tranches:

- Tranche 1: Basic Grid Supply
- Tranche 2: Grid Supply on the Built Environment
- Tranche 3: Grid Supply on Contaminated Sites and Landfills
- Tranche 4: Net Metered Non-residential Projects above five (5) MW
- Tranche 5: Storage Paired with Grid Supply Solar<sup>9</sup>

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<sup>2</sup> N.J.S.A. 48:3-119(b).

<sup>3</sup> Id.

<sup>4</sup> N.J.S.A. 48:3-119(f).

<sup>5</sup> N.J.S.A. 48:3-119(c).

<sup>6</sup> N.J.S.A. 48:3-119(f).

<sup>7</sup> Id.

<sup>8</sup> 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”).

<sup>9</sup> CSI Program Order at 15, 44.

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 adopted and 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. The CSI Siting Rules also provide for an administrative waiver in appropriate circumstances. Projects that would be constructed on prohibited land but for which the facility would be located exclusively on the built environment, are deemed to be presumptively in the public interest. The Board has designated the approval of such applications to Board Staff (“Staff”) or the program administrator.

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. N.J.A.C. 14:8-12.6(a)(2). The Board and its sister agencies may, at their discretion, consider mitigation measures project proponents suggest in determining whether a particular solar project is in the public interest. Id.

The prequalification window for the first solicitation opened February 1, 2023, and the bid submission closed on March 31, 2023, at 11:59:59 PM. The second solicitation opened on November 27, 2023 and closed on February 29, 2024.<sup>10</sup> The prequalification window for the third solicitation opened May 14, 2025 and will close to bids on July 23, 2025 at 11:59:59 PM.<sup>11</sup>

Petitioners originally submitted a prequalification application in the first solicitation of the CSI Program on March 7, 2023. On March 9, 2023, Staff informed Petitioners of the requirement for obtaining a land use waiver since the project was in the Highlands preservation area, an area for which the Act required such a waiver. On March 27, 2023, Petitioners submitted what they referred to as an “expedited application” to obtain an administrative waiver from Staff as described in the CSI Program Order. On March 28, 2023, the Division of Law advised Counsel for NJWSDC that since the project was located in one of the areas for which a waiver was statutorily required, an administrative waiver was not appropriate and the application could not be processed until a land use waiver had been granted by the Board. Petitioners made a second attempt to receive an administrative waiver but it was rejected for the same reason.<sup>12</sup>

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<sup>10</sup> In re Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169, Order Addressing the Timing of the Second CSI Program Solicitation, BPU Docket No. QO21101186, Order dated September 27, 2023.

<sup>11</sup> In re Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169, Price Cap Determination for the Third Solicitation of the CSI Program, BPU Docket No. QO21101186, Order dated April 23, 2025.

<sup>12</sup> See Letter from Michael Beck, Esq. to Timothy Eustace, NJWDSC Executive Director, April 3, 2023 (“April 3 Letter”).

By letter dated June 9, 2023, Petitioners filed a petition with the Board seeking a waiver of the statutory prohibition on siting a large scale solar project within the Highlands Preservation Area, as designated in subsection b. of section 7 at L. 2004, c. 120 (N.J.S.A. 13:20-7b). After consultation with the NJDEP and the Highlands Council ("Council"), the Board denied the petition due to lack of supporting information on January 10, 2024.<sup>13</sup> In particular, the Board found that the Petitioners failed to address site-specific concerns from each of the relevant administrative agencies. The Council identified the need for a replanting and monitoring plan for proposed forest removal, a restoration plan for the temporary disturbance to the northern assembly and launch area, and restoration and/or landscaping plans for the proposed disturbed area for the onshore equipment. The NJDEP advised that it lacked information necessary for permitting decisions related to Flood Hazard Control Act rules, threatened and endangered species, and the Raymond Dam. The Board found that the conditions set by the Council and the information required by the NJDEP must be addressed before the Board could make a make a positive finding with regard to the petition.<sup>14</sup>

### **Petition**

By letter dated April 1, 2025, NJDWSC and Nexamp filed the Petition with the Board seeking a waiver of the statutory prohibition on siting a large scale solar project within the Highlands Preservation Area, as designated in subsection b. of section 7 at L. 2004, c. 120 (N.J.S.A. 13:20-7b). Petitioners sought the waiver for a proposed floating solar project on the Wanaque Reservoir at Block 106, Lot 1, 1 F.A. Orechio Drive, Wanaque, Passaic County, New Jersey 07465 ("Project"). The Project is planned to be 10 MWdc consisting of two (2) solar arrays or "islands," each approximately ten (10) acres in size, with on-land interconnection components.

Petitioners' arguments reiterate the claims made in their original petition submitted on June 9, 2023. According to Petitioners, the Project is consistent with the goals of the CSI Program because it will be situated upon the Wanaque Reservoir, an existing, serviceable structure which was built more than a century ago. Petition at 6. Further, Petitioners asserted that the Project's siting location has no detrimental impact upon the Highlands Preservation Area; is inherently beneficial; and provides a high economic benefit at a low cost while minimizing environmental impacts. According to Petitioners, the Project also serves the public interest by providing onsite energy production for NJDWSC, thereby increasing New Jersey's in-state renewable energy production. Petition at 6-7.

Petitioners advised that subsequent to the Board's issuance of the January Order, they engaged with the NJDEP and the Council and submitted an updated copy of the permit readiness checklist on February 24, 2025. On February 27, 2025, Petitioners met with the NJDEP, the Council, and Staff to discuss the Project further. To demonstrate that they have addressed the deficiencies that resulted in the previous petition's denial, Petitioners have attached the following to their renewed Petition: the updated permit readiness checklist submitted to the NJDEP and the Council on February 27, 2025; the presentation made at the February 27, 2025 meeting; and a "courtesy conceptual summary" of the NJDEP recommendations and conclusions discussed at that

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<sup>13</sup> In the Matter of the Petition of the North Jersey District Water Supply Commission, in Conjunction with Nexamp Solar, LLC., for a Floating Solar Project Eligibility Waiver Under the Competitive Solar Incentive Program, (P.L. 2021, c. 169), BPU Docket No. QO23060349, Order dated January 10, 2024. ("January Order").

meeting.<sup>15</sup> Petitioners claimed that all of the requirements established in the January Order have been addressed and believe that a waiver to allow the Project to participate in the CSI Program is appropriate.

### **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 other State agencies, namely the Council and NJDEP. The Council provided a letter to the Board containing information on its review and approval process on May 1, 2025.<sup>16</sup> The Council advised that it had offered the Project conditional approval in April 2021, subject to satisfaction of the specified conditions outlined in the April 2021 Highlands Determination memorializing that approval: a replanting and monitoring plan for proposed removal of the forested area; a restoration plan for the temporary disturbance to the northern assembly and launch area; and restoration and/or landscaping plans for the proposed disturbed area for the onshore equipment.<sup>17</sup> Based on more recently submitted materials, the Council stated that the conditional approval remained applicable, provided that Petitioners submitted a letter to the Council that was accompanied by the supporting materials requested in the original determination or by a written justification explaining why specific conditions may not apply to the present project.

In a letter dated May 15, 2025, the NJDEP's Office of Permitting and Project Navigation ("OPPN") advised that Petitioners had supplied an updated permit readiness checklist on February 25, 2025 and that OPPN had met with Petitioners on February 27, 2025.<sup>18</sup> As a result of that meeting and the new information provided by the Petitioners, the NJDEP recommended that the Petitioners be granted a waiver to participate in the CSI Program solicitation, provided that the Petitioners maintain approval from the Highlands Planning Commission as well as all permit applications and approvals authorized by the NJDEP<sup>19</sup>. The NJDEP noted that Petitioners' inclusion of a community solar project that would support the NJDEP's efforts to provide low-cost potable drinking water caused the Project to serve the public interest; NJDEP also noted that its recommendation to grant the waiver should not be taken as a guarantee that the Project would satisfy NJDEP's regulations.

### **DISCUSSION AND FINDINGS**

The Board has long supported solar development in New Jersey, designing policies and programs that will support the continued growth of the solar industry while carefully balancing the costs and benefits to ratepayers. The CSI Program forms the first incentive structure designed to facilitate large-scale grid supply solar development in the State, a type of solar development which has been shown in other states to provide clean energy at competitive prices. The CSI Program will

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<sup>15</sup> Petition at Exhibit B, C, and D.

<sup>16</sup> May 1, 2025 Highlands Council letter; Attachment A.

<sup>17</sup> Highlands Preservation Area Exemption Determination, Highlands Applicability Determination, April 23 2021 (April 2021 Highlands Determination); Petition at Exhibit E.

<sup>18</sup> May 15, 2025 DEP letter; Attachment B.

<sup>19</sup> The NJDEP identified the following permits as necessary: a Flood Hazard Permit with a Hardship Exemption (N.J.A.C 7:13), a Freshwater Wetlands Individual Permit (N.J.A.C 7:7A), a Short-Term Water Use Permit-By-Rule or a Temporary Dewatering Permit for any construction-related dewatering (N.J.A.C 7:19), a NJPDES Discharge to Surface Water General Permit for any surface water discharge from construction-related dewatering (N.J.A.C 7:14A).

provide incentives for 300 MW of new solar annually in New Jersey and thus forms a critical element in pursuing the State's clean energy goals. As highlighted in the CSI Program Order, the CSI Program uses competitive principles to ensure that the cost of the Solar Renewable Energy Certificate-II awards represent the lowest incentive contribution from New Jersey ratepayers.

The Board also recognizes the significant benefits associated with the expansion of local, distributed, renewable, non-polluting sources of energy. In addition to the reduction of emissions that contribute to global warming, there is the reduction of air pollutants and the associated health benefits; increased resilience in the form of distributed generation; a lessened need to site solar on open space in a State that seeks to preserve open space; and the economic growth fueled by local job creation. Furthermore, as designed by the Board, the CSI Program implements the directive of the Act to direct 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 create 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."<sup>20</sup>

Floating solar represents a potentially positive development in renewable energy technology. The EMP supports and encourages innovative energy programs and technological solutions for meeting the State's clean energy targets and advancing New Jersey's clean energy economy, and the Board has included it as a permissible site in the permanent Community Solar program.<sup>21</sup> Furthermore, the Board's policy decisions pertaining to the incentives available for floating solar projects within the Administratively Determined Incentive Program demonstrate evidence of the Board's support for advancing New Jersey's solar potential in this market segment.<sup>22,23</sup>

In providing incentives pursuant to the Act and implementing that Act's directive to prohibit siting CSI-eligible facilities on prohibited land types, the Board furthers the State policy of meeting its clean energy goals while striving to protect open space and farmland.<sup>24</sup> The CSI siting criteria were developed in cooperation with the NJDEP, the Department of Agriculture, and the State Agriculture Development Committee. In addition to implementing the statutory protections, these criteria provide the opportunity to seek a waiver for a CSI-eligible facility on certain prohibited lands. The Board will only grant such waiver after consultation with the Department of Agriculture or NJDEP, as appropriate, and upon a determination that the public interest in the specific project being allowed outweighs the presumptive greater public interest in preserving the land. A petitioner for a land use waiver must provide sufficient evidence that a project serves the public interest, and the unique factors that make the project consistent with the character of the specific site, as outlined in the Background above. In this matter, as described above, the Board consulted with the NJDEP and the Council.

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<sup>20</sup> N.J.S.A. 38:3-114(c).

<sup>21</sup> In re the Community Solar Energy Program – Order Launching the Community Solar Energy Program, BPU Docket No. QO22030153, Order dated August 16, 2023.

<sup>22</sup> In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, BPU Docket No. QO19010068, Order dated July 28, 2021 ("SuSI Program Order").

<sup>23</sup> In re a Solar Successor Incentive Program Pursuant to P.L.2021, c.169, BPU Docket Nos. QO20020184 and QO23040206, Order dated May 10, 2023, redistributed on July 10, 2023, with a typographical correction.

<sup>24</sup> N.J.S.A. 38:3-114.

The Board **FINDS** that the Project is proposed to be located on approximately twenty (20) acres of the Wanaque Reservoir within the Highlands Preservation Area, Block 106, Lot 1, at 1 F.A. Orechio Drive, Wanaque, Passaic County, New Jersey 07465. The Board **FINDS** that, as required by the Act, Staff consulted with the NJDEP on the Project. The Board **FURTHER FINDS** that the NJDEP determined that it had received the information necessary to determine the requisite permits and that NJDEP recommends that the Board grant a waiver to permit the Project to participate in the CSI Program.

The Board **FINDS** that, as required by the Board's CSI Siting Rules, Staff consulted with the Council on the Project. The Council has advised that based on submissions from Petitioners since the January Order, the April 2021 Highlands Determination remains applicable, subject to the conditions outlined in that approval. The Board **FINDS** that the Council has granted conditional approval of the Project.

After reviewing the determinations received from its sister agencies, the Board **FINDS** that the Project has support from the NJDEP and a conditional approval from the Council to move forward in the CSI Program.

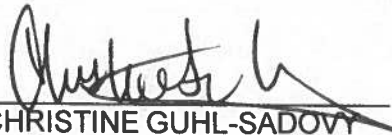
Based on the information contained in the Petition, the determinations made by the Council, and the recommendation of the NJDEP, the Board **FINDS** that granting the waiver of the Board's CSI Siting Rules pursuant to N.J.S.A. 48:3-119(f) and N.J.A.C. 14:8-12.3(a)(2) is in the public interest and **APPROVES** the waiver. The Board **FINDS** that the Petitioners will need to meet all other CSI Program requirements for an approval of a prequalification package. The Board **FINDS** that the Petitioners may participate in the CSI Program's third solicitation and may apply as a public entity. The Board **DIRECTS** the CSI Program Solicitation Administrator to process a prequalification application from the Petitioners for the third solicitation, if received, by July 23, 2025, 11:59:59 PM, in accordance with the rules and procedures established for the CSI Program.

This Order is issued in reliance on the information provided by the Petitioners, Council, and NJDEP and does not grant any rights in connection with the registration or construction of the proposed project. The Board **FINDS** that the Council's requirements and the NJDEP's requirements must be addressed as part of the proposed solar electric generation facility; 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 Petitioners must meet the conditions outlined by the Council pertaining to threatened and endangered species protection, the replanting and monitoring plan for forested areas, and restoration plans for disturbed onshore areas. The Petitioners must also receive all approvals and permitting from NJDEP which may include but are not limited to the specific permits mentioned in the advisory memo, like Flood Hazard Permitting with Hardship Exemption, Freshwater Wetlands Individual Permit, permits for construction-related dewatering and related surface water discharge. The Board **ORDERS** Petitioners to demonstrate to the CSI Program Manager that all NJDEP and Council requirements have been satisfied prior to the issuance of post-construction certification.

This Order shall be effective on July 23, 2025.

DATED: July 16, 2025

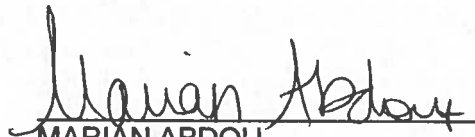
BOARD OF PUBLIC UTILITIES  
BY:



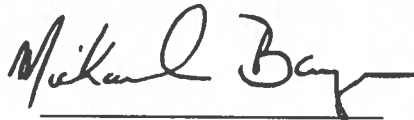
CHRISTINE GUHL-SADOVY  
PRESIDENT



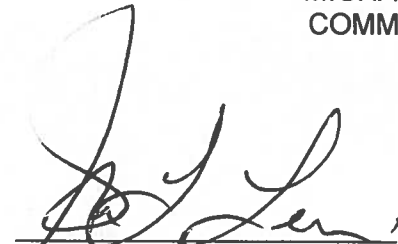
DR. ZENON CHRISTODOULOU  
COMMISSIONER



MARIAN ABDOU  
COMMISSIONER



MICHAEL BANGE  
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 PETITION OF THE NORTH JERSEY DISTRICT WATER SUPPLY COMMISSION, IN  
CONJUNCTION WITH NEXAMP SOLAR, LLC., FOR A RENEWED FLOATING SOLAR PROJECT ELIGIBILITY  
WAIVER UNDER THE COMPETITIVE SOLAR INCENTIVE PROGRAM, (P.L. 2021, c. 169)  
DOCKET NO. QW25040187

SERVICE LIST

**North District Water Supply Commission**  
**Nexamp Solar, LLC**

Ted Del Guercio, III, Esq.  
McManimon, Scotland & Baumann, LLC  
75 Livingston Avenue  
Roseland, NJ 07068  
[TDelGuercio@msbnj.com](mailto:TDelGuercio@msbnj.com)

**New Jersey Division of Rate Counsel**

140 East Front Street, 4<sup>th</sup> Floor  
Trenton, NJ 08625-0003

Brian O. Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

**New Jersey Division of Law**

Deputy Attorney General  
Department of Law and Public Safety  
R.J. Hughes Justice Complex  
25 Market Street, P.O. Box 112  
Trenton, NJ 08625-0112

Daren Eppley, Section Chief, DAG  
[daren.eppley@law.njoag.gov](mailto:daren.eppley@law.njoag.gov)

Pamela Owen, Assistant Section Chief, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Steven Chaplar, DAG  
[steven.chaplar@law.njoag.gov](mailto:steven.chaplar@law.njoag.gov)

**New Jersey Board of Public Utilities**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Sherry L. Lewis, Board Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Bob Brabston, Esq., Executive Director  
[robert.brabston@bpu.nj.gov](mailto:robert.brabston@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

Taryn Boland, Chief of Staff  
[taryn.boland@bpu.nj.gov](mailto:taryn.boland@bpu.nj.gov)

**General Counsel's Office**

Ava-Marie Madeam, General Counsel  
[avamarie.madeam@bpu.nj.gov](mailto:avamarie.madeam@bpu.nj.gov)

Gary Colin Emerle, Deputy General Counsel  
[colin.emerle@bpu.nj.gov](mailto:colin.emerle@bpu.nj.gov)

Elsbeth Hans, Deputy General Counsel  
[elsbeth.hans@bpu.nj.gov](mailto:elsbeth.hans@bpu.nj.gov)

Rachel Boylan, Regulatory Officer  
[rachel.boyland@bpu.nj.gov](mailto:rachel.boyland@bpu.nj.gov)

**Division of Clean Energy**

Veronique Oomen, Director  
[veronique.oomen@bpu.nj.gov](mailto:veronique.oomen@bpu.nj.gov)

Stacy Ho Richardson, Deputy Director  
[stacy.richardson@bpu.nj.gov](mailto:stacy.richardson@bpu.nj.gov)

Katherine Perry, Deputy Director  
[katherine.perry@bpu.nj.gov](mailto:katherine.perry@bpu.nj.gov)

Earl Pierce, Administrative Analyst  
[earl.pierce@bpu.nj.gov](mailto:earl.pierce@bpu.nj.gov)

Diane Watson, Research Scientist  
[diane.watson@bpu.nj.gov](mailto:diane.watson@bpu.nj.gov)

Laura Scatena-Amissah, Research Scientist  
[laura.scatena@bpu.nj.gov](mailto:laura.scatena@bpu.nj.gov)

Olivia Najjar, Program Specialist  
[olivia.najjar@bpu.nj.gov](mailto:olivia.najjar@bpu.nj.gov)



**PHILIP D. MURPHY**  
*Governor*

**TAHESHA L. WAY**  
*Lieutenant Governor*

# State of New Jersey

## HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL

100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**CARL J. RICHKO**  
*Chairman*

**BENJAMIN L. SPINELLI, ESQ.**  
*Executive Director*

May 1, 2025

### VIA EMAIL ONLY:

Diane M. Watson, Ph.D., Research Scientist  
Division of Clean Energy  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
Trenton, NJ 08625

Subject: Floating Solar Installation – Wanaque Reservoir  
Borough of Wanaque, Passaic County

Dear Dr. Watson,

On April 23, 2021, the Highlands Council issued a review letter (see attached) to the New Jersey Department of Environmental Protection (NJDEP) for a Highlands Preservation Area Exemption Determination, Highlands Applicability Determination (HAD #11) for the installation and operation of a floating solar facility on the Wanaque Reservoir. In that review, the Highlands Council determined that the project was “Consistent with Goals and Purposes of the Highlands Act, with Specified Conditions,” and identified five specific conditions.

Based on the recently submitted materials, the impacts to Highlands resources appear similar to those of the project reviewed in 2021. As such, the Highlands Council’s conditional approval - subject to satisfaction of the specified conditions outlined in the 2021 review - remains applicable, unless the NJDEP determines that the project has changed substantively enough to require a new Applicability Determination.

The current project proposal consists of a floating solar system that includes two floating solar arrays, or “islands,” proposed to cover approximately 20 acres of the reservoir—less than 1% of the reservoir’s 2,310-acre surface area. The “net-metered system,” covering approximately 13.23 acres, is projected to supply roughly 13,450 MWh of solar electricity per year, offsetting 90% of the facility’s energy use. The second array, referred to as the “community solar system,” will occupy approximately 6.64 acres and is designed to serve up to 1,000 residential subscribers, including 51% low- and moderate-income households, with guaranteed energy discounts.

Both systems will be anchored to the bottom of the reservoir and located more than 1,000 feet from the shoreline. Marine-grade cables will transmit DC electricity from the arrays to electrical equipment and will be brought ashore in a previously disturbed area. All equipment will be located over 1,000 feet from the overflow weir and above-water dam infrastructure, and more than 500 feet from any submerged dam infrastructure. A cable trough will be installed adjacent to the existing driveway within a previously disturbed area. Two locations are under consideration for the electrical equipment pads: one would require an elevated platform but no tree removal; the other would allow for pad-mounted equipment but would require removal of a 50’ x 50’ area of trees adjacent to an existing waste wash-water basin. A staging and assembly area will also be needed and appears to involve an unforested, previously disturbed area just north



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of W. Brook Road, although the dimensions and site details have not been specified.

The current application does not address the conditions specified in the 2021 HAD #11 determination. To satisfy these conditions, a letter must be submitted to the Highlands Council by the applicant, along with the supporting materials requested in the original determination, or with written justification explaining why specific conditions may not apply to the present project.

If you have any questions or require further assistance, please contact me at (908) 879-6737, extension 101 or by email at [Ben.Spinelli@highlands.nj.gov](mailto:Ben.Spinelli@highlands.nj.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin L. Spinelli". The signature is fluid and cursive, with the first name "Benjamin" written in a larger, more prominent script than the last name "Spinelli".

Benjamin L. Spinelli, Esq.  
Executive Director

c: Ryan Anderson, NJDEP  
Stephen Dench, NJDEP  
Taylor Groskorth-Flynn, NJDEP  
David Pepe, NJDEP  
Secretary of the Board, New Jersey Board of Public Utilities



**PHILIP D. MURPHY**  
*Governor*

**TAHESHA L. WAY**  
*Lt. Governor*

**State of New Jersey**  
Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322  
(908) 879-6737  
(908) 879-4205 (fax)  
[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**CARL J. RICHKO**  
*Chairperson*

**BENJAMIN L. SPINELLI, ESQ.**  
*Executive Director*

November 20, 2023

**VIA EMAIL ONLY:**

Laura Scatena-Amissah, Research Scientist  
Division of Clean Energy – Solar Team  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
Trenton, NJ 08625

Subject: **Floating Solar Installation – Wanaque Reservoir**  
Borough of Wanaque, Passaic County

Dear Ms. Scatena-Amissah,

On April 23, 2021, the Highlands Council issued a recommendation and review letter (see attached) to the NJ Department of Environmental Protection (NJDEP) for the installation and operation of a floating solar facility, to be situated on the Wanaque Reservoir. The proposed design included multiple floating solar arrays, or islands, anchored to the bottom of the reservoir and located approximately 300 feet from the shoreline in an area north of the Raymond Dam. Marine grade cables will deliver DC electricity from the solar arrays to electrical equipment which will come ashore in a previously disturbed area. The onshore portion of the project is proposed for an area approximately 5,000 square feet in size. The entirety of the project will be on property owned by the North Jersey District Water Supply Commission. A separate temporary area of disturbance of 2,500 square feet will be for an assembly and launch area.

Please be advised that the Highlands Council has not received any new information regarding the project since the April 23, 2021, letter. The previous review conducted by the Highlands Council included all the areas of disturbance and no further comment from the Highlands Council is needed. At this time there is nothing additional that the Highlands Council believes the BPU or NJDEP needs to be made aware of. Should new or additional information be provided, the Highlands Council reserves the right to issue a new comment letter as may be necessary. Please call or email ([ben.spinelli@highlands.nj.gov](mailto:ben.spinelli@highlands.nj.gov)) me should you have any questions.

Sincerely,

Benjamin L. Spinelli, Esq.  
Executive Director

Enclosure



**PHILIP D. MURPHY**  
*Governor*

**SHEILA Y. OLIVER**  
*Lt. Governor*

**State of New Jersey**  
Highlands Water Protection and Planning Council  
100 North Road (Route 513)  
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[www.nj.gov/njhighlands](http://www.nj.gov/njhighlands)



**CARL J. RICHKO**  
*Chairperson*

**LISA J. PLEVIN**  
*Executive Director*

April 23, 2021

**VIA EMAIL ONLY:**

Jennifer Moriarty, Director  
Bureau of Inland Regulation, Division of Land Resource Protection  
New Jersey Department of Environmental Protection  
Mail Code 501-02A  
PO Box 420  
Trenton, NJ 08625-0420

Re: **Highlands Preservation Area Exemption Determination, Exemption #11  
Application for Highlands Applicability Determination (HAD)  
North Jersey District Water Supply Commission  
Floating Solar Installation – Wanaque Reservoir  
Borough of Wanaque, Passaic County**

**Determination: Consistent with Goals and Purposes of Highlands Act, with Specified  
Conditions**

Dear Ms. Moriarty:

This letter is regarding the above-referenced application, which is currently before the New Jersey Department of Environmental Protection (NJDEP). The applicant seeks a Highlands Applicability Determination (HAD) on an exemption for a project proposed within the Highlands Preservation Area. The Highlands Act, at N.J.S.A. 13:20-28, specifies that a project deemed to be exempt is exempt from the Highlands Act as well as from the “the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan.”

As you know, NJDEP determinations regarding Exemptions 9 and 11 in the Preservation Area are made in consultation with the New Jersey Highlands Council (Highlands Council), in accordance with the Highlands Act and NJDEP’s Highlands Rules (N.J.A.C. 7:38-1.1 et seq.). Therefore, the Highlands Council has reviewed the subject project to determine the applicability of the Highlands Act and specifically whether this application meets the standard of eligibility for Exemption #11 of the Highlands Act (“the routine maintenance and operations, rehabilitation, preservation, . . .”), which mandates that a Highlands Act exemption is only to be granted “provided that the activity is consistent with the goals and purposes of the Highlands Act.”

The North Jersey District Water Supply Commission (NJDWSC) oversees the operation of the largest regional water supply in the State of New Jersey, including more than 95-square-miles of watershed area, two major reservoirs, two river-diversion pumping stations, and a 210-million gallon/day (MGD) water filtration plant located at the Commission's headquarters in the Borough of Wanaque. At peak capacity, the Commission's facilities can serve the water needs of more than three million people in Northern New Jersey.

According to the information submitted with the application, the NJDWSC proposes the installation and operation of a floating solar facility, to be situated on the Wanaque Reservoir. The proposed design includes multiple floating solar arrays, or islands, anchored to the bottom of the reservoir and located approximately 300 feet from the shoreline in an area north of the Raymond Dam. Marine grade cables will deliver DC electricity from the solar arrays to electrical equipment, including inverters and oil-less transformers, installed on land. The marine grade cables will come ashore in a previously disturbed area. The onshore portion of the project is proposed for an area approximately 5,000 square feet in size. Electrical wiring from the transformers will be routed to an overhead, pole-mounted interconnection point located behind the NJDWSC's electrical meter. A new right of way (ROW) will be constructed through a wooded portion of the property. The entirety of the project will be on property owned by the NJDWSC. The solar array will cover approximately 20 acres of the surface of the reservoir. A separate area of disturbance is proposed north of West Brook Road, for an assembly and launch area. The area has been described as 2,500 square feet in size and the disturbance as temporary.

Highlands staff has reviewed the submitted materials and has assessed whether the project is consistent with the goals and purposes of the Highlands Act. To do this, staff first assessed what Highlands resources have the potential be affected by the project. These resources are: Highlands Open Waters and associated 300-foot Highlands Open Waters Protection Area, Total Forest Area and Critical Wildlife Habitat.

**Highlands Open Waters:** The floating solar arrays are proposed to occupy approximately 20 acres of the water surface of the reservoir. The total acreage of the reservoir is approximately 2,310 acres. The reservoir is mapped by the Highlands Regional Master Plan (RMP) as a Highlands Open Water, in which development is not permitted. However, as the size of the array is less than 1% of the total area of the reservoir, this is characterized as a de minimis impact. The panels will not affect the flow of stormwater, and in accordance with the Highlands Act, the panels themselves are not counted as impervious cover.

**Highlands Open Waters Protection Area:** The 300-foot buffer that surrounds all Highlands Open Waters is mapped for the areas proposed for the onshore electrical equipment, the new ROW and the northern assembly and launch area. These areas are described as disturbed, and contain roadways, developed parking, and ancillary facilities. However, these areas also drain to the reservoir and the associated reservoir outfall.

**Total Forest Area:** The vicinity of the proposed new ROW for overhead powerlines is mapped as Total Forest Area. The application materials calculate the forested area to be disturbed as 0.37 acres.

**Critical Wildlife Habitat:** The application materials identified 24 endangered, threatened, and special-concern species as having suitable habitat present in the vicinity of the project, including 3 mammals, 17 birds, and 4 reptiles. Among these species, only bald eagle (*Haliaeetus leucocephalus*), cliff swallow (*Petrochelidon pyrrhonota*), and northern long-eared bat (*Myotis septentrionalis*) habitats have potential to be affected by project development. Potential impacts to bald eagle and cliff swallow habitat may arise from the siting of the floating solar array on or over foraging habitat. Potential impacts to northern long eared bat habitat may arise from the removal of the forested area for the new ROW.

Based on review of the application and associated documentation, the Highlands Council finds this project **Consistent with the Goals and Purposes of the Highlands Act with the following specified Conditions.** These conditions are separate from any condition which may be imposed by the New Jersey Department of Environmental Protection through subsequent permitting actions.

- 1) For the removal of the 0.37 acres of total forest, replanting to the standards of the No Net Loss Compensatory Reforestation Act (N.J.S.A. 13:1L-14.1 et. seq.) shall be accomplished on the NJDWSC property. By using the tree replacement factor of 204 balled and burlapped trees per acre of removal this amounts to replanting of 76 trees. The trees shall be of native species, common to the area, 2 inches diameter breast height, shall be appropriately irrigated and protected from deer browse. The plantings shall be monitored for 5 years and an 85% survival rate shall be assured. If mortality greater than 85% is noted, replanting shall occur. The applicant shall provide the Highlands Council with a replanting and monitoring plan for review and approval.
- 2) For disturbances to mapped critical wildlife habitat, the Highlands Council will defer to the NJDEP-Endangered and Nongame Program (ENSP) for conditions for avoiding, minimizing, and mitigating impacts to mapped habitat. The applicant shall provide copies of any plans developed to address concerns of the NJDEP-ENSP regarding critical wildlife habitats.
- 3) For the temporary disturbance to the northern assembly and launch area, provide the Highlands Council with a restoration plan for review and approval that includes appropriate soil conservation methodologies, replanting plan to include native species and monitoring of plantings.
- 4) Provide the Highlands Council with restoration and/or landscaping plans for the proposed 5,000 square foot disturbed area for the onshore equipment, in proximity to the solar arrays. These areas shall be restored upon completion of construction with native species, in compliance with other permit conditions.
- 5) Provide copies of all permit applications, and final permits to the Highlands Council.

The Highlands Council does not object to the NJDEP's issuance of an Exemption (No. 11) for this project. This determination is based upon the proposed project as described in the application

(received March 12, 2021) for a HAD under Exemption #11 prepared by Colliers Engineering and Design, submitted on behalf of the NJDWSC. Should circumstances change, we reserve the right to modify this recommendation. This determination does not eliminate the need for any permits, approvals, or certifications required by the NJDEP or any federal, State, county, or municipal review agency with jurisdiction over this project/activity.

If you have any questions or require further assistance, please contact me at (908) 879-6737, extension 101 or by email at [Lisa.Plevin@highlands.nj.gov](mailto:Lisa.Plevin@highlands.nj.gov).

Sincerely,



Lisa J. Plevin  
Executive Director

c: Patrick Ryan, NJDEP-DLR  
Michael Tropiano, NJDEP-DLR





## State of New Jersey

PHILIP D. MURPHY  
*Governor*

TAHESHA L. WAY  
*Lt. Governor*

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Permitting and Project Navigation  
401 East State Street, Mail Code 401-07J, P.O. Box 420  
Trenton, New Jersey 08625-0420  
Phone: (609) 292-3600 Fax: (609) 292-1921  
[www.nj.gov/dep/pcer](http://www.nj.gov/dep/pcer)

SHAWN M. LaTOURETTE  
*Commissioner*

May 15, 2025

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

**Subject: North Jersey District Water Supply Commission and Nexamp Solar, LLC  
Wanaque Reservoir Floating Solar  
1 F.A. Orechio Drive, Wanaque, Passaic County, NJ 08733  
Block: 106, Lot 1**

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 Wanaque Reservoir Floating Solar Project. According to Sections 6 (c) and (e) of 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 without a waiver granted by the Board. The applicant proposes to develop a floating solar farm at the Wanaque Reservoir, located in Wanaque, Passaic County.

On November 5, 2020, OPPN held a pre-application meeting for the Wanaque Reservoir Floating Solar project. Based on the meeting in 2020 more information was required to determine a permitting path forward for the project. Specifically, the project as proposed violated the Flood Hazard Area Control Act Rules and would require a hardship waiver from the NJDEP. Additionally, there would be impacts to threatened and endangered species, and to the Raymond Dam.

On September 13, 2023, the Board requested further supporting information that is necessary to evaluate a determination on the land use waiver. The request included:

1. An updated Permit Readiness Checklist, available from the NJDEP Office of Permitting and Project Navigation.
2. Documentation of the previous meeting hosted by OPPN, including recommendations and/or conclusions about the project.

On October 25, 2023, the Board requested the above information and required submission by November 1, 2023. On January 10, 2024, the prior land use waiver petition was denied by the Board. On April 1, 2025, the applicant submitted the requested information with a renewed land use waiver to the Board.

In December 2024, the applicant requested a new pre-application meeting. The NJDEP reviewed the project for its impacts on State regulated areas during a pre-application meeting held on February 27, 2025. In addition, on February 24, 2025, Nexamp submitted an updated permit readiness checklist indicating the inclusion of a 5MWdx/4MWac floating community solar system to the proposed project.

Based on the information reviewed, for the project to be authorized by the NJDEP, the following permits are required and must be applied in accordance to the following regulations; a Flood Hazard Permit with a Hardship Exemption (N.J.A.C 7:13) , a Freshwater Wetlands Individual Permit (N.J.A.C 7:7A), a Short-Term Water Use Permit-By-Rule or a Temporary Dewatering Permit for any construction-related dewatering (N.J.A.C 7:19), a NJPDES Discharge to Surface Water General Permit for any surface water discharge from construction-related dewatering (N.J.A.C 7:14A).

The applicant must observe a timing restriction for any tree clearing, in consultation with the Threatened & Endangered Species Unit. In addition, approvals must be authorized by the Bureau of Dam Safety regarding the solar array's relation to Raymond Dam and Overflow Spillway. The applicant must provide confirmation to the Bureau of Dam Safety, NJ Fish & Wildlife, and the Bureau of Water Allocation & Well Permitting, that the anchoring system will not fail, and will not disturb bald eagle nesting habitat or dam/spillway operation.

The proposed project is located within the Wanaque Reservoir Historic District is eligible for listing on the New Jersey and National Registers of Historic Places. The proposed floating solar arrays will be located approximately within the reservoir, which is a contributing resource to the historic district, and 1,500 feet west of the contributing Raymond Dam and Wolf Den Dam. The proposed marine cable landing location, equipment pad, and overhead pole connection wires are located within the boundaries of the Wanaque Reservoir Historic District. The project as proposed has the potential to adversely affect the Wanaque Reservoir Historic District, as it will introduce new solar arrays and associated infrastructure within the historic district's boundaries. If subject to formal regulatory review, an assessment of the project's effects on the Wanaque Reservoir Historic District, to be performed by an Architectural Historian who meets the Secretary of the Interior's Professional Qualifications Standards [48 FR 44738-9] in Architectural History, is required. If the effect of the project is determined to be adverse, then the applicant must provide proposed mitigation measures.

The applicant obtained a Highlands Preservation Area Exemption Determination, Highlands Applicability Determination #11, pursuant to the Highlands Water Protection and Planning Act, (N.J.S.A 13:20), the NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C 7:38) and the Highlands Regional Master Plan (RMP). The Highlands Council's conditional approval remains applicable if the applicant satisfied the specified conditions from Highland's 2021 review, and NJDEP does not determine that the project has changed substantively to require a new Highlands Applicability Determination.

The NJDEP recommends that the North Jersey District Water Supply Commission (NJDWSC) and Nexamp be granted a waiver to participate in the CSI program solicitation, provided that the applicant maintain approval from the Highlands Planning Commission, and all permit applications and approvals authorized by the NJDEP. The NJDEP determined the project meets the public interest by proposing to construct a community solar project and supporting NJDWSC's effort to provide low-cost potable water. The recommendation to grant this waiver by the Board is not indicative that NJDEP's regulations will be met by the proposed project.

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 Wanaque Reservoir Floating Solar project. Should you have any questions or need additional information, please contact Taylor Groskorth-Flynn with the Office of Permitting and Project Navigation at [Taylor.Groskorth-Flynn@dep.nj.gov](mailto:Taylor.Groskorth-Flynn@dep.nj.gov).

Sincerely,

A handwritten signature in black ink, appearing to be 'DP' followed by a horizontal line.

---

David Pepe, Director