



**State of New Jersey**  
 Highlands Water Protection and Planning Council  
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**HIGHLANDS RMP CONSISTENCY DETERMINATION REVIEW**

<b>PROJECT INFORMATION</b>		
<b>Project Name:</b> Former Fenimore Sanitary Landfill Highlands Redevelopment Area		<b>Date:</b> October 14, 2011
<b>Name of Applicant:</b> Strategic Environmental Partners, L.L.C.		
<b>Areawide WQMP:</b> N/A	<b>WMP:</b> N/A	
<b>Municipality:</b> Roxbury Township	<b>County:</b> Morris County	
<b>Exempt project?</b> No	<b>Project specific amendment?</b> No	<b>WMP review?</b> No
<b>NJDEP Activity #:</b> NJDEP Facility ID # 132518	<b>HPAA#:</b> To follow designation	
<b>Lot and Block, if applicable:</b> Block 7404 Lot 1		
<b>Sewer Service Area/WWTP Facility:</b> N/A		
<b>Sewer Service Area/WWTP Facility:</b> New <input type="checkbox"/> Existing <input type="checkbox"/> <i>If existing provide the following:</i>		
<b>Proposed Change in Service Area or Wastewater Flow?:</b> No		
<b>NJPDES #:</b>	<b>Permit Discharge (MGD):</b>	
<b>Type of Discharge:</b> GW <input type="checkbox"/> SW <input type="checkbox"/>	<b>Total Proposed Service Area (acres):</b> No change	
<b>Total Existing Service Area (acres):</b> No change		
<p><b>Description of Project:</b> Strategic Environmental Partners, L.L.C. has petitioned for Highlands Council designation of a Highlands Redevelopment Area for a brownfield site, to allow the construction of a solar energy array. The proposed project is the redevelopment of the Former Fenimore Sanitary Landfill, located in Roxbury Township. The property that contains the landfill (Block 7404 Lot 1) encompasses approximately 102 acres, of which approximately 60 acres had been utilized for landfilling activities from the early 1950s to the late 1970s. The property is bounded by the Morris Canal Park to the north and northeast, housing developments to the northwest and west, Mountain Road to the south, and Ledgewood Park to the east. The NJDEP has determined that the property contains a sanitary landfill facility as defined in the Solid Waste Management Act and therefore qualifies for a Highlands Brownfield Designation under Track One at N.J.A.C. 7:38-6.6(b)1. In accordance with N.J.A.C. 7:38-6.6(c), a Track One Highlands Brownfield consists of the limit of waste and those areas that were legally disturbed as of August 10, 2004. The NJDEP approved the Highlands Brownfield Designation on August 18, 2011, as depicted on the plan titled "Former Fenimore Sanitary Landfill, Block 7404 Lot 1, Roxbury Township, Morris County, New Jersey" Sheet No. BD-1, dated July 27, 2011, last revised August 17, 2011, and prepared by Matrix New World Engineering. The issuance of the Highlands Brownfield Designation by the NJDEP allowed the applicant to petition the Highlands Council for a Highlands Redevelopment Area Designation for the designated brownfield site.</p> <p>The proposed solar energy project will be preceded by closure of the landfill, which did not occur in 1979 when operations ceased. The closure of the landfill qualifies for Exemption #15 under the Highlands Act and is not addressed by this Consistency Determination. Following the proper closure of the landfill in various phases, the applicant proposes to redevelop the landfill (i.e., the area designated as the Highlands Brownfield, which in this case is coterminous with the proposed Highlands Redevelopment Area) by placing photovoltaic panels on top of the constructed landfill cap using non-penetrating structures to maintain cap integrity. According to the applicant, the photovoltaic system would be capable of generating 10 megawatts of electrical power and would encompass up to approximately 50 acres (almost the entire area of the Highlands Brownfield). This Highlands Council Consistency Determination review is only for the proposed redevelopment on top of the constructed landfill cap. Thus, the "initial condition" for this review is the closed and capped landfill (i.e., the area designated as the Highlands Brownfield). Note that the NJDEP's Administrative Consent Order and Landfill Closure Plan Approval (both issued on October 6, 2011) address the various phases of the landfill closure. The Highlands Council's approval of a Highlands Redevelopment Area provides the ability for NJDEP to issue a Highlands Preservation Area Approval</p>		

(HPAA), which will have to address how construction will be phased, where small areas are capped and solar panels installed as they concurrently move to the capping of other portions of the landfill.

The verification that the landfill has been properly closed and capped would occur through NJDEP Landfill Closure approval and the HPAA process. Redevelopment activities in any area so designated by the Highlands Council as a Highlands Redevelopment Area and subject to any approvals required by the municipality pursuant to MLUL may only commence upon issuance of an HPAA. Highlands resources that are to be removed by the final closure process are not considered in this Consistency Determination. However, Highlands Resources to be created through NJDEP requirements as part of the final closure process (which for this project includes a portion of a stream corridor relocation that traverses the brownfield) are considered.

**PRESERVATION AND PLANNING AREAS AND LAND USE CAPABILITY ZONES**

**Project Area located in which Highlands Act Area?** (Check all that apply):

**Preservation Area**  **If yes, percentage?** 100 % **Planning Area**  **If yes, percentage?** %

**Project Area within which Land Use Capability Zone or Sub-Zone?** (check all that apply):

Protection Zone  Conservation Zone  Existing Community Zone   
 Conservation – Environmentally Constrained Sub-Zone  Existing Community – Environmentally Constrained Sub-Zone   
 Lake Community Sub-Zone  Wildlife Management Sub-Zone

The review below is organized by Regional Master Plan Goals, Policies and Objectives for each resource and smart growth category; C stands for Consistent, I for Inconsistent, and N/A means the goal, policy, or objective is not applicable. Project specific reviews are based on the application of these Policies and Objectives to the project site, and do not require the adoption of municipal ordinances. Documents reviewed for this analysis include all appropriate documents submitted to the NJDEP, Highlands Council GIS data and technical reports, and documents related to the State Planning Commission Plan Endorsement process where applicable.

**PART 1 NATURAL RESOURCES**

**SUBPART A FOREST RESOURCES**

**Project Area within Forest Resource Area?** Yes

**If yes to above, is there Encroachment into a Forest within Forest Resource Area?** No

**Forest Integrity Value (check one):** High  Medium  Low

**Comments:** The capped landfill will not feature forested areas. Construction of the photovoltaic panels on top of the constructed landfill cap will not affect forested areas. As the remainder of the property outside of the proposed Highlands Redevelopment Area (other than disturbance required by the remedial actions) shall be protected through a conservation restriction, forest resources located outside of the Highlands Redevelopment Area shall be protected. Any impacts to forested areas for access to transmission lines and stream relocation outside of the delineated Brownfield will require mitigation to be approved by Highlands Council through the HPAA process.

**SUBPART B HIGHLANDS OPEN WATERS AND RIPARIAN AREAS**

**Project Area includes Highlands Open Waters Buffer?** Yes

**Highlands Open Waters Affected:** Streams  Lakes & Ponds  Wetlands

**Highlands Open Waters in Preservation Area:** Yes

**Watershed Value (Check one):** High  Medium  Low

**Area includes Riparian Area?** No *If No, disregard remainder of Riparian Area checklist.*

**Specific Riparian Area Features (Check all that apply):** Flood Prone Areas  Lakes & Ponds

Riparian Soils  Wetlands  Wildlife Corridor  Streams

**Riparian Integrity Value (Check one per HUC14):** High  Medium  Low  HUC14:  
 High  Medium  Low  HUC14:  
 High  Medium  Low  HUC14:

**Regional Master Plan Goals, Policies, and Objectives:**

	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 1D4:</b> Highlands Open Waters shall include a protection buffer of 300 feet from the edge of the discernable bank of the Highlands Open Waters feature, or from the centerline where no discernable bank exists. With respect to wetlands and other	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>Highlands Open Waters features (e.g., seeps, springs, etc.), the feature shall include a protection buffer of 300 feet from the delineated Letter of Interpretation (LOI) line issued by the NJDEP for wetlands, or from a field-delineated boundary for other features. In areas where existing development or land uses within the protection buffers have reduced or impaired the functional values of the buffers, the Council will seek opportunities to restore the buffer and its functions. Any proposed disturbance shall, through local development review and Highlands Project Review, comply with Highlands Open Waters buffer standards. The protection buffer width for Category 2 streams in the Planning Area may be modified through a Stream Corridor Protection/Restoration Plan, as specified in Objective 1D4i. In approved Redevelopment Areas, the Council may, at its discretion, modify the required buffer, upon a showing of no alternatives, no impact to the functional value of the buffer, and provision of alternative approaches to enhancing or protecting Highlands Open Waters and resources of the buffer area.</p>			
<p><b>Objective 1D4a:</b> Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Open Waters.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Objective 1D4b:</b> Preservation Area buffers for Highlands Open Waters shall comply with the Highlands Preservation Area rules at N.J.A.C. 7:38, which provide that all major Highlands developments are prohibited within Highlands Open Waters and its adjacent 300 foot buffer in the Preservation Area except for linear development, which may be permitted provided that there is no feasible alternative for the linear development outside Highlands Open Waters or its buffer. Structures or other land improvements existing within Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a HPAA. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses."</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Objective 1D4c:</b> Require that proposed development within all Highlands Open Waters buffers (Preservation and Planning Areas) conforms through local development review and Highlands Project Review with the buffer requirements of N.J.A.C. 7:8 (Stormwater Management Rules), N.J.A.C. 7:13 (Flood Hazard Area Rules), and N.J.A.C. 7:7 (Freshwater Wetland Rules), and with any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Objective 1D4d:</b> Structures or other land improvements existing within a Highlands Open Waters buffer of the Planning Area on August 10, 2004 may remain, provided that the area of disturbance shall not be increased unless approved through local development review or Highlands Project Review in compliance with RMP policies and objectives. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses."</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Objective 1D4e:</b> In the Protection and Conservation Zones of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses." Such proposed disturbances must demonstrate full utilization of the following performance standards in the listed order, to demonstrate the necessity of an encroachment into Highlands Open Waters buffers: 1) avoid the disturbance of Highlands Open Waters buffers; 2) minimize impacts to Highlands Open Waters buffers; and 3) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h. Minimization and mitigation opportunities shall be considered only upon a clear and convincing demonstration by the applicant that the protection buffer cannot be avoided and in no case shall the remaining buffer be reduced to less than 150 feet from the edge of Highlands Open Waters, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Objective 1D4f:</b> In the Existing Community Zone of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses." Such disturbances shall employ performance standards such that all proposed disturbances of Highlands Open Waters buffers shall employ Low Impact Development Best Management Practices to mitigate all adverse modification to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Objective 1D4i:</b> Develop through Plan Conformance and implement stream corridor or subwatershed-based Stream Corridor Protection/Restoration Plans which shall include Steps 1, 2, and 3, and may include Steps 4 and 5:  <b>1.</b> Identify areas where existing development, land disturbances, or land uses are within Highlands Open Waters buffers have removed or substantially impaired natural vegetation communities, and have significantly reduced or impaired the functional values of Highlands Open Waters buffers. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses";  <b>2.</b> Identify and require opportunities for restoration of areas identified in Step 1 as part of mitigation requirements under a Highlands Act waiver or Objectives 1D4e and 1D4f, and public or nongovernmental restoration/stabilization projects;  <b>3.</b> Identify the extent of stream corridor features that are critical to supporting the functions of a healthy Highlands Open Waters buffer and that extend beyond the buffers required by Objectives 1D4b and 1D4c. The 300 foot buffer in these areas may be expanded to be most protective of these features which may include, but are not limited to, Critical Habitat, pollutant source areas identified through scientific techniques, and steep slopes;  <b>4.</b> Where Highlands Open Waters buffers include areas identified in Step 1, regarding Category 2 surface waters in the Planning Area only, the Stream Corridor Protection/Restoration Plan may identify where, based on scientific analysis of site-specific conditions (e.g., topography, vegetation cover type, habitat, soil type, upstream land uses and pollution inputs, width of floodplain, rate and volume of run-off), a buffer of less than the full 300 feet (but including the undisturbed buffer area at a minimum) is sufficient to maintain or improve the protection of Highlands Open Waters and Riparian Areas. The plan must identify alternative buffers that provide functional buffer values at least equivalent to existing conditions and are no less than 150 feet or no less than the extent allowed in State or municipal regulation (including Objectives 1D4b and 1D4c), whichever is greater. Further, the plan shall include a functional value assessment to ensure that there is no net loss in the overall functional value of the subwatershed's</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

stream buffers. Buffers established through this process shall be determined based on site conditions rather than fixed distances, reflecting findings of the scientific analysis, and shall be used in the site design and development review process regarding determinations of restoration, continued use, or increased use of the disturbed buffer area. Buffer averaging for the purpose of accommodating development proposals is deemed not to meet the requirements of this provision; and <b>5.</b> Where a proposed Highlands Redevelopment Area would not meet, in full, Objectives 1D4b through 1D4h but affects an undisturbed buffer area determined to not be necessary for the protection of the functional values for Highlands Open Waters buffer (as determined through scientific analysis of site-specific conditions), modification of the undisturbed buffer may be allowed to no less than the extent allowed in State or municipal regulation. However the Council shall first determine that there is no alternative to the proposed reduction of the buffer, and require a showing of no impact to the functional values of the buffer and provision of alternative approaches to enhancing or protecting the Highlands Open Waters and resources of the buffer area. Restoration or enhancement of buffer functional values shall be provided on-site or within the same stream reach to achieve a net improvement of existing buffer functional values.			
<b>Objective 1D4j:</b> The Highlands Council may require on a case-by-case basis, through Highlands Project Review, an expansion of the 300 foot buffer to protect the habitat of a water or wetlands-dependant rare, threatened or endangered species, to the minimum expansion necessary to achieve protection of that species.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 1D5:</b> Protect the integrity of the Riparian Areas through the application of RMP standards during local development review and Highlands Project Review.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5a:</b> Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Riparian Areas, including those identified by the Highlands Council and by site-specific analysis.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5b:</b> Limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in any Land Use Capability Zone to the minimum alteration feasible in areas beyond Highlands Open Waters buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5c:</b> Prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by the NJDEP or the Highlands Council under Policy 7G1 or 7G2.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5d:</b> Restrict modifications to Riparian Areas in the Existing Community Zone, other than those addressed by Objective 1D5b, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5e:</b> Implement Low Impact Development Best Management Practices for any development activity proposed within a Riparian Area, which minimize both alterations of natural vegetation and increases in impervious area, in compliance with Policies 6N3 and 6N4 and provide for mitigation through restoration of impaired Riparian Areas in the same HUC14 subwatershed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 1D5f:</b> Require that development within Riparian Areas conforms through local development review and Highlands Project Review to any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Objective 1D5g:</b> Require identification and implementation of opportunities where the restoration and enhancement of previously impaired Riparian Areas are feasible and appropriate as mitigation to any allowable modification to Riparian Area requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><b>Comments:</b> There are two unnamed tributaries that traverse the property. The two tributaries converge outside and east of the landfill forming a tributary of Ledgewood Brook. Ledgewood Brook is classified by the State of New Jersey as a FW2 – Trout Production (TP) stream (Category 1). The installation of the photovoltaic panels on top of the constructed landfill cap would result in the encroachment of the 300-foot Highlands Open Waters buffers for off-site streams. However, it is recognized that the buffers in the project area are entirely disturbed (capped landfill) and that the photovoltaic project will have no effect on the buffer area subsequent to landfill final closure. However, to the extent feasible, as a condition of this approval, establishment and maintenance of a vegetated buffer between the stream reach and the project area should be required. Management of stormwater shall be addressed through the HPAА with redevelopment waiver permit process.</p> <p>A component of the remediation activities is the re-routing of the stream that exists within the southeastern portion of the parcel. The stream will be relocated to the south, but still on the parcel. To prevent bank erosion from stormwater runoff of high quantity and volume, rip-rap will be utilized to stabilize the stream bank. To minimize potential impacts from the solar array on stream water quality and habitat, a condition of this approval is the establishment and maintenance of a vegetated buffer along the edge of the rip-rap, outside of the designated Highlands Brownfield. Site-appropriate native species from a local nursery should be utilized. By providing vegetation along the rip-rap stream bank, the functional value of the stream buffer will be enhanced. Establishment and maintenance of the vegetated buffer will require Highlands Council approval and shall be addressed through the HPAА with redevelopment waiver permit process. The above conditions shall be addressed through a minimum 50-foot vegetated buffer consisting of layered woody and herbaceous species, except the buffer may be smaller where it would impede the proper closure of the landfill under NJDEP’s Administrative Consent Order and Landfill Closure Plan Approval.</p>			

<b>SUBPART C STEEP SLOPES</b>		
<b>Project Area includes: Steep Slopes &gt;20% in Any Areas (severely constrained)?</b> Yes		
<b>Steep Slopes &gt;15% in Forested Areas (severely constrained)?</b> No		
<b>Steep Slopes &gt;10% in Riparian Area in Undeveloped Lands (moderately constrained)?</b> No		
<p><b>Comments:</b> As part of remediation activities the landfill will be graded and capped. Construction of the photovoltaic panels on top of the constructed landfill cap is not expected to affect steep slopes. However, the northeastern border of the constructed landfill cap will be sloping and is adjacent to a steep ridge. As a condition of this approval, the applicant must demonstrate that the solar panels can be effectively constructed to be stable and maintained in this portion of the landfill cap, consistent with NJDEP's Administrative Consent Order and the Landfill Closure Plan or, that the placement of solar panels in this portion of the landfill will be avoided. This condition shall require Highlands Council approval and be addressed through the HPAA with redevelopment waiver permit process.</p>		
<b>SUBPART D CRITICAL HABITAT</b>		
<b>Project Area includes:</b>		
<b>Critical Wildlife Habitat?</b> No	<b>Significant Natural Area(s)?</b> No	<b>Vernal Pool(s) +1,000 ft?</b> No
<p><b>Comments:</b> The capped landfill will not feature Critical Wildlife Habitat. Construction of the photovoltaic panels on top of the constructed landfill cap will not affect Critical Wildlife Habitat. The Highlands Council GIS data indicate that some areas on the parcel outside of the designated Highlands Brownfield site are mapped as Critical Wildlife Habitat. No change is proposed to these areas. As the remainder of the property outside of the proposed Highlands Redevelopment Area shall be protected through a conservation restriction, Critical Wildlife Habitat located outside of the Highlands Redevelopment Area shall be protected. Any disturbances for access to transmission lines will require mitigation to be approved by Highlands Council through HPAA process.</p>		
<b>SUBPART E LAND PRESERVATION AND STEWARDSHIP</b>		
<b>Project Area within Conservation Priority Area?</b> Yes <b>If yes, percentage?</b> 20 %		
<b>Project Area within Special Environmental Zone?</b> No <b>If yes, identify properties (B/L):</b>		
<b>Project Area includes preserved land?</b> No <b>If yes, identify properties (B/L):</b>		
<p><b>Comments:</b> Portions of the designated Highlands Brownfield Area are mapped as Conservation Priority Area – Moderate. The property does not lie within a Special Environmental Zone and it does not include preserved land. No construction activity will occur outside the Highlands Brownfield Area. The remainder of the property outside of the proposed Highlands Redevelopment Area shall be protected through a conservation restriction. A management plan shall be developed and implemented by the applicant to protect Highlands resources within the conservation restriction lands. It shall address especially the control of invasive species, the introduction or growth of which may be encouraged through any necessary disturbance, such as disturbances for access to transmission lines.</p>		
<b>SUBPART F CARBONATE ROCK (KARST) TOPOGRAPHY</b>		
<b>Project Area within or contributing to Carbonate Rock Area?</b> No		
<b>Comments:</b> Based on review of the Highlands Council GIS data, the property is not located in a Carbonate Rock Area.		
<b>SUBPART G LAKE MANAGEMENT</b>		
<b>Project Area within Lake Management Area?</b> No <i>If No, disregard remainder of Lake Management checklist.</i>		
<b>If yes, which Tier:</b> Shoreland Protection Tier No	Water Quality Management Tier No	
Scenic Resources Tier No	Lake Watershed Tier No	
<b>Project Area within Lake Community Sub-Zone?</b> No		
<b>If yes, which Tier:</b> Shoreland Protection Tier No	Water Quality Management Tier No	
Scenic Resources Tier No	Lake Watershed Tier No	
<b>Comments:</b> The parcel does not lie within a Lake Management Area or a Lake Community Sub-Zone.		

<b>PART 2 WATER RESOURCES AND WATER UTILITIES</b>	
<b>SUBPART A WATER RESOURCES AVAILABILITY</b>	
<b>Comments:</b> The proposed project is the placement of photovoltaic panels on top of the constructed landfill cap. There would be no new water/wastewater requirements.	
<b>SUBPART B PROTECTION OF WATER RESOURCES QUANTITY</b>	
<b>Project Area includes Prime Ground Water Recharge Area?</b> No	
<b>Comments:</b> The capped landfill will not feature Prime Ground Water Recharge Areas. Construction of the photovoltaic panels on top of the constructed landfill cap will not affect any Prime Ground Water Recharge Area. The Highlands Council GIS data indicates that there is a small area of Prime Ground Water Recharge Area at the southeastern tip of the property but no change is proposed to this area. The remainder of the property outside of the proposed Highlands Redevelopment Area shall be protected through a conservation restriction.	
<b>SUBPART C WATER QUALITY</b>	
<b>Project Area within Wellhead Protection Area?</b> No	
<b>Comments:</b> The capped landfill is not within any Wellhead Protection Areas. Construction of the photovoltaic panels on top of the constructed landfill cap will not affect any Wellhead Protection Areas.	
<b>SUBPART D SUSTAINABLE DEVELOPMENT AND WATER RESOURCES</b>	
<b>WATER UTILITY</b>	
<b>Comments:</b> The proposed project is the placement of photovoltaic panels on top of the constructed landfill cap. There would be no new water/wastewater requirements.	
<b>WASTEWATER UTILITY</b>	
<b>Comments:</b> The proposed project is the placement of photovoltaic panels on top of the constructed landfill cap. There would be no new water/wastewater requirements.	
<b>SEPTIC SYSTEM YIELD</b>	
<b>Comments:</b> The proposed project is the placement of photovoltaic panels on top of the constructed landfill cap. There would be no septic system requirement.	
<b>PART 3 AGRICULTURAL RESOURCES</b>	
<b>Area within Agricultural Resource Area?</b> No If yes, percentage? %	<b>Area within Agricultural Priority Area?</b> No If yes, percentage? %
<b>Project Area includes preserved farmland?</b> No If yes, identify properties (B/L):	
<b>Affects Farm Unit &gt;250 acres?</b> No	<b>Includes Important Farmland Soils?</b> No
<b>Agricultural Uses?</b> No	
<b>Comments:</b> There are no Agricultural Resource Areas within the project area, and the Agricultural Resources policies and objectives are not applicable to the proposed project.	
<b>PART 4 HISTORIC, CULTURAL, ARCHAEOLOGICAL, AND SCENIC RESOURCES</b>	
<b>Presence of Resources:</b> No	<b>Highlands Historic District Polygons</b> Absence
<b>Highlands Historic Properties Polygons</b> Absence	<b>Highlands Historic Property Points</b> Absence
<b>Archaeological Grids</b> Absence	<b>Highlands Scenic Resource Inventory</b> Absence
<b>Comments:</b> There are no Historic, Cultural, Archaeological, and Scenic Resources within the property, and those relevant policies and objectives are not applicable to the proposed project. However, scenic viewsheds from adjacent public roads and private development may be negatively affected, and therefore a dense vegetated buffer shall be preserved or created by the applicant to protect against such scenic impairment. It is recognized that trees cannot be planted within the landfill cap (roots would compromise the integrity of the cap), and that in the area along Mountain Road, in the vicinity of Lookout Drive, that the designated Highlands Brownfield directly abuts Mountain Road (with solar panels proposed right to the edge of the brownfield). As a condition of this approval, the solar array shall be screened from the viewshed of adjacent public roads and private development through a minimum 75 feet of either	

dense vegetated cover or the construction of an earthen berm, which shall be seeded and planted with native herbaceous species. This area is included within the Highlands Redevelopment Area specifically to allow for potential construction of a berm; otherwise the visual buffer area would be excluded. Note that the Landfill Closure Plan Approval allows for the use of soil/vegetative cover, which should be used to mitigate damage to viewsheds. The applicant shall provide a screening plan for review and approval by the Highlands Council prior to any solar project work in the vicinity of Mountain Road and the intersection of Lookout Drive and Vanover Drive. The Screening Plan shall provide screening of the solar panels from all public roads and private residences in the area to the fullest extent possible.

**PART 5 TRANSPORTATION**

**Project supports local transportation/transit infrastructure?** No

**Comments:** The project does not include or require any road improvements.

**PART 6 FUTURE LAND USE**

**SUBPART A LAND USE CAPABILITY ZONES**

**Project Area within which Land Use Capability Zone or Sub-Zone?** (check all that apply):

Protection Zone  Conservation Zone  Existing Community Zone   
 Conservation – Environmentally Constrained Sub-Zone  Existing Community – Environmentally Constrained Sub-Zone   
 Lake Community Sub-Zone  Wildlife Management Sub-Zone

**Comments:** The designated Highlands Brownfield site is located in the Protection Zone (the southeastern end of the parcel outside of the designated Highlands Brownfield site is in the Existing Community Environmentally Constrained Sub-Zone.) The placement of photovoltaic panels on top of the constructed landfill cap would not adversely affect natural resources. Management of stormwater shall be addressed through the HPAA with redevelopment waiver permit process, to be consistent with Policy 2G5 and 6N2.

**SUBPART C REGIONAL GUIDANCE FOR DEVELOPMENT AND REDEVELOPMENT**

<b>Regional Master Plan Goals, Policies, and Objectives: (it is important to note the policy regarding discretionary growth - Policy 6H7 Provisions and standards relating to regional growth activities which increase the intensity of development shall be discretionary for conforming municipalities and counties):</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 6H1:</b> To protect, restore, or enhance sensitive environmental resources of the Highlands Region, including but not limited to Forests, Critical Habitat, Highlands Open Waters and their buffers, Riparian Areas, Steep Slopes, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resource Areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6H1b:</b> Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6H1d:</b> Cluster and conservation design development plans and regulations shall consider existing community character, incorporate smart growth design principles, and require Low Impact Development including but not limited to: locating development adjacent to existing infrastructure such as water, wastewater, transportation, and public facilities to limit the degree of new impervious surface, and permitting smaller residential lots in order to incorporate community open space and existing natural resources into the design.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6H3:</b> To require conforming municipalities to include site development programs, such as clustering and lot averaging, to protect natural and agriculture resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6H6:</b> To integrate public parks and green spaces into development and redevelopment projects and ensure restoration of impaired natural resources to the extent required by law, at a minimum, and where feasible to a greater extent to maximize long term value of the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6H7:</b> Provisions and standards relating to regional growth activities which increase the intensity of development shall be discretionary for conforming municipalities and counties.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6H8:</b> Regional growth, where accepted through local planning and regulations, should identify opportunities to maximize land use intensity while protecting natural features and community character.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6H8a:</b> Development and redevelopment initiatives shall encourage the use of Highlands Development Credits as a means to enhance the existing or adjacent community while protecting local and regional natural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6H8b:</b> Preparation and implementation of standards ensuring that development protects environmentally sensitive resources in all Land Use Capability Zones and Sub-Zones.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6H9:</b> To incorporate smart growth principles and green building design and technology in development and redevelopment initiatives.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments:** Management of stormwater from the project area shall be addressed through the HPAA with

redevelopment waiver permitting process. Any disturbance and construction activities should be managed to minimize impacts to the surrounding environment. By reusing and redeveloping a previously disturbed area (i.e., the landfill), economic investment and community development within the framework of smart growth is assured. Screening of the views into the site is necessary to maintain the character of the surrounding residential community, which will benefit from landfill closure. The proposed project is the placement of photovoltaic panels, which has been defined in the Municipal Land Use Law as an inherently beneficial use.

**SUBPART D REDEVELOPMENT**

**Locally Designated Redevelopment Area?** No **If yes, name of site(s):**

**Highlands Designated Redevelopment Area?** No **If yes, name of site(s):**

**Highlands Contaminated Site Inventory Tier 1 or Tier 2 Site(s)?** No **If yes, name of site(s):**

**Regional Master Plan Goals, Policies, and Objectives:**

	<u>C</u>	<u>I</u>	<u>N/A</u>
<b>Policy 6J1:</b> To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 6J2:</b> To encourage redevelopment in the Existing Community Zone in the Planning Area of brownfields, grayfields, and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6J3:</b> To encourage redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6L1:</b> To require that conforming municipalities identify any development, redevelopment, and brownfield opportunities in the local land use plan element of their master plans, as appropriate.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 6L2:</b> To require that conforming municipalities amend development regulations and zoning to enable project implementation of local redevelopment initiatives that are identified under Policy 6L1 and locally endorsed through Plan Conformance.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6L2a:</b> Municipal review of local redevelopment projects consistent with RMP smart growth and Low Impact Development policies and objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 6M1b:</b> Evaluate mechanisms for remedial activities that apply resource protection, enhancement, and restoration approaches that allow for a minimal redevelopment footprint, encourage "brownfields to greenfields" approaches, and include green energy and building concepts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments:** This proposal directly addresses the purpose of Policy 6J1 as it is the redevelopment of a brownfield site. It also directly addresses Objective 6M1b in that the landfill is being remediated and includes a green energy initiative. Management of stormwater from the project area shall be addressed through the HPAA with redevelopment waiver permitting process. Any disturbance and construction activities should be managed to minimize impacts to the surrounding environment.

**SUBPART F SMART GROWTH**

**Is the municipality involved in the State Planning Commission Plan Endorsement (PE) process?** No

**If yes, status of PE process:**

**Does the project area include a State Planning Commission designated or expired center?** No

**Comments:** Management of stormwater shall be addressed through the HPAA with redevelopment waiver permit process. Any construction activities should be managed to minimize impacts to the surrounding environment. As a condition of this approval, during the HPAA with redevelopment waiver permit process, the applicant must demonstrate that the solar panels can be constructed effectively while maintaining the integrity of the proposed stormwater management features (e.g., the proposed forebay swales) and be consistent with the Landfill Closure Plan.

**SUBPART G HOUSING AND COMMUNITY FACILITIES**

**Does the project area include an affordable housing site?** No **3<sup>rd</sup> Round Status:** NA

**Comments:** N/A – The proposed project is the placement of photovoltaic panels on top of the constructed landfill cap.



<b>PART 7 LANDOWNER EQUITY</b>			
<b>Is the project exempt from the Highlands Act?</b> No			
<b>Does the project support the use of Highlands Development Credits?</b> No			
<b>Policy 7G1:</b> For the Preservation Area, coordinate with NJDEP during Highlands permit review for any major Highlands development including the review of waivers on a case-by-case basis: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 7G2:</b> For both the Preservation Area and the Planning Area, a waiver may be issued by the Highlands Council on a case-by-case basis from the requirements of the RMP or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit specifically to conform them with the RMP: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation. Any waiver issued shall be conditioned upon a determination that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 7G3:</b> For both the Preservation Area and the Planning Area during local development review, any variance or exception issued shall be conditioned upon a written determination, specifically included in an approving resolution, that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Comments:</b> The applicant is applying to the Highlands Council for a Highlands Redevelopment Area designation in a previously developed area (landfill), and will then seek an HPAA with redevelopment waiver from NJDEP, consistent with Policies 7G1 and 7G2. Impacts on adjacent properties should be minimized through the use of a dense vegetated buffer.			
<b>PART 8 SUSTAINABLE ECONOMIC DEVELOPMENT</b>			
<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 8A1:</b> To maintain and expand the existing job and economic base by promoting appropriate, sustainable, and environmentally compatible economic development throughout the Highlands Region.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 8A2:</b> To preserve the high quality of life in the Highlands Region through economic planning of the RMP.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 8A3:</b> To identify and pursue state and federal programs that offer financial and/or technical assistance for sustainable economic development in the Highlands Region.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 8A5:</b> To advocate for appropriate public investment in the Highlands Region through the strategic location of public facilities and institutions that will spur sustainable and appropriate economic activity.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Objective 8A6a:</b> Coordinate with municipalities and counties as local and regional strategies are developed to improve the tax base and to create jobs and economic opportunities consistent with the policies and objectives of the RMP.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 8C1:</b> To promote recreation and tourism based economic initiatives, which derive economic benefit from sustainable use of the natural resources of the Highlands Region.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Comments:</b> The proposed project is the placement of photovoltaic panels, which has been defined in the Municipal Land Use Law as an inherently beneficial use.			
<b>PART 9 AIR QUALITY</b>			
<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 9A1:</b> To encourage capital facility development and redevelopment that leads to attainment of the National Ambient Air Quality Standards (NAAQS).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 9A2:</b> To support continued, consistent and thorough air quality monitoring and assessment programs as a means of evaluating and managing major air toxic point sources that affect the Region.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 9A3:</b> To encourage land use development and redevelopment practices that promote center-based growth and mixed-use development and offer alternative modes of transportation as a means to reduce automobile dependency, vehicle miles traveled, vehicle trip length, and duration, for the reduction of local and regional air pollutants and of carbon dioxide emissions linked to global warming.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 9A4:</b> To encourage and support state and federal air quality monitoring for the Highlands Region and regulatory action to reduce levels of air pollutants including but not limited to: ozone, carbon dioxide, sulfur compounds, volatile organic compounds, methane, and fine particulate matter pollutants in the Highlands Region.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Policy 9A5:</b> To encourage energy efficient design and green building practices in support of regional resource protection and smart growth planning policies.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy 9A6:</b> To support State and federal initiatives that will reduce air pollution emanating from power plants, incinerators and landfills within and affecting the Highlands Region and particularly in Warren County due to out-of-State power plant air pollution.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Comments:</b> The Highlands Council is supportive of green energy initiatives such as the proposed photovoltaic system in appropriate locations. The Regional Master Plan's Air Quality Program encourages the use of renewable energies.			

## CONCLUSION

This application is for a Highlands Redevelopment Area Designation wherein the Highlands Council designates an area for redevelopment activities with conditions and waivers as appropriate from the RMP; the second part of the process is that the applicant requests waivers from NJDEP regarding unavoidable impacts to resources affected by the proposal in order to retain economic viability.

The proposed project is consistent with the Highlands Act and Highlands Council procedures regarding designation of a Highlands Redevelopment Area in an area, or part thereof, that the NJDEP has determined qualifies for a Highlands Brownfield Designation. It is nominally inconsistent with Policy 1D4 and Objective 1D4b as it entails encroachment into a Highlands Open Water buffer. However, it is recognized that the affected buffer areas are entirely disturbed (capped landfill). As encroachment into the buffer is required for the project, a waiver of this requirement by NJDEP would be required and would be appropriate, for the reason stated above.

It is the Highlands Council staff's recommendation that the Highlands Council approve the proposed Highlands Redevelopment Area designation for the full area of the NJDEP Brownfield Designation, with the conditions that through the HPAA process except to the extent that these conditions are demonstrated to impede the proper closure of the landfill under NJDEP's Administrative Consent Order and Landfill Closure Plan Approval:

1. The application for a HPAA must address how solar panel and related construction will be phased, consistent with the Landfill Closure Plan, where certain areas are capped and solar panels installed as the applicant concurrently moves to the capping of other portions of the landfill;
2. The encroachment into a Highlands Open Waters buffer shall be entirely within a previously disturbed area, which would not result in a net impact to the functional value of the buffer (in conformance with Policy 1D4) and therefore qualifies for a waiver. However, to the extent feasible, as a condition of this approval, establishment and maintenance of a vegetated buffer between the stream reach and the project area will be required;
3. To minimize potential impacts from the solar array on stream water quality and habitat, a condition of this approval is the establishment and maintenance of a vegetated buffer along the edge of the relocated stream including any rip-rap, outside of the designated Highlands Brownfield. This condition shall be addressed through a minimum 50-foot vegetated buffer consisting of layered woody and herbaceous species, except the buffer may be smaller where it would conflict with NJDEP's Administrative Consent Order and Landfill Closure Plan Approval;
4. It must be demonstrated that solar panels can be effectively constructed and maintained (consistent with the Landfill Closure Plan) along the northeastern border of the constructed landfill cap; this area will be sloping and is adjacent to a steep ridge;
5. The remainder of the property outside of the proposed Highlands Redevelopment Area shall be protected through a conservation restriction, specifically authorizing ecological restoration and maintenance, with recognition of any existing utility structures such as storm sewers and drainage basins may periodically need maintenance or replacement. If any disturbance of the area outside of the Brownfield is required for access to the transmission grid, mitigation will be required by the Highlands Council before any such disturbance occurs;
6. The solar array shall be screened from the viewshed along Mountain Road and along all existing private development through a minimum of 75 feet of dense vegetated cover. Berms may be used to supplement the vegetated buffer, but structures such as fences shall not substitute for the vegetated buffer. It is recognized that trees and other woody species cannot be planted within the landfill cap (roots would compromise the integrity of the cap), and that in the area along Mountain Road, in the vicinity of Lookout Drive, the designated Highlands Brownfield directly abuts Mountain Road. As a condition of this approval, the applicant shall establish an earthen berm to screen the viewshed along Mountain Road (in a manner consistent with the Landfill Closure Plan) which shall be seeded and planted with native herbaceous species. The applicant shall provide a screening plan for review and approval by the Highlands Council prior to any solar work in the vicinity of Mountain Road and the intersection of Lookout Drive and Vanover Drive;
7. The stormwater regulations must be followed in the project design through the HPAA with redevelopment waiver, as part of the NJDEP permitting process. The Highlands Council expects that under the NJDEP

waiver, the applicant shall supply a stormwater management plan and a construction implementation plan that minimizes disturbance during and after construction. As a condition of this approval, the applicant shall demonstrate that the solar panels can be constructed effectively while maintaining the integrity of the proposed stormwater management features (e.g., the proposed forebay swales) and be consistent with the Landfill Closure Plan; and

8. The applicant must demonstrate that the solar panels can be installed without compromising the integrity of the landfill cap and will meet the conditions of the Landfill Closure Plan.