



NOTICE OF VIOLATION

Via Certified Mail # 7012 3460 0002 1800 2967

CENTRAL PINE BARRENS JOINT PLANNING AND POLICY COMMISSION

X

In the Matter of the Violation of Article 57 of the
New York Environmental Conservation Law

By:
PSEG Long Island

X

PLEASE TAKE NOTICE THAT YOU MAY BE IN VIOLATION of New York State Environmental Conservation Law Article 57 in that you may have conducted activities, including clearing of vegetation and non-compliance with the terms of a Commission Core Preservation Area Hardship Waiver, that may constitute violations as defined by ECL Article 57, without first having obtained the approval of the Central Pine Barrens Joint Planning and Policy Commission.

The aforementioned violations are alleged to have occurred on properties owned by Long Island Power Authority (now PSEG Long Island) identified by Suffolk County Tax Map Numbers 900-135-2-2 and 900-193-7-2 and located north and south of County Route 94 (also known as NYS Route 24 or Nugent Drive), Riverhead, Town of Southampton, County of Suffolk, State of New York.

Please take action to ensure that the above referenced activities cease immediately.

The above alleged violations may be punishable by the penalties set forth in Environmental Conservation Law §57-0136. Please contact John W. Pavacic, Executive Director of the Commission, at (631) 288-1079 immediately to commence the process to resolve this matter.

**Central Pine Barrens Joint Planning and Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978**

Dated: January 18, 2018

TO:

PSEG Long Island
175 East Old Country Road
Hicksville, NY 11801

624 Old Riverhead Road
Westhampton Beach, NY
11978

Phone (631) 288-1079
Fax (631) 288-1367
<https://pb.state.ny.us/>



Commission Meeting of January 17, 2018 Riverhead Town Hall

Present: Ms. Gallagher (for the Governor of the State of New York),
Mr. Dale (for the Suffolk County Executive),
Mr. Romaine (Brookhaven Town Supervisor),
Ms. Jens-Smith (Riverhead Town Supervisor),
Mr. Collins (for the Southampton Town Supervisor)

Adopted Resolution to Undertake Enforcement Action in Regard to Alleged Violation associated with the PSEG Long Island Riverhead Substation

Carrie Meek Gallagher
Chairwoman

Steven Bellone
Member

Laura Jens-Smith
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

WHEREAS, the Central Pine Barrens Joint Planning and Policy Commission (the "Commission") has jurisdiction over land use activities within the Central Pine Barrens as defined in the Long Island Pine Barrens Protection Act of 1993, as amended (the "Act"), and

WHEREAS, PSEG Long Island owns and manages property known as the LIPA Riverhead Substation on 40.5 acres designated as Suffolk County Tax Map Number 900-135-2-2 located north of County Route 94 (also known as NYS Route 24 or Nugent Drive), in the Town of Southampton (Substation Property), and

WHEREAS, PSEG Long Island owns and manages an overhead utility power line right of way south of the Substation Property designated as Suffolk County Tax Map Number 900-193-7-2 located south of CR 94 (Right of Way), and

WHEREAS, the Substation is located in the "Core Preservation Area" of the Central Pine Barrens area as defined in the Act and as described in Article 57 of the New York State Environmental Conservation Law ("ECL"), §57-0107(11), and, as such is under the jurisdiction of the Commission, and

WHEREAS, the Act and the Central Pine Barrens Comprehensive Land Use Plan (the "CLUP"), adopted by the Commission in 1995, prohibit certain activities, including development in the Core, unless such development activity has first received a hardship waiver from the Commission pursuant to ECL §57-0123, and

WHEREAS, on November 19, 2008, the Commission approved a Core Hardship Waiver for the expansion of the Substation (the "Substation Decision") that allowed clearing of 2.01 acres composed of 1.14 acres of woodland, 0.80 acres of meadow or successional field, and 0.08 acres of dirt paths, and

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WHEREAS, the Commission required LIPA to prepare a Mitigation Plan and to perform habitat restoration on 3.42 acres located on the Substation Property and in the Right of Way, and

WHEREAS, LIPA submitted a Mitigation Plan for restoration dated February 13, 2009 outlining planting, scheduling and monitoring report requirements. The Plan required five years of survival with 75% survival at the end of this period, and

WHEREAS, the required amount of scrub oak restoration was 1.95 acres, and

WHEREAS, LIPA completed scrub oak restoration in October 2010, and

WHEREAS, the final monitoring report submitted on January 11, 2016 reported a scrub oak survival rate of 108% since LIPA planted an excess of 1,000 seedlings over the 1,300 seedlings that were required. The report contained photos of the restoration area, confirming completion of the restoration, and

WHEREAS, in May 2017, PSEG Long Island notified the Commission that PSEG Long Island disturbed the restoration area while it was working on a separate unrelated project, and

WHEREAS, in May 2017, Commission staff met the applicant at the site and confirmed the disturbance, and

WHEREAS, on January 4, 2018, PSEG Long Island submitted a letter confirming its disturbance of the Restoration Area and proposed a remedy to restore 2.11 acres of scrub oak habitat, and

WHEREAS, PSEG Long Island's disturbance of the Restoration Area constitutes a violation of a permit condition issued by the Commission, now therefore be it

RESOLVED, based on the foregoing the Commission alleges that PSEG Long Island violated a condition of the Commission permit by disturbing the areas restored under the Mitigation Area, and be it further

RESOLVED, the Commission authorizes the issuance of a Notice of Violation to PSEG Long Island for the alleged violations, and be it further

RESOLVED, the Commission authorizes staff to negotiate a settlement with PSEG Long Island to address the violation alleged herein and to present the proposed settlement to the Commission at its February 2018 meeting.

Motion by: Mr. Romaine

Second by: Mr. Collins

Ayes: 5

Nays: 0

Abstentions: 0