



TRANSMITTAL FORM

TO: Julie Hargrave
Central Pine Barrens Commission Office
624 Old Riverhead Road (CR 31)
Westhampton Beach, NY 11978

FROM: Chic Voorhis
DATE: October 4, 2023
PROJECT: CVE US NY Southampton 243 LLC
(Solar Revitalization of
Westhampton Mine)
NPV No.: 11010
REF:

VIA:

Regular Mail **Overnight** **Messenger** **Email**

COPIES	Document	DESCRIPTION
1	Response to Pine Barrens Commission Questions 9/20/2023 Meeting	
1	Conservation Easement Management Letter Greenberg Traurig, LLP 10/4/2023	
1	Project Attributes Summary	Summarizes key project features, alignment with Town and State laws and ordinances, intent of the allowance to amend the Conservation Easement
1	Environmental Benefits Summary	Provides direct responses to questions/concerns raised by the Commissioners, and a summary of Environmental Benefits associated with the Proposed Project.
1	Detailed Site Layout, prepared by E.E. Castillo, dated 5/12/2023	Referenced within the response to Commissioners for review of electrical equipment pads, added utility poles, and underground wire runs, no substation
1	Letter of Support from GGV	
1	Community Solar & CVE Approach Flyer	Provides a description of Community Solar, and how it and CVE help LMI communities.

To Ms. Hargrave,

Please see the enclosed documentation, submitted in support of the pending Core Preservation Area/Compatible Growth Area Hardship Waiver Application, submitted September 20, 2023. Additionally, we are expecting receipt of letters of support from affordable housing and LMI community groups, which will be submitted upon receipt separately.

cc: Judy Jakobsen (CPBJPPC) (via email only)
John Milazzo (CPBJPPC) (via email only)
Steven Engelmann (CVE Group) (via email only)
Brianna Sadoski (NPV) (via email only)

CVE Response to the Pine Barrens Commission Hearing

Westhampton Mine, Solar Revitalization Project

The intent of this document is to compile input from internal teams and our outside legal, land use and environmental engineering partners regarding points and questions raised by the Pine Barrens Commission at our meeting on September 20, 2023. This document provides answers to specific questions, follow up detail on any concerns and is an opener to CVE's response package submitted to the commission. It provides accurate detail, and where appropriate, supporting information to further our case for permission to locate a Community Benefit Solar array at the Westhampton Mine Site.

CVE responses to questions and points raised during the hearing from Commissioners:

1. DEC – Inquired about use of the solar project past the 35-year timeline.
 - ✓ CVE has no plans nor intent to extend the 35-year leased timeframe
 - ✓ CVE agrees that no extension of time will be requested
2. Southampton Town – Inquired about visual impact of utility required system equipment and if there would be a need for an onsite electrical substation.
 - ✓ Detailed system layout – submitted with this response package which clearly shows this system will have very nominal visual impact.
 - ✓ All onsite cabling will be run underground to eliminate any visual impact.
 - ✓ Utility required switchgear:
 - Located 50' back from Speonk-Riverhead Rd., along the existing industrial entrance / roadway.
 - Four concrete pads – each with a length and width of 6'x6' to be installed.
 - Electrical equipment mounted to the top of the pads, not to exceed 6' in height.
 - Addition of two standard utility poles to the existing pole run, identical in height and appearance to all others along Speonk-Riverhead Rd.
 1. These 'riser poles' connect the solar output to the existing grid infrastructure.
 - No addition of overhead cables on the site, other than one section by the road where existing overhead cabling is ubiquitous, referenced in the previous bullet.
 - See Solar Array Site Plan document included.
 - ✓ There will not be a substation built for this project nor one added to this site.
 - ✓ This project will connect to an existing PSEG substation using existing infrastructure

David Gilmartin
Shareholder

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October 4, 2023

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

Re: Amendment to Conservation Easement between Westhampton Property Associates and the Central Pine Barrens Joint Planning and Policy Commission

Dear Commission:

At the September 20, 2023 meeting of the Commission, a question was raised as to whether a certain Conservation Easement (“Easement”) dated June 10, 2014 between Westhampton Property Associates and the Central Pine Barrens Joint Planning and Policy Commission allows for the present application to move forward.

In short, it is CVE’s position that the easement itself allows for its amendment and that allowance is not limited in any way within the document and therefore applies to the entire Easement.

By way of background, conservation easements – like the one at issue here – are instruments created by statute. That statute is Article 49 of the Environmental Conservation Law (“ECL”). Creation by statute is significant because it governs the existence of conservation easements as opposed to common law easements which are governed by common law. This is especially important as the ECL provides specific direction for the amendment of conservation easements.

Indeed, ECL 49-0307 provides the procedure for modifying a conservation easement. Relative to the present application, ECL 49-0307 states:

“A conservation easement held by a public body outside the Adirondack Park or Catskill Park, as defined in Section 9-0101 of this Chapter, may only be modified or extinguished: (a) As provided in the instrument creating the easement; or (b) in a proceeding pursuant to section nineteen hundred fifty-one of the real property actions and proceedings law; or (c) upon the exercise of the power of eminent domain; or (d) where land subject to conservation easement or an interest in such land is required for a major utility transmission facility which has received a certificate of environmental compatibility and public need pursuant to article seven of the public service law or is required for a major steam electric generating facility which has received a certificate of environmental compatibility and public need pursuant to article eight of the public service law, upon the filing of such certificate in a manner prescribed for recording a conveyance of real property pursuant to section two hundred and ninety-one of the real property law or any other applicable provision of law.” (NY Env Conservation Law §49-0307)

Section 2(a) applies here since the Commission is a public body according to the ECL and an amendment to a conservation easement is permitted in these instances where the amendment is consistent with the easement itself.¹

Turning then to the Easement, the two operative clauses here are Sections #5 and Section #9. Section #5 specifically allows for an amendment to the Easement (See Conservation Easement at #5) Further, Section #5 compellingly states that the parties (to the easement) “recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein”. (See Conservation Easement at #5) Since the Easement predates the economic feasibility (in New York) of the community solar solution contemplated herein, CVE submits that this application was the exact type of “circumstance” that the Easement envisioned.

¹ In *Argyle Farms and Properties, LLC. v. Watershed Agricultural Council of the New York City Watersheds*, the Appellate Division, Third Department recognized the ECL §49-0307 and the ability of parties to a conservation easement to amend the easement.

Also, Section #9 contains a prohibition against a further application for a hardship to the Commission.

It is CVE's contention that Section #5 controls in this instance since nowhere in the Easement is the right to amend the Easement restricted. In essence the argument is that Section #5 overrides the restrictions in Section #9.

Certainly, CVE recognizes that the Commission in its sole discretion could decline to amend the Easement and therefore the application. However, CVE submits that this application is consistent with the basic purpose of the Easement and is ultimately a benefit to the environment.

As more fully set forth in the Nelson Pope submission, CVE presented evidence that the location of a solar farm will allow for ecological productivity and provide the property the opportunity to further advance environmental health by providing an alternate energy source.

If the Commission should have any further requirements, it should feel free to contact us.

Sincerely,

/s/ David J. Gilmartin
David J. Gilmartin, Jr.

cc: John Milazzo, Esq.

Introducing the Solar Revitalization of the Westhampton Mine: *Unlocking the Potential of an Impacted Mining Site to Power a Sustainable Future.*

The **Solar Revitalization of the Westhampton Mine** (The Project) intends to transform a previously disturbed, long-standing sand mining site into a 5 MW Community Benefit Solar project. The project is located on Speonk-Riverhead Road in Westhampton, NY.

Integrating Renewable Energy within the intent and allowance of the Conservation Easement

The Conservation Easement makes clear the Commission's priority: the safekeeping of the Pine Barrens ecosystem and restricting further mining or industrial development, which is vastly different than this proposed renewable energy project.

- A specific clause was included in the Easement stating: "The Conservation Easement may be modified only upon the written consent of both Westhampton Property and the Commission..."
- It goes on to say, "To this end the Commission and Westhampton Property shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement which are not inconsistent with the basic purpose of this Conservation Easement..."

This clause clearly anticipates the allowance of future low impact uses of the site which aligns with the Commission's environmental and societal goals. We firmly believe our solar revitalization project will complement and coexist seamlessly with the Conservation Easement's intent.

This community benefit solar project represents the type of low-impact opportunity the easement clause intended to allow. The renewable project will provide significant benefits to the community, foster diverse habitat for native wildlife and plant species, and places minimal demands on the host Town and the County's municipal resources.

Key Project Features

- 1. Positive Repurposing of a Mining Site:** The Project promotes sustainability through a low-impact strategy.
 - Project is sited on an existing, environmentally distressed mining site. Solar's low impact will prevent disturbing the land and instead, positively repurpose it to benefit the community and the ecosystem.
 - Complies with / specifically sited to meet the host communities' solar energy code and their guidance to positively repurpose sand mining sites within the Pine Barrens for clean energy benefit to be provided to the community.
 - Southampton has placed considerable effort to support solar energy projects on sand mining sites in the Pine Barrens per their Solar Code 330-183 and 330-122 Sect. B subsection 2, dedicated to permitting projects at Sand Mines.
- 2. Promoting Biodiversity:** The Project aims to slightly amend the current Conservation Easement to allow the existing and robust vegetative plan to coexist with the solar project. A vegetation management plan developed and approved in 2017 will continue to be implemented featuring the robust planting of native species within the solar project's footprint, fostering a habitat for local pollinators, native plants and Pine Barrens wildlife species.
- 3. Centering the Needs of Long Island Residents:** The project is proposed under the Community Distributed Generation (CDG) NYSERDA Program, which provides direct financial relief to PSEG-LI customers who subscribe to the project through an established PSEG billing program. CVE will prioritize low-to-moderate income households in our subscription efforts.
 - The Project will deliver consistent, long-term, clean renewable energy benefits to the local community and the PSEG utility grid.

- Critical in the fight against climate change to reduce the use of fossil fuels in the generation of electricity and the associated greenhouse gas emissions.
- Positively impacts air quality and the health of the wider community.
- Saves significant energy costs for area residents and small businesses over its lifespan.
- Contributes substantial PILOT revenue to the host Town and Suffolk County.

4. Preserving the Rural Quality of Suffolk County: The Project is strategically located below ground level within the excavated boundaries of a resource depleted sand mine, completely hidden from public view.

- It will remain obscured even to the closest neighbors in any direction, preserving the town's character and the beauty of the Pine Barrens'
- Additionally, the positive repurposing of this environmentally impacted site as a renewable energy project, inherently avoids generating additional traffic, or use of municipal water, sewage, lighting or other town and county resources.

5. Powering a Sustainable Future:

- This solar project is an essential clean energy project for New York State to meet its mandated clean energy goals under the *Climate Leadership and Community Protection Law (CLCP)*.
- This law was established to set a course for the State to achieve its mandated goals of zero emission electricity sector by 2040 including 70% renewable energy generation by 2030.
- The solar project is projected to generate enough clean renewable energy to sustainably power over 800 Long Island homes.
- Plays a crucial role in the broader energy transition needed to safeguard the Pine Barrens from the numerous challenges posed by climate change.

Environmental and Safety Assurance: Every facet of this Project prioritizes the utmost safety for the environment, individuals, and the existing onsite vegetation. The solar modules employed on-site are entirely encapsulated and devoid of harmful chemicals. As we reach the culmination of the solar project's lifecycle, its decommissioning will be funded through a fully funded bond provided by CVE. Furthermore, the panels and associated equipment can be reused and recycled, ensuring minimal environmental impact.

Guidance from the Host Township and Utility

- Southampton has actively contemplated the future of several sand mine sites within the Town.
- Town Planning and Development Administrator, Janice Scherer, stated “sand mines are a unique opportunity because here you have a situation where we are looking for places for renewable energy, for solar arrays, where we’re not trading green for green, not clearing trees.”
- This sand mine to solar project revitalization project is in precise alignment with zoning code guidance from the host community, and CVE has meticulously sited the project within the sand mine specifically for this reason.

Another critical site characteristic is proximity to **existing PSEG electrical grid infrastructure**, a fundamental element required for project feasibility. This infrastructure advantage sets this site apart, recognizing that many other locations face daunting cost hurdles and interconnection uncertainties due to grid infrastructure upgrades, which often render projects unviable.

CVE and Our Community Solar Approach

CVE is an Independent Clean Energy Power Producer (IPP) focused on the development and operations of community benefit solar energy projects throughout the northeast. We have deep experience in the development, financing, ownership & long-term operation and maintenance of renewable solar energy assets. CVE strives to execute each project with integrity and transparency, while delivering a positive impact for the local community.

CVE has partnered with the well-respected environmental & ecological engineering firm, Nelson Pope & Voorhis and legal consultants Greenberg Traurig. They have expanded the existing vegetation management plan to ensure the project complies and is consistent with the purpose and intent of the Conservation Easement and the Pine Barrens goals.

Environmental Benefits Summary

In the spirit of environmental stewardship and sustainable land use, CVE North America (CVE NA) presents this Environmental Benefits Summary to the Central Pine Barrens Commission for your consideration. Our aim is for this document to equip you with scientifically supported information to help in your decision to support the project.

Solar Power & Forests: Working Together to Reduce Carbon

The Westhampton Mine – Solar Revitalization Project provides *both* the benefit of carbon avoidance by generating electricity from a fossil free source as well as carbon sequestration from native plants and vegetation.

Generating clean, affordable, and renewable electricity from a solar photovoltaic (PV) project avoids carbon emissions otherwise generated from fossil fuel sources.

- Recent studies reveal that energy generation from solar photovoltaic facilities have a far greater ability to offset CO₂ emissions compared to an equivalent area of untouched forest. ([Source](#))
- Another study found that one acre of solar panels with a capacity of 250,000 watts can be expected to offset more carbon emissions than 6,500 trees ([Source](#)). This proposed project is over 6,000,000 watts, the equivalent of 156,000 trees.
- The combination of the fully vegetated mine site and a solar PV system at this location provides the greatest ability to reduce carbon in our region.

Using the research data noted above and a conservative estimate of 400 trees per acre:

- Nearly 400 acres of mature forest would be needed to sequester the same amount of carbon that the Westhampton Solar Revitalization Project alone avoids in carbon otherwise emitted by fossil fuel generated power plants.
- In fact, a single acre of solar panels offsets at least 16 to 65 times more emissions than a forest of the same size.

While some solar projects sited on forested land must wrestle with the pros and cons of cutting down mature trees to make way for emissions-free energy, the Westhampton Mine Solar project is located on an existing, environmentally distressed mining site.

This allows the project to positively repurpose a brownfield site, providing:

- Clean Energy - carbon avoidance by generating electricity from a fossil free source.
- Carbon Sequestration – from revegetation
- Community savings - equity and justice benefits through reduced residential electricity costs prioritizing low- and moderate-income families.
- Ecosystem Benefits - native revegetation, additional nesting / habitat establishment, restoration of soil health for the pine barrens.

Benefits of the Revegetation Plan: Low-impact Solar

In addition to generating clean, affordable, equitable, emissions-free electricity, the Westhampton Mine Solar Project includes a robust revegetation plan. This plan is a modification of the original plan created by environmental consulting firm Nelson Pope, Voorhis for this site that was approved in 2017.

Highlights of this plan:

- Contribute to habitat restoration, increase long-term soil health, and carbon sequestration.
- Play an important role in reversing degradation processes in areas that have been subject to mining activities.
- Use native grasses and forbs whose deep root systems create the potential for improved soil stabilization and reduced water runoff.
- Establish native plants species which can also increase soil microbial activity and nutrient cycling, allowing for the soil to replenish and sequester carbon.

Community Equity and Affordability Benefits

Community solar is a New York State sponsored energy equity program that allows residents to benefit from clean, affordable energy, produced from an off-site solar installation without the need to install solar panels on their homes.

Annually, as per calculations by the EPA Greenhouse Gas Equivalencies Calculator, this project is anticipated to:

- Power 1,100 homes
- Avoid 6,640 tons of carbon dioxide emissions
- Offset the emissions of 1,340 gasoline-powered passenger vehicles





GEORGICA GREEN VENTURES, LLC

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October 4, 2023

**Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road, Westhampton Beach, NY 11978**

RE: Matter of the Application of CVE

To Whom It May Concern:

On behalf of Georgica Green Ventures, LLC (“GGV”), we wish to express our full support for the above referenced application to the Central Pine Barrens Joint Planning & Policy Commission.

GGV is a Long Island based real estate development company that specialized in the acquisition, development, construction, and management of affordable housing. Since 2012, our team has developed over 1,500 homes for New York families. GGV was founded on the principles that affordable housing has a place in all communities and that the diversity of income, race, religion, ethnicity, age, and gender makes those communities stronger and smarter.

Our team is actively developing in this region and has current and future projects located in the Town of Brookhaven, Town of Riverhead and the Town of Southampton that may benefit from the Community Energy Credits.

Thank you for your time and consideration.

Sincerely,



Allison Giosa-Ekblom
Vice President of Development
Georgica Green Ventures, LLC
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cve

• North
America
Certified



Putting people and the planet at the heart of tomorrow's energy

WHO WE ARE

1

CVE North America is a dedicated local solar power producer based in the heart of New York City. Established in 2017, we harmonize the personal touch of a small company with the robust expertise and financial stability of a large group.

OUR FOOTPRINT

2

With 9 solar projects in operation and 13 under construction, our ambitions soar high. We aim to expand to over 450 MW across the United States by 2026, leveraging the global expertise of our B-Corp certified parent company, CVE Group.

OUR COMMITMENT

3

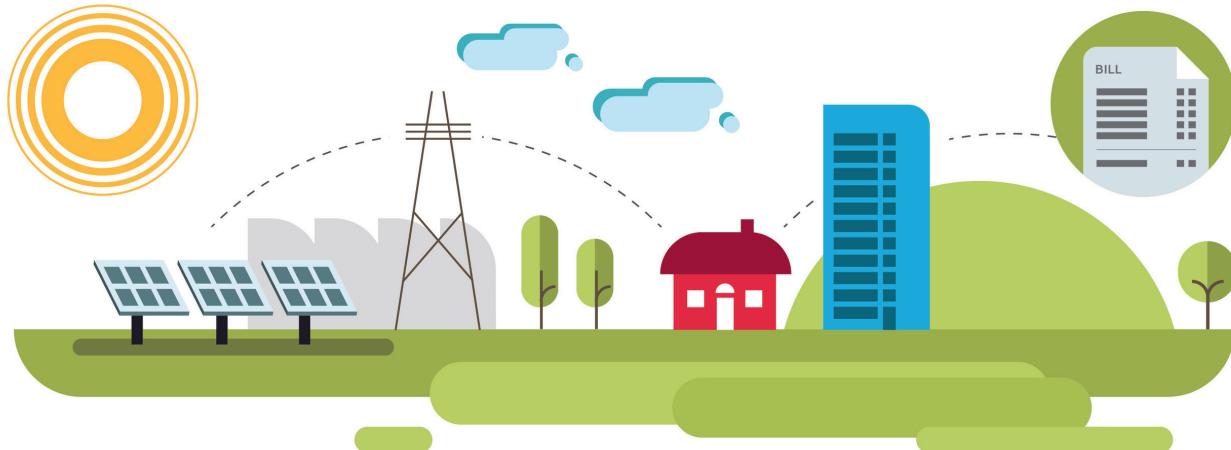
Prioritizing people and the planet, we envision leading the renewable energy frontier, fostering a cleaner and healthier world. Certified with ISO 9001 and ISO 14001, we uphold the highest standards in quality and environmental management.

CONTACT US

What is Community Solar?

A New York State sponsored energy equity program that allows residents to benefit from clean, affordable energy, produced from an off-site solar installation without the need to install solar panels on their homes

How it Works:



STEP 1

We BUILD solar installations to generate clean energy, respect the environment and provide benefit to the community.

STEP 2

WE PRODUCE CLEAN ENERGY that is distributed through local electric utilities to power nearby homes.

STEP 3

LMI COMMUNITIES receive solar credits through energy produced by the off-site solar installation.

STEP 4

YOU SAVE! Solar credits are applied to subscribers utility bills, saving residents money and enabling more renewable energy use in the community.

Westhampton Mine - Solar Community Benefit Project

Project Overview:

- Project Size: 5MW AC
- Community Benefits:
 - Community solar subscribers can expect to save 10% on monthly PSEG utility bills
 - Generates enough clean electricity to power over 1,100 homes in the community

Environmental Impact:

- This solar project will provide 8,500,000kWh* of clean energy per year, which is equal to:
 - Avoiding 6,640 tons of carbon emissions annually
 - Planting 9,960 seedling trees annually for 10 years
 - Taking 1,340 gasoline-powered vehicles off the road annually



The numbers above are estimations, made using the Environmental Protection Agency's (EPA) Greenhouse Gas Equivalencies Calculator, Assuming this solar installation produces the projected 8,500,000kWh of energy per year