

**CENTRAL PINE BARRENS JOINT PLANNING & POLICY
COMMISSION (CPBJPPC)**

**Supplemental Hardship Justification and
Environmental and Public Benefit Program Summary**

**CVE US NY Westhampton 243 LLC
(Solar Repurposing of Westhampton Mine)**

Suffolk County Tax Map Numbers: 0900-276-03-1 and 2
Hamlet of Westhampton, Town of Southampton, Suffolk County, New York

Applicant: CVE US NY Westhampton 243 LLC
109 West 27th St, 8th Floor
New York, NY 10001
(631) 445-4145

For Submission To: Central Pine Barrens Joint Planning & Policy Commission
624 Old Riverhead Road
Westhampton Beach, New York 11978
Contact: Judy Jakobsen; Executive Director
(631) 288-1079

Prepared by: Nelson, Pope & Voorhis, LLC
70 Maxess Road
Melville, New York 11747
Contact: Charles Voorhis, CEP, AICP; Principal
(631) 427-5665

NP&V #11010

March 7, 2024

TABLE OF CONTENTS

	<u>Page</u>
Coversheet	i
Table of Contents	ii
1.0 Introduction	1
2.0 Original Application Hardship Justification	2
3.0 Supplemental Hardship Justification	4
3.1 Central Pine Barrens Commission	4
3.2 Town of Southampton	6
3.3 New York	7
3.4 Long Island Solar Roadmap	8
3.5 Environmental and Public Benefit Program	8
3.6 Compelling Public Need	10
4.0 Additional Hardship Justification from Landowner	10
5.0 Conclusion	11

Tables

1. Consistency with Town of Southampton CAP	6
---	---

Appendices

A. 63 Sunrise Wind Documents	
B. Greenberg Traurig, LLP Letter Regarding Precedential Impact and Conservation Easement Amendment	
C. Key Environmental and Public Benefits	

**Supplemental Hardship Justification and
Environmental & Public Benefit Program Summary**

**CVE US NY Westhampton 243 LLC
(Solar Repurposing of Westhampton Mine)**

**Central Pine Barrens Joint Planning & Policy Commission
Core Preservation Area (CPA)/Compatible Growth Area (CGA) Hardship**

NPV No. 11010

Prepared for: Central Pine Barrens Commission (CPBC)
624 Old Riverhead Road
Westhampton Beach, NY 11978

CVE US NY Westhampton 243 LLC

Prepared by: Nelson, Pope & Voorhis, LLC
70 Maxess Road
Melville, NY 11747

Date: March 7, 2024

1.0 INTRODUCTION

CVE US NY Westhampton 243 LLC has a pending application with the Central Pine Barrens Commission (“Commission” or “CPBC”) for a CPA/CGA hardship. The Applicant submitted full application materials for a complete application and presented the case to the CPBC on September 20, 2023. Supporting materials have been submitted to the Commission during the application and hearing/post-hearing periods.

This submission specifically outlines the hardship justification, consistency with State and Town climate initiatives, and the substantial environmental and community benefits of the pending application in order to provide further support for the proposed action. This submission also includes hardship benefits directly from the landowner in order to further support the hardship.

This document includes a summary of the original hardship justification, since a number of new members are now on the Commission (**Section 2.0**). **Section 3.0** includes new supplemental information about the community energy savings and environmental benefits of the project and conformance with host Town,

regional and State climate/energy initiatives. **Section 4.0** includes additional hardship support from the landowner.

2.0 ORIGINAL APPLICATION HARDSHIP JUSTIFICATION

The initial application presented to the CPBC on September 20, 2023, outlined the key hardship justifications, summarized herein and reiterated in the bulleted list below. The subject property has been utilized as a permitted sand mine since 1981 and consists of disturbed/mined land and no natural vegetation. Mining operations on the subject property are permitted through 2044 and the permitting agency (New York State Department of Environmental Conservation/NYSDEC) allows extensions. Operations on the subject property are not visible from nearby roads or residential areas.

The proposed project consists of a community solar project, and includes 11,154 ground-mounted solar modules, situated on 25± acres of the 91±-acre mine site (part of an overall 115±-acre parcel) as part of Phase I, all of which has been previously disturbed and does not contain natural vegetation. The proposed project involves a temporary use of a previously disturbed site as the solar installation has a limited functional lifespan as will be described further herein. The solar panels will extend a maximum of 10 feet high above the ground and will not be visible from off-site due to the sunken, flat bottom valley design of the mine. Side slopes of the mine site will not be impacted by the proposed project. A proposed second phase of the project ("Phase II") would involve a duplicate of the Phase I project located on the northern section of the 91±-acre property and would be constructed based on available capacity of the infrastructure. Phase II would occupy a similar 25±-acre portion of the 91±-acre property.

Land beneath solar panels would be restored with a native restoration plan. The revegetation plan would expand upon successful restoration to date with supplemental vegetation. The proposed project is consistent with the basic purpose of the 2014 Conservation Easement and achieves the natural restoration goals of the prior approved plan. Supporting findings are outlined below:

- **The site is unique**
 - The subject property includes disturbed/mined land with no natural vegetation.
 - Mining is permitted through 2044 and was permitted by NYSDEC prior to enactment of the Pine Barrens Protection Act. Placement of the mine site into the CPA/CGA created a hardship. NYSDEC allows extension of mining permits where appropriate.
 - The location of the proposed site is in a sand pit, which is not visible and will have no aesthetic or ecological impact.
 - The proximity to utility grid infrastructure with capacity to supply renewable energy to local energy demand is extremely unique and critical to PSEG approval.
- Based on these factors, the property is uniquely ideal for solar array. There are no better alternatives for the proposed project, based on the uniqueness of this property.
- **Proposed use of the site is unique.**
 - Provides a beneficial and temporary adaptive reuse of a disturbed site. At the end of the projects' life, solar panels/equipment will be removed.

- The current community solar energy savings solution did not exist at the time of the Conservation Easement.
- No differing experience for other properties in area from current use due to the solar use and the property topography.
- The use is a passive use. There is no wastewater or water use, no population, no density impacts, no public service needs.
- There are only positive environmental impacts given the passive use and the revegetation of the site. The addition of the solar array will not detract from the open space nature of the site. Animal and plant life will have full ability to access the entire site.
- Does not apply to or affect other property in the immediate vicinity, and arises out of the unique characteristics of the subject property rather than the personal situation of the Applicant.

The proposed use is unique with no density impacts and passive use for clean energy generation.

- **Consistency with the Conservation Easement.**

- The Conservation Easement requires passive use of the site for open space, recognizing that the site is an active mine and that mining and revegetation will occur over time, after which the site will become open space.
- The revegetation of the site will continue. The revegetation plan is supplemented to ensure success with the solar installation.
- The solar array has a limited functional lifespan and will be removed after it's useful life, thereby leaving the site in a passive use, with full natural vegetative restoration.
- The Revegetation Plan will create a more compatible environment for vegetative growth given the shading offered by the panels.
- The Revegetation Plan increases the diversity of plantings beneath the panels. All species are native and will be more shade tolerant and will have a competitive edge given the shading provided by the panels. During the site visit, the shade requiring species of blueberry, huckleberry, and others have limited abundance due to the lack of shade on the property currently, which are the keystone understory plants within a Pine Barrens Community.
- This will allow the Revegetation Plan to become established more quickly within the challenging soil and full sun environment.
- After cessation of solar use and removal of the arrays, vegetation will have become established and since the plant species are Pine Barrens-compatible, will continue to flourish.

The proposed project provides all of the benefits that are outlined, and provides consistency with the Conservation Easement.

- The proposed project will provide direct energy cost relief to area residents, and will address **local renewable energy goals** (see subsequent sections including consistency analysis and public need). The public need for the proposed project is heavily substantiated by the New York and Southampton climate goals, as outlined in subsequent sections. This project will help the area communities to address the high cost of living through utility bill relief.

In summary, the proposed project represents a retained ecological benefit through the life of the beneficial solar use and beyond. Specifically, no impact to the Pine Barrens will occur, as activity would be limited to prior impact areas. The land beneath panels will be restored with a native restoration plan. After a maximum 35-year lifespan, solar panels will be removed and the site will be restored to a natural state. The proposed project achieves the natural restoration goals of the prior approved plan, and is consistent with the basic purpose of the Conservation Easement. In addition, the proposed project will deliver clean energy, and has the added benefit of energy cost relief for area residents as well as conformance with NY State and Southampton Town renewable energy goals.

3.0 SUPPLEMENTAL HARDSHIP JUSTIFICATION

The following sections offer supplemental justification for the hardship relief, based on consistency with policies and initiatives of local jurisdictions, and a summary of an environmental/public benefit program offered by the project.

3.1 Central Pine Barrens Commission

Environmental and public benefits as well as stewardship are important factors for consideration by the Commission based on the CPBC mission statement, as well as based on past precedent in arriving at favorable decisions on prior applications that involve such benefits.

Mission Statement and Work of the Commission

The CPBC mission statement identifies stewardship initiatives as a major role in the Commission's work, through cooperative partnerships. The Commission's mission statement states the following:

To manage land use within the Central Pine Barrens to protect its vital groundwater and surface water and the region's vast and significant natural, agricultural, historical, cultural and recreational resources for current and future Long Island residents.¹

Since the Commission doesn't own land, this cooperative partnership is an opportunity to ensure the Commission is able to accomplish its stewardship mission by supporting a renewable energy project directly benefiting residents. Specifically, the work of the Commission involves the following:

Preserving these natural resource services is accomplished through the Commission mission to protect, restore and enhance natural, historic, cultural, water, and scenic resources within the Pine Barrens region, while improving public access and promoting scientific research. Stewardship initiatives play a major role in the Commission's work, which is accomplished through cooperative partnerships with public landowners within the multi-jurisdictional Central Pine Barrens area. The Commission itself does not own land, and therefore these cooperative partnerships with public landowners are important to ensure the Commission is able to accomplish its stewardship mission.²

¹ <https://pb.state.ny.us/about-us/mission/>

² <https://pb.state.ny.us/our-work/land-management/stewardship/>

Contributing to energy savings is consistent with the Commission's mission statement and goals.

Precedent

There is precedent for the Commission's consideration of renewable energy projects within CPA. The 63 Sunrise Wind Approval which was approved on April 20, 2022, specifically identifies a number of important environmental and public factors that supported the approval of the Sunrise wind project. These factors include meeting the following needs:

- Public benefits
- Health need for the community
- New York State's renewable energy targets
- Project Site serves more than one municipality

Please refer to **Attachment A** which provides the full decision and information used to support the Commission approval of the Sunrise Wind project. The decision notes that the "public benefits of the proposed project are of a character that will override the importance" of the interim site disturbance. This supports the proposed Conservation Easement amendment, especially since the project still meets the goals of the original Conservation Easement and there will be no impact to Pine Barrens. In the precedent example attached, the public benefit was determined to outweigh the temporary clearing of 0.2 acres of natural vegetation, and the permanent clearing of 0.37 acres in the Core.

When comparing this precedential case with the proposed project, it is noteworthy that there is zero (0) proposed disturbance of natural vegetation associated with the proposed project and extensive restoration of environmental conditions will occur. Similar to the 63 Sunrise Wind example, the proposed project will serve local resident energy, health and safety, and environmental needs and no better feasible alternatives exist to meet the established public need.

The CVE solar project at the Westhampton Mine serves more than one municipality, including both Southampton Town and Suffolk County as well as New York State clean energy goals. The site is uniquely situated in proximity to the necessary energy grid, and the subject site is a former mine site which does not contain natural vegetation other than restored vegetation which will be enhanced as a result of the project.

This decision further supports the finding that environmental and public benefits are appropriate to weigh as part of a decision and are consistent factors to consider based on the mission statement and work of the Commission.

The precedential impact and amendment of the conservation impact is addressed in a letter prepared by Greenberg Traurig, LLP in **Attachment B**.

3.2 Town of Southampton

The Town of Southampton developed a Climate Action Plan (CAP), dated December 2023, to supplement the 2013 Southampton 400+ Sustainability Element and provide roadmap to achieve the Town's targeted carbon emissions reductions by focusing specifically on strategies to reduce greenhouse gas emissions (GHG) within the Town's borders. Town committed to meet 100 percent of the community's electricity consumption through renewable energy and achieve carbon neutrality by 2040. The CAP focuses on seven interrelated climate priorities including Buildings, Clean Energy, Low-Carbon Transportation, Sustainable Design and Land Use Planning, Materials and Waste, Carbon Sequestration and Removal, and Capacity Building. The recommendations in the CAP are expected to reduce carbon emissions in Southampton by 47 percent by 2040, in addition to the 34 percent reduction that is expected to occur from state and federal policies, such as the greening of the New York State electric grid. The additional 19 percent of emissions will need to be met through sequestration, carbon offsets, and/or emerging technologies.

Under the CAP's Clean Energy Goal, the plan identifies a key strategy of assessing public-private-partnerships to develop large-scale solar arrays that offset costs/provide community distributed energy opportunities. The CAP recommends evaluating degraded/underutilized sites for repurposing for low carbon energy protection. The proposed project would directly assist the Town in achieving the Clean Energy Goal via these two strategies. The below table provides a summary of key consistencies between the Town of Southampton CAP and the proposed project.

Table 1
Consistency Analysis with Town of Southampton CAP

Sustainability Goal Topic	Sustainability Goal	Proposed Project Benefit/Consistency
Education	Use fact-based education as a tool to advance awareness, generate civic engagement and support meaningful change; Conduct education activities that will fuel government action, and promote sustainable lifestyles on the part of residents and visitors	See "CVE Green Initiative." CVE supports local environmental issues and donates \$1 for every panel installed to a local nonprofit organization working towards tree planting, land and water conservation, protection of local wildlife and biodiversity, and education in sustainability and clean energy.
Water	Restore and protect the Town's ground and surface waters to ensure their ability to support public health and the maritime, recreational and resort activities that underpin Southampton's way of life and economy	The proposed project will not use any water or generate any sewage. There will be a negligible addition to impervious surfaces, no increase in intensity of use, and no change in water recharge.
Economics	Achieve a resilient and diversified local economy where economic benefits are shared across the community; Recognizing that the economy and environment are inextricably linked, pursue economic health through	<ul style="list-style-type: none">Community solar subscribers can expect to save 5-10% on monthly PSEG utility billsSaves significant energy costs for area residents and small businesses over its lifespan

	sustainable practices for existing economic sectors, continued development of green businesses, and increased reliance on locally produced goods and services	<ul style="list-style-type: none"> • Prioritizes low-to-moderate income households in subscription efforts • Contributes substantial PILOT revenue to the Town and Suffolk County
Waste	Achieve net zero waste production by minimizing waste production and treating waste as a resource rather than a byproduct	<ul style="list-style-type: none"> • The proposed project involves a passive energy solution that does not involve the use, storage, or generation of wastes including hazardous substances or petroleum products.
Land Use	Achieve land development and redevelopment that preserves Southampton's rural and maritime heritage, and reinforces the interdependence of traditional development patterns characterized by the interdependence of compact and walkable village and hamlet centers with surrounding open space and managed landscapes, agricultural uses, and accessible coastal areas	<ul style="list-style-type: none"> • Prioritize placement of large-scale solar to promote residential and commercial energy production • Positive repurposing of a mining site to benefit community and ecosystem • Project is sited on an existing, environmentally distressed mining site
Energy/Carbon	<ul style="list-style-type: none"> • Become carbon neutral through a combination of conservation, efficiency, and alternative energy sources. • Target generating at least 5 MW of solar power annually by 2040 • Target having at least 5,000 homes with solar photovoltaic systems, generating 70 MW of solar power annually by 2040 	<ul style="list-style-type: none"> • Residential energy consumption is responsible for the largest amount of emissions at 48% of overall CO₂ emissions for the Town of Southampton. The proposed project generates enough clean energy to power over 1,100 homes in the community. • As noted in the CAP, the most impactful climate priorities are reducing building energy and clean energy. • The solar project will provide 8,500,000kWh of clean energy per year • Preserve acreage for conservation: The project aims to slightly amend the current Conservation Easement to allow the existing and robust vegetative plan to coexist with the solar project

3.3 New York

The New York State Climate Leadership and Community Protection Act (Climate Act) was signed into law in 2019. Per the Scoping Plan developed under the direction of a 22-member Climate Action Council, dated December 2022, the goals of the Climate Act involve:

- 70% renewable energy by 2030
- 100% zero-emission electricity by 2040
- 40% reduction in statewide GHG emissions from 1990 levels by 2030
- 85% reduction in statewide GHG emissions from 1990 levels by 2050

- Net zero emissions statewide by 2050

As of December 2023, more than two gigawatts (GW) of community solar have been installed in New York – enough to power nearly 400,000 homes³. This marks progress towards achieving New York’s goal to install six GW of distributed solar by 2025.

The proposed project will directly assist in achieving the New York Climate Act goals, as it is projected to provide 8,500,000kWh of clean energy per year, which is enough clean renewable energy to sustainably power 1,100 Long Island homes and avoid 6,640 tons of carbon dioxide emissions⁴.

3.4 Long Island Solar Roadmap

The Long Island Solar Roadmap (Roadmap) was prepared in response to the New York State Climate Act of 2019 by The Nature Conservancy and Defenders of Wildlife and supported by a diverse group of Long Island stakeholders. The Roadmap identified low-impact sites for commercial and utility-scale solar arrays and shows their energy generation potential. Results of the analysis indicate that Long Island has enough low-impact sites – large rooftops, parking lots, and previously disturbed lands – for locating nearly 19,500 megawatts of solar without impacting forests, wetlands, and other ecologically important areas. That’s enough solar energy capacity to power 4.8 million New York homes per year⁵. Although not directly identified by the Roadmap plan, the subject property meets the criteria as a low-impact site, and directly achieves the vision of the Roadmap:

- Strategy 2: local governments, LIPA, and PSEG Long Island should create and implement mechanisms to support low-impact siting.
- Strategy 6: solar should be encouraged on commercial and industrial properties.
- Strategy 7: LIPA, PSEG Long Island, the business sector, and community organizations should coordinate to advance community solar, with a focus on working more closely with communities of color and low- and moderate-income communities.

Additionally, public opinion research conducted as part of the Roadmap indicated that the vast majority (92%) of Long Islanders surveyed, support mid- to large-scale energy development in their communities.

3.5 Environmental and Public Benefit Program

The proposed project results in substantial environmental and public/social benefits that will accrue substantial benefits to benefit Pine Barrens ecology, energy efficiency, NYS energy plan conformity, carbon footprint reduction, financial relief to area residents, and donations to green initiatives, all

³ <https://www.nyserda.ny.gov/Featured-Stories/New-York-Leads-on-Community-Solar>

⁴ USEPA Greenhouse Gas Equivalencies Calculator

⁵ https://f9sdb1.p3cdn1.secureserver.net/wp-content/uploads/2021/05/LongIslandSolarRoadmapReport_2020_LowRes.pdf

without having an impact on any natural vegetation due to the use of a former mine site for the solar installation. The following key environmental and public benefits are offered by the Applicant and additional details concerning a number of these program elements are included in **Attachment C**:

1. Environmental

- a. The proposed project will be strategically situated on this unique site in a manner that will not impact any natural vegetation. The entirety of the proposed project area has been disturbed.
- b. Reduction of carbon footprint in accordance with the Commission's stewardship goals. The proposed 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. The proposed project will provide the following projected emission avoidance over the 35-year project:
 - i. 189,601 metric tons of CO₂ – otherwise released through the burning of fossil fuels to generate this electricity.
 - ii. The equivalent of 6,490 acres of additional U.S. forests would be needed to offset these CO₂ emissions.
- c. Annually, as per calculations by the EPA Greenhouse Gas Equivalencies Calculator, this project is anticipated to:
 - i. Power 1,100 homes
 - ii. Avoid 6,640 tons of carbon dioxide emissions
 - iii. Offset the emissions of 1,340 gasoline-powered passenger vehicles
- d. Management of invasive species: pockets of invasives were observed on-site that could be managed of mugwort and phragmites to improve the natural habitat on the subject property, beyond the current restoration efforts.
- e. Diversity of plant communities: By providing instant shade, better shade habitat can be provided in both wet and dry zones.

2. Public/social benefits of the project include:

- a. Addresses State/government energy goals
 - i. NYS-mandated clean energy goals under the *Climate Leadership and Community Protection Law (CLCP)*
 - ii. Zero emission electricity sector by 2040
 - iii. 70% renewable energy generation by 2030
 - iv. 6 MWs of solar energy in NYS by 2025
- b. Provides direct energy cost relief to area residents through PSEG billing program within multiple towns (Southampton, Riverhead and Brookhaven)
- c. Democratizes the beneficiaries of clean energy development in a fair and equitable manner. CVE will prioritize low to moderate income households and local small businesses for bill crediting subscription. Project could provide energy credit to over 5,000 area residents. On average, customers can expect to save 5-10% on their monthly utility bills.
- d. CVE Green Initiative – Supporting Local Environmental Issues: CVE donates \$1 for every panel installed to a local nonprofit organization working towards tree planting, land and

water conservation, protection of local wildlife and biodiversity, and education in sustainability and clean energy. Of note, this project proposes the installation of 11,154 solar modules.

3.6 Compelling Public Need

The proposed project represents a compelling public need. The public need for the proposed project is heavily substantiated by the New York and Town of Southampton climate goals. Per the Town of Southampton CAP:

- Early action is critical to avoid significant cost and social and environmental burdens to the community, in addition to longer-term planning for larger scale initiatives.
- According to the 2022 Special Report by the Intergovernmental Panel on Climate Change (IPCC), the world is set to reach the 1.5°C level within the next two decades, reporting that only the most drastic cuts in carbon emissions will help prevent an environmental disaster (IPCC, 2022).
- Southampton, therefore, recognizes the need to act and embrace this opportunity to take bold steps to address climate change at the local level.

The uniqueness of the property supports the fact that there are no better alternatives in the Town or County for this opportunity.

The cost of living on Long Island is a considerable public hardship, and Long Island Power Authority (LIPA) recently announced an 11% rate increase in energy costs⁶, which would directly impact Long Island Residents. As outlined above in Section 3.5., the proposed project would provide direct cost relief to area residents and would lessen the burden of rate increases.

The proposed project constitutes an adaptive reuse of a disturbed and mined site and is consistent with the basic purpose of the current Conservation Easement. The Applicant feels that the proposed project meets the minimum requirements for hardship criteria and that the environmental benefit, which is in direct accordance with the mission statement of CPBC and goals of local jurisdictions, in addition to public benefit, make the project unique.

4.0 ADDITIONAL HARDSHIP JUSTIFICATION FROM LANDOWNER

As outlined above, the proposed project satisfies the hardship criteria, directly aides local jurisdictions in achieving goals pertaining to clean energy and climate change, and provides various environmental and public benefits.

In further support of the proposed project, the landowner offers the following:

⁶ <https://www.newsday.com/long-island/lipa-board-of-trustees-2024-budget-sts730je>

- The establishment of a Conservation Easement on the undeveloped and wooded south portion of the subject property near Old Country Road to further assist the CPBC in conservation efforts. As set forth in the current Conservation Easement, this area proposed for conservation includes the remaining 24± acres of the 115±-acre property, of which 91± acres encompasses the current mine site.
- Reducing the active soil removal activities associated with the operation of the existing permitted sand mine from 2044 to 2039 (less 5 years). Revegetation following the active soil removal activities would occur in accordance with the approved plan.

The Conservation Easement on the undeveloped and wooded part of the site to the south would provide permanent open space protection of this land and also aligns with other protected land in the area, offering contiguous preserved land. The reduction of the life of the mine will more quickly transition the disturbed site to the proposed beneficial use and associated restoration.

5.0 CONCLUSION

The CVE solar installation at Westhampton Mine is consistent with the mission statement and stewardship goals of the Commission, as well as climate initiatives in the Town of Southampton and New York State. The proposed project will not impact natural vegetation and will result in enhanced environmental conditions on the site of a former mine, thereby providing consistency with the existing Conservation Easement.

The proposed project is consistent with precedent set by the Commission in approving a wind energy project based on consideration of public benefit. The proposed project provides benefit to the Town of Southampton and Suffolk County, two governmental jurisdictions, as well as providing conformity with the New York State energy program and energy dependence goals (specifically the *Climate Leadership and Community Protection Law*.) The subject site is uniquely suited for the proposed project based on its proximity to the necessary energy grid and the fact that it is a former mine site.

Substantial environmental and public benefits resulting from the project include:

- Pine Barrens ecology
- Energy efficiency & energy plan conformity
- Carbon footprint reduction
- Financial relief to area residents,
- Benefit to Town, County State government
- Promotion of green initiatives

The Applicant respectfully requests that the initial hardship justification be fully considered, in combination with the environmental and public benefit program presented herein, as well as the additional hardship justification provided by the landowner. Substantial project-created benefits will accrue as a result of this project, and it is respectfully requested that the Commission give full consideration to the proposed project as outlined herein as part of the pending CPA/CGA hardship application on behalf of CVE US NY Westhampton 243 LLC.

ATTACHMENTS

ATTACHMENT A

63 SUNRISE WIND DOCUMENTS



Central Pine Barrens Joint Planning and Policy Commission
Meeting of April 20, 2022
Adopted Decision

Sunrise Wind LLC Core Preservation Area Compelling Public Need Hardship

Present:

Mr. Freleng, for the Suffolk County Executive
Mr. Romaine, Brookhaven Town Supervisor
Ms. Aguiar, Riverhead Town Supervisor
Mr. Shea, for the Southampton Town Supervisor

I. The Project, Project Site, and Application

Yvette Aguiar
Member

Steven Bellone
Member

Edward P. Romaine
Member

Jay H. Schneiderman
Member

Sunrise Wind LLC (the Applicant) by their representatives Derrik Berg, Eversource, and attorney John Anzalone, Harris Beach, PLLC, propose development in the Core Preservation Area to construct 0.6 mile of an underground electric onshore transmission cable (OTC) (the Project). The OTC is part of a 924 megawatt offshore wind energy installation by the Applicant.

The Project will cause 0.2 acres of temporary clearing of natural vegetation and 0.37 acres of permanent clearing in the Core. Areas where temporary clearing occurs will be replanted with native trees and other vegetation and areas of permanent clearing will not be replanted with trees and instead replanted with other native vegetation. The permanently cleared area will require access for regular maintenance.

The OTC project site is in the vicinity of Victory Avenue and Southaven County Park on the north side of Sunrise Highway, west of William Floyd Parkway in the hamlet of Yaphank in the Town of Brookhaven (the Project Site).

On January 26, 2022, the Applicant submitted a request to the Central Pine Barrens Joint Planning and Policy Commission (the Commission) for a Core Preservation Area Compelling Public Need Hardship. Prior submissions were made on June 1 and November 3, 2021. Extensions were requested by the Applicant and granted by the Commission due to the Applicant's continued coordination with and seeking authorization from Suffolk County to install infrastructure within the boundaries of Southaven County Park.

The offshore wind facility requires installation of a 17.5 mile OTC that extends from the coastline at Smith Point (outside of the Central Pine Barrens), travels under the Great South Bay via horizontal directional drill to William Floyd Parkway northward and northwestward to a connection at the LIPA Holbrook substation. Alternative routes were explored by the

624 Old Riverhead Road
Westhampton Beach, NY
11978

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

Applicant, but the Project was selected as the preferred route to minimize significant adverse environmental impacts on subjects including wetland habitats, cultural resources, residential neighborhoods, businesses and traffic.

The March 27, 2020 correspondence received from the New York Natural Heritage Program (NHP) reported a number of rare animals, plants and natural communities on the Project Site including the Federal and New York State-listed Threatened Northern Long-eared Bat. The project must adhere to clearing windows prescribed by the New York State Department of Environmental Conservation.

The September 1, 2020 correspondence from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is inconclusive. The project will adhere to the requirements of OPRHP to protect archaeological, historic and cultural resources.

II. The Long Island Pine Barrens Protection Act of 1993, the Commission, Development and the Central Pine Barrens Comprehensive Land Use Plan

The Commission was created by the Long Island Pine Barrens Protection Act (the “Act”) adopted in 1993 and codified in Article 57 of the Environmental Conservation Law (ECL). The Act empowered the Commission to, among other things, oversee land use activities within the specially designated Central Pine Barrens Area. Section §57-0107(13) of the ECL defines development to be the “performance of any building activity, . . . , the making of any material change in the use or intensity of use of any . . . land and the creation . . . of rights of access.”

ECL Section §57-0123(3)(a) provides that, “[s]ubsequent to the adoption of the land use plan, the provisions of any other law, ordinance, rule or regulation to the contrary notwithstanding, no application for development within the Central Pine Barrens area shall be approved by . . . the [C]ommission . . . unless such approval or grant conforms to the provisions of such land use plan; provided, however, that the [C]ommission by majority vote is hereby authorized to waive strict compliance with such plan or with any element or standard contained therein, for an application for development of any person, upon finding that such waiver is necessary to alleviate hardship for proposed development in the core preservation area according to the conditions and finding of extraordinary hardship . . . pursuant to subdivision ten of section 57-0121 of this title, and every application is consistent with the purposes and provisions of this article and would not result in substantial impairment of the resources of the Central Pine Barrens.”

III. The Application, Staff Report, Public Process, Testimony and Supplemental Materials

The Application included a letter and review of the compelling public need hardship criteria, maps of the Project and an Appendix titled “Revised Exhibit 4 Environmental Impact.”

On January 19, 2022, the Commission scheduled a public hearing on the Application that was held on February 16. At the hearing, a Commission Staff Report with Exhibits was introduced into the record. The Applicant, under sworn testimony, addressed concerns and comments from the Commission and in the Staff Report.

Prior to the hearing, one member of the public submitted a written letter of support. Two members of the public provided comments at the hearing. The written comment period was held open until 12 pm on March 11. No written comments were received. The hearing record was left open until the March 16 meeting when the Commission would determine 1) to close the hearing or 2) the need to continue the hearing on April 20. A stenographic transcript was made of the hearing.

On March 3, the Applicant submitted a written response to the Staff Report focusing on the review of alternative routes considered for the OTC. The Applicant explained the reasons alternative routes were rejected including the desire to minimize traffic impacts and road closures on busy transportation thoroughfares and to avoid densely developed residential neighborhoods and natural resources including wetland habitats and areas of cultural resource sensitivity. On March 16, the Commission closed the hearing.

VI. The Project Site and the Study Area

The Staff Report described the Project Site and defined a Study Area that extends half mile from the project site in all directions. The Study Area describes the land use pattern in the vicinity of the Project Site.

The Carmans River bisects the Study Area. Land uses in the Study area comprise suburban residential development and natural public open space. Starting in the southeast quadrant of the Study Area, the unincorporated hamlet of Shirley is developed with suburban residential uses. Commercial development is present in the transportation corridors of William Floyd Parkway and Montauk Highway.

Residential development occurs in the northeast quadrant, west of William Floyd Parkway and east of Carmans River. The northwest and southwest quadrants in the Study Area are largely comprised of public open space including Southaven County Park and Wertheim National Wildlife Refuge. The western portion of the Study Area contains residentially developed land uses.

The OTC will enter the Core on Victory Avenue for approximately 0.6 mile and cross the Carmans River via trenchless methods. Construction laydown areas will be used on Victory Avenue. The route travels west on Victory Avenue to a work area on the west side of the Carmans River in Southaven County Park.

Passive and active recreational use opportunities are available in Southaven County Park including hiking trails, kayaking and camping.

IV. State Environmental Quality Review Act (SEQRA) and Other Agency Jurisdictions

The Public Service Commission (PSC) is presently reviewing an Article VII application for “The Certification Review Process For Major Electric and Fuel Gas Transmission Facilities.” The State Environmental Quality Review Act (SEQRA) regulations defines a project of this type as a Type II Action as per Part 617.5(44).

Approximately 2.4 miles of the OTC is in the Compatible Growth Area (CGA). The PSC will review the CGA segment for conformance with the Central Pine Barrens Comprehensive Land Use Plan, as per Section 57-0123(3)(a) of the Environmental Conservation Law.

The Project requires permits and/or approvals from other agencies including the Town of Brookhaven, Suffolk County and New York State Department of Environmental Conservation (NYSDEC).

V. Commission Review of the Compelling Public Need Hardship Request

In accordance with ECL Article 57 Section 57-0121(10), the Applicant explained their request in reference to the criteria outlined in the Act.

In accordance with Section 57-0121(10)(a)(i), the Project does not apply to or affect other property in the Study Area. The project is unique because it is one segment in a larger project that was planned with specific starting and ending locations. Alternative routes were considered but the Applicant rejected them due to their potential to cause adverse environmental impacts on residential neighborhoods, road closures and traffic and natural and cultural resources. The alternative routes required the OTC to cross the Carmans River, via horizontal directional drill, and the Core Preservation Area at some point in the route but the preferred route causes the least amount of adverse environmental impacts to the Core. No other area exists for the Project in the Study Area. The Project is unique as distinguished from other projects.

In accordance with Section 57-021(10)(b)(i), the Project Site must occur in the proposed location in the Core and cannot be moved elsewhere in Suffolk County or out of the Core due to a variety of constraints that include the fact that the Holbrook substation is the terminating location. A new converter station will be constructed roughly one mile from the Holbrook Substation to convert direct current (DC) electricity to alternating current (AC) electricity.

The applicant’s alternatives analysis compared OTC routes. The alternative routes also intersect the Core. With fixed points beginning at landfall at Smith Point and the connection at Holbrook Substation, the preferred route is the shortest distance and causes the least impact on the resources of the Core including limited clearing requirements and

constructability constraints. Therefore, the Project cannot be accommodated elsewhere but the Project Site. No feasible alternatives are available for the Project.

The Project Site serves more than one municipality including the Town of Brookhaven and Suffolk County. The public benefits of the project are of a character that override the importance of the protection of the minimal amount of natural vegetation that will be removed for the Project. The Project achieves New York State's Climate Leadership Community Protection Act renewable energy goals. The goals include 100% zero-carbon electricity by 2040, 70 percent electricity from renewable sources by 2030 and target of 9,000 megawatts of offshore wind by 2035.

In accordance with ECL Article 57 Section 57-021(10)(b)(i), the application explained that the Project will serve an essential health need for the community. The Project moves toward New York State's renewable energy targets.

The Project is designed to minimize adverse environmental impacts. This is demonstrated by the minimal disturbance to natural vegetation, use of directional drilling and previously disturbed roadside areas to the greatest extent practicable. The Project achieves the minimum relief necessary to ensure the integrity and continued protection of the Project Site and the Core Preservation Area.

VI. Conclusion

The Project entitled Sunrise Wind Core Preservation Area Compelling Public Need Hardship application is entitled to a hardship exemption for the foregoing reasons and therefore is approved, subject to the following conditions.

1. Fencing
 - a. Install snow fencing prior to and during construction.
 - b. Maintain fencing during construction and remove as soon as work is complete.
 - c. Notify the Commission office when work is complete.
2. Revegetation within one year of completion of work in the disturbance area:
 - a. Revegetate the 0.2 acre area of temporary disturbance due to construction with a mix of native tree and shrub species.
 - b. Revegetate the 0.37 acre area of permanent disturbance with native grasses at a minimum.
3. Employ an on site environmental monitor to ensure environmental protection during construction.
4. Fulfill the requirements of the NY State Historic Preservation Office to protect archaeological, historic and cultural resources that may be present in the project site.
5. Adhere to NYSDEC tree clearing restrictions in the project site area to protect the Federal and State-listed Northern Long-eared Bat and its habitat.
6. Conform with all other local, County and State regulatory permit requirements and obtain all other permits as required.
7. This approval is valid for five (5) years from the date of this Resolution. The applicant must commence construction in that timeframe.

8. Any changes of the Project, as approved, must be reviewed and approved by the Commission.

Motion to Approve

Sunrise Wind Core Preservation Area Compelling Public Need Hardship

Date: April 20, 2022

Motion By: Mr. Shea

Seconded: Mr. Romaine

Vote:

Yes: 4 (Mr. Freleng, Mr. Romaine, Ms. Aguiar, Mr. Shea)

No: None

Abstain: None

Absent: None

Copies of This Decision Will be Sent To:

New York State Public Service Commission

New York State Department of Environmental Conservation, Division of Environmental Permits, Region 1

New York State Department of State

New York State Department of Transportation

Suffolk County Parks

Suffolk County Department of Public Works

Town of Brookhaven Supervisor

Town of Brookhaven Town Clerk

Town of Brookhaven Department of

Town of Brookhaven Building Department

Applicant

ATTACHMENT B
GREENBERG TRAURIG, LLP LETTER REGARDING
PRECEDENTIAL IMPACT AND CONSERVATION
EASEMENT AMENDMENT

David Gilmartin
Shareholder

Greenberg Traurig, LLP
2317 Montauk Hwy | Bridgehampton, NY 11932
T +1 631.994.2407 | F +1 516.706.9111
David.Gilmartin@gtlaw.com | www.gtlaw.com

March 7, 2024

Via Electronic Delivery

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

Re: Application of CVE North America to Repurpose Property of Westhampton Property Associates, Inc. to a Community Solar Benefit Site (“CVE”)
SCTM#: 900-276-3-1 and 2

Dear Honorable Members of the Commission:

We represent CVE North America in connection with the above application. We submit this letter to address two issues with the application. First, this letter discusses the possible precedential effect of the applications approval. Next, the letter addresses the question of whether the Conservation Easement can be legally amended.

I. PRECEDENTIAL EFFECT

During the public hearing process it was suggested that an approval would result in a dangerous precedent that would allow grantors in other Conservation Easements to amend those easements.

To the extent the Commission is concerned about the precedential impact of a positive decision to the CVE application we submit that the Subject Property and the Project are unique and incapable of setting precedent for future applications. The general concern from a Commission standpoint is that “a decision of an administrative agency which neither adheres to its own prior precedent nor indicates its reason for reaching a different result on essentially the

same facts is arbitrary and capricious.” *Matter of Charles A. Field Delivery Serv., Inc.*, 66 N.Y.2d 516, 516–17 (1985); *see also London Leasing Ltd. P'ship v. Div. of Hous. & Cnty. Renewal*, 153 A.D.3d 709, 711 (2d Dep’t 2017). That concern must be tempered after consideration of a couple of significant factors. First, the legal instrument under consideration in this case is a conservation easement that was given to the Commission based upon an approval by the Commission. The easement boiler plate language states in Miscellaneous Section #5 “that the Conservation Easement may be modified only upon written consent of the parties”. The power to the Commission is absolute and it has full discretion to deny any application to amend a Covenant.

If an applicant can overcome the Conservation Easement language itself, the Commission only has to provide: “*a rational explanation for reaching a different result on similar facts, the determination will not be viewed as either arbitrary or capricious.*” *Cnty. of Nassau v. Nassau Cnty. Interim Fin. Auth.*, 33 Misc. 3d 227, 254 (Nassau Cty. Sup. Ct. 2011) citing *In re Waidler*, 63 A.D.3d 953, 954 (2d Dep’t 2009). Thus, because the circumstances presented here are unique – the repurposing of a barren mining site into a community benefit solar project in furtherance of the *Climate Leadership and Community Protection Law* (the “CLCP”) – it is unlikely that the Commission will be faced with a similar factual situation and the Commission will easily be able to distinguish this application from others presented in the future. It should be noted, however, that there is no requirement that it “*unequivocally distinguish every previous decision presenting debatably similar factual circumstances.*” *Isaacs v. Fleet Fin. Servs.*, 8 A.D.3d 879, 880, 780 N.Y.S.2d 186, 188 (2004).

The Project will positively repurpose an environmentally distressed mining site while at the same time providing a much needed – and state mandated renewable energy benefit to the community. The project will further the New York State mandated clean energy goals provided

under the CLCP as it is projected to generate enough clean renewable energy to sustainably power over 800 Long Island homes. To that end, the Project plays a crucial role in the broader energy transition needed to safeguard the Pine Barrens from the numerous challenges posed by climate change. These facts alone will distinguish the Project from other potential requests in the future to modify conservation easements.

Further distinguishing the Project, the subject property currently has no natural vegetation and the applicant has submitted a Solar Array Revegetation Plan (the “Plan”) that incorporates the vegetation management plan previously approved for this site achieving the same natural restoration goals. The Plan will utilize native restoration methods consistent with Commission guidelines; will provide a habitat for pollinators, herptiles, birds and other mammals; and will establish a permanent habitat that will continue after solar decommissioning. In addition, it must be emphasized that no natural areas of the site will be disturbed by the Project. These facts, which are incredibly unique and specific to the Subject Property, can be relied upon by the Commission in the future should a similar request arise.

Last, as will be discussed further below, the within request to modify the Conservation Easement is not a matter of first impression of the Commission.

II. AMENDMENT OF THE CONSERVATION EASEMENT

In a October 18, 2023 Staff Report, the Staff recognized 2 prior instances where the Commission has modified an existing Conservation Easement. Both instances occurred on a parcel owned by the Nassau County Council Boy Scouts of America Incorporated (“Boy Scouts”) which is located on the southerly side of Port Jefferson/Riverhead Road.

The first instance involved a reconstruction of a fire damaged structure on the property and the second instance involved a modification of an existing cabin plan. Both instances included a written acknowledged modification of an existing Conservation Easement.

Although the two prior situations – like the present situation - can be distinguished on a substantive basis, it is clear that the Boy Scouts decisions provided a procedural basis on which the Commission could rely to amend the Westhampton Property Conservation Easement.

A closer review of the easements indicate that they are strikingly similar with respect to the operative paragraphs. The operative paragraphs include paragraphs 5 and 9 of both easements in the section entitled “Miscellaneous”.

A. Nassau County Council Boy Scouts of America Easement

First, in a Document dated December 18, 2008, the Boy Scouts gave a Conservation Easement to the Pine Barrens Commission in exchange for Pine Barrens Credits.

That Conservation Easement in paragraphs 5 and 9 of the Miscellaneous Section specifically provides:

5. *“This Conservation Easement can be terminated only in accordance with the law of the State of New York applicable to the termination of easements and covenants running with the land. This Conservation Easement may be modified only upon the written consent of both Grantor and Grantee, or their successors, heirs, representatives or assigns. Grantor and Grantee recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. To this end, Grantee and Grantor 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, provided, however, that the Grantee shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under ECL, Title 3, Article 49 as the same may be hereafter amended.” (See Conservation Easement Pg. 6, Section #5)*

9. *“The Grantor and Grantor's lessees, representatives, successors, heirs and assigns, shall not apply to the Commission or the Pine Barrens Credit Clearinghouse for a hardship, other permit or Pine Barrens Credits under the Plan or under ECL Article 57 pertaining to the "Schedule A" premises.” (See Conservation Easement, pg. 7, Section #9)*

Subsequent to the execution of the Conservation Easement, the Boy Scouts applied for and were granted approval to build a new dining hall which had been destroyed by a fire.

Notably, the application “proposes to amend the Conservation Easement”. (Emphasis added) (See adopted Resolution Core Preservation Area Schiff Scout Reservation (Camp Wanupex), Wading River, Town of Riverhead, SCTM# 600-75-3-10.3 (Pg. #2)(March 20, 2013 Adopted Resolution)

Later in that same Resolution, the Commission required that “within 60 days of the completion of the Project the Applicant shall submit to the Commission an amendment to the Conservation Easement for the Commission’s review and approval that incorporates by reference the new As Built Survey and explains the reason for the amendment.” (See March 20, 2023 Adopted Resolution pgs. 2 & 3) Clearly an amendment to the Conservation Easement was applied for and granted by the Commission.

Some seven years later in September of 2020, the Boy Scouts again sought permission to amend the easement. This amendment involved construction of a 1,000 square foot addition to an existing cottage. That request was granted by the Pine Barrens Commission with the condition that the Nassau County Boy Scouts “File the amended Conservation Easement with the Suffolk County Clerk after the Commission first reviewed the amended Conservation Easement and issued a written approval to the applicant which determines that the Conservation Easement is in acceptable form.” (See adopted Resolution Core Preservation Area Schiff Scout Reservation (Camp Wanupex), Wading River, Town of Riverhead, SCTM# 600-75-3-10.3) (September 16, 2020)

In both instances the Boy Scouts requested a change to the Conservation Easement where the Miscellaneous Section 9 seemingly prohibited such any application for an “other permit”. In both instances the Pine Barrens Commission ignored Section 9 and granted approval.

B. Westhampton Property Associates Easement

So it is with the Westhampton Property Associates Easement which provides as follows in Miscellaneous Section 5:

“This Conservation Easement can be terminated only in accordance with the laws of the State of New York applicable to the termination of easements and covenants running with the land. This Conservation Easement may be modified only upon the written consent of both Westhampton Property and the Commission, or their successor heirs, representatives or assigns. Westhampton Property and the Commission recognize that circumstances could arise which would justify the modification of certain of the restrictions contained herein. 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, provided, however, that the Commission shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation easement under ECL, Title 3, Article 49 as the same may be hereafter amended.” (See Conservation Easement Pg. 5, Section #5)

Additionally, Miscellaneous Section 9 provides:

“Westhampton Property and Westhampton Property’s lessees, representatives, successors, heirs and assigns, shall not apply to the Commission or the Pine Barrens Credit Clearinghouse for a hardship, other permit or Pine Barrens Credits under the Plan or under ECL Article 57 pertaining to the Property. Westhampton Property understands and intends to sever the right to develop the Property from the Property.” (See Conservation Easement Pg. 6, Section #9)

A side-by-side comparison readily shows that the language of paragraph 5 in the Miscellaneous Section of the Boy Scouts and Westhampton Property Associates Easements are exactly the same and provides an avenue to amend the easement. Paragraph 9 in the Miscellaneous Section of both documents is essentially the same. This paragraph purports to limit the ability of the grantor to make any sort of application to the Commission concerning the property. The paragraph 9 limitation is not qualified in either document.

Ultimately in the Boy Scout circumstance, the Commission had to necessarily determine that Miscellaneous Section 5 had to prevail over Miscellaneous Section 9 for the Commission to

approve the Boy Scout request. Indeed, as noted above the operative language of Paragraph 5 specifically states:

“This Conservation Easement may be modified only upon written consent of both Westhampton Property and the Commission or their heirs, successors and assigns. Westhampton Property and the Commission recognize that circumstances could arise which would justify the modification of certain restrictions contained herein.” (See Conservation Easement Pg. 5, Section #5)(Emphasis Added)

Therefore, based upon the clear language of the covenant and prior precedent it is clear that the Commission may amend the covenant procedurally and any determination to the contrary is undermined by the Nassau County Boy Scouts determinations.

Conclusion

Based on the foregoing, CVE requests that the Commission grant its approval.

Sincerely,

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

Cc: John Milazzo, Esq.
Steven Engelman

ATTACHMENT C

KEY ENVIRONMENTAL AND PUBLIC BENEFITS

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

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