

STAFFORD TOWNSHIP
APPLICATION FOR AMENDMENT TO APPROVAL OF
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
UNDER GREEN ACRES PROGRAM FOR MAJOR DIVERSION
AND FOR LIMITED RELEASE OF CONSERVATION RESTRICTIONS

LEASE OF STAFFORD TOWNSHIP LANDFILL FOR
SOLAR ENERGY FACILITIES

ON REMAND FROM THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION

I/M/O CERTIFICATE OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

GRANTING PARTIAL RELEASE OF CONSERVATION RESTRICTIONS,

DOCKET NO. A-002316-10T4

Submitted By:

Stafford Township
260 East Bay Avenue
Manahawkin, NJ 08050

December 11, 2013

I. Introduction

This submission is an application to modify (the “Amendment”) (1) the New Jersey Department of Environmental Protection’s (“NJDEP” or “Department”) approval (“Approval”) of Stafford Township’s (the “Township”) September 30, 2010 Application for Major Diversion of Parklands (“Application”), submitted under the Department’s Green Acres program, and (2) the release by the Department of certain conservation restrictions that applied to the diverted property. The diversion and release were approved by the Department to authorize Stafford Township to lease a portion of the cap of the closed Stafford Township Landfill to an affiliate of the Walters Group (“Walters”) to develop the area with renewable energy facilities, namely solar energy. This project, which is part of the Stafford Park redevelopment project for which the Walters Group is the Township’s designated redeveloper, satisfies compelling public needs for the generation and distribution of clean energy and yields significant public benefits in the delivery of essential services to the public.

The Application was approved by the Department on November 7, 2010 and by the State House Commission on November 20, 2010. The partial release of conservation restrictions was approved by the Department on December 20, 2010. An appeal was thereafter brought by three environmental groups, the Pinelands Preservation Alliance, the New Jersey Conservation Foundation, and the New Jersey Environmental Lobby (the “Appellants”) challenging the Department’s action on several grounds in the Superior Court of New Jersey, Appellate Division in I/M/O Certificate Of The Department Of Environmental Protection Granting Partial Release Of Conservation Restrictions, Docket No. A-002316-10T4. Upon motions filed by the Appellants and the State of New Jersey, the matter was remanded by the Court to NJDEP to address certain issues raised by Appellants including (1) the need for the Township to supplement its compensation proposal to add replacement land in further compensation for the loss of diverted parkland and (2) to supplement the record with regard to the impact of the diversion on threatened and endangered species.

This Amendment contains information relevant to these two issues only and therefore only certain relevant portions of the Green Acres application requirements are addressed herein. The sections below address those relevant portions as directed by the Department.

II. Project Narrative

The following section of this Amendment provides a summary of the overall Stafford Park Redevelopment project, including how the project was initially conceived by Walters and the Township, the process for project approval at the Pinelands Commission, what the environmental and economic benefits of the project are, and how the renewable energy aspects

of the project were conceived and implemented. Much if this information is contained in the original Application and is being restated in abbreviated fashion here to provide context for the Amendment, which itself is limited in scope to addressing the two issues for which the remand was ordered by the Appellate Division.

a. Background

The property which is the subject of this Amendment is part of the Stafford Park redevelopment project. Stafford Park is a 370 acre mixed use brownfield redevelopment project (“Project”) located in Stafford Township, New Jersey near the intersection of the Garden State Parkway and State Highway Route 72. The Project is located within the Regional Growth Area of the Pinelands region. Prior to 2006 the site was occupied by a 24 acre unlicensed landfill, which operated prior to the time that NJDEP licensed these facilities, and a 55 acre licensed landfill, which operated under a license issued by NJDEP to the Township. Both landfills were located on property owned by Stafford Township. Because of the lack of financial resources, neither landfill had been closed in accordance with state law or the Pinelands Comprehensive Management Plan.

Walters was named as the redeveloper for the project by the Township after an RFP process and entered into a redevelopment agreement with the Township governing its activities at the redevelopment site. Walters is currently in the process of redeveloping the site.

b. The Pinelands Commission Memorandum of Agreement

As part of the process to redevelop the Stafford Park site, Walters and the Township pursued the necessary approvals from the Pinelands Commission. After an extensive process, a Memorandum of Agreement (“MOA”) between the Pinelands Commission, the Township and Ocean County (the “County”) was executed dated June 28, 2006. The MOA requires the closure of both landfills and permits the redevelopment of Stafford Park under certain terms and conditions. The redevelopment of Stafford Park was deemed “public development” under the MOA.

In addition to the requirement that both landfills be closed in accordance with applicable state law, the MOA requires that various measures be taken to assure that the impacts of redevelopment will have as little adverse environmental impact as practicable and to offset the remaining adverse impacts with environmentally beneficial improvements and the acquisition of other land for conservation and recreation purposes. Walters, as the redeveloper, was ultimately responsible to implement these measures, which are described in detail in the Application and are incorporated by reference herein.

In connection with its efforts to reduce detrimental environmental impacts Walters began exploring the possibility of installing renewable energy facilities to power the end uses constructed as part of the redevelopment project. The idea of utilizing the cap of the landfill for renewable energy facilities began to take shape as early as late 2006. Because of the positive environmental attributes of renewable energy (e.g., no harmful air emissions associated with its generation), the use of renewable energy facilities at the project is entirely consistent with the general requirements of the MOA.

c. The Landfills

Remediation and reuse of the two landfills that were located at the site has been a central objective of Walters' and the Township's redevelopment efforts.

Unlicensed Landfill

The "unlicensed landfill" was approximately 24 acres. The unlicensed landfill was leaking various contaminants into the environment. The entire landfill was excavated and all materials beneficially reused to properly close and cap the licensed landfill. This work was accomplished under the supervision of the NJDEP and the Pinelands Commission in accordance with all applicable environmental laws.

A description of how the land formerly occupied by the unlicensed landfill has been redeveloped and transformed into a first rate retail shopping center is included in the Application. Over 400,000 square feet of retail stores, including Target, Costco, Dick's and PetSmart are successfully operating on lands once occupied by the unlicensed landfill.

Licensed Landfill

The "licensed landfill", at which the solar energy facility which is the subject of the Amendment is now being developed, is approximately 55 acres. Historical sampling showed that the licensed landfill was contaminating the groundwater below. The Township had been under the directive of both the NJDEP and the Pinelands Commission to properly close and cap the licensed landfill for over 20 years. Walters prepared, submitted and obtained NJDEP approval of a closure plan on the Township's behalf and in accordance with the landfill closure approval, Walters completed the closure and capping of the licensed landfill in June 2009. As part of the landfill closure, Ocean County ("County") relocated the County compost facility to the cap of the landfill to reuse this portion of the landfill cap. Walters is now in the fifth year of implementing post-closure care responsibilities at the licensed landfill.

The cost to close and cap the licensed landfill was borne entirely by Walters and at no cost to any taxpayer and Walters is continuing to bear the post-closure monitoring and maintenance costs for the closed licensed landfill. All of the enormous financial benefits that accrued to the Township, the County and their taxpayers are detailed in the Application and are incorporated by reference here.

d. Other Unique Environmental Attributes

Walters has employed unique sustainable building practices in the redevelopment of Stafford Park. The Township and Walters believe that what has been achieved at Stafford Park has not been duplicated anywhere else in this state or perhaps across the nation. These features, more specifically described in the Application, include but are not limited to:

- Every building at Stafford Park has surpassed the requirement to achieve basic Leadership in Energy and Environmental Design (“LEED”) certification.
- The stormwater system for the project retains all water on site for infiltration. Largely through the use of a series of bio-retention basins 96% of total suspended solids are removed before the water is infiltrated. This is believed to be the highest standard achieved in New Jersey.
- The entire Project is irrigated with recaptured rainwater.
- A series of bio-retention basins was installed at Route 72 that capture over 50% of the untreated stormwater from that highway before it can discharge into open waters.
- The wetlands system adjacent to Route 72 is being recharged by clean rainwater from rooftops rather than the uncontrolled polluted water that was previously being discharged to the wetlands system from the roadway.
- Walters is now completing an unprecedented seven year Species Management Program that was designed and implemented under the supervision of the NJDEP and the Pinelands Commission. This program includes the construction, maintenance and management of habitat for the northern pine snake.

e. Permanent Restriction of Other Lands

Under the MOA, the Township has committed to the preservation of extensive lands in the vicinity of the Stafford Park.

- In connection with the redevelopment of Stafford Park, the Township and County purchased 1070 acres of land and permanently preserved it. Under the MOA, the Pinelands Commission had required that only 645 acres be permanently restricted from development as an offset to disturbance of critical habitat in connection with the landfill closures.
- Walters will acquire 170 quarter pinelands development credits. Under the transfer of development rights program this will result in the permanent preservation of well over 1,000 acres of additional land.

In addition to the above, under a settlement with the Pinelands Preservation Alliance, one of the Appellants, and other environmental advocates, the Township, through Walters, agreed to pay to fund the purchase of additional lands to be preserved. Those funds have been utilized to purchase land to offset the “loss of critical habitat” at Stafford Park. The Settlement Agreement specifically acknowledges that the habitat on the landfill has been “destroyed”.

Finally, Walters and the Township also agreed to deed restrict the 55 acres of the landfill cap to be preserved as conservation space. This was the area for which the Township was subsequently granted approval to modify the deed restriction to allow for the limited placement of solar energy panels for the development of renewable energy by the NJDEP and the State House Commission as described in Section I of this Amendment. This approval was granted based on the compensation provided in the original Application which included payments made under a lease between Walters and the Township to be applied to fund Township open space and conservation activities but did not include replacement lands as compensation for the limited release of the deed restriction, which NJDEP at that time determined was not required.

As will be discussed further below, the approval to modify the deed restriction was considered a diversion of “parkland” under the NJDEP’s Green Acres program for which the NJDEP has now determined that the Township must provide compensation in the form of replacement lands that is newly restricted for conservation purposes on at least a 1 to 1 basis (i.e., one acre of replacement land for each acre to be diverted by the partial release of the deed restriction on the cap of the landfill). The Township proposes to deed restrict 40.84 acres of land identified on the municipal tax map as lots 21.02 and 26, block 54 to compensate for a modified release of the landfill cap deed restriction of 33.854 acres. A more specific description of the lands being offered by the Township is contained in Section III of this Amendment.

f. Economic Benefits

Before the redevelopment of Stafford Park began the site produced nearly zero tax ratables for the Township. In 2012 the partially completed retail project alone generated approximately \$800,000.00 in local purpose funds. The cost of providing services was only a fraction of that, resulting in a very substantial economic gain to the Township and its taxpayers. The economic gain to the Township has been significant and has helped to offset the extreme losses incurred due to Super Storm Sandy.

The state is also receiving sales tax revenue from the stores that would not exist but for the landfill closures and redevelopment of Stafford Park. The over 400,000 square feet of retail development at Stafford Park has also generated numerous job opportunities for Township and other New Jersey residents.

Walters constructed 112 affordable apartments at Stafford Park. The Township received a “fair share” credit for 224 units due to the rental bonus and at no cost to its taxpayers.

Other economic benefits to the Township and region resulting from the development of Stafford Park are identified in the Application.

g. Renewable Energy and This Amendment

For many reasons, including the requirements in the MOA applicable to Stafford Park, since the beginning of the project, Walters has carefully evaluated its building practices in order to achieve the sustainable building objectives for the Project, including the extensive use of renewable energy. Walters began to develop renewable energy for the Project by constructing solar arrays on the rooftops of its retail facilities. Walters also installed a rooftop solar system on the affordable apartments. These solar arrays are currently operational. They provide approximately 30% of the energy for the retail stores they serve and nearly 100% of the common area power for the affordable housing residents.

In addition, very early in the process Walters, with the Township’s help and support, began exploring the possibility of installing wind and solar facilities at Stafford Park. Beginning no later than early 2007 Walters began discussing the utilization of the landfill cap for solar panels and the surrounding area for wind turbines. The Township’s mayor (under a previous administration) attended a series of meetings with NJDEP, BPU and other agencies to explore this possibility, including utilizing the licensed landfill lot for this purpose. Walters and the Township were encouraged by all agencies to pursue this opportunity.

In order to pursue the landfill solar project, the Township applied for and NJDEP and the State House Commission approved in December of 2010, the development of up to 6.5 megawatts (“MW”) of solar energy on up to 40.8 acres of the licensed landfill lot on the cap of the landfill and the limited release of the deed restrictions that had been imposed on the landfill lot under the Pinelands Commission MOA, to enable the solar energy project to proceed.

Under this authority, Walters, as the redeveloper, constructed just under .80 MW of solar panels on approximately 4 acres of the landfill lot. All of that energy is being utilized by the County and the Township under Power Purchase Agreements signed with affiliates of the redeveloper. The energy is being sold to the Township and County at below market rates, thereby providing an additional economic benefit to the County and Township.

In the face of the Appellants’ court challenge to the NJDEP and State House Commission’s actions in authorizing the solar energy project on the landfill cap and the court’s remand of their decisions, the Township and Walters now seek to preserve the right to install the approximately 5.7 MW of the solar project remaining to be built on the landfill. The Township and Walters propose to utilize only 33.854 acres. (See Exhibit A) as compared to the diversion of 40.8 acres on the landfill lot approved by the State House Commission and NJDEP under the original Application. And, pursuant to the direction of the NJDEP Walters and the Township have agreed to deed restrict over 40 acres of land as compensation for the 33.854 acres of landfill “parkland” that is being diverted by the solar energy project as modified under the Amendment.

Walters has invested many millions dollars in the Project and remains confident that at some point in the future conditions will be right for the completion of the solar facilities on the capped landfill. The market conditions affecting the project today and the rationale for preserving the right to resume the project are more specifically described in Section III.c.i of this Amendment.

h. Conclusion

The environmental, economic and other public benefits derived from the redevelopment of Stafford Park are obvious and undeniable. The Township, through its redeveloper Walters, has closed 2 landfills and utilized the most environmentally innovative available measures to redevelop Stafford Park. An essential element of that program is the construction of renewable energy facilities on the licensed landfill. Despite current market conditions it is the policy of this state to encourage the development of renewable energy facilities, especially on closed landfills. The Township is asking the state to support that policy and to approve this Amendment.

III. Revised Compensation Proposal

a. General

As part of the Amendment, Stafford Township is proposing dedication of replacement land for use as parkland. In addition, to the extent that Stafford receives monetary compensation under the terms of its revised lease with Walters as described below, such compensation will be used by the Township for its operating, maintenance or capital expenses related to its funded parkland or its recreation program as a whole. Stafford's compensation proposal is described in further detail below.

b. Replacement Land

i. General description of replacement land

The Township is proposing to deed restrict as replacement land two parcels owned in fee by the Township and identified on the official tax map of Stafford Township as follows:

Block 54, lots 21.02 = 36.16± acres

Block 54, lot 26. = 4.69± acres

Total acreage = 40.85± acres

This compares to the acreage that is being diverted (as revised by this Amendment) of 33.854 acres.

The replacement parcels are vacant, wooded undeveloped land. Portions of both replacement land parcels are wetlands. The parcels are not contiguous but are nearby each other, located east of the Garden State Parkway and to the west of Southern Regional High School. There is no access by public roadway, however, both lots are accessible via the local trail system.

Lot 21.02 is zoned Special District Zone W (National Wildlife Refuge) and Lot 26 is zoned School Zone – RGL-SCH. Maps showing the location of the parcels are attached in Exhibits B1 and B2.

Because the replacement land is being provided to compensate for a diversion in the form of a lease, the replacement land is not subject to any minimum acreage requirements under the Green Acres Regulations other than the requirement that no replacement land shall be less than the acreage to be diverted. See N.J.A.C. 7:36-26.10(d)3. The proposed replacement land (40.85 acres) exceeds the acreage being diverted by the lease (33.85 acres) by 7 acres and is approximately 1.2 times the size of the diverted land.

ii. Eligibility of Replacement Land

The replacement land, which as noted above is owned in fee by the Township, meets the Green Acres eligibility criteria set forth at N.J.A.C. 7:36-26.10(d)2.ii and (iii) as follows:

1. The land is not already encumbered by Green Acres restrictions as funded or unfunded parkland.
2. The land does not qualify as parkland under one or more of the factors at N.J.A.C. 7:36-25-3(f).
3. The land was not purchased or developed by Stafford Township for recreation and conservation purposes between its most recent time of receipt of Green Acres funding and the approval by the Commissioner of the NJDEP and the State House Commission of an application for proposed disposal or diversion.
4. The land was not purchased in whole or in part with funds from a dedicated county or municipal open space tax or with bonds dedicated to open space.
5. The land is not encumbered by a conservation restriction or other partial deed restriction.
6. The land is not held by or managed by a homeowner's association.
7. The land is not held by a local government as result of or as a condition of subdivision approval.
8. The land is not leased to or otherwise controlled by a local government unit in connection with a Green Acres development project.

iii. Other Qualifying Criteria

In addition, the proposed replacement land meets the other qualifying criteria of N.J.A.C. 7:36-26.10(d)5 – 10:

1. Greater Market Value: According to the Market Value Appraisals for the replacement land and the diverted land prepared by Richard E. Hall, MAI, CRE, Hall Realty Consultants, LLC the diverted land has a market value of \$27,000 and the replacement land has a market value of \$114,377, which is 4.2 times the appraised market value of the diverted land and therefore meets the requirement to exceed the market value of the diverted land by a substantial amount. Of course, the valuation of the diverted land does not consider the ongoing monitoring

and maintenance costs associated with landfill post closure activities that are currently being performed and paid for by Walters.

2. Superior Quality: The replacement land is of reasonably equivalent or superior quality to the diverted land including location, accessibility, usefulness for recreation purposes, and value for ecological, natural resource and conservation purposes. The diverted land is the cap of a solid waste landfill which was closed by Walters as part of the redevelopment of the Stafford Park project and is shared with the Ocean County Compost Facility. Consequently, public access to diverted land is fully restricted and inaccessible for recreational use and it does not satisfy ecological or conservation use not already provided by the adjacent 11,500 acre Stafford Forge Preserve Wildlife Management Area. In contrast, the replacement land is accessible and its forested and wetland resources provide valuable ecological and conservation resources.

3. Same Municipality: Both the diverted land and the replacement land are located in the same municipality, namely Stafford Township.

4. No Streets: The replacement land does not consist of land on which streets are shown on a subdivision plan as either offered for dedication or dedicated but not constructed.

5. Preliminary Assessment: A Preliminary Assessment Report (“PAR”) was prepared for the replacement land under the oversight of a Licensed Site Remediation Professional pursuant to the Department’s Technical Requirements for Site Remediation N.J.A.C. 7:26E. The PAR did not identify any areas of concern which required any further investigation or remediation, with the exception of some miscellaneous debris and trash, the removal of which the Township intends to arrange in the near future. See Exhibit C.

c. Modified Lease Proposal

i. Background - Solar Market Conditions

Market and regulatory conditions for solar energy have changed substantially since the initial lease was entered into between the Township and Walters for the solar project at the Licensed Landfill in January 2011. The solar project envisioned by the original lease is not economically viable today. In late 2011 the market for solar renewable energy credits (“SRECs”) tumbled from just under \$700 on the spot market to an eventual low of approximately \$60. SRECs were legislatively created incentives to promote the development of renewable energy projects like this one through the sale of SRECs assigned to solar energy project developers. Due to recent legislative changes the SREC market has recovered to some extent but not sufficiently to support the construction of the balance of this solar project at this time.

The losses being incurred on the existing Stafford Park rooftop and landfill solar systems underscore and reaffirm the weakness in the solar market. To break even on the installed system SREC prices would have to rise and stabilize at \$292, something even the most ardent optimist would not predict under current conditions. In the meantime, before SREC sales, the existing solar projects are, and have been, operating at an annual negative cash flow of \$618,368.48. Overall, Walters has expended approximately \$4.35 million on the landfill solar project and has incurred pursuit costs of over \$500,000.00, costs which continue to rise throughout this process. Through no fault of its own the Township and Walters now face having to pursue this Amendment for a project they believed was approved and in reliance on which approval they have spent millions of dollars.

Finally, at Walters' expense, PJM, the regional transmission organization that coordinates the movement of wholesale electricity in a group of thirteen states, including New Jersey, recently performed a study to identify the infrastructure that would be required to support an additional 5.7 MW (from completing of the landfill solar system) onto PJM's distribution system. It was preliminarily determined that a substation at a cost of over \$4.5 million would be required.

Even though the additional 5.7 MW of solar capacity approved for this project is not viable today there are many reasons to believe such a project will be viable in the future. Technology continues to advance. Costs for solar components continue to decline. The law now requires that BPU provide an incentive for solar projects on closed landfills but the exact form the incentive will take has yet to be determined by BPU. The alternative, to abandon the existing project and any hope of a solar facility on this closed and capped landfill in the future, is not an acceptable option for the Township or Walters. Despite the setbacks in the solar market, renewable energy remains a cornerstone of both state and federal energy and greenhouse gas reduction policy, and the use of otherwise unusable landfills as sites for these projects is encouraged at both levels of government and is also consistent with Township policy. The Township, through this Amendment seeks to preserve the right to complete the project and to operate that portion of the project that is already completed.

ii. Modified Lease Terms

To achieve these goals consistent with the above, the Township proposes to amend the existing lease agreement between the Township and Stafford Solar 3 LLC (an affiliate of Walters) dated January 24, 2011. Due to the collapse of the solar market and the uncertainty associated with future solar projects the parties agree that it would be most equitable to base lease payments directly upon net cash flow. Under an amended lease the tenant will pay 10% of cumulative net cash flow earned for any portion of the solar project. The Township will continue to have no financial risk associated with any solar project.

In addition the tenant will conditionally transfer, set over and assign all of its rights in and to (i) all existing solar panels and associated equipment (subject to the lien of the tenant's lender); (ii) all permits and approvals related to the landfill solar project; and, (iii) all engineering, plans and other work product of any nature associated with the landfill solar project. In the event that tenant defaults on the lease the Township will have the right, but not the obligation, to accept the assignment. In such event the Township will have the right to all revenue from the then completed solar project and the right to complete the balance of the landfill solar project, either on its own or through another solar contractor selected by the Township. Except as noted above the lease will remain in full force and effect.

Finally, the tenant will pay the Township the appraised value for the land to be restricted, \$114,377.00. The Township acquired that land at no cost through a land swap with the local school district.

IV. Intended Recreational and Conservation Use of Replacement Land

This land will be strictly for conservation purposes. These sites and surrounding areas include Category One waters, State listed threatened and endangered species and natural heritage sites. It is critical that these resources be protected.

V. Appraisals for Diverted Land and Replacement Land

As noted in Section III.b.iii above, Market Value Appraisals in accordance with Green Acres program requirements were prepared for both the diverted land and the replacement land were prepared by Richard E. Hall, MAI, CRE, Hall Realty Consultants, LLC. These appraisals are attached to this Amendment as Exhibits D1 and D2.

VI. Title Report for Replacement Land

Title reports for both parcels of replacement land were obtained from Surety Title Company, LLC and are attached to this Amendment as Exhibits E1 and E2.

VII. Land Survey Plan for Replacement Land/Mctes and Bounds

Survey plans for the replacement land parcels are attached to this Amendment as Exhibits F1 and F2.

VIII. Environmental Assessment for Replacement Land

Fourmile Branch brook is located directly west of Block 54, Lot 21.02 and runs through Block 54, Lot 26. Only a small portion of this waterway within Block 54, Lot 26 is designated as

a Category One Water. Land directly surrounding the Fourmile Branch corridor has been designated as wetlands.

Soils within the area include Manahawkin muck which is a very poorly drained characteristic of swampy areas and bogs and Downer loamy sand which is a well drained soil. Underlying the area is the Cohansey Formation.

According to Landscape Project data these sites consist of mixed forested area, atlantic white cedar swamp, coniferous forest and deciduous wooded wetlands. The majority of both sites are located within Rank 4 areas with State threatened and endangered listed species. State threatened and endangered species that have been observed on these sites include: Barred Owl, Northern Pine Snake, Red-shouldered Hawk and Black-crowned Night-heron.

Additionally both sites are located within the Natural Heritage Priority Site *Manahawkin Lake Macrosite*. Land within this area is described as having matured to old growth of Atlantic White Cedar Swamp on muck soil with well developed hummocks near streams supporting most trees and shrubs, and soft muck or standing water between hummocks

IX. Endangered and Threatened Species Habitat

The Appellants' claims concerning alleged adverse impacts on threatened and endangered species habitat associated with the solar energy project are misplaced. Most importantly Pinelands Commission's determination that there is no irreversible adverse impact on rare plants and animals made at the time that they approved the diversion and that served as the basis of NJDEP's similar conclusion, remains applicable. The Appellants did not challenge the Pinelands Commission's determination and it is too late to do so now. Moreover, their claims, based on alleged evidence of endangered and threatened species sightings occurring after the agencies rendered their determination, cannot be used to reopen those determinations.

Additionally, the Appellants' alleged claims regarding adverse impacts on threatened and endangered species habitat are not true. For the reasons expressed in the report issued by Herpetological Associates, Inc. dated November 4, 2013 (attached as Exhibit G) the lands to be diverted are not "critical habitat" for the northern pine snake or the grassland bird species identified by the Appellants. Moreover, the habitat that is provided is substantially unaffected by the solar panels. The grasslands created by Walters on top of the landfill cap (and ironically at the Appellants' request) will continue to grow heartily after the solar panels are installed. This is evidenced by the fact that the grasses planted at and near the existing landfill solar panels remains robust. The ballasts supporting the panels when the entire project is completed will cover only 1.3 acres of land and the solar panels themselves will cover only 9.5 acres of the 55 acre landfill lot (with grass continuing to grow under the raised panels), hardly impacting the habitat of these species.

X. Proposed Public Notice

The proposed public notice for the public hearing on this Amendment is attached to this Amendment as Exhibit H.

XI. Maps

Maps of the replacement lands are attached to this Amendment are as follows:

Exhibit B1 - Streams and Wetlands Map – Block 54, Lots 21.02 and 26

Exhibit B2 - Threatened & Endangered Habitats – Block 54, Lots 21.02 and 26

Revised maps of the diverted land to show the reduced acreage covered by the diversion are attached to this Amendment as follows:

Exhibit A - Map of Revised Solar Project Area

XII. Township Resolution

Attached to this Amendment as Exhibit I is the Resolution of the Township Council authorizing the submission of the Amendment..

XIII. Electronic Copies of survey, metes and bounds, required maps

An electronic copy of the entire Amendment is being submitted together with the hard copy.

LIST OF EXHIBITS

<u>Exhibit</u>	<u>Name of Document</u>
A	Map of Revised Solar Project Area
B	Maps Showing Location of Replacement Land Parcels B1 Streams and Wetlands Map – Block 54, Lots 21.02 and 26 B2 Threatened & Endangered Habitats – Block 54, Lots 21.02 and 26
C	Preliminary Assessment Report for Replacement Parcels
D	Appraisals D1 Market Value Appraisal – Going Out Area (Landfill) D2 Market Value Appraisal – Going Into Program (Replacement Land)
E	Title Reports for Replacement Land E1 Title Report for Block 54, Lot 21.02 E2 Title Report for Block 54, Lot 26
F	Surveys and Legal Descriptions for Replacement Land F1 Survey of Block 54, Lot 21.02 F2 Survey of Block 54, Lot 26 F3 Metes and Bounds Legal Description of Block 54, Lot 21.02 F4 Metes and Bounds Legal Description of Block 54, Lot 26
G	Herpetological Associates, Inc. Letter Report dated November 4, 2013
H	Proposed Notice of Public Hearing
I	Stafford Township Resolution 2013-20 - authorizing the submission of the Amendment