



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY

ORDER

IN THE MATTER OF THE IMPLEMENTATION OF <u>L. 2012, C. 24</u> , THE SOLAR ACT OF 2012	)	DOCKET NO. EO12090832V
	)	
IN THE MATTER OF THE IMPLEMENTATION OF <u>L. 2012, C. 24</u> , N.J.S.A. 48:3-87(T) – A PROCEEDING TO ESTABLISH A PROGRAM TO PROVIDE SRECS TO CERTIFIED BROWNFIELD, HISTORIC FILL AND LANDFILL FACILITIES	)	DOCKET NO. EO12090862V
	)	
MONROE SOLAR, LLC	)	
B&J WARREN AND SONS LANDFILL	)	DOCKET NO. QO18040433

**Party of Record:**

**Angelo J. Genova, Esq.**, Genova Burns LLC, on behalf of Monroe Solar Farm, LLC

BY THE BOARD:

This Order concerns an application by Monroe Solar Farm, LLC (“Monroe Solar” or “Applicant”) for certification pursuant to L. 2012, c. 24 (“Solar Act”), codified at N.J.S.A. 48:3-87(t) (“Subsection (t)”). Applicant seeks certification for eligibility to generate Solar Renewable Energy Certificates (“SRECs”) for the proposed solar electric generation facility to be located at the B&J Warren and Sons Landfill, at Block 49, Lot 18 at 355 Hoffman Station Road in Monroe Township, Middlesex County, New Jersey (“B&J Warren Landfill”). Applicant submitted the required documentation to enable a determination by the New Jersey Department of Environmental Protection (“NJDEP”) as to whether the proposed project is located on a properly closed sanitary landfill and an area of historic fill as defined in the Solar Act. The original application submitted on April 12, 2018 was supplemented with information on February 15, 2019, which enabled the determinations for each land use classification.

**BACKGROUND**

On July 23, 2012, the Solar Act was signed into law. The Solar Act amended certain aspects of the statute governing generation, interconnection, and financing of renewable energy. Among other actions, the Solar Act required the New Jersey Board of Public Utilities (“Board”) to

conduct proceedings to establish new standards and to develop new programs to implement the statute's directives. By Order dated October 10, 2012, the Board directed Board staff ("Staff") to initiate proceedings and convene a public stakeholder process to fulfill the directives of the Solar Act.<sup>1</sup>

The Solar Act – specifically, Subsection (t) – provides that:

No more than 180 days after [July 23, 2012], the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. . . . Projects certified under this subsection shall be considered "connected to the distribution system" [and] shall not require such designation by the board[.]

[N.J.S.A. 48:3-87(t).]

The Solar Act defines the terms "brownfield," "area of historic fill," and "properly closed sanitary landfill facility." A "brownfield" is "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant." N.J.S.A. 48:3-51. "Historic fill" is "generally large volumes of non-indigenous material, no matter what date they were placed on the site, used to raise the topographic elevation of a site . . . ." *Ibid.* A "properly closed sanitary landfill facility" means "a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection . . . ." *Ibid.*

Toward implementing the October 10, 2012 Order, Staff met with staff of the New Jersey Economic Development Authority and the NJDEP. On November 9, 2012, consistent with the requirements of the Solar Act, the Board held a public hearing presided over by Commissioner Joseph L. Fiordaliso. In addition, the public was invited to submit written comments through November 23, 2012.

<sup>1</sup> I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(d)(3)(b) – A Proceeding to Investigate Approaches to Mitigate Solar Development Volatility; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(e)(4) – Net Metering Aggregation Standards; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(g), (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(t) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; and I/M/O the Implementation of L. 2012, C. 24, N.J.S.A 48:3-87(w) – A Proceeding to Consider the Need for a Program to Provide a Financial Incentive to Supplement Solar Renewable Energy Certificates for Net Metered Projects Greater than Three Megawatts; 2012 N.J. PUC LEXIS 286 (Oct. 10, 2012).

In an Order dated January 24, 2013, the Board approved Staff's proposed process for certifying solar generation projects as being located on brownfields, areas of historic fill, and properly closed sanitary landfill facilities.<sup>2</sup> The certification process for projects seeking approval pursuant to Subsection (t) provides three (3) potential recommendations from Staff to the Board: full certification, conditional certification, or denial of certification. Conditional certification may be granted for projects located on sites that the NJDEP has determined require further remedial action or, in the case of properly closed sanitary landfill facilities, additional protective measures, and full certification may be granted for projects located on sites for which the NJDEP has determined no further remedial or protective action is necessary. The process incorporates the expertise of the NJDEP to confirm a potential project's land use classification for eligibility and to account for the state of remediation of the project site. 2013 N.J. PUC LEXIS 27 at 31–33.

The January 24, 2013 Order states that certification would be limited to those areas delineated by the NJDEP. In compliance with this directive, applicants are required to delineate the precise section(s) of the location where the solar facility is proposed to be sited, and the NJDEP reviews this material in making its recommendation.

The Board found that an application for solar projects located on brownfields, areas of historic fill, or properly closed sanitary landfill facilities was necessary to initiate the certification process and directed Staff to work with NJDEP to develop an application. *Id.* at 33. On or about April 10, 2013, Staff distributed, via the public renewable energy stakeholder email distribution list, and posted to the New Jersey Clean Energy Program and BPU websites, a Subsection (t) application form.

Projects certified under Subsection (t) of the Solar Act are subject to all the Board's rules; the statutory language exempts such projects from the need for further Board designation as "connected to the distribution system" but does not remove any of the Board's oversight authority. For example, projects must comply with the rules at N.J.A.C. 14:8-2.4 and applicable Board orders concerning registration with the SREC Registration Program ("SRP"). The size and location of the subject project will then be reflected in the public reporting of solar development pipeline data.

On May 23, 2018, Governor Murphy signed P.L. 2018, c. 17 ("Clean Energy Act"), which requires the Board to close the SRP once the Board has determined that 5.1% of the total kilowatt-hours sold in New Jersey have been generated by SREC-eligible solar generation installations ("5.1% Milestone"). The Clean Energy Act also sets the SREC term as ten years. Pursuant to the Clean Energy Act and Board Orders dated October 29, 2018 and February 27, 2019,<sup>3</sup> a proposed solar electric generation facility that submits a Subsection (t) application after October 29, 2018 is eligible to receive a ten-year SREC term, provided that the project achieves

<sup>2</sup> I/M/O the Implementation of L. 2012, c. 24, The Solar Act of 2012; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(t) – A Proceeding to Establish a Program to Provide SRECS to Certified Brownfield, Historic Fill and Landfill Facilities; and I/M/O the Implementation of L.2012, c.24, N.J.S.A 48:3-87(u) – A Proceeding to Establish a Registration Program for Solar Power Generation Facilities, 2013 N.J. PUC LEXIS 27 (Jan. 24, 2013).

<sup>3</sup> I/M/O the Modification of the Solar Renewable Portfolio Standard and Solar Alternative Compliance Payment Schedules and the Reduction of the Qualification Life for Solar Renewable Energy Certificates for Solar Facilities, 2018 N.J. PUC LEXIS 251 (Oct. 29, 2018); I/M/O the Modification of the Solar Renewable Portfolio Standard and Solar Alternative Compliance Payment Schedules and the Reduction of the Qualification Life for Solar Renewable Energy Certificates for Solar Facilities, 2019 N.J. PUC LEXIS 20 (Feb. 27, 2019).

commercial operation prior to the Board's closure of the SREC program upon attainment of the state's 5.1% solar milestone and is otherwise in compliance with applicable law.

On November 25, 2014, KDC Solar Green Power, LLC ("KDC") submitted an application to the Board to have its project certified as being located on a properly closed landfill pursuant to Subsection (t) of the Solar Act.<sup>4</sup> KDC's 6.5 MW dc project was proposed to be constructed on approximately 21.13 acres of the 79.1 acres comprising Block 49, Lot 18 in Monroe Township, New Jersey. Staff forwarded the application to NJDEP for review and a recommendation. NJDEP advised Staff that NJDEP reviewed the application and found that only 5.4 acres within the 79.1-acre site met the definition of a "properly closed sanitary landfill facility" pursuant to Subsection (t) of the Solar Act. Based on the information provided in the application, NJDEP's determination, and Staff's recommendations, the Board granted conditional certification of the 5.4 acres identified by NJDEP as a "properly closed sanitary landfill" and authorized the applicant to submit: (1) a revised Subsection (t) application with the proposed solar electric generation facility construction limited to the 5.4 acre capped portion of the property with capacity re-sized as appropriate within thirty days of the order; and (2) the appropriate SRP materials reflecting the location of the solar facility in relation to the capped landfill and the associated reduction in capacity within fourteen days of submitting the revised application. If the applicant did not revise its application consistent with these authorizations, the Board noted that the applicant would forego the conditional approval. 2015 N.J. PUC LEXIS 128 at 15. The Board did not receive a revised Subsection (t) application from the applicant.

**STAFF RECOMMENDATIONS**

**Project Description**

As stated above, at issue is the request by Monroe Solar that its proposed solar facility, to be located in Monroe Township, New Jersey, be certified as eligible for SRECs pursuant to Subsection (t). Monroe Solar filed an application seeking determination as to whether the proposed site comprises a landfill and an area of historic fill. The original application filed on April 12, 2018 was supplemented with additional information on February 15, 2019, which NJDEP reviewed and on which it supplied an advisory memorandum to Staff on July 31, 2019 about the land use classifications and the closure and remediation status of the proposed site. On the basis of NJDEP's determination, the information certified by Monroe Solar in its application, as supplemented, and the January 24, 2013 Order, Staff recommends that the Board approve the conditional certification for each land use classification separately, as explained further below.

Developer	Docket Number	Project/Designation	Location/Town	County	Landfill, Brownfield, or Historic Fill	Array Size (MWdc)	EDC
Monroe Solar Farm, LLC	QO1804043 3	B&J Warren and Sons Landfill	Block 49, Lot 18 355 Hoffman Station Rd, Monroe Township, NJ 08093	Middlesex	Landfill and Historic Fill	14.9	PSE&G

<sup>4</sup> I/M/O the Implementation of L. 2012, c. 24, The Solar Act of 2012; I/M/O the Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(T) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; and KDC Solar Green Power, LLC – B&J Warren & Sons Landfill, 2015 N.J. PUC LEXIS 128 (April 15, 2015).

**Monroe Solar Farm, LLC – B&J Warren and Sons Landfill – Docket No. QO18040433**

On April 12, 2018, Monroe Solar submitted its application to the Board to have its project certified as being located in part on a properly closed sanitary landfill facility pursuant to Subsection (t) of the Solar Act. Monroe Solar indicated that it would submit additional documentation to the Board. Applicant's 14.9 MWdc project is proposed to be located on 35.8 acres of the 78 acres of Block 49, Lot 18 at the B&J Warren and Sons Landfill owned by CAS Contracting, Inc. and located at 355 Hoffman Station Road in Monroe Township, New Jersey.<sup>5</sup>

Page 4 of the Revised December 2017 Subsection (t) application form instructs the applicant to complete the questionnaire section that correspondences to the category under which it is applying for certification: 1 – Properly Closed Sanitary Landfill Facility; 2 – Brownfield; or 3 – Area of Historic Fill. If the applicant is applying for certification for more than one of the categories, the application form states that the applicant must complete the appropriate subsections and must specify which portions of the site qualify for which category.<sup>6</sup> Moreover, question 9 of the Properly Closed Sanitary Landfill Facility Questionnaire explicitly requires that the applicant attach a detailed site plan of the properly closed sanitary landfill facility, and question 17 of the Area of Historic Fill Questionnaire states that the applicant must attach a delineated map of the portion of the property on which the solar facility will be located, and the location of the historic fill.

The Properly Closed Sanitary Landfill Facility Questionnaire section consists of 14 questions. Monroe Solar supplied answers to all questions, except for questions 13 and 14.<sup>7</sup> In the Brownfield Questionnaire section, consisting of 20 questions, Monroe Solar only provided an answer to question 1 and it was "N/A." In the Historic Fill Questionnaire section, which also consists of 20 questions, Monroe Solar completed only questions 5, 9, 12 and 13. In question 5, Applicant provided the NJDEP program interest identification number. Although Monroe Solar did not check the yes or no box in question 9, it added text noting that elevated concentration of PAHs were detected in fill material samples collected during Site Investigation activities. Similarly, Monroe Solar did not check the yes or no box in question 12, but added text noting that "remediation of the historic fill is proposed but has not yet been completed. The LSRP has determined that capping and placement of a Deed Notice, to occur during solar farm development, will act as an appropriate remediate measure." Applicant checked the not applicable box in question 13. Thus, while this application contained as an attachment a Preliminary Assessment / Site Investigation dated February 2018, Monroe Solar did not provide answers to most questions in the historic fill section of the application, including responses to questions regarding contamination of fill material and remediation. And, the map supplied with the application (Attachment 3, dated December 5, 2017) did not clearly delineate the proposed location of the solar facility in relation to the landfill and historic fill area. Thereafter, Staff forwarded this application to NJDEP.

<sup>5</sup> Staff notes that the November 2014 application for this property submitted by a different developer indicated the property size as 79.1 acres and requested 21.13 acres certified as "properly closed sanitary landfill." As noted above, NJDEP found that 5.4 acres of the site qualified as a "properly closed sanitary landfill." Staff finds it unlikely that a 35-acre site could contain a solar array of 14 MW.

<sup>6</sup> Page 1 of the Application requires that the "applicant shall specify which portions of the site qualify for which designation."

<sup>7</sup> Question 13 asks what permits and/or approvals, if any, have been received from the NJDEP which are related to the installation and operation of the solar facility on the property. Question 14 asks what permits and/or approvals, if any, have been received from the NJDEP for the property.

On February 15, 2019, Applicant supplemented its application, which the Board forwarded to the NJDEP on June 13, 2019. The supplemental information contained answers to nearly every question in the historic fill section of the application and provided additional site and location information, including a Remedial Action Workplan dated January 2019, and a detailed map (Attachment 4, Figure 2 – AOC Map) dated November 9, 2018 that clearly delineates the proposed location of the solar facility in relation to the landfill and historic fill areas through delineation of Area of Concern 1: Non-Native Fill and the leasehold remediation area fence line.

Upon its review of the application and of the supplemental information, NJDEP noted that the application, when originally filed, designated the site of the proposed array as “landfill,” and although there was a reference to historic fill, no distinction was made as to how many acres were to be attributable to “landfill” and how many to “historic fill.” NJDEP stated that the application submitted in April 2018 provided evidence sufficient for a landfill analysis but did not provide complete information for a comprehensive analysis regarding the portion of the site the applicant designates as historic fill. NJDEP further stated that the supplemental information submitted to the Board in February 2019 amended and updated the original April 2018 application to provide information primarily regarding the portion of the site the applicant designates as historic fill and also included a site map.

NJDEP indicated that, as such, the application appears to be a hybrid request, seeking approval as both a properly closed landfill and as an area of historic fill. NJDEP stated that the issue presented to NJDEP is whether the proposed solar electric power generation facility project is to be located on a “properly closed sanitary landfill” and an “area of historic fill” as defined in the Solar Act at N.J.S.A. 48:3-87(t).

N.J.S.A. 48:3-51 defines “properly closed sanitary landfill” as:

[A] sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

N.J.S.A. 48:3-51 defines “historic fill” as:

[G]enerally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. ‘Historic fill’ shall not include any material which is substantially

chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings.

### **Landfill**

NJDEP noted that the 78-acre property on which the proposed solar project is located was historically used as a clay mine. NJDEP further noted that a 5.4-acre portion of the property, known as the B&J Warren and Sons, Inc. Landfill ("Landfill") was filled with coal ash over a period of approximately thirteen months during the late 1990s.

On November 10, 2004, NJDEP's Office of Permitting and Technical Programs issued a Closure and Post-Closure Plan Approval for the Landfill. After several modifications to the approval, the owner completed closure of the Landfill, and a professional engineer's as-built certification of closure was submitted to the NJDEP in December 2012. On August 28, 2013, NJDEP's Bureau of Landfill & Hazardous Waste Permitting acknowledged acceptance of the closure as-built certification. NJDEP noted that the owner is required to continue to monitor and maintain the Landfill during its post-closure care period in accordance with the most recently modified Closure and Post-Closure Plan Approval issued on August 28, 2013.

In its July 31, 2019 advisory memorandum to the Board, NJDEP determined that the 5.4-acre landfill area constitutes a "properly closed sanitary landfill facility," as defined by the Solar Act at N.J.S.A. 48:3-87(t), subject to the additional considerations identified below, in order to obtain full certification.

NJDEP also stated that the solar installation will constitute the construction of improvements on a closed landfill, pursuant to the law, and, accordingly, the property owner will need to obtain an approval from the NJDEP Division of Solid and Hazardous Waste, as well as any permits identified by the Department, prior to construction of the solar electric power generation facility. NJDEP stated that the approval for construction of improvements on the closed landfill needs to address impacts on the environmental controls in place at the site, such as the protection/ re-establishment of the final cap/cover, leachate collection, gas collection and storm water collection systems, settlement, slope stability, and control of erosion, in addition to on-going maintenance and monitoring during the post-closure period. NJDEP further stated that, consistent with the above requirements, the property owner and operator of the solar facility should ensure that all future operations continue to protect the integrity of the cap.

Based on the information provided in the original application filed on April 13, 2018 and NJDEP's determination that the solar project as proposed is a "properly closed sanitary landfill" under the Solar Act, Staff recommends that the Board approve conditional certification for this portion of the proposed project with a qualification life of fifteen (15) years.

### **Area of Historic Fill**

NJDEP noted that the property that is the site of the proposed solar array was historically used as a clay quarry. NJDEP stated that the property had been backfilled with fill material of questionable quality, including coal ash, a solid waste, and was the subject of enforcement action alleging various solid waste infractions. NJDEP advised Applicant that the compliance and enforcement issues must be resolved. Following a meeting in September 2018, the enforcement action and all violations alleged were resolved through entry into a Settlement Agreement. The property owner signed the Settlement Agreement on January 9, 2019, and

NJDEP signed on February 6, 2019. The fill is adjacent to the landfill (Figure 2 of the application – AOC Map), is part of the area proposed for the solar installation (Attachment 3 of the application – Proposed Solar Facility Plan), is contaminated above the NJDEP's Direct Contact Soil Remediation Standards at N.J.A.C. 7:26D, Remediation Standards, and is currently undergoing remediation.

In its July 31, 2019 advisory memorandum to the Board, NJDEP determined that the area adjacent to the 5.4-acre landfill area constitutes an area of "historic fill" as defined in the Solar Act, subject to the additional considerations identified below, in order to obtain full certification.

NJDEP also stated that the solar project will be installed on property that requires remediation. NJDEP indicated that the property owner and the owner/operator of the solar installation must, in addition to any other actions required by law, including, but not limited to, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq., and any regulations promulgated pursuant thereto, ensure that the solar installation: (a) does not exacerbate the contamination at the property; (b) does not interfere with any necessary remediation of the property; (c) does not disrupt or change, without prior written permission from NJDEP, any existing or future engineering or institutional control that is part of a remedial action for the property; and (d) is protective of public health and the environment.

Following Applicant's submission of the February 2019 supplemental information, Applicant's attorney submitted two letters addressed to the Board. In those letters, Mr. Genova argued that the only issue to be resolved at the time of the April 2018 application was whether NJDEP would confirm the area of historic fill and that that issue was substantively resolved in the September 2018 meeting referenced above. Mr. Genova also argued why the application should be declared properly filed in April 2018 and eligible to receive a fifteen (15)-year qualification life.<sup>8</sup>

Based on the information provided in the application, which was supplemented on February 15, 2019, and NJDEP's determination that the solar project as proposed is an area of historic fill under the Solar Act, Staff recommends that the Board approve conditional certification for this portion of the proposed project with a qualification life of ten (10) years.

## **FINDINGS AND CONCLUSIONS**

Having reviewed the record and considered the arguments advanced by Monroe Solar, the Board **FINDS** that, as required by Subsection (t), Staff transmitted the April 2018 application and February 2019 supplemental information discussed above to NJDEP for a determination of eligible land use types and status of remediation on the proposed site. NJDEP has determined that the 5.4 acres requested for Subsection (t) certification on Block 49, Lot 18 in Monroe Township is located on land meeting the Solar Act's definition of a "landfill." NJDEP has also determined that the area adjacent to the 5.4-acre landfill area requested for Subsection (t) certification on Block 49, Lot 18 in Monroe Township is located on land meeting the Solar Act's definition of "historic fill." Based on information provided in Monroe Solar's application as submitted on April 12, 2018 and the analysis supplied by NJDEP, the Board **FINDS** that the B&J

<sup>8</sup> It should be noted that in recent communications with Staff, Monroe Solar alleged that its April 2018 application had answered most of the questions in the Area of Historic Fill Questionnaire section. However, pages 5 and 6 of this Order accurately reflect the April 2018 application that was filed with the Board and reviewed by NJDEP.

Warren Landfill project as proposed is located on 5.4 acres of land meeting the definition of "properly closed sanitary landfill." The Board **FINDS** the supplemental documentation filed to substantiate the application for conditional certification of 30.4 acres of land meeting the definition of "area of historic fill" was submitted after the enactment of the Clean Energy Act and the Board's October 29, 2018 Order, which set the SREC term as ten (10) years for applications filed thereafter.

The Board **FINDS** that NJDEP has determined that the property owner will need to obtain an approval from the NJDEP Division of Solid and Hazardous Waste for construction of improvements on the closed landfill, as well as any permits identified by NJDEP, prior to construction of the solar electric power generation facility. The Board also **FINDS** that approval for construction of improvements on the closed landfill must address "impacts on the environmental controls in place at the site, such as the protection/ re-establishment of the final cap/cover, leachate collection, gas collection and storm water collection systems, settlement, slope stability, and control of erosion, in addition to on-going maintenance and monitoring during the post-closure period." The property owner and operator of the solar facility should ensure that all future operations continue to protect the integrity of the cap on the B&J Warren Landfill.

The Board **FINDS** that NJDEP has determined that the 30.4 acres of historic fill on which the solar project will be installed is property that requires remediation. The Board **FINDS** that, in addition to any other actions required by law, including, but not limited to, the Spill Compensation and Control Act, the Brownfield and Contaminated Site Remediation Act, and any regulations promulgated pursuant thereto, the property owner and owner/operator of the site must ensure that the solar installation: (a) does not exacerbate the contamination at the property; (b) does not interfere with any necessary remediation of the property; (c) does not disrupt or change, without prior written permission from NJDEP, any existing or future engineering or institutional control that is part of a remedial action for the property; and (d) is protective of public health and the environment.

The Board **FINDS** that NJDEP's requirements for construction of a solar facility on a properly closed sanitary landfill must be addressed and thus **GRANTS** conditional certification of the Applicant's proposed solar electric generation facility, to be located on 5.4 acres at B&J Warren Landfill at Block 49, Lot 18 in Monroe Township, Middlesex County, New Jersey, with an array size not to exceed that which can be accommodated on 5.4 acres. To be eligible for the creation of SRECs, this solar array must be placed solely within the 5.4 acres capped area shown on Figure 2 – AOC Map, attached hereto as Exhibit A. The Board **FINDS** that NJDEP's requirements for construction of a solar facility on an area of historic fill must also be addressed and thus **GRANTS** a separate and distinct conditional certification of the Applicant's proposed solar electric generation facility, to be located on 30.4 acres at B&J Warren Landfill at Block 49, Lot 18 in Monroe Township, Middlesex County, New Jersey, with an array size not to exceed that which can be installed on 30.4 acres. To be eligible for the creation of SRECs, this solar array must be placed solely within the 30.4 acres area shown on Figure 2 – AOC Map, attached hereto as Exhibit A. To obtain full certification, the Board **DIRECTS** the Applicant to demonstrate to Staff in two distinct filings of a Post-Construction Certification that there are no outstanding requirements under the Closure and Post-Closure Plan Approval, that all NJDEP or federal requirements and the applicable terms of the Settlement Agreement have been satisfied, and that there are no outstanding requirements.

In addition, to obtain certification, the Board **DIRECTS** Monroe Solar to submit two distinct and separate initial SRP registration packages, one for each portion of the project, within fourteen (14) days of the effective date of this order, in accordance with N.J.A.C. 14:8-2.4(c). The Board **DIRECTS** Monroe Solar to submit an initial SRP registration package for the construction of one complete solar electric generation facility clearly stating the capacity of the proposed array that can be contained entirely within the footprint of the 5.4 acres of properly closed sanitary landfill. The array proposed to be located on the properly closed sanitary landfill must be served by a dedicated set of balance of systems equipment and metering that would allow the complete solar electric generation facility to operate independently. The solar electric generation facility proposed to be located on the properly closed sanitary landfill shall be provided a qualification life of fifteen (15) years and an SREC registration term of twenty-four (24) months.

The Board **FURTHER DIRECTS** Monroe Solar to submit an initial SRP registration package for the construction of a second complete solar electric generation facility clearly stating the capacity of a proposed array that can be contained entirely within the footprint of the 30.4 acres covering the area of historic fill. The array proposed to be located on the area of historic fill must be served by a dedicated set of balance of systems equipment and metering that would allow the complete solar electric generation facility to operate independently. The solar electric generation facility proposed to be located on the area of historic fill shall be provided a qualification life of ten (10) years and an SREC registration term that shall expire upon the Board's determination that 5.1% of kilowatt hours sold in the State has been attained from solar electric power generators.

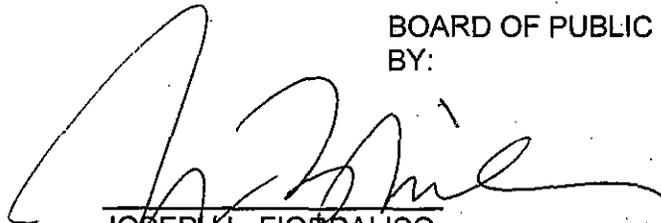
The Board **DIRECTS** Staff to issue full certification to a portion of the project upon the Applicant's demonstration that all requirements for full certification for that portion of the project – including all NJDEP requirements and all SRP requirements at N.J.A.C. 14:8-2.4 – have been satisfied. The landfill portion of the project must commence commercial operations within two (2) years of issuance of the SREC Registration Acceptance letter and the portion registered for the area of historic fill must achieve commercial operation prior to the Board's closure of the SREC program upon attainment of the state's 5.1% solar milestone and is otherwise in compliance with applicable law. After the Applicant has received full certification, the Board **DIRECTS** Staff to issue a New Jersey Certification Number to the 5.4 acres of landfill on which the project will be installed for purposes of SREC creation for a fifteen-year Qualification Life. The Board **DIRECTS** Staff to issue a New Jersey Certification Number to the 30.4 acres of historic fill on which the project will be installed for purposes of SREC creation for a ten-year Qualification Life.

This Order is issued in reliance on the information certified in the application and does not grant any rights in connection with construction of the proposed project beyond certification under Subsection (t), provided that the facilities are constructed in accordance with NJDEP requirements, the plans as represented in the application, the SRP registration, and this Order.

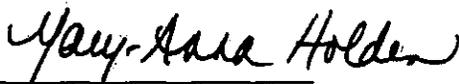
This Order shall be effective on November 4, 2019.

DATED: 10/25/19

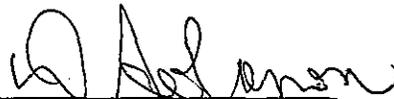
BOARD OF PUBLIC UTILITIES  
BY:



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I HEREBY CERTIFY that the within  
document is a true copy of the original  
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In the Matter of the Implementation of L. 2012, c. 24, the Solar Act of 2012;  
In the Matter of the Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(t) – A Proceeding to  
Establish a Program to Provide SRECs to Certified Brownfields, Historic Fill and Landfill  
Facilities – Monroe Solar, LLC – B&J Warren and Sons Landfill  
Docket Nos. EO12090832V, EO12090862V, and QO18040433

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2. IN THE SOLID WASTE AREA/CLOSED LANDFILL AREA, A SOLID WASTE CLOSURE AND POST-CLOSURE PLAN REVISION SHALL BE APPROVED BEFORE THE START OF WORK IN THIS AREA.

N.J.P.H.L.  
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 DATED 11-28-04 SHEET 4 OF 20.

