



## New York State Office of Parks, Recreation and Historic Preservation

Division for Historic Preservation  
P.O. Box 189, Waterford, New York 12188-0189  
518-237-8643

December 13, 2013

**Andrew M. Cuomo**  
Governor

**Rose Harvey**  
Commissioner

Mr. Brian Mills  
Permitting, Siting, and Analysis, OE-20  
Office of Electricity Delivery and Energy Reliability  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Re: CORPS PERMITS, DEC, OGS, PSC, OGS, PSC (*DOE/EIS-0447*)  
*Draft – Champlain Hudson Power Express Transmission Line Project Environmental Impact Statement, Volume I: Impact Analyses*  
09PR03910

Dear Mr. Mills:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the submitted document *Draft – Champlain Hudson Power Express Transmission Line Project Environmental Impact Statement, Volume I: Impact Analyses* received by our office October 25, 2013 in accordance with Section 106 of the National Historic Preservation Act of 1966, *as amended*, and its implementing regulations 36 CFR Part 800 – Protection of Historic Properties.

It is the understanding of our office that ground-disturbing activities associated with the installation of the transmission cables could result in adverse effects on historic properties in the proposed CHPE Project area of potential effect (APE). Geographic Information System (GIS) analysis indicates that there are 51 terrestrial archaeological sites, 2 terrestrial sites that extend into Lake Champlain, 11 underwater sites, 36 National Register of Historic Places (NRHP)-listed or -eligible architectural properties, and 2 historic cemeteries in the APE.

Ground-disturbing activities associated with construction could damage archaeological features and would disturb the context of artifacts of terrestrial archaeological sites, underwater sites, and historic cemeteries. In the case of terrestrial and underwater archaeological sites that are listed or eligible for listing in the NRHP, this could constitute an adverse effect under 36 CFR 800.5(a)(1) and, therefore, require mitigation of adverse effects. Because the transmission line would be underground or underwater and would avoid any standing structures, the adverse effects from construction on the NRHP-listed and -eligible architectural properties in the APE would be limited to exposure to temporary noise, dust, and vibrations and short-term visual effects from the proximity of construction activities and equipment. The effects would not be considered adverse and therefore not require mitigation. Horizontal Directional Drilling (HDD) would be used to install the transmission line under Stony Point Battlefield Historic Park.

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As specified in the conditions of the NYSPSC Certificate for the proposed CHPE Project ("Certificate Conditions"), Part Q, Conditions 107-112, the Applicant shall develop a Cultural Resources Management Plan (CRMP) that would include an outline of "the processes for resolving adverse effects on historic properties within the APE and determining the appropriate treatment, avoidance, or mitigation of any effects of the [CHPE Project] on these resources." Proposed and approved measures would be implemented to mitigate the CHPE Project's adverse effects on known terrestrial and underwater archaeological sites found to extend into the APE. Avoidance, minimization, and mitigation measures might include minor rerouting to avoid the sites, Phase III data recoveries of terrestrial and underwater archaeological sites that are listed or eligible for listing in the NRHP and cannot be avoided, and documentation following Section 106 of the NHPA for NRHP-listed or -eligible architectural properties that cannot be avoided by project activities.

Avoiding known underwater sites or anomalies would avoid potential damage to the integrity of the site. Development of a Programmatic Agreement (PA) pursuant to 36 CFR Part 800.14(b) is underway and additional formal surveys and evaluations must be conducted before it can be fully determined in detail what cultural resources require mitigation measures under Section 106 of the NHPA. Measures identified at this time, including development of a CRMP by the Applicant and addressing unanticipated cultural resources discoveries, are discussed in detail in Appendix G of the DEIS.

The operation of the proposed CHPE Project would have no effects on terrestrial and underwater archaeological sites in the APE. Because the proposed CHPE Project would involve an underground transmission line, operations would have no adverse effects on 33 of the 36 architectural properties in the APE. The operation of the proposed cooling station at MP 112 could have noise and visual impacts on the McMore Residence (National Register Eligible [NRE] 15) and the Main Street Historic Bridge (National Register Listed [NRL] 19).

Operation of the proposed cooling station at MP 296 could have noise and visual impacts on Stony Point Battlefield Historic Park. Depending on the exact location of the cooling station, these impacts could constitute an adverse effect under 36 CFR 800.5(a)(1) and, therefore, require mitigation implemented by the Applicant to avoid or minimize effects, such as using architectural treatments and maintaining and planting vegetative buffers in and around the cooling stations as part of cooling station design. Consultation regarding measures to avoid or mitigate adverse effects is ongoing through the Section 106 process. Vegetation maintenance activities and emergency repairs, if necessary, would occur in areas previously disturbed by construction of the transmission line and, in some cases, in areas purposefully selected to avoid cultural resources sites; therefore, effects would not be expected from such activities.

Due to the scope of the proposed undertaking and potential effects to significant historic properties, our office looks forward to continued consultation with your agency on the proposed undertaking. Should you have any questions, please feel free to contact me directly at (518) 237-8643, Extension 3288 or via electronic mail at [brian.yates@parks.ny.gov](mailto:brian.yates@parks.ny.gov). If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number 09PR03910.

Sincerely,



Wm. Brian Yates  
Historic Preservation Specialist

cc: Mr. Rob Quiggle, HDR, Inc.

123 Main Street  
White Plains, New York 10601  
914 681.6200



December 13, 2013

Mr. Jun Yan, USACE Project Manager  
Eastern Section, Regulatory Branch  
New York District  
U.S. Army Corps of Engineers  
26 Federal Plaza, Room 1937  
New York, NY 10278

**Re: Public Notice Number- NAN-2009-01089-EYA – Application of Champlain Hudson Power Express, Inc. for a Department of Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344)**

Dear Mr. Yan :

The New York Power Authority (“ NYPA”) is a corporate municipal instrumentality and political subdivision of the State of New York, created and operating pursuant to Public Authorities Law §§ 1000-1017, and has its principal office at 30 South Pearl Street, Albany, New York 12207. NYPA operates 17 generating facilities and more than 1,400 circuit-miles of transmission lines. The Champlain Hudson Power Express, Inc.’s (“CHPE”) project proposes to cross existing NYPA infrastructure in Lake Champlain, the Hudson River and will ultimately connect to a substation owned by NYPA and located in Astoria, NY. NYPA neither supports nor opposes CHPE’s permit application to the U.S. Army Corps. of Engineers (“Corps.”) pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Based on the current proposed route of the line, NYPA believes that the Certificate Conditions set out in the Certificate of Environmental Compatibility and Public Need in Case No. 10 –T- 0139 issued by the New York Public Service Commission on April 18, 2013 (“PSC Certificate Conditions”) provide adequate protection, if followed, to affected NYPA property. NYPA also agrees with Paragraphs 3.3.4.1, 9.41 and 10.3 in CHPEI’s Corps. application, in which CHPE states, in pertinent part:

3.3.4.1:

“When crossing utilities that are owned by a third party, the design of the protection at existing cables and pipelines will require formal consultations with the owners and/or operators of this collocated infrastructure. Detailed discussions on coordination, design and installation methodologies and safety issues will be conducted with the owners of these infrastructures, as specified in the recommended Article VII Certificate Conditions. The detailed designs for each crossing will be provided as part of the final design stage.”

9.41:

“For utility crossings, the owner of the utility will be contacted to coordinate the crossing and to identify owner requirements. The selection of a method of protection will include consideration of the utility owner’s requirements.”

10.3:

“Existing facility owners will be contacted prior to the beginning of any pre-construction activities and throughout the Facility design process, and protection measures and specifications for existing utility facilities will be negotiated with the facility owners and filed with the Commission for approval in EM&CP documents and plans. Additional measures for the protection of utility infrastructure are set out in Certificate Conditions 27 to 29 and must also be complied with.”

NYPA respectfully requests that the Corps incorporate PSC Certificate Conditions 27 through 29 in its permit. The PSC Certificate Conditions are as follows:

27. The Certificate Holders shall engineer, construct, and install the Facility so as to make it fully compatible with the continued operation and maintenance of Co-located Infrastructure (“CI”), as herein defined, and affected railroads, railways, highways, roads,

streets, or avenues. CI shall consist of electric, gas, telecommunication, water, wastewater, sewer, and steam infrastructure and appurtenant facilities and associated equipment, whether above ground, below ground, or submerged that:

- a. are located within the Construction Zone approved in the EM&CP for the Facility or a proposed Construction Zone as provided for in Certificate Condition 28(d); and
- b. are either owned by a State agency or municipality or a subdivision thereof or owned or operated for public utility purposes by a regulated electric, gas, telecommunication, water, wastewater, sewer, or steam service provider;
- c. but do not include railroads, railways, highways, roads, streets, or avenues.

28. In order to protect CI, Certificate Holders shall:

- a. within sixty (60) days of Commission issuance of a Certificate, consult with the owners and/or operators of all known electric, gas, telecommunication, water, wastewater, sewer, and steam infrastructure and appurtenant facilities and associated equipment, whether above ground, below ground or submerged, other than railroads, railways, highways, roads, streets and avenues, located either: (i) within the Allowed Deviation Zone, (ii) within three hundred (300) feet of any location outside the Allowed Deviation Zone where Certificate Holders intend to undertake any pre-construction activities; or (iii) sufficiently close to areas of anticipated pre-construction activities such that Good Utility Practice, as defined in Condition 20 of this Certificate, requires discussion of the impacts of such preconstruction activities between Certificate Holders and the owners and/or operators of such facilities (“Potential CI”). Such consultations shall include

discussion of the likely routing of the Facility and the measures that will be employed by Certificate Holders to protect CI, including the studies required by the exercise of Good Utility Practice regarding the manner in which the Facility will be designed and installed wherever they are expected to cross CI or are expected to come in such proximity to CI that Good Utility Practice would require a specific design to be developed. All agreements and requirements resulting from this consultation shall be reflected in the proposal prescribed in subsection (d) of this Condition and the notice prescribed in subsection (e) of this Condition; and

- b. within sixty days (60) of Commission issuance of a Certificate, begin the process of consulting with the owners and/or operators of Potential CI to develop a construction schedule for the Facility that, among other things, coordinates system outage requirements, if any, and avoids conflicts with the internal construction programs of each affected owner and/or operator. This consultation shall continue throughout each phase and portion of the construction of the Facility that affects any CI or Potential CI, as applicable. As a part of this consultation, the Certificate Holders will identify to a reasonable degree of certainty the appropriate representative of the party, whether owner or operator, having primary care, custody, and control of a particular segment of Potential CI or CI (each such representative being a “Designated Representative”). All agreements and requirements resulting from this consultation shall be reflected in the proposal prescribed in subsection (d) of this Condition and the notice prescribed in subsection (e) of this Condition and in the Certificate Holders’ EM&CP; and

- c. comply with all procedures identified by the Designated Representative(s) of the owners and/or operators of such CI or Potential CI, including, without limitation, application procedures and compliance with requirements for obtaining relevant rights, permission, permits, or authorization, whenever the Certificate Holders seek to undertake any studies, surveys, testing, sampling, preliminary engineering, pre-construction, construction, operation, maintenance, or repair activities that involve CI or Potential CI, except in cases where such actions must be taken on an expedited basis to protect the public or to ensure reliable operation of the Facility, whereupon Certificate Holders shall provide such Designated Representatives with such notice and obtain such approvals as is reasonable under the circumstances, and except where such procedures are subject to the Commission's jurisdiction and the Commission or its designee finds such procedures to be unreasonable or unduly restrictive. Notwithstanding the foregoing, the Certificate Holders shall not be required to comply with the requirements of subsection (c) of this Condition for the transport or travel over or under CI or Potential CI by the Certificate Holders and their agents, employees, and contractors where such CI or Potential CI is located in, over, or under public waterways, roads, streets, highways, or railroad ROW, unless such transportation would be subject to special approval by state and/or local authorities due to the size or weight of load(s) transported; and
- d. provide to the owner(s) and operator(s) of Potential CI or CI, at least onehundred-and-eighty (180) days prior to the filing of the relevant Segment EM&CP, a proposal for the location and design of the Facility (including a

proposed Construction Zone) and the methods of construction to be employed with respect to all locations involving CI (“Proposal”). The Certificate Holders’ Proposal must include all studies, calculations, tests, results, explanations, protocols, drawings, proposed construction schedules, and documents developed through the consultations described in subsections (a) and (b) of this Condition, other documentation identified in Condition 162, and any other information that supports the proposal. To the extent that any such Proposal addresses CI that was not previously identified as Potential CI, the Certificate Holders shall conduct the consultations described in subsections (a) and (b) of this Condition 28 with the Designated Representative(s) of the owner(s) or operator(s) of such CI and shall perform all other activities required by such paragraphs with respect to such CI in as reasonably expeditious a manner as possible and shall provide any resulting studies, calculations, tests, results, explanations, protocols, drawings, proposed construction schedules, and documents to the appropriate Designated Representative in a timely fashion; and

- e. advise owner(s) and operator(s) of CI at least thirty (30) days prior to commencing any planned repair, construction, operation, or maintenance activity relating to the Facility affecting or occurring in the vicinity of such owner’s or operator’s CI, unless such actions must be taken in less than thirty (30) days to protect the public or to ensure reliable operation of the Facility, whereupon Certificate Holders shall provide such notice as is reasonable under the circumstances; provided that, in any event, “vicinity” with respect to CI used to transmit or distribute natural gas shall mean all areas within two hundred (200)

feet thereof and with respect to all other CI shall mean all areas within one hundred (100) feet thereof; and

- f. immediately upon knowledge or discovery of any damage to or adverse effect on any CI or Potential CI resulting from any studies, surveys, testing, sampling, preliminary engineering, pre-construction activities, construction, operation, maintenance, or repair of the Facility, report to the owners and operators of the affected CI or Potential CI the nature and existence of such damage or effect and other known facts relating to the cause thereof; and
- g. notify the owners or operators of CI or Potential CI as soon as possible in the event of any situation involving imminent risk to health, safety, property, or the environment requiring the Certificate Holders to cross such CI or Potential CI or to use any associated property to address the emergency. Such notice shall not be required for the transport or travel over or under CI or Potential CI by the Certificate Holders or their agents, employees, or contractors where such CI or Potential CI is located in, over, or under public waterways, roads, streets, highways, or railroad ROW unless such transportation would be subject to special approval by state and/or local authorities due to the size or weight of load(s) transported; and
- h. include within any Project Segment EM&CP filing relating to the Astoria-Rainey Cable a study demonstrating that the proposed installation of the Astoria-Rainey cable will not have a negative impact on the continued operation of any Parallel CI. A draft of that study will be included in the materials that Certificate Holders are required to provide to the owner or operator of such CI pursuant to

Certificate Condition 28(d) and will be subject to review and comment as provided therein. For purposes of this subsection, Parallel CI means electric transmission facilities that are located in the same public ROW and are generally parallel to the Astoria-Rainey Cable.

29. Reimbursement of Owners or Operators of CI and/or Potential CI for Certain Expenses:

a. Subject to the provisions of subsections (b) and (c) of this Condition, the Certificate Holders shall reimburse owners and/or operators of Potential CI or CI for the reasonable costs they incur in the following activities:

1. consulting with Certificate Holders as described in Certificate Conditions 28 (a) and (b).

2. reviewing pre-construction activities, designs, construction methods, maintenance and repair protocols, and means of gaining access to Potential CI or CI proposed by Certificate Holders.

3. reviewing studies and design proposals described by Condition 28(d) and the EM&CP filings described in Certificate Condition 162.

4. conducting or preparing such additional studies and designs as may be agreed to by Certificate Holders or approved by the Commission pursuant to Condition 29(a)(3).

5. coordinating with, and monitoring the activities of, the Certificate Holders during pre-construction activities, construction, maintenance and repair of the Facility.

6. conducting maintenance and repair work on CI property or facilities, but only to the extent of increases in such costs that result from the presence of the Facility.

7. repairing damage to Potential CI or CI or associated property caused by Certificate Holders or their representatives in connection with any studies, surveys, testing, sampling, preliminary engineering, pre-construction activities, construction, operation, maintenance or repair of the Facility.

8. scheduling and implementing electric system outages required by any studies, surveys, testing, sampling, preliminary engineering, preconstruction activities, construction, operation, maintenance, or repair of the Facility.

- b. For the purposes of this Certificate Condition 29, cost shall be deemed to be reasonable if in the case of each separate review of a study or design proposal described in subsection (a)(3) of this Certificate Condition, the total cost to be borne by the Certificate Holders is five thousand dollars (\$5,000) or less.
- c. Certificate Holders' cost responsibility is limited as follows: a Potential CI or CI owner or operator who intends to incur costs as described in subsection (a) of this Certificate Condition 29 for which reimbursement will be sought for activities other than reviewing a study or design proposal described in subsection (a)(3) of this Certificate Condition 29, or for reviewing such a study or design proposal but in an amount greater than five thousand dollars (\$5,000), must provide Certificate Holders with a written description of the scope of the planned studies or activities and a good faith estimate of the expected costs, except where such studies or activities are undertaken in a situation involving unscheduled electric outages or

an imminent risk to health, safety, property, or the environment, in which case Certificate Holders' reimbursement obligations shall be limited to reasonably incurred costs. Within sixty (60) days of the expenditure by the owners and/or operators of affected Potential CI or CI of any funds which are eligible for reimbursement by the Certificate Holders under this Certificate, the Potential CI or CI owner or operator shall present Certificate Holders with a final invoice for the actual costs incurred, but not to exceed twenty-five percent (25%) over the good faith estimate unless approved by Certificate Holders in advance in writing or, in the case of a dispute between the Certificate Holders and the Potential CI or CI owners or operators, by the Commission. Certificate Holders shall pay the authorized invoice amount within thirty (30) days of receipt.

- d. Disputes concerning the Certificate Holders' cost reimbursement responsibility shall be brought to the Commission for resolution. The time required to resolve any dispute arising under this Certificate Condition 29 shall not be counted for the purpose of any limitation on the time available for commencement or completion of construction of the Facility.

Respectfully submitted,

THE NEW YORK POWER AUTHORITY

By: s/ Javier E. Bucobo  
JAVIER E. BUCOBO  
PRINCIPAL ATTORNEY

cc: Mr. Brian Mills  
Senior Planning Advisor  
Office of Electricity Delivery and Energy Reliability (OE-20)  
U.S. Department of Energy  
1000 Independence Avenue, SW.  
Washington, DC 20585

William Helmer  
Executive Vice President, General Counsel, and Secretary  
Transmission Developers, Inc.  
600 Broadway  
Albany, NY 12207

January 15, 2014

Mr. Brian Mills  
Senior Planning Advisor  
Office of Electricity Delivery and Energy Reliability (OE-20)  
U.S. Department of Energy  
1000 Independence Avenue, SW.  
Washington, DC 20585

**RE: DOS/EIS-0447**

Dear Mr. Mills:

The signatories to this letter are parties to the February 24, 2012 Joint Proposal of Settlement (the “JP”) filed in Case 10-T-0139 before the New York Public Service Commission (“PSC”), and adopted without significant alteration by the PSC in its Order issuing a Certificate of Environmental Compatibility of and Public Need for the Champlain Hudson Power Express Project (the “Facility”) on April 18, 2013 (the “Certificate Order”). We note that the above-referenced draft environmental impact statement for the Facility (the “DEIS”) focuses on the analysis of two alternatives: a “no action” alternative and the Facility as understood, assumed, and recommended for approval by the JP.

We write to advise you that the JP parties concur with the decision to analyze these alternatives and that we consider the DEIS’s analysis of environmental impacts attributable to the Facility to be fully consistent with and confirmatory of the conclusions set forth in both the JP and the Certificate Order. In particular, we believe that the DEIS fully supports the JP’s statement that “the Facility, located and configured as provided in this Joint Proposal, represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.” (JP ¶ 24).

In conclusion, we urge your agency, as well as all federal agencies involved in reviewing the Facility proceed to finalize the relevant approvals so that this important project can go forward.

Very truly yours,

New York State Department of Public Service  
New York State Adirondack Park Agency  
City of New York

SIGNATURE PAGES TO FOLLOW

**Re: DOS/EIS-0447**

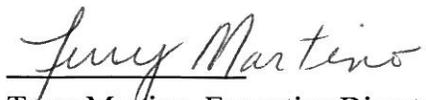
**New York State Department of Public Service**

A handwritten signature in blue ink, appearing to be "John A.", is written over a solid horizontal line.

January 15, 2014

**Re: DOS/EIS-0447**

**New York State Adirondack Park Agency**

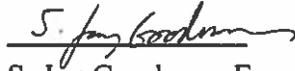
A handwritten signature in cursive script that reads "Terry Martino". The signature is written in black ink and is positioned above a horizontal line.

Terry Martino, Executive Director

January 15, 2014

**Re: DOS/EIS-0447**

**City of New York**



S. Jay Goodman, Esq.

Couch White, LLP

Counsel for the City of New York

January 15, 2014