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July 29, 2010

Via Certified and Electronic Mail
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Dr. Jerry Pell
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Office of Electricity Delivery and Energy Reliability (OE-20)
U.S. Department of Energy
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Re: Presidential Permit application by Champlain Hudson
Power Express/Department of Energy's Request for
Scoping Comments pursuant to National Environmental
Policy Act as set forth in Federal Register: June 18, 2010
(Volume 75, No. 117)

Dear Dr. Pell:

The following are comments from the New York State Thruway Authority (NYSTA) and the New York State Canal Corporation (NYSCC) for the above-referenced matter. The New York State Thruway Authority and New York State Canal Corporation are public benefit corporations organized and existing pursuant to Article 2, Title 9 of the New York State Public Authorities Law (PAL). The NYSCC operates and maintains the New York State Canal System, a state constitutionally protected resource, pursuant to the New York State Canal Law.

The NYSTA maintains jurisdictional control over the New York Thruway System, including the Tappan Zee Bridge (TZB), which crosses the Hudson River between Tarrytown, Westchester County, NY and Nyack, Rockland County, New York. The NYSCC maintains jurisdictional control over certain canal systems within the State of New York, including the portions of the Champlain Canal that the above-referenced project proposes to utilize.

All proposed alternatives will run directly underneath the existing TZB. The NYSTA conducts comprehensive above and below water maintenance on the existing bridge and maintains a robust capital improvement program for the TZB. To effectuate the maintenance and

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capital improvement programs the NYSTA uses various barges and tugs along the length of the bridge. The above-referenced project Draft Environmental Impact Statement (DEIS) should consider potential impacts to NYSTA's ongoing maintenance and capital improvements of the existing TZB, including but not limited to, potential impacts to tug and barge operations at the existing bridge. Additionally, the NYSTA is partnering with the NYS Department of Transportation (NYSDOT), Metropolitan Transportation Authority/MetroNorth Railroad (MTA/MNR), Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) in the development of a DEIS for the potential replacement of the existing TZB. The Department of Energy's (DOE) DEIS for the above-referenced project should identify the TZB DEIS as a potential future project and discuss it in the DOE DEIS.

The Champlain and Erie Canal systems are designated as a National Heritage Corridor. The DOE's DEIS should consider impacts to the operation, maintenance and use of the Champlain Canal by the project, including, but not limited to, the following:

1. Underground Utility Depth Requirements

The NYSCC generally requires that utilities be placed a minimum of 5 feet below the official channel bottom and that sufficient protection is provided to the cover of the utility at the 5 foot depth mark (not higher). Where horizontal directional drilling is used, a minimum of 10 feet is required. The CHPEI report prepared pursuant to Article VII of the New York State Public Services Law (CHPEI report) states that the cables will be placed 3 feet below the current channel bottom. The requirement to place utilities no higher than 5 feet below official channel bottom is to protect the utility conduits from accidental damage from vessel anchors and from dredging operations. The DOE's DEIS should consider potential impact of the proposed cable depth of 3 feet on the Champlain canal, including vessel use of the canal and operation and maintenance activity by the NYSCC. An alternative depth of no less than 5 feet below official navigational depths should be discussed and identified as a mitigation measure for the potential impacts to vessel operations and maintenance of the channel.

2. Rock Crossings

At locations where rock or a hard surface is located, the CHPEI report calls for the cable to be placed on top of the rock, and then covered with a concrete or similar mat. This would place the cables within the official channel. Any encroachment into the channel is not acceptable and not permitted. There is one location where the channel is in a rock cut for approximately 400 feet, about 3 miles south of Lock C-11.

Alternatives to effectively crossing rock within the Champlain Canal that do not impact the use and maintenance of the channel should be discussed in DOE's DEIS.

3. Real Property Rights

The DOE's DEIS should acknowledge that certain real property rights or a permit must be acquired from the NYSCC by the project sponsor to utilize the Champlain Canal.

4. Extent of Project on Canal Corporations Operations

The impact of the cables to the canal is significant as the Project corridor linearly follows along the channel. If the corridor width is considered to be 25 feet, the proposed corridor is 33 percent of the official channel width of 75 feet. Any impacts of the project, including the cables installation, operation and future maintenance on the NYSCC's operations, maintenance, or engineering of the canal should be considered in the DOE's DEIS.

5. Commercial Navigation

The CHPEI report states that the project vessels installing the cable may cause delays in commercial boating traffic. It is not acceptable to disrupt commercial traffic; however, it would be appropriate to coordinate commercial traffic with the NYSCC. The DOE's DEIS should discuss construction related impacts of the project on the Champlain Canal, including possible mitigation measures such as coordinating construction activity with the NYSCC.

6. Safety to Employees

The NYSCC utilizes spuds on its barges to secure vessels during maintenance and dredging activities. These spuds could potentially pierce the cables. Any precautions and future coordination with NYSCC to mitigate this potential impact should be discussed in the DOE's DEIS, including, but not limited to potential effects on the canal system and NYSCC employees in the event a cable is compromised.

7. Impact of Electromagnetism

The CHPEI report on electromagnetism concludes that there is no danger or impact due electromagnetism. The results show that for the length of cable in the channel, a

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maximum of 394 milligauss is calculated. The readings on canal lands show a maximum of 755 milligauss calculated. Both are above the CHPEI report's 200 milligauss recommended maximum at the edge of Right of Way.¹ The DOE's DEIS should discuss the potential impact of electromagnetism on NYSTA/ NYSCC employees, and on directional and communication equipment used by boaters and NYSTA/NYSCC employees.

8. Turbidity

The DOE's DEIS should discuss impacts associated with turbidity within the Champlain Canal system.

9. National Historic Register

The CHPEI report's discussion on Historic and Archeological Resources fails to mention that the Canal System is eligible for the State and National Historic Register, and that the Champlain Canal is part of the Erie Canalway National Heritage Corridor. DOE's DEIS should identify the Champlain Canal as part of a National Heritage Corridor and its eligibility for the State and National Historic Register.

The NYSTA and NYSCC thank you for the opportunity to provide these comments and look forward to working with the DOE and the cooperating agencies in the development of the DEIS. Please do not hesitate to contact me at (518) 436-2860 if you have any questions regarding this letter.

Sincerely,



Peter M. Casper
Assistant Counsel

Cc: Via Email
Carmella Mantello
Bill Estes
Ted Nadratowski
Steve Sweeny
Tom McGuinness

¹ See Exhibit E-5 of CHPEI report.