Comment 201

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572

December 12, 2013

9043.1
ER 13/689

Mr. Brian Mills
Office of Electric Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

RE: COMMENTS
DEIS Champlain Hudson Power Express Transmission Line Project
New York

Dear Mr. Mills:

The U.S. Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for the Champlain Hudson Power Express Transmission Line Project (Project) dated September 2013. The applicant, Champlain Hudson Power Express, Inc. (CHPE), proposes to construct an approximately 336-mile (541-kilometer [km]) long, 1,000-megawatt (MW), high-voltage direct current (HVDC) electric power transmission system that would route from the U.S./Canada border to Astoria, Queens, New York. The overall Project purpose is to transmit electricity from Canada to markets in New York City. The U.S. Department of Energy (DOE) is considering an application for a Presidential Permit for this Project.

The Department's U.S. Fish and Wildlife Service (Service) has contributed the following comments on the DEIS pursuant to, and in accordance with, provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.), Bald and Golden Eagle Protection Act (54 Stat. 250, as amended; 16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (MBTA) (40 Stat. 755; 16 U.S.C. 703-712). The Service previously provided comments to DOE on the Preliminary EIS for this Project in a letter dated February 5, 2013, and may provide additional comments on this Project under the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) or other legislation, as applicable.

The proposed CHPE Project involves the construction and installation of two HVDC lines within a primarily underwater and underground corridor, although some specific Project components of

the transmission system, including various cooling equipment and a converter station, would be aboveground. There are four segments to the Project, Lake Champlain, Overland Route, Hudson River, and New York City Area.

COMMENTS

Federally-Listed Endangered, Threatened, and Concern Species

Federal agencies have responsibilities under Section 7(a)(2) of the ESA to consult with the Service regarding projects that may affect Federally-listed species or designated critical habitat. We understand that the DOE is currently developing a Biological Assessment (BA) to analyze the impacts to the Federally-listed endangered Indiana bat (*Myotis sodalis*) and Karner blue butterfly (*Lycaeides melissa samuelis*). The DOE has preliminarily determined that the proposed Project may affect, but is not likely to adversely affect (NLTAA), these species. However, the DEIS includes statements such as, "Potential non-significant effects from vegetation management include habitat degradation via removal, crushing, or other disturbances to protected species and their habitat," which would not support an NLTAA determination. The DEIS also states that "A vegetation management plan for the operational phase would be developed and included in the EM&CP." Please note that the DOE and the Service will need to assess the potential impacts of vegetation management during the consultation process.

The DOE has also preliminarily determined that the proposed Project will result in no impacts to the Federally-listed endangered piping plover (*Charadrius melodus*) or roseate tern (*Sterna dougallii*), the Federally-listed threatened northern wild monkshood (*Aconitum noveboracense*), bog turtle (*Clemmys* [= *Glyptemys*] *muhlenbergii*), or the Federal candidate for listing, New England cottontail (*Sylvilagus transitionalis*), as no suitable habitat is present for these species within the Project area. The DEIS states that impacts are unlikely to the Federally-listed threatened small whorled pogonia (*Isotria medeoloides*) because the Service considers this species as extirpated from New York. Please note that the DEIS is citing out of date information as small whorled pogonia was rediscovered in Orange County, New York, in 2010. However, we have no information to suggest the species occurs within the proposed Project area. We look forward to receiving additional details for all of the above-listed species in the BA.

The northern long-eared bat (*Myotis septentrionalis*) (NLEB) is currently proposed for Federal listing under the ESA. At this time, no critical habitat has been proposed for the NLEB. The entire state of New York is considered to be within the potential range of the NLEB. During the summer, NLEBs typically roost singly or in colonies in a wide variety of forested habitats, in cavities or crevices or underneath loose bark of both live trees and snags (≥3 inches d.b.h.). The NLEBs have also been documented roosting in man-made structures (i.e., buildings, barns, etc.) during the summer. They forage for insects in upland and lowland woodlots and tree lined corridors. During the winter, NLEBs predominately hibernate in caves and abandoned mine portals. Additional habitat types may be identified as new information is obtained.

Pursuant to Section 7(a)(4) of the ESA and 50 CFR 402.10(a), federal action agencies are required to confer with the Service if they determine that the proposed federal action is likely to jeopardize the continued existence of the NLEB. Action agencies may also voluntarily confer

with the Service if the proposed action may affect a proposed species. Although species proposed for listing are not afforded protection under the ESA, if a proposed species is listed, the prohibitions against jeopardizing its continued existence and unauthorized "take"[1] are effective immediately, regardless of an action's stage of completion. Therefore, if suitable NLEB habitat is present within the proposed Project area, we recommend further coordination to determine if the species may be present or if impacts are likely to avoid potential significant Project delays. Additional information regarding NLEB and conference procedures can be found at http://www.fws.gov/midwest/endangered/mammals/nlba/index.html.

Bald Eagles

Bald Eagles use the Hudson River corridor for all aspects of their life cycle including feeding, breeding, wintering, and during migration. The DEIS notes that data from the New York Natural Heritage Program indicates active bald eagle nests in several counties in the Lake Champlain, Overland, and Hudson River sections of the Project. The Project sponsor should contact Sarah Nystrom, the Service's Northeast Region Eagle Coordinator at 413-253-8592 or sarah_nystrom@fws.gov, if Project construction is expected to impact bald eagles, especially during the breeding season. Notably, the DEIS indicates that blasting may be required in some areas if excavation equipment cannot dig the cable trench. Surveys may be required to determine active nesting areas prior to construction. The Service can provide recommendations on surveys for this species prior to construction.

Migratory Birds

We appreciate the consideration given by CHPE to co-locate the land portion of the Project almost entirely along existing infrastructure such as rail lines, roads, and utilities. This will reduce habitat loss, fragmentation, and disturbance of areas important to migratory birds. As DOE is likely aware, the Project's effects on migratory birds should be documented, even if found adjacent to previously disturbed areas, in order to comply with the MBTA and the requirements of Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds.

The Service previously requested that wildlife habitat be adequately mapped so that impacts to the various cover types can be assessed. However, it appears that only a portion of the Project corridor has been reviewed. In addition, few details are available on the locations of cooling stations, equipment storage and staging areas, access roads, and contractor yards. Further, we note that the construction of the Project would likely encompass the nesting and migration seasons of migratory birds. However, it is not clear in the DEIS, if and when construction activities would occur in migratory bird habitat.

We recommend DOE provide a more complete estimate of the potential disturbance to terrestrial habitat and the impact of the Project on migratory birds. Further, we request DOE coordinate with the Service's New York Field Office to determine if conservation measures to benefit migratory birds are needed.

[1] Take is defined in Section 3 of the ESA as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

According to data from the New York Natural Heritage Program, colonial waterbirds have nested on the Four Brothers Islands complex in Lake Champlain. The Project sponsor should determine if construction will occur close to these nesting areas and if so, whether the Project can be constructed outside of the breeding season in this location.

Fish

In previous comments, the Service requested information on the potential effects of electromagnetic fields on the American eel, a candidate for ESA listing. We have concerns that the electromagnetic fields produced by the Project may affect the feeding, migration, or homing abilities of eels. However, the information in the DEIS concludes that the Project would not negatively impact this species. Some research, mostly in the marine environment and with alternating current, concludes that the effects on benthic organisms and fish depend largely on the species and their sensitivity to these fields (Normandeau et al. 2011, Schultz et al. 2010). However, adequate research for freshwater fish is lacking and the impacts to freshwater biota are mostly based on modeling or laboratory experiments. It is recommended that the Project sponsor consider monitoring the Project to determine if the electromagnetic fields emitted by the transmission line are influencing eel behavior. We understand that additional monitoring and reporting is expected to occur following cable installation which will supplement the existing knowledge base and guide future siting decisions for similar projects that may be proposed in the future. The Service requests to be involved in the development of study plans and review of data, when available.

We recommend that DOE and the applicant consider these comments prior to Project approval. The Service's New York Field Office will continue to work with the Project sponsor and DOE in evaluating the Project's potential impacts on Federally-listed species, sensitive fish species, and migratory birds.

Thank you for the opportunity to review and comment on this DEIS. Please contact Tim Sullivan at 607-753-9334 if there are any questions regarding these comments. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer

REFERENCES

Normandeau, Exponent, T. Tricas, and A. Gill. 2011. Effects of EMFs from Undersea Power Cables on Elasmobranchs and Other Marine Species. U.S. Dept. of the Interior, Bureau of Ocean Energy Management, Regulation and Enforcement, Pacific OCS Region, Camarillo, CA. OCS Study BOEMRE 2011-09.

Schultz, I.R., D.L. Woodruff, K.E. Marshall, W.J. Pratt, and G. Roesijadi. 2010. Effects of Electromagnetic Fields on Fish and Invertebrates. U.S Department of Energy, Pacific Northwest National Laboratory. DOE Report PNNL-19883.

Comment 202

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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US Department of Energy

DEC 19 2013

Electricity Delivery and Energy Reliability

US Department of Energy

DEC 18 2013

Electricity Delivery and Energy Reliability

Brian Mills, National Environmental Policy Act Document Manager
Office of Electricity Delivery and Energy Reliability, OE-20
US Department of Energy
Washington, D.C. 20585

Dear Mr. Mills:

The U.S. Environmental Protection Agency (EPA) has reviewed the Department of Energy's draft environmental impact statement (DEIS) dated September 2013 for the Champlain Hudson Power Express Transmission Line Project (CHPE). The proposed project would be an approximately 336-mile long, 1,000-megawatt, high-voltage merchant electric power transmission system that includes a dual transmission line that would extend to Astoria, Queens, New York. The CHPE is a high voltage direct current transmission system, consisting of two cables, which will run electricity from Canada south to the New York City area. The cables will be placed under the sediments of Lake Champlain, the Hudson River, the Harlem River and the East River with some upland placement along the route. The project will include a converter station to be located in Astoria, New York, and several cooling stations to be located with the cables in upland areas. This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C 7609, PL 91-604 12 (a), 84 Stat. 1709) and the National Environmental Policy Act (NEPA).

EPA recognizes that this project has already undergone an in-depth review by the New York State Public Service Commission (NYSPSC), and has been granted a Certificate of Environmental Compatibility and Public Need by that Commission. While the Commission's proceedings are mentioned in various places in the DEIS, it might have been more useful for the public if the DEIS summary had contained a brief explanation of the NYSPSC proceedings, and a listing of important documents and the websites for those documents, especially the NYSPSC Certificate Conditions for the CHPE project.

We have enclosed a list of technical comments on the DEIS, and in light of our concerns on habitat loss due to anchor chain sweep, lack of wetlands mitigation plans and the document's lack of impacts analysis for underwater blasting, EPA has rated the DEIS as "EC-2" (Environmental Concerns- Insufficient Information; see enclosed rating sheet).

Thank you for the opportunity to comment. Also included is a list of resources, **"U.S. EPA Region 2, Green Recommendations"** that can assist you in greening this and future projects. If you have any questions regarding this review or our comments, please contact Lingard Knutson of my staff at (212) 637-3747.

Sincerely,

Judy-Ann Mitchell, Chief
Sustainability Planning and Multi-Media Programs Branch

Enclosures

EPA Comments on Champlain Hudson Power Express
Draft Environmental Impact Statement dated September 2013

General Conformity

1. The general conformity applicability analysis emissions are not presented on a calendar year basis. However, EPA acknowledges that by including the total emissions in each nonattainment area, even for segments that may span greater than one year, the applicability analysis provides a conservative estimate.

2. There appears to be an error in calculating the emission factor for several marine vessels and dredges. Using EPA's "Current Methodologies in Preparing Mobile Source Port-Related Emission Inventories" (http://epa.gov/cleandiesel/documents/ports-emission-inv-april09.pdf), a typical NOx emission factor for tugboats is 10 g/kW-hr. Converted to pounds, this factor would be 0.02 lb/kW-hr. However, Appendix M shows an emission factor of 0.02 lb/hr, where it appears that the engine's rated power has not been taken into account. We recommend checking all marine and dredging emission factors and updating the general conformity analysis as necessary.

Wetlands

1. Several sections of the DEIS, such as S.S.8, 2.6.8 and 5.2.8 mention that a conceptual wetlands mitigation plan has been supplied to the New York District Army Corps of Engineers. That mitigation plan should be included in the EIS to allow for wider public and agency comment.

2. According to Section 5.2.8 of the DEIS, restoration of the temporary wetland impact areas will consist of re-grading to original contours and seeding with annual ryegrass, followed by natural plant establishment and succession. Some tree species may re-sprout from stumps and roots, but this passive restoration of 16.2 acres of forested wetland will likely take 30 to 50 years to yield a mature wetland community. EPA recommends that the planned restoration of cleared forested wetland areas be augmented with a wetland seed mix and planting of native tree and shrub saplings.

Sediment/Habitat

1. Sections S.6.3 and 2.4.10.1 discuss the aquatic construction sequence, and state that the "plowing process would be conducted using either a dynamically positioned cable ship or a positioned cable barge." EPA assumes that a "positioned cable barge" is the same as an anchored position vessel, as described in Section 5.1.2. Because of the anchor chain sweep, the use of an anchored position barge or vessel will exponentially increase the impact to benthic habitat compared to a dynamically positioned vessel. Section 5.1.9 does mention anchor sweep, but does not quantify the loss of benthic habitat, nor does Section 5.3.4 "Impacts of construction on shellfish and benthic communities." Should the applicant use an anchored position vessel in either Lake Champlain or the Hudson River,

mid-line buoys should be employed to minimize the effect of anchor chain sweep on the benthic habitat. Use of mid-line buoys is standard on Federal Energy Regulatory Commission pipeline certificates in this region. EPA is also concerned as to whether the disturbance from anchor chain sweep was included in Table 2-3 - Summary of Potential Impacts Associated with the Proposed CHPE Project, Aquatic Habitat and Species resource area.

2. In section 2.4.2, the fourth paragraph, last line states, "If necessary, blasting could be used to create a trench in which to bury the cables." EPA understands that in water blasting is proscribed by the NYSPSC order and was not mentioned in the New York District Army Corps of Engineers Public Notice (NAN-2009-01089-EYA) for this project. However, if in water blasting is considered a possible construction technique, the DEIS must evaluate its environmental impacts, especially to endangered fish.

3. Section 5.3.5 of the DEIS states, "Installation of the proposed aquatic transmission line would result in up to 485 acres of riverbed disturbance in the Hudson River Segment," however the Army Corps of Engineers Public Notice (above) states that the anticipated impacts from the buried cable installation for the entire project is 338 acres. This discrepancy must be rectified.

4. The applicant needs to clarify what areas will be backfilled with clean fill and what they propose as "clean fill." Particular clarification is necessary for those areas of federal channels (total 9 miles) where the applicant will be excavating 15-feet of material below the federal channel. The DEIS states, "Once a segment of trench is excavated, cable would be laid, and the clamshell dredge or excavator would place clean backfill back into the trench," details need to be provided for this backfilling.

Cumulative Impacts

1. The discussion of cumulative impacts should be expanded and updated to address the potential for the installation of the New England Clean Power Link (transmission line) project which includes burial of 100 miles of two six-inch cables under Lake Champlain. It is our understanding that the New England Clean Power Link project is to be developed by the same development team behind the Champlain Hudson Express project and that it will also require DOE review. Therefore, we believe it is appropriate for the analysis to include a description of both projects in the cumulative impacts analysis. Moreover, the EIS should explain whether opportunities exist for synchronized and co-located installation of the projects to further reduce impacts. More information about the New England Clean Power Link project can be found at: http://www.necplink.com/about.php

2. Section 6.1.1.3 and 6.1.2.2 discuss the Coast Guard' proposed federal anchorage in the Hudson River west of Yonkers, between mile posts 319 and 320. The Coast Guard effort is well into its planning process, and is very likely to occur. While section 6.1.2.2 states that the anchorage should be constructed before the CHPE is installed, and that the CHPE would be rerouted "slightly" to the east, EPA is concerned that the DEIS did not assume

the new routing as part of the preferred alternative, has not included any approval or discussion by the Coast Guard or that the CHPE would be safe for mariners near the new anchorage.

3. Section 6.1.2.14 should include a discussion of marine vessel safety during the simultaneous construction of both the CHPE and the Tappan Zee Hudson River Crossing. Any required Coast Guard permits or safety plans with the New York State Thruway and its contractors should be noted.

General

1. EPA notes that the DEIS does not appear to contain information about the Champlain Valley National Heritage Partnership (CVNHP) in its evaluation of cultural resources. The CVNHP is administered by the Lake Champlain Basin Program. More information can be found at http://www.champlainvalleynhp.org/index.htm

2. EPA recommends that the Endangered Species Action Biological Assessments and Essential Fish Habitat consultation be included in the DEIS, or incorporated by reference.

3. In Section S.8.6, final paragraph, please provide the reference the study on forest fragmentation that indicates that displacement impacts associated with a 26-foort-wide corridor is not significant.

4. Section 1.6.2. Please supplement the description of EPA's role in the CHPE project by including the following - EPA is required under Section 309 of the CAA to review and publicly comment on the environmental impacts of major federal actions including actions that are the subject of draft and final EISs, and responsible for implementing certain procedural provisions of NEPA (e.g., publishing the Notices of Availability of the draft and final EISs in the *Federal Register*) to establish statutory timeframes for the environmental review process.

5. Page 2-7, last sentence on the page. There is a partial sentence "2-7 and" that should be deleted.

6. Page 5-78 discusses the use of vegetative buffers around the cooling stations. All vegetative buffers should use native plants.

7. On page 5-115, the second paragraph states "post-installation monitoring for the Long Island Replacement Cable in 2010…suggested that concrete mats were not a major disturbance to benthic communities." Please add the reference for that statement.

EPA Region 2 Green Recommendations

To the maximum extent possible, project managers are encouraged to utilize local and recycled materials; to recycle materials generated onsite; and to utilize technologies and fuels that minimize greenhouse gas emissions.

Further, to the extent feasible, renewable energy (including, but not limited to solar, wind, geothermal, biogas, and biomass) and energy-efficient technologies should be incorporated into the design, construction, and operation of all types of projects.

To that end, the following information and internet hyperlinks are provided for your consideration and use:

- **Multi-media green building and land design practices**
  Utilize green building practices which have multi-media benefits, including energy efficiency, water conservation (see WaterSense below), and healthy indoor air quality. Apply building rating systems and no-cost online tools and guides, such as ENERGY STAR, Portfolio Manager, Target Finder, Indoor Air Quality Package, and WaterSense for building construction. The ENERGY STAR website (see below) includes, among other things, information on new single-family homes, multi-family homes, commercial and other buildings, and schools. The website also provides an ENERGY STAR "Training Center" free of charge.

  U.S. Green Building Council (USGBC) LEED Programs and Guides: http://www.usgbc.org/

  ENERGY STAR home page: http://www.energystar.gov

  ENERGY STAR Target Finder (no-cost online tool to set energy performance targets): http://www.energystar.gov/targetfinder

  Indoor Air Quality: http://www.epa.gov/iaq

- **Water conservation and efficiency in building construction**
  Promote water conservation and efficiency through the use of water efficient products and practices. For new building construction and restoration projects, we recommend considering the use of products with the WaterSense label where appropriate. Devices receiving the EPA WaterSense label must be at least 20% more water efficient than (and must meet or exceed the performance standards of) non-labeled devices of the same type. Additionally, when possible, consider the use of WaterSense Certified Professional Irrigation Partners and WaterSense Builder Partners. These professionals use WaterSense labeled devices where appropriate, are trained in the latest water conservation practices, and use the latest water efficiency tools and technologies, including irrigation equipment and xeriscaping for landscaping and best management practices for construction in the WaterSense New Home Specifications. Visit the WaterSense website for tips on water efficiency, a WaterSense labeled product search tool, a list of WaterSense Partners, access to the Water Budget Tool at: http://www.epa.gov/watersense/

  In addition to using WaterSense labeled products and certified professionals, there are many water conservation strategies and best management practices that can be used in new construction and/or restoration. Here are some useful links to water conservation information:

  - Green Building Encyclopedia:
    http://www.whygreenbuildings.com/water_conservation.php

Consider designs for storm water management on compacted, contaminated soils in dense urban areas:

Additional information: http://www.epa.gov/brownfields/tools/swdp0408.pdf

- **Alternative and Renewable Energy**
  The Department of Energy's "Green Power Network" (GPN) provides information and markets that can be used to supply alternative generated electricity. The following link identifies several suppliers of renewable energy:

  Additional information:
  http://apps3.eere.energy.gov/greenpower/buying/buying_power.shtml?

- **Clean Diesel**

  For new equipment utilize contract specifications requiring advanced pollution controls and clean fuels: http://www.northeastdiesel.org/pdf/NEDC-Construction-Contract-Spec.pdf and http://www.epa.gov/cleandiesel/technologies/index.htm

  Implement diesel controls, cleaner fuel, and cleaner construction practices for on-road and off-road equipment used for transportation, soil movement, or other construction activities, including:

  1. Strategies and technologies that reduce unnecessary idling, including auxiliary power units, the use of electric equipment, and strict enforcement of idling limits; and
  2. Use of clean diesel through add-on control technologies like diesel particulate filters and diesel oxidation catalysts, repowers, or newer, cleaner equipment.

  Additional information: *A How To Guide for Diesel Engine Retrofits in the Construction Industry*: http://www.mass.gov/dep/air/diesel/conretro.pdf

- **Utilizing recycled materials in construction projects**
  Many industrial and construction byproducts are available for use in road, building or infrastructure construction. Use of these materials can save money and reduce environmental impacts. The Recycled Materials Resource Center has developed user guidelines for many recycled materials and compiled existing national specifications.

  Additional information: http://rmrc.wisc.edu
  http://www.fhwa.dot.gov/pavement/recycling/rectools.cfm
  http://www.epa.gov/osw/conserve/imr/index.htm

- **Encourage cost-efficient, environmentally friendly landscaping**
  EPA's GreenScapes program provides cost-efficient and environmentally friendly solutions for landscaping. Designed to help preserve natural resources and prevent waste and pollution, GreenScapes encourages companies, government agencies, other entities, and homeowners to make more holistic decisions regarding waste generation and disposal and the associated impacts on land, water, air, and energy use.

  Additional information: http://www.epa.gov/wastes/conserve/tools/greenscapes/index.htm

- **Incorporate on-site energy generation and energy efficient equipment upgrades into projects at drinking water and wastewater treatment facilities**

Consider using captured biogases in combined heat and power systems, and renewable energy (wind, solar, etc.) to generate energy for use on-site. Evaluate the potential energy savings associated with upgrading to more energy efficient equipment (pumps, motors, lighting, etc.).

Additional information: http://water.epa.gov/infrastructure/sustain/goinggreen.cfm
http://www.epa.gov/region9/waterinfrastructure/howto.html

- **Incorporate green practices into remediation of contaminated sites**
  Encourage or incentivize the use of green remediation practices, including designing treatment systems with optimum energy efficiency; use of passive energy technologies such as bio-remediation and phyto-remediation; use of renewable energy to meet power demands of energy-intensive treatment systems or auxiliary equipment; use of cleaner fuels, machinery, and vehicles; use of native plant species; and minimizing waste and water use.

  Additional information: http://cluin.org/greenremediation/index.cfm

- **Encourage development in brownfield sites**
  Cleaning up and reinvesting in these properties takes development pressures off of undeveloped, open land, and both improves and protects the environment. These sites are often "infrastructure-ready," eliminating the need to build new roads and utility lines which are necessary in undeveloped land.

  Additional information: http://www.epa.gov/brownfields/

- **Encourage use of Smart Growth and transit-oriented development principles**
  Smart Growth and transit oriented development (TOD) principles help preserve natural lands and critical environmental areas, and protect water and air quality by encouraging developments that are mixed-use, walkable and located near public transit. Encourage use of bicycling with bike commuter parking, storage, and changing facilities. Facilitate increased carpooling or alternative vehicles with preferable parking spaces and/or electric vehicle plug in spots.

  Additional information: http://www.epa.gov/smartgrowth

- **Integrated Design Process**
  The Integrated Design Process calls for the active and continuing engagement of all stakeholders throughout the building design, development, construction, and post-construction phases including the owners, architects, engineers, building department officials, and others. This process creates a higher-performing building at lower cost, allows various building systems to work together to eliminate redundant and unnecessary capacity, and minimizes change order costs.

  Additional information: http://www.wbdg.org/design/engage_process.php

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION
Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

Comment 203

U.S. Department of Homeland Security

United States Coast Guard

Commander
First Coast Guard District

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16670
January 15, 2014

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

Dear Mr. Mills,

Thank you for the opportunity to comment on the Champlain Hudson Power Express (CHPE) Draft Environmental Impact Statement (DEIS).[1] The First Coast Guard District (CGDONE), with input from Sector Northern New England (SECNNE) and Sector New York (SECNY), evaluated the DEIS to determine how the project may impact navigational safety along the transmission line route. The U.S. Coast Guard (USCG) provides the following input, in addition to a submission by SECNY on January 17, 2013 on the Preliminary DEIS (See Enclosure).

1. Cooperating Agency Clarification:

The USCG's role is to serve as a subject matter expert to the DOE regarding impacts to navigation. The USCG requests that Table 1-2 on page 1-11 in Volume 1 of the DEIS be revised to read as follows: "Provides recommendations concerning possible impacts to navigational safety and security under the authority of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. § 1231, and the Rivers and Harbors Act, 33 U.S.C. § 471."

The USCG is authorized to issue permits for certain bridge projects, marine events, and for private aids to navigation. At this time, there is no indication that this project requires the USCG to exercise any such permitting authorities.[2]

2. Navigational Safety:

Installation of cable beneath navigable waters along the project route will impact navigational safety by increased presence of construction vessel traffic. To reduce risks during construction, cable laying vessels must be vigilant to guard against marine incidents through prudent seamanship and adherence to navigation rules. After the installation phase is finished, the permanent existence of a transmission cable under these waterways will likely create safety risks for vessels needing to anchor if appropriate mitigation strategies are not employed.

The DEIS mentions employing limited access areas for the project in multiple locations to mitigate risk.[3] The USCG may, at its discretion, establish a limited access area along the

[1] OE Docket No.PP-362.
[2] Page 2-81 (end of paragraph 6); Appendix J Memo dated November 26, 2012 (Section 2.0).
[3] Pages 3-35 paragraph 1 and page 5-101 paragraph 4.

waterways when necessary to provide for safe navigation. As stated in 33 C.F.R. § 165, any person (or applicant) may request that the USCG establish a limited access area by following the appropriate protocol. Finally, for clarification, the DEIS references an outdated version of 33 C.F.R. 169.165 safety and security zone regulations.[4] The "Commercial Waterfront Facilities" site has been revised to "33 C.F.R. Part 105 Facilities".

3. Transmission Cable Line:

The USCG has concerns with several locations and burial depths along the proposed cable route. While the Applicant did consult with SECNY and with members of the NY/NJ Harbor Safety, Navigation and Operations Energy Subcommittee, it appears the Applicant has made few changes to the project route based on input provided during such consultation, contrary to what the DEIS states.[5]

It is unclear if the proposed cable burial depth, which varies from three to fifteen feet along the route, is sufficient to prevent anchor snag. A vessel fetching up on an insufficiently buried cable could result in a marine incident with interruption to the waterway and dire environmental consequences. The USCG recommends that the Applicant substantiate through testing or research that the proposed route and burial are such that anchor snags on vessels typical of the waterway are unlikely to occur. The Applicant's proposed cable route and burial should be based on independent and objective data and information derived from reliable, expert sources, such as the Sharples Report.[6] After an adequate cable route and depth is established, the USCG recommends that the Applicant verify and document the "as built" cable depth with certainty. Currently, the DEIS does not detail how the burial depth will be verified.[7]

The USCG requests clarification regarding the anchor replacement and cable repair process, which as written implies the USCG has a role in the process.[8] Additionally, the USCG requests an opportunity to review the Anchor Snag Manual, and the subsequent Navigation Risk Assessment, prior to construction.[9] The USCG requests a meeting with the Applicant and their cable installer prior to construction to better understand the installation methods and discuss safety and security concerns.

4. Multiple Use of the Waterway:

The Hudson and NYC Metropolitan segments are congested with many waterway projects and are components of the greater Port of New York/ New Jersey. Lake Champlain has passenger ferries, including a cable ferry, essential to the regional transportation systems. While the USCG maintains awareness of activities taking place in the maritime domain, it is the responsibility of

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[4] Page 3-86, paragraph 3.
[5] Page 5-38, paragraph 4.
[6] http://www.bsee.gov/uploadedFiles/BSEE/Research_and_Training/Technology_Assessment_and_Research/671AA-Final%20Report%20Offshore%20Electrical%20Cable%20Burial%20for%20Wind%20Farms.pdf
[7] Appendix G, page G-2, bullet 6.
[8] Page 5-103, paragraph 1.
[9] Appendix G, page G-3, bullet 11.

the Applicant to coordinate this project with other waterway users, and when possible, avoid conflicts.

The DOE has no authority to prohibit vessel anchorage for the "aquatic transmission line ROW for the lifespan of the proposed CHPE Project" as stated in Section 5; nor would the USCG prohibit vessel anchorage, as stated in Section 5.3.2.[10] For these reasons, the USCG recommends that this proposed language be further examined and revised. In the event of a vessel emergency, vessels must have the ability to rapidly deploy their anchor regardless of whether or not they are in an established anchorage.

The DEIS states that where the transmission line might cross a channel or anchorage area, it would be buried according to specifications described in Section 2.4.10.1.[11] The DEIS also states that the proposed CHPE project would traverse the Yonkers Anchorage Ground.[12] SECNY notified HDR Inc. of this proposed Anchorage Ground on November 12, 2010[13] and is unaware of attempts to re-route the cable. Any cabling through a designated anchorage presents an unacceptable risk. This risk is amplified where no study of anchor penetrations and bottom characteristics has been conducted. The USCG strongly disagrees with a cable route that lies beneath any existing or proposed anchorage ground.

5. Bridges:

The Applicant and DOE are reminded that the USCG is responsible for enforcing certain rules and regulations related to bridges and causeways over U.S. navigable waters. If the Applicant plans activity affecting a bridge built under the authority of a USCG permit, the Applicant may be required to consult with the bridge owner and CGDONE before commencing that work.

6. Ice Breaking:

According to the DEIS, various project construction milestones extend into late November and December.[14] The Applicant and DOE are reminded that Lake Champlain may ice over at that time of year and the USCG has no ice breaking resources available on Lake Champlain.

Although the DEIS states that installation activities will be limited to certain times of the year, it is silent about the timing of inspection and repair activities. If inspection and repair activities take place during winter months, the USCG may not have the capacity to conduct ice breaking operations in the Hudson River and NYC segments for the Applicant.

7. Ballast Water Management:

Because ballast water management is not mentioned in the DEIS, the Applicant and DOE are reminded that, pursuant to the Non-indigenous Aquatic Nuisance Prevention and Control Act of

[10] Page 5-2, paragraph 4, page 5-103, paragraph 1.
[11] Page 5-3, paragraph 6.
[12] Page 6-4, paragraph 5.
[13] Email with attachment, Jeff Yunker, USCG to R. Alevras, HDR.
[14] Page 2-27, Table 2-2.

1990 (33 C.F.R. § 151 Subpart C and D), the USCG has authority to regulate and enforce proper ballast water management. Aquatic nuisance species are a major concern especially for the Lake Champlain ecosystem. Current regulations and guidance on USCG ballast water regulations can be found on the USCG's Homeport web site.[15]

8. Compass Deviation

All vessels that fall under 33 C.F.R. § 164 and USCG Navigation and Vessel Inspection Circular No 02-03, require a properly adjusted magnetic compass. According to the DEIS, the DOE states impacts to the required magnetic compasses will be negligible as a result of the project.[16] USCG requests the DOE research used to make this determination.

9. Cumulative and Other Impacts:

The Clean Energy Power Link project, which is also proposed by the Applicant of the CHPE project, runs closely along the same route through Lake Champlain.[17] In Section 6.1.1.2 of the DEIS, there is no mention of the potential for cumulative impacts on the marine environment. Additionally, the West Point Net Zero Initiative proposes to install a water intake pipeline, extending approximately 1500 feet from the Hudson River shoreline between MP 283 and 284, to be used for terrestrial infrastructure cooling. The USCG, through SECNY, commented on June 24, 2013 to the U.S. Army NEPA coordinator, that the location of this project presents navigational safety concerns on its own. The addition of the CHPE project would increase the risk of a marine incident.

10. Summary:

To reduce the negative impacts on navigation and reduce the risk to safety on the affected waterways, the USCG strongly recommends that the Applicant:

- To the greatest extent possible, set the cable route outside of all federally maintained, designated navigation channels, and frequented natural deepwater channels;
- Set the cable route outside of all current anchorage areas and those anchorage areas currently proposed through the rulemaking process; and
- Establish a cable route and burial depths sufficient to prevent anchor fouling, then verify and publish the route post-construction.

If the CHPE project is approved by DOE and constructed by HDR, Inc, the USCG strongly desires continued involvement, including:

- Coordination of cable laying within or across federally maintained navigation channels[18];
- Distribution of project updates via Local Notices to Mariners;

[15] https://homeport.uscg.mil/
[16] Page 5-103, paragraph 1
[17] http://www.necplink.com/
[18] Appendix G, page G-2, bullet 6.

- Active participation in review of several Applicant written documents (e.g. Aquatic Safety and Communications Plan; Environmental Management and Construction Plan; Spill Prevention, Control; and Countermeasures Plan; Emergency Repair and Response Plan; and the Anchor Snag Manual) prior to construction start; and
- Notification as soon as possible of all reportable marine incidents and cooperation through marine investigations, if applicable.

Finally, the USCG recommends frequent communication with the appropriate Coast Guard Sector waterway managers and affected stakeholders.

Thank you for this opportunity to participate as a cooperating agency. Should you have additional questions or concerns in this matter, feel free to contact Mr. Daniel L. Hubbard, Branch Chief for Maritime Energy and Marine Planning at Daniel.L.Hubbard@uscg.mil or 617-223-8372.

Sincerely,

W.A. MUILENBURG
Captain, U.S. Coast Guard
Chief, Prevention Division
By direction of the District Commander

Enclosure: (1) Coast Guard Sector New York CHPE PDEIS Comment Letter 17 JAN 2013

Copy: Commandant, U.S. Coast Guard (NAV-3)
Commander, Coast Guard Atlantic Area (LANT-544)
Commander, First Coast Guard District (dpb)
Commander, Coast Guard Sector Northern New England (spw)
Commander, Coast Guard Sector New York (spw)
Commander, U.S. Army Corps of Engineers New York District (Eastern Permits)

U.S. Department of Homeland Security

United States Coast Guard

Commander
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212 Coast Guard Drive
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16670
17 Jan 2013

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

To Whom It May Concern:

Thank you for the opportunity to comment on the Preliminary Draft Environmental Impact Statement (DEIS) regarding the Champlain Hudson Power Express Transmission Line Project. We offer the following comments:

The Coast Guard has a responsibility to ensure the safety of navigation and protection of the marine environment under the Ports and Waterway Safety Act (PWSA), 33 U.S.C. 1231. The Champlain Hudson Power Express Project, in its current form, presents concerns to the Coast Guard Captain of the Port (COTP) New York, as it proposes to install power cables underneath and along the navigable waters of the Hudson, Harlem and East Rivers.

In the event of an emergency, commercial vessels must have the ability to rapidly deploy their anchor. If cables are not buried sufficiently, there is a risk of the cable being struck or snagged by a commercial vessel's anchor which could have a severe impact on commercial and recreational navigation, the environment, maritime facilities, and the transmission line itself. While installing this cable in shallower water near the shoreline would alleviate many navigation concerns, the agencies and groups involved in the Joint Proposal of Settlement have approved a route in deep water where the likelihood of anchor related marine casualties is increased.

As evidenced by the recent closure of the Hudson River due to the M/V STENA PRIMORSK grounding, a two or three day waterway closure would have severe impacts to Upstate New York and the New England region. The DEIS referenced 14 day closure for future cable repairs would have unacceptable impacts to the marine transportation system.

The transmission route should be revised to avoid all federally designated navigation channels and other navigable waters historically used by commercial vessels. Due to the effects of winds, tides, currents, and other vessel traffic, commercial vessels must transit where deep water is available regardless of the location of federal channels. The burial depths currently proposed in the DEIS are insufficient. If the cable is buried within navigable waters, it is of the upmost importance that the cables are buried sufficiently to allow for future channel deepening projects and to prevent cable strikes or snags. The cable burial depths should be established through consultation with the US Army Corps of Engineers' Technical Group. The Sharples Report provides additional guidance about the burial depths that should be required of the applicant. If

ENCLOSURES(1)

In addition, the applicant must not assume right of way over other pre-approved projects. The Coast Guard will not facilitate scheduling conflicts between other projects. Requests for the movement of any federal channel marker buoys must be made a minimum of 30 days in advance if necessary for the completion of this project. Regardless of the request, the Coast Guard may not be able to reposition buoys to accommodate cable installation based upon previously scheduled Coast Guard operations and/or unavailability of alternate buoy locations.

On page 326, the DEIS describes that cable burial depths will be verified, but it is not stated who will do the verification, the cable installer or a separate party.

The Coast Guard would like an opportunity to provide comments on the BMP referenced as an Anchor Snag Manual (p. 441). We recommend the anchor snag manual include a navigation risk assessment including a bottom assessment of the entire cable route within the Hudson, Harlem, and East Rivers, including, but not limited to, expected impacts to current and future commercial vessels based upon Deadweight Tonnage.

Under 33 CFR 64.06 – Definition of Terms, a transmission cable snagged by an anchor is designated as an "obstruction". Following an anchor related marine casualty due to transmission cables, the applicant would be required to provide a repair proposal to the COTP New York including a new, deeper cable burial depth to prevent future snags within the affected area. Again, the DEIS referenced a 14 day closure for future cable repairs which would have unacceptable impacts to the marine transportation system.

The "Present and Reasonably Foreseeable Future Actions in the Hudson River" segment should include the proposed establishment of a Federal anchorage ground west of Yonkers, NY bound by the following points: 40°56'54.0"N, 073°54'40.0"W; thence to 40°56'51.0"N, 073°54'24.0"W; thence to 40°55'53.0"N, 073°54'40.0"W; thence to 40°55'56.0"N, 073°54'58.0"W; thence to the point of origin (NAD 83).

Finally, the Coast Guard recommends including our agency in the Index, similarly to the USFWS and USACE.

Thank you for these considerations. If you have any questions or comments regarding this matter, please contact me at (718)354-2353 or Mr. Jeff Yunker at (718) 354-4195.

Sincerely,

A. M. MORRISSEY
Lieutenant Commander, U.S. Coast Guard
Chief, Waterways Management Division
By Direction

Copy: USACE Eastern Permits Section
CGD ONE (dpw)

Comment 204

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JAN 15 2014

Mr. Brian Mills
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Washington, DC 20585

Ms. Jodi McDonald, Chief
Regulatory Branch
New York District
U.S. Army Corps of Engineers
26 Federal Plaza
New York, NY 10278-0900

RE: Champlain Hudson Power Express; Draft Environmental Impact Statement and Public Notice NAN-2009-01089-EYA; Request for Additional Information

Dear Mr. Mills and Ms. McDonald:

We have reviewed the September 2013 Draft Environmental Impact Statement (DEIS) for the Champlain Hudson Power Express Project prepared by the U.S. Department of Energy (USDOE), the lead federal agency for the project, as well as the U.S. Army Corps of Engineers (USACE) Public Notice NAN-2009-01089-EYA, dated October 2, 2013. We are pleased to provide the following technical comments, and based on our review, we have determined that the DEIS and Public Notice do not provide us with the necessary information to complete EFH or ESA consultation on this project. In particular, an expanded Essential Fish Habitat (EFH) Assessment is necessary to begin consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Additional project specific information is also needed to conduct consultations under the Fish and Wildlife Coordination Act (FWCA), and a Biological Assessment to complete consultation under Section 7 of the Endangered Species Act (ESA). Our specific information needs are described in detail below.

The applicant, Champlain Hudson Power Express, Inc. (CHPEI), is proposing to construct a 1,000 megawatt (MW) high voltage direct current (HVDC) electric transmission system extending 332.8 miles from the international border between Canada and the United States to Queens, New York. The project would extend through fifteen New York State counties and impact approximately 347 acres of waters of the U.S. including Lake Champlain, Narrows of Lake Champlain, the Hudson River, Harlem River and East River. The expected life span of the project is 40 years.

The proposed HVDC transmission system would be comprised of two cables, buried within the same trench. The DEIS indicates burial depths would range between 3 and 5 feet below the

bottom; however, the Public Notice states the cable would be buried 4 feet below the bottom in Lake Champlain and 7 feet below the bottom in the Hudson River. In areas where surface bedrock may not permit adequate cable burial depths, or where the proposed cable would encounter existing infrastructure, the applicant proposes either placement of the cable on the riverbed or burial of cable at depths less than 4 feet. Protective coverings such as concrete mats or rip rap would be placed over the proposed cable where burial is not possible. Cable installation methods would include horizontal directional drilling, jet plow installation, shear plow installation, and conventional dredging. Mitigation in the form of wetland creation, restoration and/or enhancement is proposed for 10.5 acres of permanent impacts to wetlands. According to the DEIS, the applicant is also proposing to fund a trust for restoration and research as compensatory mitigation.

The applicant of this project, CHPEI, has applied to the USDOE for a Presidential permit to authorize international border crossing of the proposed HVDC transmission system. The USACE has also received an application from CHPEI for authorization of project activities 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). USDOE and USACE are required to consult with us under the MSA, FWCA, and Section 7 of the ESA.[1] In order for us to successfully complete consultation, we will need the additional information and analyses described below.

Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies such as the USDOE and USACE to consult with us on any action or proposed action authorized, funded, or undertaken by the agency that may adversely affect essential fish habitat (EFH) identified under the MSA. [16 U.S.C. § 1855(b)(2)]. The statue defines EFH as "those waters and substrates necessary to fish spawning, breeding, feeding or growth to maturity." [16 U.S.C. § 1853(a)(7) and § 1802(10)]. Our regulations further define EFH adding, among other things, that "'necessary' means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem." (50 C.F.R. §600.10). Adverse effects to EFH are defined in our regulations as "any impact that reduces the quality or quantity of EFH." The regulations state:

> An adverse effect may include direct or indirect physical, chemical or biological alterations of the water or substrate and any loss of, or injury to, benthic organisms, prey species and their habitat and other ecosystems components, if such modifications reduce the quality and/or quantity of EFH. Adverse effects to EFH may result from action occurring within EFH or outside EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions [50 C.F.R. 600.810(a)].

The regulations at 50 C.F.R. 600.920 set forth the consultation process that will allow us to make a determination of this project's effects on EFH and provide conservation recommendations on actions that would adversely affect such habitat pursuant to section 305(b)(4)(A) of the MSA. To initiate an EFH consultation, you must submit an EFH assessment to us. Required components of

[1] The USDOE is the lead federal agency for this project.

an EFH assessment include "a description of the action; and analysis of the potential adverse effects of the action on EFH and the managed species; the federal agency's conclusions regarding the effects of the action on EFH; and the proposed mitigation, if applicable" [50 C.F.R. §600.920(e)(3)]. Since this project may result in substantial adverse impacts to EFH, an expanded EFH consultation would be necessary [§600.920(i)]. In preparing an expanded EFH consultation, we encourage you to include additional information in the EFH assessment such as results of on-site inspections, views of recognized experts, a review of pertinent literature, an analysis of alternatives and any other relevant information [50 C.F.R. §600.920(e)(4)]. Finally, depending on the degree and type of habitat impact, compensatory mitigation may be necessary to offset permanent and temporary effects of the project.

Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act (FWCA) provides authority for our involvement in evaluating impacts to fish and wildlife from proposed water resource development projects and other human activities that may affect waters of the United States. The FWCA specifically requires that wildlife conservation be given equal consideration to other features of water resource development programs through planning, development, maintenance and coordination of wildlife conservation and rehabilitation. Wildlife and wildlife resources are defined by the Act to include: birds, fish, mammals and all other classes of wild animals and all types of aquatic and land vegetation upon which such wildlife dependent. These consultation and coordination activities are intended to prevent loss or damage to fish and wildlife resources and to provide appropriate measures to mitigate adverse impacts associated with proposed human activities.

While many of the impacts that would accrue to federally managed fishery resources under the MSA also would accrue to FWCA species, it is important to note that the interests of some species would not be represented adequately by relying on the EFH assessment alone. For instance, shellfish do not have an appropriate surrogate among the federally managed fishery resources that have EFH designated in the project vicinity and their needs and those of other non-represented species should be discussed at length in this section. Similarly, the behaviors and habitat needs of diadromous and estuary-dependent fishes may not be represented by a discussion surrounding marine fishes. The discussion for FWCA species should be designed around an ecological guild model that uses locally important species to evaluate the project impacts to organisms or populations associated with the various trophic levels and life history strategies exhibited by FWCA species known to occupy the project site as residents or transients. Focus should be on issues surrounding particular species, life history stages, or habitat components that would be most susceptible to the various potential impacts.

Endangered Species Act Section 7 Consultation

Section 7 of the Endangered Species Act (16 U.S.C. § 1536(a)(2)) requires Federal agencies to consult with the Secretary of Commerce, through NOAA, to insure that "any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or adversely modify or destroy [designated] critical habitat . . . ." See also 50 C.F.R. part 402. As ESA listed species under our jurisdiction will occur in the project areas (see below), and effects to these species are likely, consultation under the

ESA will be necessary (50 C.F.R. § 402.14). As such, further coordination will be necessary with our Protected Resources Division (PRD) to meet your obligations under section 7 of the ESA. In particular, we now expect the USDOE, designated the lead Federal Agency on this project, to submit a complete Biological Assessment to us including the information and analysis presented in your EIS and responding to the technical issues raised below, in order for us to complete consultation on the proposed action.

Resources within the Proposed Project Area

Essential Fish Habitat

Water salinity can be variable in the Hudson River as the salt front migrates due to tidal conditions, weather patterns and extreme weather events. Data has indicated that the salt front occurs on a daily basis as far south as Battery (River Mile (RM) 0) to as far north as Poughkeepsie (RM 77), but is generally found between RM 30 and 70 (NYSDEC 2012). Since these salinities may provide suitable habitat for species with EFH designations within the project area, we consider EFH to be located as far north as RM 77 in Poughkeepsie. This stretch of the Hudson River and its tributaries, as well as the East River and Harlem River have been designated as EFH for a number of federally managed species including Atlantic butterfish (*Peprilus triacanthus*), Atlantic sea herring (*Clupea harengus*), bluefish (*Pomatomus saltatrix*), black sea bass (*Centropristis striata*), red hake (*Urophycis chuss*), scup (*Stenotomus chrysops*), summer flounder (*Paralichthys dentatus*), winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), clearnose skate (*Raja eglanteria*), little skate (*Leucoraja erinacea*), and winter skate (*Leucoraja ocellata*).

Winter flounder may be particularly vulnerable to the impacts of the proposed project. Sensitive life stages of this species tolerate wide salinity ranges, including 10‰ to 30‰ for eggs and 4‰ to 30‰ for larvae (Pereira *et al.* 1999), and are expected to be found in the project area. Winter flounder migrate into shallow water or estuaries and coastal ponds to spawn, and tagging studies show that most return repeatedly to the same spawning grounds (Lobell 1939, Saila 1961, Grove 1982 in Collette and Klein -MacPhee 2002). They typically spawn in the winter and early spring although the exact timing is temperature dependent and thus varies with latitude (Able and Fahay 1998). Winter flounder have demersal eggs that sink and remain on the bottom until they hatch. Winter flounder eggs, once deposited on the substrate, are vulnerable to sedimentation with decreased hatching success of eggs observed when covered in as little as 1 mm of sediment and burial in sediments greater than 2.5 mm have been shown to cause no hatch (Berry *et al.* 2011). After hatching, the larvae are initially planktonic, but following metamorphosis they assume an epibenthic existence. Winter flounder larvae are negatively buoyant (Pereira *et al.* 1999), and are typically more abundant near the bottom (Able and Fahay 1998). These life stages are less mobile and thus more likely to be affected adversely by cable installations and the associated turbidity impacts. As a federally managed species, winter flounder are harvested both commercially and recreationally, and are considered an aquatic resource of national importance. Winter flounder populations are in decline through much of their range so it is critical precautions are taken to minimize impacts to this species. To minimize impacts to winter flounder early life stages and their EFH, we generally recommend that activities be avoided from January 1 to May 31 of each year in areas that have been designated as EFH for winter flounder early life stages.

Anadromous Fish

Anadromous fish such as alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*) and American shad (*Alosa sapidissima*) spend most of their adult life at sea, but return to freshwater areas to spawn in the spring. These species are believed to be repeat spawners, generally returning to their natal rivers (ASMFC 1998; Collette and Klein-MacPhee 2002). Anadromous fish are found throughout much of the project area including the Harlem River, East River, and Hudson River. These species use the Hudson River and its tributaries as spawning, nursery and forage habitat. The abundance of diadromous fish in the Hudson River has declined over the decades largely due to over harvesting, pollution, and habitat loss (Limburg and Schmidt 1990, Waldman 2006, ASMFC 2007, 2009). Changes in fish distribution in the Hudson River watershed have also occurred due to passage through the canal system (Daniels 2001, Waldman 2006). Diadromous fish are known to pass through the navigation locks at the Federal Dam in Troy, moving into the Mohawk River and the Erie Canal (Waldman 2006). However, movements between the tidal Hudson River, the Mohawk River and the canal system are complex and poorly documented (Schmidt and Lake 2006).

Anadromous fish are a food source for several federally managed species. Buckel and Conover (1997) in Fahey *et al.* (1999) report that diet items of juvenile bluefish include *Alosa* species such as these. Juvenile *Alosa* species have all been identified as prey species for windowpane flounder and summer flounder in Steimle *et al.* (2000). The EFH final rule states that the loss of prey may have an adverse effect on EFH and managed species because the presence of prey makes waters and substrate function as feeding habitat and the definition of EFH includes waters and substrate necessary to fish for feeding. Therefore, actions that reduce the availability of prey species, either through direct harm or capture, or through adverse impacts to the prey species' habitat may also be considered adverse effects on EFH. As a result, activities that adversely affect the spawning success and the quality for the nursery habitat of these anadromous fish can adversely affect the EFH for juvenile bluefish, windowpane and summer flounder by reducing the availability of prey items.

Anadromous fish can be significantly impacted by both turbidity and acoustic impacts. Increases in turbidity due to the resuspension of sediments into the water column during construction can degrade water quality, lower dissolved oxygen levels, and potentially release chemical contaminants bound to the fine-grained estuarine/marine sediments. Suspended sediment can also mask pheromones used by migratory fishes to reach their spawning grounds and impede their migration and can smother immobile benthic organisms and demersal newly-settled juvenile fish (Auld and Schubel 1978; Breitburg 1988; Newcombe and MacDonald 1991; Burton 1993; Nelson and Wheeler 1997). Noise impacts are another factor that could delay or disrupt spawning, or even injure or kill fish. Of greatest risk for fish impacts are the gas-filled swim bladder and surrounding tissues that expand and contract with passage of pressure waves. The inner ears of fish are also sensitive to extreme pressures and motions (Popper *et al.* 2006). High-levels of acoustic exposure have been shown to cause physical damage and/or mortality in fishes. Damage and mortality rates increase with both the level of sound and length of exposure (Hastings and Popper 2005, Popper and Hasting 2009). Impacts of blasting and pile driving activities are of particular concern for fish species, as they are anthropogenic sound sources known to cause fish kills (Popper and Hastings 2009). In order to minimize the adverse effects of suspended sediment and noise impacts on migrating anadromous fish, we generally

recommend in-water work be avoided from March 1 to June 30 during the upstream migration to their spawning grounds.

In the mid-Atlantic, landings of anadromous species have declined dramatically since the mid-1960s and have remained very low in recent years (ASMFC 2007). Because landing statistics and the number of fish observed on annual spawning runs indicate a drastic decline in alewife and blueback herring populations throughout much of their range, they have been designated as species of concern. A recent listing determination for alewife and blueback herring found that listing under the ESA was not warranted at this time. However, it was recognized that there is a low abundance of these species relative to historical levels and monitoring is warranted due to significant deficiencies in data. Blueback herring were found to be decreasing within the Mid-Atlantic stock complex (F.R. Vol 78, No.155, Aug 12, 2013). Since river herring are classified as a species of concern and anadromous fish provide a food source for federally managed species, these populations are considered an aquatic resource of national importance.

Benthic Resources

Benthic communities play a significant role in the Hudson River ecosystem. Dominated by annelids, mollusks, crustaceans and insects, these benthic communities vary greatly throughout the system depending upon position of the river, salinity, nature of the bottom, and presence or absence of submerged aquatic vegetation (SAV). These communities play a critical role as suspension feeders and a food source for fish, including aquatic resources of national importance such as shortnose sturgeon, Atlantic sturgeon, blueback herring, and American shad (Strayer 2006). The benthic community biomass and filtration rates in the Hudson River Estuary significantly declined with the invasion of zebra mussels (Strayer 2006); however with the observed long-term decline in invasive zebra mussels in the watershed, parts of the ecosystem appear to be recovering toward pre-invasion levels, including benthic animals such as native mussels and clams (Strayer *et al.* 2011). Historically, the Hudson River estuary also supported a commercial scale oyster fishery. Benthic mapping and sampling efforts have revealed several historic oyster reefs near the Tappan Zee reach as well as live oysters in this area and Havestraw Bay (Bell *et al.* 2006). Restoration efforts for oysters are also currently ongoing.

Elevated levels of suspended sediments can interfere with spawning success, feeding, and growth for shellfish such as mussels, clams, and oysters (Wilber and Clark 2001). Shellfish provide an important ecological role through water column filtration, sediment stabilization as well as supplying habitat for estuarine species (Zimmerman *et al.* 1989, Coen *et al.* 1999, Newell 2004). Shellfish are also known to provide a food source for federally managed species, including winter flounder and scup (Steimle *et al.* 2000), two species with EFH designation in the project area.

Over twenty species of aquatic plants, both native and invasive, occur in the Hudson River with native water celery (*Vallisneria americana*) as the predominant SAV species. SAV in the tidal Hudson River occupies shallow shoals in depths less than 3 meters and covers approximately 6 percent of the river with the greatest coverage occurring in the mid-Hudson, from Kingston to Hudson and lower coverage south of Hyde Park (Findlay *et al.* 2006). SAV provides valuable nursery, forage and refuge habitat for a variety of fish including summer flounder, striped bass, bluefish, American shad, alewife, and blueback herring. SAV in the Hudson River has been

shown to contribute to primary production and habitat for benthic and fish species in the river (Findlay *et al.* 2006, Strayer 2006).

Impacts to SAV can include direct impacts through physical removal as well as indirect impacts such as sedimentation and shading. Loss of SAV is often attributed to reduced water quality and clarity resulting from elevated inputs of nutrients or other pollutants such as suspended solids and disturbances such as dredging (Kemp *et al.* 1983, Short *et al.* 1993, Short and Burdick 1996. Orth *et al.* 2006). Studies have confirmed that seagrasses are highly vulnerable to changes in sediment levels. With a low tolerance for sedimentation, indirect effects of post-disturbance processes can also greatly affect SAV (Cabaco *et al.* 2008).

The U.S. Environmental Protection Agency has designated SAV as "special aquatic sites" under the Section 404(b)(1) of the federal Clean Water Act, due to their important role in the marine ecosystem for spawning, nursery cover and forage areas for fish and wildlife. Furthermore, the Mid-Atlantic Fishery Management Council has designated SAV as a Habitat Area of Particular Concern when associated with juvenile and adult summer flounder EFH. This includes all native species of macroalgae, seagrasses and freshwater and tidal macrophytes in any size bed as well as loose aggregations within EFH. Due to the value of this habitat for federally managed species, SAV is considered an aquatic resource of national importance.

ESA Listed Species

ESA listed species will be found within the portion of the cable transmission route located in the Hudson River and East River. Listed species of Atlantic and shortnose sturgeon will be found in the Hudson River, while listed species of Atlantic sturgeon, shortnose sturgeon, and sea turtles may be found in the East River. The use and distribution of each species within each affected waterbody is provided below.

Hudson River

Shortnose Sturgeon

A population of the federally endangered shortnose sturgeon occurs in the Hudson River. Shortnose sturgeon have been documented in the Hudson River from upper Staten Island (approximately rkm 4.8) to the Troy Dam (approximately rkm 245). From late fall to early spring, adult shortnose sturgeon concentrate in a few overwintering areas. The largest overwintering area is just south of Kingston, New York, near Esopus Meadows (rkm 139-152) (Dovel *et al.* 1992). The fish overwintering at Esopus Meadows are mainly spawning adults. Captures of shortnose sturgeon during the fall and winter from Saugerties to Hyde Park (greater Kingston reach), indicate that additional smaller overwintering areas may be present (Geoghegan *et al.* 1992). Both Geoghegan *et al.* (1992) and Dovel *et al.* (1992) also confirmed an overwintering site in the Croton-Haverstraw Bay area (rkm 54-61). Fish overwintering in areas below Esopus Meadows are mainly thought to be pre-spawning adults. Typically, movements during overwintering periods are localized and fairly sedentary.

When water temperatures reach 8-9°C, typically in late March through mid-April, reproductively active adults begin their migration upstream to the spawning grounds that extend from below the Federal Dam at Troy to about Coeymans, New York (river kilometer (rkm) 245-212) (Dovel *et*

al. 1992). Spawning typically occurs at water temperatures between 10-18°C (generally from late April through May) after which adults disperse quickly down river into their summer range. In fact, Dovel *et al.* (1992) reported that spawning fish tagged at Troy were recaptured in Haverstraw Bay in early June. The broad summer range occupied by adult shortnose sturgeon extends from approximately rkm 38 to rkm 177. Similar to non-spawning adults, most juveniles occupy the broad region of Haverstraw Bay (rkm 54-61) by late fall and early winter (Geoghegan *et al.* 1992; Dovel *et al.* 1992). Juveniles are distributed throughout the mid-river region during the summer (rkm 38-152) and move back into the Haverstraw Bay region during the late fall (Bain *et al.* 1998; Geoghegan *et al.* 1992). Eggs and larvae are expected to be present within the vicinity of the spawning grounds for approximately four weeks post spawning (i.e., at the latest, through mid-June).

Atlantic Sturgeon

Use of the river by Atlantic sturgeon has been described by several authors. Briefly, spawning likely occurs in multiple sites within the river from approximately rkm 56 to rkm 182 (Dovel and Berggren 1983; Van Eenennaam *et al.* 1996; Kahnle *et al.* 1998; Bain *et al.* 2000). Selection of sites in a given year may be influenced by the position of the salt wedge (Dovel and Berggren, 1983; Van Eenennaam *et al.* 1996; Kahnle *et al.* 1998). The area around Hyde Park (approximately rkm134) has consistently been identified as a spawning area through scientific studies and historical records of the Hudson River sturgeon fishery (Dovel and Berggren, 1983; Van Eenennaam *et al.* 1996; Kahnle *et al.* 1998; Bain *et al.* 2000). Habitat conditions at the Hyde Park site are described as freshwater year round with bedrock, silt and clay substrates and waters depths of 12-24 m (Bain *et al.* 2000). Bain *et al.* (2000) also identified a spawning site at rkm 112 based on tracking data. The rkm 112 site, located to one side of the river, has clay, silt and sand substrates, and is approximately 21-27 m deep (Bain *et al.* 2000).

Young of year have been recorded in the Hudson River between rkm 60 and rkm 148, which includes some brackish waters; however, larvae must remain upstream of the salt wedge because of their low salinity tolerance (Dovel and Berggren 1983; Kahnle *et al.* 1998; Bain *et al.* 2000). Catches of immature sturgeon (age 1 and older) suggest that juveniles utilize the estuary from the Tappan Zee Bridge through Kingston (rkm 43- rkm 148) (Dovel and Berggren 1983; Bain *et al.* 2000). Seasonal movements are apparent with juveniles occupying waters from rkm 60 to rkm 107 during summer months and then moving downstream as water temperatures decline in the fall, primarily occupying waters from rkm 19 to rkm 74 (Dovel and Berggren 1983; Bain *et al.* 2000). Based on river-bottom sediment maps (Coch 1986), most juvenile sturgeon habitats in the Hudson River have clay, sand, and silt substrates (Bain *et al.* 2000). Newburgh and Haverstraw Bays in the Hudson River are areas of known juvenile sturgeon concentrations (Sweka *et al.* 2007). Sampling in spring and fall revealed that highest catches of juvenile Atlantic sturgeon occurred during spring in soft-deep areas of Haverstraw Bay even though this habitat type comprised only 25% of the available habitat in the Bay (Sweka *et al.* 2007). Overall, 90% of the total 562 individual juvenile Atlantic sturgeon captured during the course of this study (14 were captured more than once) came from Haverstraw Bay (Sweka *et al.* 2007). At around 3 years of age, Hudson River juveniles exceeding 70 cm total length begin to migrate to marine waters (Bain *et al.*, 2000).

Please note, as the New York Bight DPS of Atlantic sturgeon is the only DPS of Atlantic sturgeon that spawns in the Hudson River, the information provided above only applies to this DPS. However, other DPSs of Atlantic sturgeon (i.e., Gulf of Maine and Chesapeake Bay) are known to be present within the Hudson River. As such, subadult and adult Atlantic sturgeon from any DPS may be present within the Hudson River.

East River

Shortnose Sturgeon

There have been no documented captures of shortnose sturgeon in the East River; however, shortnose sturgeon have been captured near the confluence of the East River and New York Harbor and at least two shortnose sturgeon tagged in the Hudson River have been recaptured in the Connecticut River. As there have been no documented captures of shortnose sturgeon in the area where the East River converges with Long Island Sound, it is unknown whether these fish traveled through the East River and through Long Island Sound (the most direct route) or exited New York Harbor into the Atlantic Ocean and swam around southern Long Island and back into Long Island Sound. Based on this information, although the East River is not expected to be a high use area for shortnose sturgeon, occasional transient shortnose sturgeon may be present in the East River.

Due to the distance from shortnose sturgeon spawning grounds in the Hudson River (i.e., greater than 200 km downstream of the project area) and the higher salinity of the East River, shortnose sturgeon eggs or larvae, whose occurrence is limited to the low salinity waters near the spawning grounds, and young of the year, whose occurrence is also restricted to areas of low salinity, will not occur in the project area.

Atlantic Sturgeon

Atlantic sturgeon are known to occur in the East River. Atlantic sturgeon spawn in their natal river, with spawning migrations generally occurring during February-March in southern systems, April-May in Mid-Atlantic systems, and May-July in Canadian systems (Murawski and Pacheco 1977; Smith, 1985; Bain 1997; Smith and Clugston 1997; Caron *et al.* 2002). Young remain in the river/estuary until approximately age 2 and at lengths of 30-36 inches before emigrating to open ocean as subadults (Holland and Yelverton 1973; Dovel and Berggen 1983; Dadswell 2006; ASSRT 2007). After emigration from the natal river/estuary, subadults and adult Atlantic sturgeon travel within the marine environment, typically in waters between 16 to 164 feet in depth, using coastal bays, sounds, and ocean waters (Vladykov and Greeley 1963; Murawski and Pacheco 1977; Dovel and Berggren 1983; Smith 1985; Collins and Smith 1997; Welsh *et al.* 2002; Savoy and Pacileo 2003; Stein *et al.* 2004; Laney *et al.* 2007; Dunton *et al.* 2010; Erickson *et al.* 2011). Therefore, adult and subadult Atlantic sturgeon from any of five DPSs could occur in the project area; however, as Atlantic sturgeon spawn in freshwater portions of large rivers and early life stages are not tolerant of salinity, no eggs, larvae or juvenile Atlantic sturgeon are likely to occur in the project area.

Sea Turtles

Four species of federally threatened or endangered sea turtles under our seasonal jurisdiction of NMFS occur seasonally (June to early November) in New York waters. The sea turtles in these

waters are typically small juveniles with the most abundant being the federally threatened loggerhead (*Caretta caretta*) followed by the federally endangered Kemp's ridley (*Lepidochelys kempi*). New York waters have also been found to be warm enough to support federally endangered green sea turtles (*Chelonia mydas*) from June through October. While federally endangered leatherback sea turtles (*Dermochelys coriacea*) may be found in the waters off Long Island during the warmer months, this species is less likely to occur in the action area for this project as leatherbacks are typically found in more offshore waters.

There have been no documented captures of sea turtles in the East River and it is not likely to be a high use area for these species. However, as the East River is a tidal strait with water passage between Upper New York Harbor/Manhattan and Long Island Sound, and sea turtles are known to occur in western Long Island Sound, occasional transient sea turtles may occur within the East River.

Memorandum of Agreement (MOA) 3(b) determination of impacts to Aquatic Resources of National Importance

Based on the limited information provided within DEIS and Public Notice, we have determined that the proposed project will result in adverse impacts to aquatic resources of national importance. These impacts include elevated turbidity impacts to fish sensitive life stages, migration, and habitat; acoustic impacts through pile driving and blasting; direct loss of SAV, benthic communities, and shellfish resources; permanent fill and modification of bottom habitat; as well as potential elevations in temperature and electromagnetic fields along the substrate during project operation. Therefore, we must conclude that this project will have substantial and unacceptable adverse effects on aquatic resources of national importance pursuant to Part IV, Paragraph 3(b) of the 1992 Clean Water Act Section 404(q) Memorandum of Agreement (MOA) between the USACE and our agency. We recommend, pursuant to Part IV, Paragraph 3(b) of the MOA, that you provide us the following information so we may fully evaluate the impacts of this project on our trust resources.

Additional Information Needs

EFH Assessment

Your consultation requirements under the MSA and FWCA are outlined above. Unfortunately, our ability to assess potential impacts to EFH and associated marine resources is being complicated by a lack of information. The information required for us to consult on this project, specifically an EFH Assessment, is not included in either the DEIS or the Public Notice. Rather, the DEIS states that an EFH Assessment will be provided with the Final EIS. We are greatly concerned with this timeline, as our consultation cannot begin without receipt of an EFH Assessment. Incorporation of an EFH Assessment in the Final EIS does not provide us with sufficient time to review the information and provide comments or conservation recommendations. The EFH consultation should be conducted prior to the issuance of the Final EIS to ensure that EFH conservation recommendations may be incorporated into the project plans and included in the final document and permit conditions.

We believe that the information included in the DEIS for this project is an incomplete assessment and lacks a full analysis of the project components. Before you proceed with preparing an EFH assessment, we recommend that you coordinate with us to ensure that the list of designations is complete and that we mutually agree that the nature and scope of issues that you plan to include in the EFH assessment will adequately present and analyze the direct, indirect, and cumulative effects of the project both during its construction and in the interim until it is decommissioned. The information provided in this letter is intended to assist in the development of a complete EFH assessment. Upon submittal of an EFH assessment, we will provide conservation recommendations for the proposed project, as necessary.

ESA Assessment

Your consultation requirements under the ESA are outlined above. As the DEIS states that a Biological Assessment (BA) will be prepared for purposes of ESA section 7 consultation, the additional informational and analyses requested below for the DEIS, should also be incorporated and used in the development of your BA. Please note, a BA must provide us with sufficient information to allow us to carry out a section 7 consultation for the action identified. That is, the information provided in the BA must be sufficient to demonstrate that the direct and indirect effects of the action on NMFS listed species are not likely to jeopardize the continued existence of any species or result in the destruction or adverse modification of critical habitat. We look forward to reviewing the information and analyses requested below in your BA. Prior to submitting your BA, if you have any questions or concerns regarding information or analyses requested,or the ESA section 7 process in general, please contact us.

Project Information Needs

The DEIS indicates an Environmental Management and Construction Plan (EM&CP) will be developed which would document environmental and construction management procedures and plans to be implemented during project construction and facility operation. This level of specific information on management and construction plans and procedures is necessary for review prior to completing a consultation under MSA, FWCA, and ESA. This information should be included as a component of the project description for the EFH Assessment and the BA. The DEIS also indicates the final EM&CP would be developed in consultation with the New York State Department of Public Service (NYSDPS) and the New York State Department of Environmental Conservation (NYSDEC). We would request the federal resource agencies also be consulted on the development of these plans, as we may have additional recommendations for ensuring impacts to our trust resources are minimized.

The DEIS indicates that there will be some locations throughout the project area where burial of the cable to the preferred depth is not possible due to existing utility lines and/or shallow bedrock substrate. In such cases, the cables would be buried at a shallower depth or laid on the bottom. Concrete mats or rip-rap would be installed on the substrate to help protect the proposed transmission line. The DEIS offers little information on the extent and locations of the concrete mats. The USACE Public Notice provides some information on anticipated non-burial locations, of which several are located within areas designated as Significant Coastal Fish and Wildlife Habitats (SCFWHs) (NYSDEC 2012). More information regarding the specific locations of the concrete mats, the extent of area to be impacted, the recovery rate within each of these affected locations, and the resources present in these locations is necessary. Additional information is

also needed on the direct and indirect effects to our trust resources from placing these structures in the Hudson River. The placement of concrete matting or rip-rap will result in the removal of the underlying benthic community, as well as result in a permanent change in substrate from soft sediments to hard. These changes will not only effect the structure of the benthic community in the affected area, but also may affect our trust resources use of the affected area (e.g., relocate to different area for spawning, foraging, or overwintering), specifically if these changes are located in a SCFWH. As a result, additional analyses is necessary on the short and long term (i.e., 40 years) effects of such habitat modifications to our trust resources. This information needs to be included in the EFH Assessment and BA.

The Public Notice and DEIS indicate that burial at sites with bedrock substrate may be done to a shallower depth; however, no details are offered on how the cable would be buried to any depth in these areas. A reference in Chapter 2 of the DEIS indicates that blasting may be used to create a trench and bury the cable; however, no further details are provided. Blasting could have significant impacts on aquatic resources of national importance, resulting in physical injury and death in fish (i.e., peak pressure levels above, 75.6 psi, and peak impulse levels above 18.4 psi-msec, are believed to cause injury or mortality to species of fish, including sturgeon; Moser 1999;Hastings and Popper 2005, Popper *et al.* 2006, Popper and Hasting 2009). If the project includes any proposals for blasting, areas to be blasted need to be identified, and a thorough assessment of the acoustic impacts to our trust resources, as well as the short and long term effects to the benthic community and habitat from such activities is necessary. Additionally, a blast plan must be created and submitted for our review. Detailed information on other forms of burial that may be considered at sites with bedrock (e.g., scraping of bedrock), as well as an analysis of effects to our trust resources from such activities is also needed. This detailed information and analysis needs to be included in the EFH Assessment and BA.

Installation of the transmission cable will require multiple installation methods (e.g., jet plowing, placement of concrete matting, blasting (if required), excavation) which will affect the benthic community of the Hudson River. The DEIS states that effects to the benthic community will be temporary, and localized, with recolonization occurring over time. However, there is lack of information on recovery rates for benthic communities affected by different installation methods along the cable route, as well as a lack of information on the permanent changes to the benthic community that may occur. As a result, more detailed information and analyses is needed on expected recovery rates, the anticipated permanent impacts to benthic communities, as well as the short and long term effects to our trust resources as a result of these changes to the benthic community. Specifics should also be provided on proposed plans for surveys of the cable trench, monitoring of impacts to benthic communities, and backfilling of the trench to ensure the bathymetry is returned to existing conditions. All of this information and analysis needs be included in the EFH Assessment and BA.

A substantial amount of fill is also proposed throughout the project area, including low thermal backfill material, concrete mats, and rip rap. Additional information on the proposed locations for fill, extent of material, and a thorough assessment of impacts to benthic communities is needed. For example, Chapter 2 of the DEIS states that low thermal backfill material will be used instead of native soil in portions of the project. In addition to detailed information on project location and extent of material proposed, an evaluation of impacts including available

data on benthic infauna colonization in this material is needed. A discussion of invasive species should be included in any analysis that evaluates impacts of rip rap or concrete mat placement. Chapter 3 of the DEIS includes some discussion of invasive species, recognizing the concerns of invasive populations in the Hudson River; however, there is no further analysis on how the project may affect invasive species populations in the project area. Additional analysis should be provided on how the proposed project, particularly the increase of artificial habitat such rip rap or concrete mats may affect the proliferation of invasive species.

The total area of impact for the project is not clear based on the information provided in the Public Notice and the DEIS. The Public Notice defines the area of impact from cable burial in terms of the length in each water body, as well as the width and depth of the trench, which range from approximately 2 feet wide by 4 to 15 feet deep. However, Chapter 2 of the DEIS states the total benthic habitat impacts from cable installation throughout the project area would be small, with direct impacts ranging from 12-16 feet. The inconsistency between the Public Notice information and the DEIS should be clarified. Additionally, as multiple construction activities and equipment will be used to install the cable across the Hudson River (i.e., jet plowing, anchors, concrete matting placement, blasting (if required) or excavation), the total area of impact is not solely confined to the area of the trench. Depending on the installation method used at various points along the cable route, the total area of impact may vary depending on the installation method used, and the direct and indirect effects (e.g., extent of turbidity and sediment resettlement) of that method on the benthos. As such, consideration of the cumulative effects to the physical environment (including water quality, see below) from construction activities along the cable route is needed to accurately define the total area of the Hudson River impacted by the proposed project. This information and analysis needs to be included in the EFH Assessment and BA.

In Chapter 3 of the DEIS, the region of influence for impacts to water resources and water quality in the Hudson River is defined as the entire width of the water body. Impacts to water quality have the potential to impact our trust resources directly and indirectly. The DEIS states that "the sensitivity of fish to localized and temporary increases in turbidity, suspended sediment, and downstream sedimentation is species- and life stage- specific, and associated impacts might include impairment to feeding, predator detection and reduced breeding activity." The DEIS does not expand upon this statement to address these potential effects to our trust resources. As a result, detailed information and analysis is needed to address these concerns in relation to our trust resources. Additionally, the DEIS states that water quality degradation may also affect DO, pH and light levels, but again, does not expand upon its statement in relation to the effects of these changes in water quality to our trust resources. As a result, additional analysis is needed to address these concerns.

The DEIS states that there will be impacts to SAV, shellfish and benthic habitats; however, there is limited detail on these impacts within the DEIS or Public Notice. With regards to SAV, there are no specifics on the species of SAV to be impacted, the location of the impacted beds, or the extent of area to be impacted. There is also no discussion on any proposed mitigation to compensate for loss of this valuable habitat. These details are also missing for the evaluation of impacts to shellfish species, including the extent of impacts to shellfish beds, the specific location and species being impacted, and any proposed mitigation. As areas of SAV and shellfish

beds also serve as important habitat for the completion of essential life functions (e.g., spawning or foraging) for both listed (i.e., Atlantic and shortnose sturgeon) and non-listed federally managed species of fish, information and analysis is also needed on the short and long term (i.e., 40 years) effects to fish species from the removal of or disturbance to these areas. Detailed information and analysis on the above is needed in the EFH Assessment and the BA to fully evaluate the direct and indirect effects of this project on all trust resources.

The DEIS includes some discussion on electric and magnetic fields and temperature impacts; however, the conclusion outlined in the DEIS which states insignificant impacts are anticipated, is not well supported with references to specific studies. Furthermore, the discussion of species impacts is limited in scope. There is no discussion on how electric fields, magnetic fields, or temperature changes could impact sensitive life stages for ESA listed species or federally managed species with EFH designations in the project area. There is also no discussion on how, over the 40 year life of the project, these electric or magnetic fields, or temperature changes may affect our trust resources and their habitat. A thorough review and assessment of the direct and indirect effects of electric and magnetic fields on our trust resources, as well as the aquatic resources they depend on for survival (e.g., forage species), is needed. For instance, there is limited discussion on impacts of electric or magnetic fields to American eel, a species which may be impacted throughout its entire range from the lower Hudson to Lake Champlain. Chapter 5 of the DEIS provides some information on eel studies which indicate these species may respond to electromagnetic fields (EMF) from weak magnetic fields, though implications are unknown (Normandeau *et al.* 2011, Gill *et al.* 2012). In addition, there is limited discussion on the effects of electric and magnetic fields to species of sturgeon. Although some information is presented on magnetic fields effects on sturgeon behavior, the information presented on electric fields is limited and provides no substantive evidence to support an insignificant determination. The DEIS needs to provide information on the electric field to be emitted by the proposed project, as well as scientific studies on sturgeon responses to various levels of electric fields. Based on this information, implications to sturgeon from exposure to project related electric fields are needed to support a determination of effects. In regards to temperature effects, the DEIS states that any increase in temperature, as a result of the operation of the transmission line, will result in insignificant effects to our trust resources. The DEIS provides insufficient information to support this conclusion. Consideration of the ambient temperatures in the affected water body; temperature tolerances of our trust resources and the benthic community (e.g., infaunal and sessile organisms); whether the changes in temperature are within the species threshold of tolerance; and an assessment of short and long term effects of elevated temperatures on our trust resources and the benthic community, is necessary. Given the limited information available and the unknown implications of this project on American eel and Atlantic and shortnose sturgeon, the DEIS should include specific information on how the applicant proposes to minimize impacts to American eel, sturgeon, and other species as well as monitor any potential effects.

We understand that specific exclusion zones along the project area were delineated through coordination with NYSDEC in 2010 to ensure sensitive resource areas were avoided along the cable route. The State of New York and others have been conducting research in these water bodies since 2010. It is critical to ensure the best available information is used to evaluate impacts, particularly for a project of this scale. A full analysis of any new information should be

provided to determine if any additional exclusion zones are warranted or if any modification of work windows is needed. An analysis of the most appropriate cable route should be based on the most updated and best available information. This information will be necessary to conduct our consultations on this project.

The DEIS needs to also provide specific information on the schedule of construction and installation of the transmission cable. A detailed timeline of when and where specific components of construction and installation will begin and end are necessary (e.g., mobilization, HDD operations, cofferdam installation, jet plowing). Additionally, more specific information on the time of year (TOY) work windows along the entire project is needed. The EIS, BA, and the EFH Assessment should clearly state what species are considered for each work window. Chapter 5 of the DEIS, states that some work may overlap with the spawning season for some forage fish. Additional information on the species of forage fish to be impacted as well as the expected impacts should be provided. Furthermore, there does not appear to be any TOY restrictions to protect sensitive life stages of species with designated EFH in the project area. Winter flounder have demersal eggs that sink and remain on the bottom until they hatch. These eggs, once deposited on the substrate, are vulnerable to sedimentation effects in less than 1 mm of sediment (Berry *et al.* 2011) and could be adversely impacted by this project. A full analysis of project impacts on species with designated EFH, in addition to plans to minimize impacts to EFH should be included in the EFH Assessment.

The DEIS provides limited information on vessel traffic and the potential for collisions with Atlantic and shortnose sturgeon. The DEIS does not provide information on the type or number of vessels that will be used during mobilization, installation or maintenance/repair of the transmission cable, or the speeds their operating. Although the DEIS states that within shallow water areas or within the construction corridor, vessels will operate at idle speeds, "idle speeds" are not defined. Additionally, the speeds of vessels operating outside of shallow water areas/construction corridors or during the mobilization, maintenance, or repair of the cable are not addressed. Information on the draft of each vessel involved in the construction, maintenance, and repair of the cable is also needed. In addition, the DEIS states that Atlantic sturgeon are demersal fish, that spend most of their time on the bottom and therefore, would avoid collisions due to the draft clearance available in the project area. This statement is not accurate. Atlantic sturgeon movements are not confined to the benthos. Although foraging behavior occurs on the benthos, while migrating, Atlantic sturgeon are often found in the water column and thus, there is the potential for an interaction if there is not sufficient clearance between the benthos and the draft of the vessel and vessels. Additional analysis and information is therefore needed to support the DEIS's conclusion that vessel interactions with sturgeon are unlikely.

The DEIS lacks sufficient information on the underwater acoustic effects to listed species of Atlantic and shortnose sturgeon. Installation of cofferdams, the potential use of dynamic positioning vessels during cable laying operations, and blasting (see above for discussion) will result in elevated levels of underwater noise that have the potential to result in the injury or behavioral disturbance to sturgeon. Based on the best available information, underwater noise levels of 206 dB re 1 μPa_{Peak} and 187 dB accumulated sound exposure level (dB_{cSEL}; re: $1\mu Pa^2 \cdot sec$) (183 dB accumulated SEL for fish less than 2 grams) are believed to result in injury or mortality to sturgeon (FHWG 2008), while underwater noise levels of 150 dB re 1 μPa_{RMS} are

believed to result in the behavioral disturbance to sturgeon (Purser and Radford 2011; Wysocki *et al.* 2007). The DEIS needs to provide information on the source levels for type of acoustic disturbance; Peak, RMS, and cSEL levels of underwater noise for each noise producing activity; the distance from the source that injury or behavioral thresholds will be attained; and the duration of the disturbance.[2] Based on this information, the DEIS needs to provide a thorough analysis on the effects of this exposure to Atlantic and shortnose sturgeon. Consideration of the time of year, location of disturbance, and extent of ensonification will be necessary in this analysis. This detailed information and analysis needs to be included in the BA.

The DEIS states that no effects on federally listed sea turtles is expected. A portion of the transmission cable will be installed in the East River, an area where listed species of sea turtles may occur. Should construction occur during the months of June through October, when sea turtles are present, the DEIS needs to then provide a detailed analysis of the direct and indirect effects to sea turtles resulting from the installation of the transmission cable in the East River. This information and analysis also needs to be provided in the BA.

The DEIS indicates that the project will impact five areas designated as Significant Coastal Fish and Wildlife Habitat (SCFWH) by the State of New York. These habitats are recognized as the most significant habitats in the State and are designated for protection (NYSDEC 2012). The DEIS indicates the project would impact SAV and spawning fish (non-sturgeon species) in these areas. However, there is very little detail on the resources present, the time of year and life stages of species present, the specific impacts expected to occur, or any proposal to avoid, minimize, and mitigate these impacts. The DEIS also does not appear to consider effects to ESA listed species, EFH or other aquatic species utilizing these areas as important overwintering habitat. Of particular concern are the Kingston-Poughkeepsie Deepwater Habitat and the Hudson Highlands, where the Public Notice anticipates burial of the cable will not be possible. Spawning and overwintering grounds for listed and non-listed species of fish are known to occur in these reaches of the Hudson River. If either blasting or scraping of rock is required for partial burial in these areas, substantial impacts to our trust resources and their habitat is expected (see above). As proposed, the project would result in permanent habitat loss within these SCFWHs through direct physical alternation and disturbance. The DEIS ,therefore, needs to consider the short and long term effects of any habitat modification to these and other sensitive areas in the Hudson River and their effects to our trust resources. Detailed information on construction plans,

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[2] **Peak sound pressure level**: the largest absolute value of the instantaneous sound pressure and is expressed as dB re: 1 µPa.

Root Mean Square (RMS) pressure: the square root of the average squared pressures over the duration of a pulse; most pile-driving impulses occur over a 50 to 100 millisecond (msec) period, with most of the energy contained in the first 30 to 50 msec (Illingworth and Rodkin, Inc. 2001, 2009). Therefore, RMS pressure levels are generally "produced" within seconds of pile driving operations and represent the effective pressure and its resultant intensity (in dB re: 1 µPa;) produced by a sound source.

Cumulative Sound Exposure Level (cSEL): the energy accumulated over a period of time; the cSEL value is not a measure of the instantaneous or maximum noise level, but is a measure of the accumulated energy over a period of time to which an animal is exposed during any kind of signal. For impulsive noise sources, cSEL (dB) = Single-strike/impulse SEL + 10 Log (N); where N is the number of pulses or strikes (Bastasch *et al.* 2008; Stadler and Woodbury 2009). For continuous noise sources, cSEL (dB) = RMS pressure level + 10 Log (duration, in seconds, of the activity or installation).

including the extent of concrete mats and/or rip rap proposed for these areas, as well as any plans for blasting are necessary for our review in order to evaluate impacts to our trust resources.

The alternatives analysis in Appendix B of the DEIS gives little detail on alternatives considered to avoid these important habitats. The analysis only appears to evaluate alternatives immediately outside the river near these significant habitat sites. These included railroad right of ways (ROW) and roadways immediately outside the river, which have similar constraints with burial due to the rocky terrain. According to the analysis in Appendix B, it was determined that alternative transmission routes were not reasonable based on criteria including engineering feasibility, cost, and logistical considerations. Environmental impacts were not fully considered in the alternatives analysis and there does not appear to have been an evaluation of the least environmentally damaging alternatives. Given the critical habitat and resources present in the SCFWH designated areas, more information on alternatives to avoid these significant habitat areas should be provided along with a detailed evaluation of impacts to these sensitive habitat areas.

Further analysis of cumulative impacts of this project and the West Point Cable project should be provided. In the cumulative impacts analysis in Chapter 6 of the DEIS, it states that these projects could overlap for 65 miles in the Hudson River. Both projects are proposing to impact the Kingston-Poughkeepsie Deepwater Habitat and the Hudson Highlands significant habitat areas. If cable burial is not possible in much of this range, these projects together could result in significant permanent alteration of the riverbed. Given the potential cumulative impacts to aquatic resources, a more thorough analysis should be provided in the BA, EFH Assessment and the EIS. The analysis provided in Chapter 6 of the DEIS does not provide a full evaluation of all potential impacts that could result from two cable installation projects in these significant habitat areas.

The following are comments on Appendix G, section G.5, of the DEIS (Applicant Proposed Impact Avoidance and Minimization Measures):

- It states that, "any unanticipated sightings of threatened or endangered species…would be reported as soon as possible to NYSDPS Staff, NYSDEC, and USFWS." Reporting should also be directed to NMFS Protected Resources Division (PRD) (Danielle Palmer, danielle.palmer@noaa.gov; 978-282-8468).
- It states that, "all in-water work would be conducted within applicable time windows agreed to by applicable Federal and State agencies." Agreed to "time windows" should be specified here. However, prior review by Federal and State agencies is necessary.
- Coordination and review by NMFS PRD is needed for the Standard Operating Procedures Manual that would be prepared to outline sturgeon monitoring and reporting methods.
- Details of the emergency procedures to be taken should a listed species be struck need to be provided. NMFS PRD needs to be included as a point of contact should such an event occur (contact should occur within 24 hours of incidence).
- Plans for acoustic mitigation and monitoring need to provided.
- Mitigation and monitoring plans need to be developed for listed species of sea turtles.

Conclusion

In summary, the USDOE DEIS and the USACE Public Notice prepared for the Champlain Hudson Power Express Transmission Line Project do not provide us with the necessary information to consult on this project. An expanded EFH Assessment is necessary to begin consultation under the MSA. Additional project specific information and analysis is also needed to initiate consultations under the FWCA, and ESA. Based on existing information provided to us, we must conclude that the proposed projects will result in significant impacts to aquatic resources of national importance and invoke the elevation process outlined in Part IV Paragraph 3(b) of our interagency MOA. We look forward to your response to our comments on the DEIS as well as our comments on the Public Notice pursuant to Part IV, Paragraph 3(b) of the MOA between the USACE and our agency. We appreciate your attention to this matter. Should you have any questions about EFH and FWCA, please contact Sue Tuxbury at susan.tuxbury@noaa.gov or 978-281-9176. Should you have any questions regarding Section 7 ESA consultation requirements, please contact Danielle Palmer at danielle.palmer@noaa.gov or 978-281-9468.

Sincerely,

John K. Bullard
Regional Administrator

cc: Mary Colligan, PRD
Mark Murry-Brown. PRD
Jun Yan, USACE
Lingard Knutsen, USEPA
David Stilwell, USFWS
Kathy Hattala, NYSDEC

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Comment 205

DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10278-0090

Regulatory Branch-Eastern Permits Section

JAN 16 2014

SUBJECT: Permit Application Number NAN-2009-01089-EYA
by Transmission Developers Inc, Champlain Hudson Power Express Transmission Line Project, OE Docket N.O. PP-362. USACE comments on the Draft Environmental Impact Statement dated September 2013.

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

Dear Mr. Mills:

This is in response to the September 2013 Draft Environmental Impact Statement (DEIS) for the proposed Champlain Hudson Power Express Transmission Line Project.

Specific Comments on the Text of the Document:

Please see the USACE DEIS comments within the attached Comment Response Matrix.

Thank you for the opportunity to comment on the DEIS for the proposed Champlain Hudson Power Express Transmission Line Project. If you have any questions, need additional information, or wish to discuss any of the above issues in more detail, please contact Jun Yan, of my staff, at (917) 790-8092.

Sincerely,

Stephan A. Ryba
Chief, Eastern Section

Enclosures
Cc:
HDR – Patrick Solomon
USCG – Jeff Yunker
USCG – Michele E. DesAutels
CENAN-OP-ST – Randall Hintz
USFWS – Steve Sinkevich
NOAA – NMFS – Sue Tuxbury
NOAA – NMFS – Christopher Boelke
NOAA – NMFS – Mary Colligan
USEPA - John Cantilli
NYSDOS – Jeffrey Zappieri

USACE Comment Response Matrix

For Draft Environmental Impact Statement (DEIS) dated September 2013

Champlain Hudson Power Express Transmission Line Project (NAN-2009-01089-EYA)

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
1		General Comment	The proposed CHPE cable should be buried in accordance with industry standards. All potential adverse effects of not burying the cable should be evaluated. Potential adverse effects of not burying the cable include the risk of anchor snags resulting in damage and loss of use of cable, vessel and waterways. Other potential adverse effect could result as well. The FEIS should discuss the pros and cons of all costs of not burying the proposed cable, taking into account all potential advese effects.		
2	1-11	Table 1-2	Please include in the FEIS or NEPA ROD, the NOAA NMFS EFH comment letters and how the EFH comments will be incorporated into the proposed CHPE project.	JY	
3	1-11	Table 1-2	Please include in the FEIS or NEPA ROD, the NMFS ESA Section 7 comment letters and how the ESA comments will be incorporated into the proposed CHPE project.	JY	
4	1-11	Table 1-2	Please include in the FEIS or NEPA ROD, the USFWS ESA Section 7 comment letters and how the ESA comments will be incorporated into the proposed CHPE project.	JY	
5	1-11	Table 1-2	Please include in the FEIS or NEPA ROD, the NYS Historic Preservation Office (NHPA) Section 106 comment letters and how the NHPA comments will be incorporated into the proposed CHPE project.	JY	
6	S-34 S-36 2-64 2-66 5-2 5-5 5-148 5-151 5-152	S.8.1 Impacts from O&M S.8.2 Impacts from O&M 2.6.1 Land Use - O&M 2.6.2 Transportation - O&M 5.1.1 Land Use 5.1.2 Transportation and Traffic 5.4.1 Land Use 5.4.2 Transportation and Traffic 5.4.2 Transportation and Traffic	DEIS stated that restrictions would be placed on vessle anchorage within the cable ROW for the lifetime of the CHPE cable. USACE RECOMMENDATION: The restrictions on vessel anchorage for the lifetime of CHPE cable would create unsafe conditions for marine navigation. Vessel anchorage is a necessary safety requirement and is the only method of stopping a vessel in an emergency. We recommend inclusion in the FEIS, that the proposed CHPE cable installation will have NO restrictions on future marine vessel anchorage. We also recommend the Applicant solicite navigation comments from Mariners and incorporate the mariner's comments into the project design and the FEIS.	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
7	S-11 2-15	S.6.2 2.4.2 Aquatic DC Cable	DEIS stated that the proposed CHPE cable will have 3 - 6 feet of in-water burial depth. USACE RECOMMENDATION: We recommend inclusion in the FEIS that the proposed CHPE cable will be buried at least 4 -7 feet in waterways outside of the federal navigation channel and the cable will be buried at least 15 feet below authorized depth within federal navigation channels in accordance with the CZM.	JY	
8	S-11 2-15 2-27 2-31 5-150	S.6.2 2.4.2 Aquatic DC Cable 2.4.10.1 Aquatic Cable Installation 2.4.10.1 Aquatic Cable Installation 5.4.2 Transportation and Traffic	DEIS stated the cable and mat would be laid on top of the riverbed when crossing existing utility; in deepwater sections of Lake Champlain; and where bedrock is near the water bottom. USACE RECOMMENDATION: Due to the safety requirement of water dependent marine navigation, we recommend inclusion in the FEIS that the proposed CHPE cable cannot be laid on top of the riverbed. The cable must be buried to ensure the safety of marine vessels anchorage, future maintenance dredging requirements and to satisfy the requirement of the CZM concurrence for the project. we recommend that the proposed CHPE cable would be buried at least 4 feet below the mud line within all section of Lake Champlain; at least 7 feet below the mudline within Hudson, Harlem and East River and at least 15 feet below authorized depth within any federally maintained navigation channels in accordance with the CZM.	JY	
9	S-32 S-35 2-64 2-65 5-2 5-5 5-13 5-146 5-148 5-150 5-151	S.8.1 Land Use S.8.2 Transportation 2.6.1 Land Use 2.6.2 Transportation 5.1.1 Land Use 5.1.2 Transportation and Traffic 5.1.4 Aquatic Habitats and Species 5.4.1 Land Use 5.4.1 Land Use 5.4.2 Transportation and Traffic 5.4.2 Transportation and Traffic	DEIS stated that the aquatic work site of the CHPE cable would be off-limits to other vessels, existing marine vessels could either transit around the work site or use a different area of the waterway. During installation of the aquatic transmission line, four vessels, a cable vessel, survey boat, crew boat, and tugboat with barge, would be employed at the work site. USACE RECOMMENDATION: Unlike terrestrial construction activities where detours are available around construction sites, the waterways along the path of the CHPE construction is the only route available for water dependent marine vessels. In narrow waterways, such as Narrows of Lake Champlain, Harlem River, or narrow deep channels on the Hudson River, navigating around the work site may not be feasible. To ensure the continued waterway access for water dependent marine vessels, we recommend inclusion in the FEIS that the Applicant ensure the aquatic construction or repair equipment does not interfere with navigation or adjacent facilities. If navigation conflicts occurs the applicant will relocate construction vessels to accommodate other water dependent users of the waterway.	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
10	S-52 2-80 2-82 3-7 3-36 5-9 5-39	S.8.15 Hazardous Material 2.6.12 Infrastructure 2.6.15 Hazardous Materials and Wastes 3.1.3.2 Proposed CHPE Project 3.1.15 Hazardous Materials and Wastes 5.1.4 Aquatic Habitats and Species 5.1.15 Hazardous Materials and Wastes	DEIS stated that 30 samples collected in Lake Champlain identified contaminants and the proposed CHPE cable installation may disturb contaminants in sediments. The DEIS also stated that the proposed CHPE Project would not include the remediation of existing contaminants within Lake Champlain because the Applicant would not be responsible for remediating contamination caused by others and the transmission line installation process would not exacerbate existing conditions. USACE RECOMMENDATION: We received public comments concerning contaminants in the waterways along the proposed route of CHPE transmission cable. Please see Attachment Number 1. In the FEIS we recommend a response to the public comments concerning the installation disturbed contaminants along the proposed CHPE aquatic route.	JY	
11	S-57 2-87 3-46 3-80 5-145 5-188	S.8.19 Environmental Justice 2.6.19 Environmental Justice 3.1.19 Environmental Justice 3.2.19 Environmental Justice 5.3.19 Environmental Justice 5.4.19 Environmental Justice	Environmental Justice. It is unclear whether the minority and low income population discussed in the DEIS are EJ communities and whether those communities will be impacted by the project? USACE RECOMMENDATION: We recommend clarification whether EJ communities are present along the proposed CHPE route and whether the EJ community are impacted by the proposed CHPE project. Please see USEPA Region II EJ website: http://www.epa.gov/region2/ej/guidelines.htm We also received public comment concerning outreach and potential impacts to the Hispanic Community. Please see Attachment Number 2. We recommend a response to the public comments in the FEIS.	JY	
12	1-12	1.6.2 Federal Authorizations and Approvals	To maintain consistency with Public Hearing poster board, please remove from the USACE section the following "to issue the Section 10 and the Section 404 permits. The factors include conservation, economics, aesthetics, general environmental concerns, cultural resources, fish and wildlife values including threatened and endangered species and essential fish habitat (EFH), navigation, recreation, water quality, energy needs, safety, cumulative impacts, air quality, and marine security." and REPLACE with the following "the construction and installation of the proposed electric transmission line is not contrary to the public interest which would result in the issuance of a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, as amended."	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
13	2-12 2-15 2-27 5-3 5-155	2.4.2 Aquatic DC Cable 2.4.2 Aquatic DC Cable 2.4.10.1 Aquatic Cable Installation 5.1.2 Transportation and Traffic 5.4.3 Water Resources and Quality	DEIS stated that aquatic cable installation will bury the proposed cable "to the extent practicable". DEIS also stated the proposed CHPE cable would be buried to a depth of 6 feet within the Harlem and East River. USACE RECOMMENDATION: In the FEIS, we recommend that the proposed CHPE cable would be buried to "at least" 4 feet below the mud line within all section of Lake Champlain; "at least" 7 feet below the mudline within Hudson, Harlem and East River; and "at least" 15 feet below authorized depth within any federally maintained navigation channels in accordance with the CZM.	JY	
14	2-29	2.4.10.1 Aquatic Cable Installation	USACE RECOMMENDATION: Please provide the trench width for aquatic jet plow installation. Similar to the trench description provided for shear plow installation on page 2-29 of DEIS.	JY	
15	2-31	2.4.10.1 Aquatic Cable Installation	DEIS stated that the proposed CHPE cable within deepwaters of Lake Champlain would be installed 20 feet apart. USACE RECOMMENDATION: Cable installation 20 feet apart is inconsistent with other sections of DEIS. On page 2-4 of DEIS it stated the that cable would be buried within a singles trench. We recommend inclusion in the FEIS that the proposed CHPE cable should not be installed 20 feet apart. The aquatic cable should buried within a single trench.	JY	
16	2-73 3-13	2.6.7 Terrestrial Protected Species 3.1.6 Terrestrial Habitats and Species	On October 2, 2013, USFWS published in the Federal Register a notice announcing the the inclusion of Northern Long Eared Bat as a proposed endangered species throughout its range under the Endangered Species Act. Its ranges includes New York State. USACE RECOMMENDATION: We recommend inclusion of Northern Long Ear Bat ESA analysis within the FEIS.	JY	
17	2-75 5-70	2.6.8 Wetlands 5.2.8 Wetlands	DEIS stated the overland segment would directly impact approximately a total of 67 acres of wetlands. USACE RECOMMENDATION: The applicant provided conceptual wetland mitigation plan stated that a total of 77.7 acres of wetland would be impacted by the proposed CHPE cable (Temp Impact: 16.2 + 51.2 + Permanent Impact: 8.2 + 2 = 77.7 acres). We recommend inclusion within the FEIS to show a total of 77.7 acres of total wetland impact.	JY	
18	2-76	2.6.8 Wetlands	DEIS stated permanent impact to 2.0 acres of forested wetland. USACE RECOMMENDATION: The applicant provided conceptual wetland mitigation plan which stated there will also be 8.2 acres of permanent impact to non-forested wetland. We recommend inclusion in the FEIS the 8.2 acres of permanent impact to non-forested wetlands	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
19	2-80 6-11	2.6.12 Infrastructure Transmission Projects	DEIS stated that Electrical infrastructure in New York State would benefit in the long run. USACE RECOMMENDATION: We received public comments concerning the lack electrical infrastructure improvement proposed by the project. Please see the comment letter in Attachment Number 2. We recommend the FEIS provide a response to the public comments.	JY	
20	3-21 3-105 5-30	3.1.9 Geology and Soils 3.3.9 Geology and Soils 5.1.9 Geology and Soils	DEIS Seismicity. USACE RECOMMENDATION: We received public comments concerning seismic activities dangers. Please see the comment letter in Attachment Number 2. The DEIS provided the NYS seismic hazard rating but it is still unclear how seismic activities could impact the proposed CHPE cable. In the FEIS, we recommend a response to the public comment. Please include 1) the safety measures to be incorporated into the proposed CHPE cable design able withstand a seismic event. 2) what are the impacts to the environment, navigation, and public safety, should the CHPE cable be damaged during an earthquake.	JY	
21	3-42 5-47	3.1.18 Socioeconomics 5.1.18 Socioeconomics	USACE RECOMMENDATION: We received public comments concerning job loss due to the proposed project, please see Attachment Number 2. We recommend a response to the public comment within the FEIS.	JY	
22	3-102	3.3.8 Wetlands	DEIS stated that Esopus Estuary SCFWH contains wetlands that would be intersected by the proposed CHPE Project. USACE RECOMMENDATION: Has the wetland impact in the Esopus Estuary already been included in the total wetland impact discussed in Section 2.6.8 Page 2-75? At what mile markers would the wetland impact occur?	JY	
23	5-4 6-13	5.1.2 Transportation and Traffic 6.1.2.2 Transportation and Traffic	DEIS stated that in the Lake Champlain the transmission cables would be laid along the side slopes in some locations of an existing Federal navigation channel (MPs 98 through 101). USACE RECOMMENDATION: According to the drawings provided by the applicant, between MP 98 -101, the proposed CHPE cable would be buried within the boundary of the existing federal Navigation Channel, not just the side slopes. Please see drawings in Attachment Number 3. We recommend the FEIS state that proposed CHPE cable would be buried within the Federal Navigation Channel in Lake Champlain, not just the side slopes.	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
	Page	Section			
24	5-4	5.1.2 Transportation and Traffic	DEIS stated that on a case-by-case basis, the USACE New York District Engineer could modify the 15 feet burial depth requirement if deemed necessary. USACE RECOMMENDATION: The requirement to bury the proposed CHPE cable 15 feet below the authorized depth of a federal navigation channel is a requirement of CZM Concurrence. In accordance with Costal Zone Management Act, USACE, as a federal agency, will follow the requirement of the CZM concurrence. We cannot modify a requirement within the CZM Concurrence. We recommend revising the FEIS to reflect the CZM requirement.	JY	
25	5-52	5.2.1 Land Use	DEIS overland Eminent Domain. USACE RECOMMENDATION: We received comment letters concerning Eminent Domain in Attachment Number 2. We recommend responding to public comment in the FEIS.	JY	
26	5-72 5-73	5.2.8 Wetlands 5.2.8 Wetlands	DEIS stated the Applicant would monitor the success of the wetland restoration and provide a report to the permitting authorities at the conclusion of 2 years of monitoring. USACE RECOMMENDATION: We recommend inclusion in the FEIS that the a 5 year Monitoring plan will be required to ensure removal of invasive species and ensure establishment of wetland species. A wetland monitoring report should be provided for each year of monitoring.	JY	
27	5-72	5.2.8 Wetlands	DEIS stated permanent significant impacts would occur on 2.0 acres of forested wetlands and on 8.3 acres of non-forested wetlands. USACE RECOMMENDATION: we recommend inclusion in the FEIS that wetland mitigation will be required for permanent wetland impacts.	JY	
28	5-70	5.2.8 Wetlands	Temporary wetland impact. USACE RECOMMENDATIONS: For temporary wetland impacts, we recommend breaking out the acres of forested wetland impact and non-forested wetland impact in the FEIS.	JY	
29	5-72	5.2.8 Wetlands	DEIS stated that forested wetlands, where not maintained, would be expected to go through several stages of succession vegetation before returning to the preconstruction vegetation cover type. USACE RECOMMENDATION: We recommend the planned restoration of cleared forested wetland areas be augmented with active planting of forested wetland tree and shrub saplings, as mitigation for the temporary impacts to 16.2 acres of forested wetland. A 5 year Monitoring plan will be required to ensure removal of invasive species and ensure establishment of wetland species. A wetland monitoring report should be provided for each year of monitoring. Please see US EPA comment as Attachment 4.	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
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30	5-146	5.4.1 Land Use	DEIS state that the construction activities could temporarily disrupt (i.e., disturb, interrupt, or change) use of the Peter Jay Sharp Boathouse, a floating boathouse in Swindlers Cove on the Harlem River, which is within the ROI and directly adjacent to the proposed CHPE Project route. Access to the Harlem River near this facility could be limited for safety reasons while construction occurs in the vicinity. USACE RECOMMENDATION: we recommend inclusion in the FEIS that the Applicant will coordinate with owners of the Boathouse to ensure construction takes place at a time where it will not impact navigation.	JY	
31	5-150	5.4.2 Transportation and Traffic	DEIS stated that applicant would coordinate with the USACE regarding appropriate burial depth and the location in the Harlem River navigation channel. USACE RECOMMENDATION: The Harlem River is a Federal Navigation Channel. The CZM Concurrence requires the proposed CHPE cable to be buried 15 feet below the authorized depth of a federal navigation channel. In accordance with Costal Zone Management Act, the USACE, as a federal agency, will follow the requirement of the CZM concurrence. We recommend incorporating the CZM requirement into the FEIS.	JY	
32	6-3 6-11	6.1.1.4 Present and Reasonably Foreseeable Future Actions in the Hudson River Segment 6.1.2.2 Transportation and Traffic	DEIS stated that the proposed CHPE Project would traverse a Federal Anchorage Ground approximately between MPs 319 and 320. USACE RECOMMENDATION: we recommend relocating the proposed CHPE cable to be outside of the anchorage grounds. As stated in comment number 6, vessel anchoring is essential for safe marine navigation. It is unsafe to initiate restrictions on a water dependent activity such marine vessel anchoring.	JY	
33	6-8	Generation Projects	USACE RECOMMENDATION: we received comment letters concerning energy independence to generate power within New York State, please see Attachment Number 2. We recommend the FEIS provide a response to the public comments letters.	JY	

#	Location		USACE - Comment	Reviewer	HDR's Response
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34	6-13	6.1.2.2 Transportation and Traffic	On page 6-13, the DEIS stated, since proposed CHPE Project would be buried under the East River navigation channel using HDD, and 15 feet below the authorized navigation channel depth as required by the USACE in the Hudson, Harlem, and East rivers, cumulative impacts are not anticipated from future dredging. USACE RECOMMENDATION: As it is currently presented in the DEIS there will negative cumulative impact on future maintenance dredging. On page 5-150, the DEIS stated that in instances where environmental or engineering constraints are present that the cables should be laid on Harlem River Channel Bottom. On page 2-27 the cable will be laid on top of the riverbed when encountering existing utilities or other obsturctions. Laying the cable on the bottom of federal navigation channel would have a negative cumulative impact on future dredging. In accordance with the CZM, we recommend that the FEIS state the proposed cable shall be buried to 15 feet below the authorized channel depth in all areas of the federal navigation channel.	JY	
35	8-1	8. List of Preparers	USACE RECOMMENDATION: The USACE representative name is spelled incorrectly. Please revise to Jun Yan	JY	

Reviewer: Please provide your name, title, commercial phone number, email address, and date of comments

JY- Jun Yan, Project Manager, USACE, (917) 790-8092, jun.yan@usace.army.mil, January 9, 2014

ATTACHMENT 1

ATTACHMENT 1

Yan, Jun NAN1

From: McDonald, Jodi M NAN02
Sent: Tuesday, December 03, 2013 11:37 AM
To: Baden, Annette NAN02; CENAN-OC NAN02; Yan, Jun NAN1
Cc: Ryba, Stephan A NAN02
Subject: FW: [EXTERNAL] Fwd: FOIA FA-13-0217 (UNCLASSIFIED)
Attachments: FA-13-0217 Response.pdf; Whitham.pdf

Classification: UNCLASSIFIED
Caveats: NONE

Annette - Please see attached response received from our Public Notice inbox with respect to this FOIA request. R/JM

-----Original Message-----
From: Judson Witham [mailto:jurisnot@gmail.com]
Sent: Tuesday, December 03, 2013 9:33 AM
To: RFO, CENAN NAN02; PublicNotice, CENAN NAN02; CENAN-OC NAN02; ejacobs@neiwpcc.org; sking@neiwpcc.org; Foil r5foil; FOIL; John Warren; Records Access; info@lgpc.state.ny.us; public@gw.dec.state.ny.us; Dale Hobson; R5 Info; Richard Hayes Phillips; Ellen Brown
Subject: [EXTERNAL] Fwd: FOIA FA-13-0217

Dear Ms. Baden Et Al.

The Toxics in Lake Champlain's Sludge and Sediment deposits cover a vast area of the bottom of Lake Champlain. The AUDIO TESTIMONY and RECORDED ARGUMENTS before the US Supreme Court reveal The Village of Ticonderoga, International Paper and Every Industry and Factory, Radiator Shop, Paint and Body, Hospital, Dental Clinic, Doctors Office and House Hold in Ticonderoga and along the LaChute River used the River to Flush the Sewage and Industrial Wastes from the Ticonderoga Area into Lake Champlain. The Sediments and Sludge are FULL of Chemicals and Toxins of all kinds AND Combinations thereof.

Because of the TOXIC Mixtures in these Sludge and Sediment Deposits a THOROUGH Clean Up and Removal of the Huge Mess should occur. Plowing through the Toxic Materials for burial of an electrical cable is INSANELY UNSAFE. The Project should NOT be permitted until a Full Clean Up is Finished.

I have spent more than 3 years seeking the materials Just Now Released from the US Government. It is abundantly obvious that there is EPA and Vermont Scientific Materials and University Testings and Laboratory Data still missing.

Waiting until 9 Days before the expiration of Public Comment and Dissent to the Project reveals that all the details of the TOXIC NIGHTMARE in Lake Champlain have NOT been explained to the Public. The Public has been denied the information and frankly this is more than a 100 Year Old SECRET.

This is a Formal Complaint and Demand that the Project Be Suspended until a Full and Complete Clean Up of the TOXIC NIGHTMARE is Completed.

Thank You

Judson Witham
North Country For Clean Water and Safe Environmental Policy

---------- Forwarded message ----------
From: CENAN-OC NAN02 <CENAN-OC@nan02.usace.army.mil>
Date: Tue, Dec 3, 2013 at 8:56 AM
Subject: FOIA FA-13-0217
To: Judson Witham <jurisnot@gmail.com>, CENAN-OC NAN02 <CENAN-OC@nan02.usace.army.mil>

Annette Baden
Legal Assistant
U.S. Army Corps of Engineers
Office of Counsel - Room 1837
26 Federal Plaza
New York, NY 10278-0090
917-790-8058 Office
212-264-8171 Fax
email: annette.baden@usace.army.mil
NY District Homepage: http://www.nan.usace.army.mil
FOIA Homepage: http://www.nan.usace.army.mil/FOIA.aspx
Please Email All FOIA Requests To: foia-nan@usace.army.mil

Dear Ms. Baden,

I was advised by You that Hurricane Sandy destroyed all the records. You advised Me that there were No Records. In any event ..... Scanning these documents and sending them to Me electronically can be accomplished. I am currently traveling for a Christmas related Family engagement and as such please send what You can electronically by scanning such.

I have discovered that New York State owns the Dam at the Lake George end of the LaChute River and I have discovered the electronic record of the US Supreme Court arguments that are on audio file revealing that International Paper Company and New York State's Lawyers ADMIT that Ticonderoga NY and other Industries in New York caused the vast Sludge Bed and Silting (Contamination) of Lake Champlain. I have also learned Ticonderoga's NEW Paper Mill owned by International Paper contimues to dump and add to the Sludge and Poisoning of Lake Champlain.

When I return from my trip I will address anything You are unable to send electronically.

Thank You

Judson Witham

On Mon, Dec 2, 2013 at 9:10 AM, Baden, Annette NAN02 <Annette.Baden@usace.army.mil> wrote:

Mr. Witham, On November 5, 2013 we attempted to send you a response to FOIA Number FA-13-0217. It came back to us over the weekend stamped "Insufficient Address". The address we have on file is Barrow Cemetery and Highway 58, Martinsville, VA 24112. Please send us your correct mailing address so we may re-mail your documents because they are too large to send by email.

Annette Baden

Legal Assistant
U.S. Army Corps of Engineers
Office of Counsel - Room 1837
26 Federal Plaza
New York, NY 10278-0090
917-790-8058 Office
212-264-8171 Fax
email: annette.baden@usace.army.mil
NY District Homepage: http://www.nan.usace.army.mil
FOIA Homepage: http://www.nan.usace.army.mil/FOIA.aspx
Please Email All FOIA Requests To: foia-nan@usace.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

ATTACHMENT 1

Yan, Jun NAN1

From: McDonald, Jodi M NAN02
Sent: Tuesday, December 03, 2013 11:34 AM
To: Delorier, Christine NAN02; Yan, Jun NAN1
Cc: Gitchell, Amy L NAN02; Bruce, Kevin J NAN02
Subject: RE: [EXTERNAL] Scientific Studies and EIS Contents of the Champlain Sludge Bed and Sediment Field ...The Mess In Champlain (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Christine - Thanks. We've gotten then from PAO and OC as well. We are treating these as comments to the PN. R/JM

-----Original Message-----
From: Delorier, Christine NAN02
Sent: Tuesday, December 03, 2013 11:29 AM
To: McDonald, Jodi M NAN02; Yan, Jun NAN1
Cc: Gitchell, Amy L NAN02; Bruce, Kevin J NAN02
Subject: FW: [EXTERNAL] Scientific Studies and EIS Contents of the Champlain Sludge Bed and Sediment Field ...The Mess In Champlain (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Are you receiving these messages from the public mailbox? There should be three from this person. If you need the other two, please let me know and I will forward them.

Christine

-----Original Message-----
From: Judson Witham [mailto:jurisnot@gmail.com]
Sent: Monday, December 02, 2013 10:56 PM
To: RFO, CENAN NAN02; PublicNotice, CENAN NAN02
Cc: CENAN-OC NAN02; ejacobs@neiwpcc.org; sking@neiwpcc.org; Foil r5foil; FOIL; John Warren; Records Access; info@lgpc.state.ny.us; public@gw.dec.state.ny.us; Dale Hobson; R5 Info; Richard Hayes Phillips; Ellen Brown
Subject: [EXTERNAL] Scientific Studies and EIS Contents of the Champlain Sludge Bed and Sediment Field ...The Mess In Champlain

Attention Upstate New York Field Office .... This is a PROTEST and as well an FOIA Demand for all records on Sludge and Sediments in Lake Champlain as well as the Hudson River.

The Champlain Hydro Express Project's plans to plow through the TOXIC Sludge Bed and Sediment areas on the bottom of Champlain Need a FULL Scientific Study. The US Army Corp of Engineers, EPA, NYDEC and the US Coast Guard all need to produce the Scientific Studies on the Chemicals in the Sludge and Sediments. Fact is the EIS Environemnatl Impact Studies are NOT complete with out the Chemical Analysis that should be done BEFORE any Permits are Approved for this Project.

The Fact is Many Other Industries besides International Paper's Chemicals were dumped and MIXED TOGETHER with Ticonderoga's Open Sewers. There is a Giant TOXIC Mixture on the

bottom of the Lake Champlain NOT solely Paper Wastes and the Chemicals Associated with BLACK LIQUOR and Wastes from the other Industries.

LISTEN to the US Supreme Court Discussion by International Paper's Lawyers and Vermont's Lawyers. http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

Full Chemical Studies MUST Be Done FIRST and ALL Records must be Fully Released in connection with My Marathon FOIA Requests for the DATA, MAPS, CHARTS and RECORDS associated with the Chemical Contamination of the Sludge and Sediments.

This is AGAIN a protest to the Project and a Continuing Demand Under the FOIA for the full records on the Chemical Tests of the Sludge and the Sediments. FULL EIS Statements Must FIRST Be Compiled including the Chemical Testing.

If You listen to the attached US Supreme Court recording You will discover far far far more than Pulp Wastes were dumped In Mass into Lake Champlain. The MESS is Huge and the MESS is Toxic.

http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

The Reality Is The Village of Ticonderoga's Sewers and many other Industries and Chemicals were all MIXED together with International Paper's Giant Mess.

Here's the REALITY of the Vast Pile of Toxins that International Paper flushed into Lake Champlain ..... Listen to the Case .....http://www.oyez.org/cases/1970-1979/1971/1971_50_orig <http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>

<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>
<http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>
Vermont v. New York | The Oyez Project at IIT Chicago-Kent College of Law
www.oyez.org
On November 6, the Court will hear arguments in a major Establishment Clause case. Check out our deep dive on the topic to find out more about the case.

The Reality IS ... The Champlain Hudson Power Express plans to PLOW through the Sludge that is Laced with all sorts of Chemicals is CRAZY. Thye Environmental Impact Studies need to Scientifically Determine the content of the Giant Mess all over the Bottom of Lake Champlain. The Solubles and Nano Particles contaminated the ENTIRE LAKE. So dangerous is this mess Removing it and placing it on shore creates a LEACHING of the Toxins.

Judson Witham

---------- Forwarded message ----------
From: Judson Witham <jurisnot@gmail.com>
Date: Mon, Dec 2, 2013 at 12:16 PM

Subject: The Mess In Champlain
To: "Baden, Annette NAN02" <Annette.Baden@usace.army.mil>

Dear Army Corp, Ms. Baden,

If You listen to the attached US Supreme Court recording You will discover far far far more than Pulp Wastes were dumped In Mass into Lake Champlain. The MESS is Huge and the MESS is Toxic.

http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

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<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>
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The PROOF is in this US Supreme Court Testimony and Arguments.

The Safety Of the Cable being BURIED is NOT a Reality and I OBJECT and DISAPPROVE of any plans to bury anything in or through it. The Power Project MUST include a REMOVAL of the huge mess from the Lake.

LISTEN TO THE RECORD.

Here's the REALITY of the Vast Pile of Crap that International Paper flushed into Lake Champlain ..... Listen to the Case .....http://www.oyez.org/cases/1970-1979/1971/1971_50_orig <http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>

<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>
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Vermont v. New York | The Oyez Project at IIT Chicago-Kent College of Law
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Judson Witham

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When I return from my trip I will address anything You are unable to send electronically.

Thank You

Judson Witham

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Annette Baden
Legal Assistant
U.S. Army Corps of Engineers
Office of Counsel - Room 1837
26 Federal Plaza
New York, NY 10278-0090
917-790-8058 Office
212-264-8171 Fax
email: annette.baden@usace.army.mil
NY District Homepage: http://www.nan.usace.army.mil
FOIA Homepage: http://www.nan.usace.army.mil/FOIA.aspx
Please Email All FOIA Requests To: foia-nan@usace.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

ATTACHMENT 1

Yan, Jun NAN1

From: McDonald, Jodi M NAN02
Sent: Tuesday, December 03, 2013 11:35 AM
To: Yan, Jun NAN1; Baden, Annette NAN02
Cc: Ryba, Stephan A NAN02
Subject: FW: [EXTERNAL] Re: FOIA Demand PROTEST / Scientific Studies and EIS Contents of the Champlain Sludge Bed and Sediment Field ...The Mess In Champlain (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

FYI. Additional comments from Mr. Witham. R/JM

-----Original Message-----
From: Judson Witham [mailto:jurisnot@gmail.com]
Sent: Monday, December 02, 2013 11:24 PM
To: RFO, CENAN NAN02; PublicNotice, CENAN NAN02
Cc: CENAN-OC NAN02; ejacobs@neiwpcc.org; sking@neiwpcc.org; Foil r5foil; FOIL; John Warren; Records Access; info@lgpc.state.ny.us; public@gw.dec.state.ny.us; Dale Hobson; R5 Info; Richard Hayes Phillips; Ellen Brown
Subject: [EXTERNAL] Re: FOIA Demand PROTEST / Scientific Studies and EIS Contents of the Champlain Sludge Bed and Sediment Field ...The Mess In Champlain

Judson Witham <jurisnot@gmail.com>
11:20 PM (0 minutes ago)
<https://mail.google.com/mail/u/0/images/cleardot.gif>
<https://mail.google.com/mail/u/0/images/cleardot.gif>
<https://mail.google.com/mail/u/0/images/cleardot.gif>
to Annette, ejacobs, sking, CENAN-OC, Foil, FOIL, John, Records, foia-nan, info, public, Dale, R5, Richard, Ellen
<https://mail.google.com/mail/u/0/images/cleardot.gif>
Stalling Production of the Records and allowing the Public Protest Period and Public Dissent Period to Expire on December 13th is a Real Neat TRICK Ms Baden. The Hurricane Sandy Story was COMICAL .

I and Our Group Protest the Cable Plowing because Full Scientific Studies on the TOXINS and CHEMICALS in the Sediments and Sludge have never been done. The EIS Information is Horridly Incomplete and Lacking as the Analysis of the Toxic Contents of the Sediments and Sludge have NOT been done.

In any event US Army Corp Of Engineers and NYS DEC and EPA and US Coast Guard and DOE need to understand FULL EIS Information Has NOT been provided to the Public. The December 13th Cut Off for Public Dissent is NOT to be considered Because the EIS and Scientific Information on the TOXINS and BIO-HAZARDOUS WASTES in the Sediments and Sludge Field has been HIDDEN and SECRETED and NOT Provided even though FOIA Demands have been served on the US ARMY now for at least One Year.

This is a FORMAL Protest to the Champlain Hudson Power Express Project as Well as a Continuing FOIA Demand.

On Mon, Dec 2, 2013 at 10:55 PM, Judson Witham <jurisnot@gmail.com> wrote:

Attention Upstate New York Field Office .... This is a PROTEST and as well an FOIA Demand for all records on Sludge and Sediments in Lake Champlain as well as the Hudson River.

The Champlain Hydro Express Project's plans to plow through the TOXIC Sludge Bed and Sediment areas on the bottom of Champlain Need a FULL Scientific Study. The US Army Corp of Engineers, EPA, NYDEC and the US Coast Guard all need to produce the Scientific Studies on the Chemicals in the Sludge and Sediments. Fact is the EIS Environemnatl Impact Studies are NOT complete with out the Chemical Analysis that should be done BEFORE any Permits are Approved for this Project.

The Fact is Many Other Industries besides International Paper's Chemicals were dumped and MIXED TOGETHER with Ticonderoga's Open Sewers. There is a Giant TOXIC Mixture on the bottom of the Lake Champlain NOT solely Paper Wastes and the Chemicals Associated with BLACK LIQUOR and Wastes from the other Industries.

LISTEN to the US Supreme Court Discussion by International Paper's Lawyers and Vermont's Lawyers. http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

Full Chemical Studies MUST Be Done FIRST and ALL Records must be Fully Released in connection with My Marathon FOIA Requests for the DATA, MAPS, CHARTS and RECORDS associated with the Chemical Contamination of the Sludge and Sediments.

This is AGAIN a protest to the Project and a Continuing Demand Under the FOIA for the full records on the Chemical Tests of the Sludge and the Sediments. FULL EIS Statements Must FIRST Be Compiled including the Chemical Testing.

If You listen to the attached US Supreme Court recording You will discover far far far more than Pulp Wastes were dumped In Mass into Lake Champlain. The MESS is Huge and the MESS is Toxic.

http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

The Reality Is The Village of Ticonderoga's Sewers and many other Industries and Chemicals were all MIXED together with International Paper's Giant Mess.

Here's the REALITY of the Vast Pile of Toxins that International Paper flushed into Lake Champlain ..... Listen to the Case .....http://www.oyez.org/cases/1970-1979/1971/1971_50_orig <http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>

<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>

<http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>

Vermont v. New York | The Oyez Project at IIT Chicago-Kent College of Law

www.oyez.org

On November 6, the Court will hear arguments in a major Establishment Clause case. Check out our deep dive on the topic to find out more about the case.

The Reality IS ... The Champlain Hudson Power Express plans to PLOW through the Sludge that is Laced with all sorts of Chemicals is CRAZY. Thye Environmental Impact Studies

need to Scientifically Determine the content of the Giant Mess all over the Bottom of Lake Champlain. The Solubles and Nano Particles contaminated the ENTIRE LAKE. So dangerous is this mess Removing it and placing it on shore creates a LEACHING of the Toxins.

Judson Witham

---------- Forwarded message ----------
From: Judson Witham <jurisnot@gmail.com>
Date: Mon, Dec 2, 2013 at 12:16 PM
Subject: The Mess In Champlain
To: "Baden, Annette NAN02" <Annette.Baden@usace.army.mil>

Dear Army Corp, Ms. Baden,

If You listen to the attached US Supreme Court recording You will discover far far far more than Pulp Wastes were dumped In Mass into Lake Champlain. The MESS is Huge and the MESS is Toxic.

http://www.oyez.org/cases/1970-1979/1971/1971_50_orig

The Reality Is The Village of Ticonderoga's Sewers and many other Industries and Chemicals were all MIXED together with International Paper's Giant Mess.

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<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>
<http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>
Vermont v. New York | The Oyez Project at IIT Chicago-Kent College of Law
www.oyez.org
On November 6, the Court will hear arguments in a major Establishment Clause case. Check out our deep dive on the topic to find out more about the case.

The Reality IS ... The Champlain Hudson Power Express plans to PLOW through the Sludge that is Laced with all sorts of Chemicals is CRAZY. Thye Environmental Impact Studies need to Scientifically Determine the content of the Giant Mess all over the Bottom of Lake Champlain. The Solubles and Nano Particles contaminated the ENTIRE LAKE. So dangerous is this mess Removing it and placing it on shore creates a LEACHING of the Toxins.

The PROOF is in this US Supreme Court Testimony and Arguments.

The Safety Of the Cable being BURIED is NOT a Reality and I OBJECT and DISAPPROVE of any plans to bury anything in or through it. The Power Project MUST include a REMOVAL of the huge mess from the Lake.

LISTEN TO THE RECORD.

Here's the REALITY of the Vast Pile of Crap that International Paper flushed into Lake Champlain ..... Listen to the Case .....http://www.oyez.org/cases/1970-1979/1971/1971_50_orig <http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>

<http://www.facebook.com/l.php?u=http%3A%2F%2Fwww.oyez.org%2Fcases%2F1970-1979%2F1971%2F1971_50_orig&h=yAQFZ_Uwh&enc=AZMoqvPIeTJq8-eogvQBcih8fS9bJtsliIa8ASELOf43ZfecfIvOcE72FKceMBGeNtuRx1Ocn1YR4keEjfVb3Q00l7BKjMbHsrmVvteu5QfztDsU7fFt2UosyqJP6o0-3Dq6OvDYyT6o_wAMPlUfa5MI&s=1>
<http://www.oyez.org/cases/1970-1979/1971/1971_50_orig>
Vermont v. New York | The Oyez Project at IIT Chicago-Kent College of Law
www.oyez.org
On November 6, the Court will hear arguments in a major Establishment Clause case. Check out our deep dive on the topic to find out more about the case.

Judson Witham

On Mon, Dec 2, 2013 at 12:00 PM, Judson Witham <jurisnot@gmail.com> wrote:

Dear Ms. Baden,

I was advised by You that Hurricane Sandy destroyed all the records. You advised Me that there were No Records. In any event ..... Scanning these documents and sending them to Me electronically can be accomplished. I am currently traveling for a Christmas related Family engagement and as such please send what You can electronically by scanning such.

I have discovered that New York State owns the Dam at the Lake George end of the LaChute River and I have discovered the electronic record of the US Supreme Court arguments that are on audio file revealing that International Paper Company and New York State's Lawyers ADMIT that Ticonderoga NY and other Industries in New York caused the vast Sludge Bed and Silting (Contamination) of Lake Champlain. I have also learned Ticonderoga's NEW Paper Mill owned by International Paper contimues to dump and add to the Sludge and Poisoning of Lake Champlain.

When I return from my trip I will address anything You are unable to send electronically.

Thank You

Judson Witham

On Mon, Dec 2, 2013 at 9:10 AM, Baden, Annette NAN02 <Annette.Baden@usace.army.mil> wrote:

Mr. Witham, On November 5, 2013 we attempted to send you a response to FOIA Number FA-13-0217. It came back to us over the weekend stamped "Insufficient Address". The address we have on file is Barrow Cemetery and Highway 58, Martinsville, VA 24112. Please send us your correct mailing address so we may re-mail your documents because they are too large to send by email.

Annette Baden
Legal Assistant
U.S. Army Corps of Engineers
Office of Counsel - Room 1837
26 Federal Plaza
New York, NY 10278-0090
917-790-8058 Office
212-264-8171 Fax
email: annette.baden@usace.army.mil
NY District Homepage: http://www.nan.usace.army.mil
FOIA Homepage: http://www.nan.usace.army.mil/FOIA.aspx
Please Email All FOIA Requests To: foia-nan@usace.army.mil

Classification: UNCLASSIFIED
Caveats: NONE

ATTACHMENT 1

Yan, Jun NAN1

From: McDonald, Jodi M NAN02
Sent: Tuesday, December 17, 2013 12:48 PM
To: Yan, Jun NAN1; Ryba, Stephan A NAN02
Subject: FW: [EXTERNAL] Extention of Public Comment and Protest. FOIL 13-3388 reply (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

FYI

-----Original Message-----
From: Judson Witham [mailto:jurisnot@gmail.com]
Sent: Monday, December 16, 2013 8:48 PM
To: RFO, CENAN NAN02; PublicNotice, CENAN NAN02
Cc: CENAN-OC NAN02; ejacobs@neiwpcc.org; sking@neiwpcc.org; Foil r5foil; FOIL; John Warren; Records Access; info@lgpc.state.ny.us; public@gw.dec.state.ny.us; Dale Hobson; R5 Info; Richard Hayes Phillips; Ellen Brown
Subject: [EXTERNAL] Extention of Public Comment and Protest. FOIL 13-3388 reply

To all Concerned,

On December 13th the cut off date for Public Comment and Protest for the Champlain Hudson Power Express Permitting, NY DEC finally produces Notice to Me that the Charting and Records for Hudson River Poisoning and Lake Champlain Poisoning have been discovered in DEC's files. Yes on the Day of the 13th deadline and cut-off for dissent.

The problem here is thorough and proper Scientific testing of the contamination zone in the Hudson and Champlain have NOT been done. The EIS reports are NOT complete and professional and the PUBLIC has been denied the materials in VIOLATION of FOIL and FOIA. The contamination areas in the Hudson and Champlain have never been properly or thoroughly tested. The Mess in Champlain contains dozens of chemicals and combinations thereof for instance.

I would ask that the Permit Approvals be suspended for at least 120 Days to allow the release of the US Army Materials and the NYS DEC Materials to be properly made available to and disseminated to the Public. This is an addendum to and an addition protest and objection regarding the permitting. I would argue a full clean up is first in order.

Judson Witham

---------- Forwarded message ----------
From: Judson Witham <jurisnot@gmail.com>
Date: Fri, Dec 13, 2013 at 8:54 PM
Subject: Re: FOIL 13-3388 reply
To: Records Access <foil@gw.dec.state.ny.us>

Dear Ms EARL.

SCAN the Records and Send Them ELECTRONICALLY. OH by the way the response is many many many many months late. BUT yes SCAN the 4 Linear Inches of Records and EMail Them. Thanks for being so timely.

Judson Witham

On Fri, Dec 13, 2013 at 11:26 AM, Records Access <foil@gw.dec.state.ny.us> wrote:

> Please see the attached. A hard copy will not follow.
>
> Ruth L. Earl
> Records Access Officer
> NYSDEC
> 625 Broadway
> Albany, NY 12233-1500
> ph: 518-402-9522
> fax: 518-402-9018

Classification: UNCLASSIFIED
Caveats: NONE

ATTACHMENT 2

Yan, Jun NAN1

ATTACHMENT 2

From: Assemblywoman Rabbitt [rabbita@assembly.state.ny.us]
Sent: Monday, December 02, 2013 12:17 PM
To: Brian.Mills@hq.doe.gov; Yan, Jun NAN1
Cc: Susan Filgueras
Subject: [EXTERNAL] Re: "Draft EIS Comments" and -I am requesting a 180 day extenssion for Comments to the Depart of Energy and Army Corps of Engineers DEIS Public Comment Period for the Champlain Hudson Power Express

Dear Mr. Mills & Ms. McDonald:

Below please find an email I have received from my constituent Susan Filgueras who is concerned about a 330 mile High Voltage transmission line from Quebec to Queens proposed by Champaign Hudson Power Express(CHPE). I would like to request the Department of Energy and Army Corps of Engineers please take into consideration our constituent's requests to extend the Public Comment period by 180 days due to the amount of time needed to review over 5,000 pages of draft-DEIS documentation.

I appreciate your consideration of this request.

Sincerely,

Annie Rabbitt
Assemblywoman 98th District

Susan Filgueras wrote:
> Please find attached the first copies of our request for a a180 day
> extension to the comment period for the Draft EIS for the Champlain Hudson
> Power Express.
>
>
>
> Request to the DOE and USACE for extension of comment period, "Draft EIS
> Comments"
>
> Army Corps of Engineers - "USACE" - NAN-2009-01089-EYA
>
>
>
> Mr. Mills,
>
>
>
> Please find attached a first set of letters requesting
>
> This letter serves to reiterates multiple requests at the Public Hearing on
> Nov 18, 2013, in the Town of Stony Point for a reasonable extension of a 180
> days for the comment period. In NYS the Developers for proposed power plants
> are required to provide intervener funds for the impacted communities. In
> this case there are no intervener funds from the developer which would
> allow, the residents, business owners and other stake holders to hire
> experts to review and respond adequately to the "Draft EIS Comments" to both
> the DOE and USACE.

>
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>
> From: Susan Filgueras [mailto:sfilgueras@optonline.net]
> Sent: Sunday, December 01, 2013 12:29 PM
> To: 'Keegan, Pat'; sara.levine@mail.house.gov; James Skoufis; Peter D Lopez;
> Ellen C Jaffee; Howard Phillips; Geoff Finn; Edwin J. Day; Kenneth
> Zebrowski; Andrew Cuomo; Annie Rabbitt; Brian.Mills@hq.doe.gov; Christopher
> P. St. Lawrence; hoodj@co.rockland.ny.us; Susan Spear;
> sara.levine@mail.house.gov; Harriet D. Cornell
> Cc: David Carlucci; JobsonD@co.rockland.ny.us; William Larkin Jr.; andrew;
> Arlene Miller; Barbara Kendall; Bob Knight; Barry Brooks;
> wsheehan@townofstonypoint.org; Breda&Steve Beckerle; Breda Beckerle; Brian
> Yates; Carol M. Borgstrom; cmhogan@gw.dec.state.ny.us; Christian A.
> Corrales; Christian M. Wade; JobsonD@co.rockland.ny.us; Eric Ortner; Frank
> Sparaco; George Potanovic Jr.; Gurran Kane; Ileana Eckert; Jacyln A.
> Brilling; James Kraus; James Slevin; Jessica Stein; Akiko Matsuda; Al
> Samuels; Alex Guarino; Annie Wilson; Donald (Doc) Bayne; Dustin; Dustin;
> editor@rocklandcountytimes.com; Cheryl; casscleselec@aol.com; Wayne Cortes;
> Vincent D. Reda; planning@townofstonypoint.org; Tom Basile; Steven
> Ludwigson; Steve Scurti; R. Allan Beers; Peter Mueller;
> towncouncil@clarkstown.org; Patrick Guidice; Maximillian A. Stach; Mathew
> Nelligan; Madelaine & Joseph Ca; Luanne Konopko; Lori DuBord; Kevin Maher;
> Kevin.casutto@dps.ny.gov; Karl Javenes; C279slavin; Annie Wilson; Annie
> Wilson; becky.casscles@aol.com; Laurrie Cozza; Susan Filgueras
> Subject: We need Congresswoman's Lowey's assistance - re extension of the
> Comment period for the CHPE DEIS
>
>
>
> Congresswoman Lowey,
>
>
>
> Thank you for sending your representative to Sara Levine to the DOE/USACE
> Hearing on November 18, 2013, at the Stony Point Center, for the Champlain
> Hudson Power Express Draft Environmental Impact Statement (DEIS). We want
> to thank you for your letter (attached) to the DOE requesting that a Hearing
> would be held in Stony Point when the DEIS for the Champlain Hudson Power
> Express was released. Because without your representation and request for
> the Hearing, the Hearing would not have happened. We ask once again for your
> support, we need an extension to review the volumes of information, so that
> we can compare the misinformation that has been given to us by CHPE to what
> is actually contained in the DEIS. We ask you to request the DOE to a 180
> day extension to review the new information as stated below.
>
> The Champlain Hudson Power Express is not needed. The Federal Energy
> Regulatory Commission has taken action to strengthen instate power
> generation. By creating a new Hudson Valley Capacity zone. This market
> mandate will provide the incentive to repower closed power plants or build
> new ones within the Region, resulting in a fresh injection of much needed
> tax dollars and Jobs needed by New Yorkers. In Rockland County, we currently
> send millions of tax dollars to Corporations who own power plants in our

> Hydro Quebec is seeking US funds to build the CHPE transmission line- CHPE
> states they are not seeking the funds HYDRO -Quebec is -
> http://www.capitalnewyork.com/article/albany/2013/11/8536130/canada-owned-co
> mpany-seeks-us-dollars-electric-line?--bucket-headline
>
>
>
> 2- New End Points, and connections not in the ORGINIAL DOCUMENTATION
>
>
>
> a. Cost and Feasibility Analysis of a Third Converter Terminal for the
> Champlain Hudson Power Express Project Prepared by TRC Solutions for
> Transmission Developers Inc(see attached)
>
> b. A new end point the Ravenswood Generating Station owned by
> TransCanada - (all prior documents show CHPE ending at the Rainey
> sub-station). This is a NEW leg of the project that was never reviewed. I
> have asked the NYS PSC about this in writing and they have not yet answered.
>
>
>
> 3- "NEW" What is the impact of the Federal Energy Regulatory Commission
> action to strengthen instate power generation,by creating a new Hudson
> Valley Capacity zone.
>
> 4- CHPE is required to deliver 1550 MW's to NYC per the Joint Proposal
> - they are a DC (Direct Current) provider which, to my understanding,
> receives preference over AC power in NYC. The consequences, are higher
> power prices and billions of rate payer dollars going north of the borders.
> This would significantly undermine our ability to keep and create jobs in
> NY, eliminating the incentives to investment into NYS electric
> infrastructure.
>
> 5- I have attached a article from Bloomberg Business Week, on June 17,
> 2013 discussing the abrupt rise in electric prices in the middle of the day
> due to a Canadian transmission failure.
>
> 6- There are over 5,000 pages for the DOE's filing alone and I have
> just found the USACE (U.S. Army Corps of Engineers) filing on CHPE's web
> site.(U.S. Army Corps of Engineers). The instructions at the meeting were
> confusing, and at no time was it made clear that we must respond to both
> entities, the DOE and the USACE. The handouts in the back of the meeting
> room were similar and some of us picked up the DOE and some of us picked up
> the USACE's notification instructions.
>
>
>
> 7- (see below web site listings) The filings are not clearly posted,
> the USACE web site contains Maps, however to get to CHPE's USACE filing you
> need to go to CHPE's web site (see below) . You need to make sure to read
> the pp at the bottom of the page on the USACE's web site to understand that
> there is more documentation than shown on the front page. If you go to the
> page you will see how difficult to understand it is.
>
> Deliberate misinformation from CHPE must be documented and referenced
>

> <http://www.chpexpresseis.org/> for the latest information concerning the
> DEIS."
>
>
>
> You are redirected to this site -DOE web site link
>
> NEW!
> October 21, 2013: DOE is releasing a Notice of Availability
> <http://www.chpexpresseis.org/docs/CHPE-EIS-NOA.pdf> announcing that the
> Draft EIS is available for public review and comment. The public comment
> period will be open from November 1, 2013 to December 16, 2013. An
> electronic copy of the Draft EIS can be found
> <http://www.chpexpresseis.org/library.php> here. <<<<CLICK HERE for DEIS
> filing Comments can be submitted via this website by clicking here
> <http://www.chpexpresseis.org/public-involvement.php#comments> . <<<< click
> here to write your comments directly into the DOE web site
>
>
>
> To Find CHPES USACE filing you need to go to their web site -
> http://www.chpexpress.com/regulatory-documents.php
>
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>
> Susan Filgueras
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> Susan FIlgueras
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> 845-429-3229
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> Committee,
>
> Just Say NO!, to the Champlain Hudson Power Express
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>
> 87 Mott Farm Rd
>
> Tomkins Cove, NY 10986
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> From: Susan Filgueras [mailto:sfilgueras@optonline.net]
> Sent: Monday, October 28, 2013 4:53 PM

>
>
> From: Reichlin-Melnick, Elijah
> [mailto:Elijah.Reichlin-Melnick@mail.house.gov]
> Sent: Tuesday, July 02, 2013 5:40 PM
> To: Susan Filgueras
> Cc: Keegan, Pat
> Subject: RE: Contact to the Department of Energy?
>
>
>
> Hi Susan,
>
>
>
> Thanks for getting back to me on this issue--I appreciate all the
> information you've shared with our office. Pat Keegan and I both thought
> that you would want to see the attached letter from Congresswoman Lowey,
> which was sent today to the Department of Energy, regarding the CHPE line.
>
>
>
> Best,
>
> Elijah
>
>
>
> Elijah Reichlin-Melnick
>
> District Representative & Grants Coordinator
>
> Congresswoman Nita Lowey (NY-17)
>
> 67 N. Main St. 1st Floor
>
> New City, NY 10956
>
> 845-639-3485 (ph)
>
> 845-634-4079 (fax)
>
>
>
> From: Susan Filgueras [mailto:sfilgueras@optonline.net]
> Sent: Thursday, June 27, 2013 3:32 PM
> To: Reichlin-Melnick, Elijah
> Cc: 'George Potanovic'; Frank Collyer; Geoff Finn; Annie Wilson;
> casscleselec@aol.com; Laurrie Cozza; Susan Filgueras
> Subject: RE: Contact to the Department of Energy?
>
>
>
> Elijah,
>
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>

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>
> In our phone call Steven kept responding that we could make our comments
> when the DEIS came out which should be soon. In my opinion that is too late,
> for the reasons stated in the NYS PSC approval of April 18, 2013
>
>
>
> 1. Transmission Corridor Developers- - pgs 19 &74- how many transmission
> lines are proposed for this area?
>
>
>
> 2. Eminent Domain- Article VII application rooted in Eminent Domain Law,
> how can CSX offer a ROW for the land installation throughout the State of NY
> when that ROW is not adequate to accommodate CHPE's transmission lines and
> meet CSX's construction guidelines. CHPE's solution is acquiring land
> through Emanate Domain, aka....
>
> a. "Deviation Zone", when was this approved and by who and when did NYS
> residents decide to give up their property for a foreign transmission Line?
>
> 3. Production Cost Analyses - pg-33, pp2, PSC decision
>
> a. Dr. Paynter's rebuttal savings estimate as a "societal" benefit" even
> though such a finding is at odds with the JP's (Joint Proposal's) statement
> that such savings, "should not be interpreted as ratepayer benefits" as they
> will be "captured by the Applicants, their financial backers and/or users of
> the Facility."
>
>
>
> 4. Jobs- Pg 84- PSC decision
>
> a. Pp-3 "The Applicants' evidence on job creation was incomplete in a
> fundamental way."
>
> b. Pp-3 "the record is void on the critical question of whether those
> jobs would be offset, or more
>
> than offset, by the jobs displaced at the conventional generation facilities
> that will not be built as a consequence."
>
>
>
> 5. Green Power - at no time does the PSC decision confirm the percentage
> of "Green Power."
>
>
>
> 6. Fracking - will be used to install the transmission line.
>
>
>
> 7. No Environmental Impact Statement was done for the land installation
> for Rockland County!
>

> 87 Mott Farm Rd
>
> Tomkins Cove, NY 10986
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>
> From: Reichlin-Melnick, Elijah
> [mailto:Elijah.Reichlin-Melnick@mail.house.gov]
> Sent: Wednesday, June 26, 2013 5:14 PM
> To: sfilgueras@optonline.net
> Subject: Contact to the Department of Energy?
>
>
>
> Good Afternoon Susan,
>
>
>
> Nice seeing you at the Stony Point Town Board meeting last week, though
> unfortunately not under the best of circumstances. As we're continuing to
> look into this issue and work on possible letters from Congresswoman Lowey,
> can you just clarify for me and my boss Pat Keegan whether you or anyone
> that you know of from SPACE has yet contacted the Dept. of Energy with your
> concerns about the routing of the CHPE project?
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>
> Thanks, and have a great afternoon.
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>
> Elijah
>
>
>
> Elijah Reichlin-Melnick
>
> District Representative & Grants Coordinator
>
> Congresswoman Nita Lowey (NY-17)
>
> 67 N. Main St. 1st Floor
>
> New City, NY 10956
>
> 845-639-3485 (ph)
>
> 845-634-4079 (fax)
>

ATTACHMENT 2

Mr. Brian Mills
Department of Energy
Office of Electricity Delivery&Energy Reliability (OE20)
U. S. Department of Energy
1000 Independence Ave, SW
Washington, DC 20585
Phone: 202-586-8267
Fax: 202-586-8008

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
212-000-0000
212-264-4260

Comments can be submitted via email to: Brian.Mills@hq.doe.gov jun.van@usace.army.mil

Deadline for Comments: **December 16, 2013**

Request to the DOE and USACE for extension of comment period, ***"Draft EIS Comments"***

Dear Mr. Mills,

This letter serves to reiterate the multiple requests at the Public Hearing on Nov 18, 2013, in the Town of Stony Point for a reasonable extension of 180 days for the comment period. In NYS the Developers for proposed power plants are required to provide intervener funds for the impacted communities. In this case there are no intervener funds from the developer which would allow the residents, business owners and other stake holders to hire experts to review and respond adequately to the "Draft EIS Comments" to both the DOE and USACE.

The venue for the Hearings in both Stony Point and Queens were not the most appropriate. The Hearing in Queens was not within the impacted community. The Hearing in Stony Point would have been better held in the local Middle School, more seating and better parking, residents who came and could not get through the "orange shirts" in the hallway would not have left.

Public Notice in Rockland County was not adequate. For example, when the Stony Point Center, was called they could not confirm the Hearing on Monday Nov 18, 2013, was for the Champlain Hudson Power Express, DOE Hearing. Apparently the Hearing Notice distribution within Rockland County was inconsistent; some received a simple sheet of paper with a sticker, easily lost in the general bulk mail.

There was no outreach and translated information for the Hispanic population.

Stony Point was promised by CHPE that they would not go through the Waldron Revolutionary and War of 1812 Cemetery, the maps in the DEIS show differently. There are many contradictory installations issues, that require due diligence. There is also the Army Corps of Engineers filing, where do we find that? The instructions did not specify that in fact there are two responses required, one for the DOE and one for the USACE. The documents that were supplied at the meeting did not constitute the entire filing, only a certain segment of the DOE DEIS? Are the USACE documents different than the DOE documents?

I am respectively requesting the extension based on the above reasons.

Resident: Thomas F. Ryan
Address: 2827 Hedge Street
Yorktown, NY 10598

Phone: 914-355-0274
E-mail: Tryanbm@aol.com

ATTACHMENT 2

Yan, Jun NAN1

From: Brian Buel [briannedie@yahoo.com]
Sent: Monday, November 25, 2013 3:17 PM
To: Yan, Jun NAN1
Subject: [EXTERNAL] Champlain Hudson power express transmission line project
Attachments: Conclusion.jpg

Please review the enclosed attachment which illustrates my objection as an IBEW union member to this project.

Brian Buel

Conclusion

- New York State is finally poised to address its aging energy infrastructure, and this will create opportunities for our unionized construction and utility workers.
- The governor's "Energy Highway" calls for tapping cheap, upstate generation to meet expensive, downstate demand which is consistent with the New York Transmission Owner's STARS report.
- The Champlain Hudson Express DC line does:
    - *Not allow* for increases in upstate renewable goals and does not create renewable construction and utility jobs;
    - *Not allow* for future expansion at the Oswego Energy Complex prohibiting the creation of more construction and utility jobs;
    - *Not allow* for existing upstate generators to compete, ultimately leading to their dissolution, and the termination of existing utility jobs;
    - Connect Canadian generation to New York loads:
    - Drain jobs and revenues from NYS and provides jobs and revenues to a foreign country.

- Upgrading AC transmission lines on existing ROWs (STARS) allows:
    - For more construction and utility jobs to increase the capacity of the existing lines;
    - For the increased development of renewable resources which means NYS can achieve its ambitious renewable goals, and more unionized construction and utility jobs;
    - For future expansion at the Oswego Energy Complex which means more unionized construction and utility jobs;
    - For upstate power plants to continue to partner with communities, providing millions of dollars for local communities;
    - For relief of congested transmission lines, allowing upstate generation to flow to NYC loads, maintaining existing utility jobs at upstate power plants;
    - Construction and utility jobs to stay and grow in New York State – Homegrown, New York solutions for New York's energy problems.

ATTACHMENT 2

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

NEW YORK CITY & VICINITY DISTRICT COUNCIL OF CARPENTERS

STEPHEN C. MCINNIS
Executive Secretary - Treasurer Pro Tem
President

MICHAEL P. CAVANAUGH
Vice President

INSTITUTED AUGUST 12TH, 1881

395 HUDSON STREET - 9TH FLOOR
NEW YORK, N.Y. 10014
PHONE: (212) 366-7500
FAX: (212) 675-3118
www.nycdistrictcouncil.com

December 12, 2013

Jodi McDonald
Chief, Regulatory Branch
US Army Corps of Engineers – New York District
Jacob K. Javits Federal Building
26 Federal Plaza, Rm 2113
New York, NY 10278

RE: Public Notice NAN-2009-01089-EYA for Champlain Hudson Power Express Project

Ms. McDonald:

I write on behalf of the 25,000 members of the New York City District Council of Carpenters and the tens of thousands of hard-working, middle class union families across New York State to express our opposition to the Champlain Hudson Power Express Transmission line project.

CHPE is nothing more than a large extension cord from Canada to Queens with a single customer – Hydro Quebec. The developers of the project made a business decision to propose a power line that denies access to power plants located within New York State, effectively blocking them from supplying New York City and the surrounding region with in-state produced electricity. Across New York, power generators are struggling to stay in business. This project would divert funds that might help them and their workforce.

Not only would CHPE's development make New York unnecessarily reliant on foreign-produced power, the transmission line's owner, Hydro Quebec, recently filed a request for access to dollars from the state's renewable energy development fund to help pay for the project's construction costs. The fund itself is supported by New York ratepayers through surcharges on their utility bills. If the request is approved, New Yorkers will have to shell out millions of dollars for a power line that tunnels Canadian power directly into New York City. Meanwhile, communities across the state will lose critical tax revenues from New York generators that are forced to shut down because they cannot compete with cheap imported hydro power from Quebec.

The Champlain Hudson power line is the wrong project at the wrong time and should not be subsidized by New York ratepayers or taxpayers. From Buffalo to Binghamton and Utica to Long Island City, this project will outsource New York jobs and economic opportunity. Every Megawatt of

electricity made in NY represents jobs and tax revenues – every Megawatt power imported from Canada threatens those jobs and tax revenues!

CHPE is a harmful project that is not in the best interest of New York and its residents. It makes no sense to build a transmission line across the state that only benefits a single Canadian energy exporter, especially when we have more than adequate power generation already available in New York State.

We urge the US Army Corps of Engineers to deny permitting the development of the Champlain Hudson Power Express Project as it will cause more harm than good both environmentally and economically to the State of New York.

Thank you for your time.

Sincerely,

Stephen C. McInnis
Executive Secretary-Treasurer

ATTACHMENT 2

BOILERMAKERS • IRON SHIP BUILDERS

BLACKSMITHS • FORGERS & HELPERS

STEVEN LUDWIGSON
Business Manager
Secretary-Treasurer

TOM RYAN
Assistant Business Manager
President

BOILERMAKERS LOCAL LODGE No. 5

GREG PETERSON
Assistant Business Manager
Zone 175

KEVIN O'BRIEN
Vice President

MATT LOPRESTI
Assistant Business Manager
Zone 197

Official Statement by Steven Ludwigson, Business Manager for Boilermakers Local 5

November 19, 2013 U.S. Department of Energy (DOE) hearing on the proposed Champlain Hudson Power Express, Inc. Transmission Line

My name is Steven Ludwigson and I am the Business Manager for Boilermakers Local 5. I represent the Boilermakers in all of New York State, with the exception of the 16 counties located around Buffalo, NY. Our members are highly skilled professionals, with expertise that comes only with extensive training and years of practice. I am here tonight to state on the record that Boilermakers Local 5 opposes the Champlain Hudson Power Express, Inc. power line and the proposed Federal action of granting a Presidential permit to construct, operate, maintain, and connect a new electric transmission line across the U.S. – Canada border in northeastern New York State.

The Champlain Hudson Power Express line, which proposes to bring 1,000 megawatts of power directly from Canada to New York City, would do nothing to strengthen the state's electricity grid. Practically speaking, the transmission line is a large extension cord that would bypass all of our state's existing energy sources and transmission infrastructure – such as upstate New York plants that have an excess of available power – instead of enhancing the overall capacity and stability of New York's power grid. New York will not be able to benefit from the low-cost power those upstate plants could be producing, and will instead become completely reliant on a foreign source of electricity. Our good friends in Canada will get new jobs, and New Yorkers will get the bill.

While we support an electricity highway that improves the state's energy infrastructure and generates union jobs for New Yorkers, we reject the CHPE proposal as a jobs killer. For maximum benefits to New York, especially in job retention and creation, new electricity infrastructure should support current and new in-state power generation.

New York needs to improve the transmission grid in the Upstate and Western regions so that in state power can be transported more efficiently, more economically, and in greater quantity throughout the State. Investing in our transmission infrastructure will lead to new jobs being created, and new opportunities for energy development throughout the state.

ZONE 5 • 24 VAN SICLEN AVE., FLORAL PARK, NY 11001 • 516-326-2500 • FAX: 516-326-3435
ZONE 175 • 28 WEST BRIDGE ST., OSWEGO, NY 13126 • 315-343-3821 • FAX: 315-343-3563
ZONE 197 • 75 N. DOVE ST., ALBANY, NY 12202 • 518-438-0718 • FAX: 518-459-2720

We also can't ignore the obvious: New York already has a very substantial generating capacity that can be expanded upon to meet our State's needs. New York can and should keep up with growing demand by ensuring the continued operation of our in-state energy sources and constructing new plants both upstate and downstate as necessary. There are several "shovel ready" sites that are already permitted or pending permits in the Hudson Valley that could meet this demand and keep New Yorkers working and the revenue generated in state.

In order to have a strong 21st century economy, New York needs to build and produce products. We can no longer afford to be viewed as only consumers bearing the brunt of others profits. Energy and manufacturing provide sustained, long-term, good-paying jobs - a large portion of which are skilled union positions. These jobs enable individuals to stay in New York, raise a family, and grow the middle class. They also establish the economic infrastructure for many additional service jobs and power other sectors of the State's economy.

New York's economy needs to be energized, and the opportunities are out there waiting to be seized upon. Such is the case with the opportunity to meet New York's growing demand for electricity, and solve transmission congestion problems, by investing in our in-state electrical infrastructure – rather than compounding these issues with a costly outsource to Canada. For jobs and a literally brighter future, we must act now and oppose the CHPE as an outright detriment to New York.

Thank you.

Steven Ludwigson
Business Manager
Boilermakers Local 5

ATTACHMENT 2

BOILERMAKERS • IRON SHIP BUILDERS

BLACKSMITHS • FORGERS & HELPERS

STEVEN LUDWIGSON
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GREG PETERSON
Assistant Business Manager
Zone 175

KEVIN O'BRIEN
Vice President

MATT LOPRESTI
Assistant Business Manager
Zone 197

November 18, 2013
East Elmhurst, New York

Distinguished members from the United States Department of Energy, thank you for providing this opportunity to the people of New York to weigh in on some of their concerns with the Champlain Hudson Power Express. I am here today as the President of Boilermakers Local 5, representing over 500 members from Long Island and New York City, from the Southern Tier and throughout the North Country. But, I am also here as a proud New Yorker and father of four children with further reservations about this proposed project and the negative environmental impact it would have for the next generation.

The developers of this line that would snake its way through New York and its great water ways have touted the signatures of some Representatives of the New York delegation in support of the line. Yet, when my colleagues and I personally met with the vast majority of those Congressmen and Congresswomen last Spring, we were met with blank stares and disbelieving shakes of their heads. Some had no recollection of signing; others seemed not overly committed to the project. But, all of them had second thoughts and promised to look into the matter further and revisit their commitment. For that we are grateful to them and their staffs.

ZONE 5 • 24 VAN SICLEN AVE., FLORAL PARK, NY 11001 • 516-326-2500 • FAX: 516-326-3435
ZONE 175 • 28 WEST BRIDGE ST., OSWEGO, NY 13126 • 315-343-3821 • FAX: 315-343-3562
ZONE 197 • 75 S. DOVE ST., ALBANY, NY 12202 • 518-438-0718 • FAX: 518-459-3720

The CHPE will be a jobs killer for the greater NYC area, outsourcing skilled labor positions to a foreign country in exchange for a product we can and should be making right here in New York. Our economy, environment, and our quality of life now hang on a delicate thread. Do we as a nation, give our environment over into the hands of another country, albeit a friendly one? I, my family, and the tens of thousands of vital Building and Construction Trades members in this great metropolis, emphatically respond, NO!

Just in the last couple of years our great city and state has had a tragic loss to life, infrastructure, and the environment due to severe storms. As catastrophic a loss as they were, could we imagine if we were held hostage by power travelling hundreds of miles on towers over land and within our rivers and lakes. We need to rely on power generation produced in our backyards to survive whatever storms we must weather.

I have swam in the Hudson River, and lived to tell about. I wish my children and my children's' children the same. But, this Canadian power line is nothing more than a large extension cord, with a single customer, whose only vested interest in the delicate environment of the Great State of New York is one of commercialism and greed.

Just in my short life span, I have seen where dependence on foreign energy and foreign natural resources has led this great nation of ours: embargo, rationing, and war. We should not depend on others for our vital needs, but ourselves and our fellow New Yorkers. Americans should not sacrifice their environment, their energy independence, or their children's future, for the promise of miniscule savings on an electrical bill.

Thank you again for this opportunity and we trust the United States Department of Energy and ultimately the Office of the President of the United States hear the cry of its citizens, "SAY *NO* to the Champlain Hudson Power Express!"

Sincerely,

Thomas F. Ryan

Thomas F. Ryan

President

ATTACHMENT 2

November 30, 2013

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

Request to the DOE and USACE for extension of comment period,

DOE: ***"Draft EIS Comments"***

USACE: ***NAN-2009-01089-EYA***

Dear Mr. Yan,

We would like to start this letter by letting you know that we are vehemently opposed to the Champlain-Hudson Power Express. We would also like to request a 180 day extension in order to be able to read and digest volumes 1-Impact Analyses and Volume 2-Impact Analyses of the USDOE, Champlain Hudson Power Express Transmission Line Project. We are neither lawyers nor engineers we are lay people; I am sure you will agree these filings can be difficult for anyone to digest.

November 18, 2013, a public hearing regarding the Champlain-Hudson Power Express was held at the Stony Point Center, 17 Cricketown Road, Stony Point, NY. This was at best a very poor, but well thought out location for Mr. Jessome and TDI; the meeting was held in an arena that offered very limited parking to the public. In addition to this Mr. Donald Jessome, CEO, of Transmission Development, Inc., had hired the center to host a dinner for approximately 220 members of Laborers' Union, 274, thus ensuring that most of the available parking would be taken up by union members, virtually leaving very few slots for parking so that many people in opposition to this project were not able to find spaces available to park. The James A Farley Middle School would have been a much better space given it has ample parking and other meetings had been held there in the past. Those meetings accommodated over 300 plus people with more than ample parking for all, also the residents of Stony Point who arrived later and saw the sea of Union members in orange tee shirts - would have not been so intimated and left.

We would also like to comment on the fact we were given a three minute opportunity to voice our opposition to this project, which is really disturbing. How can one be expected to give testimony regarding this huge project in a matter of three short minutes. We were told that if we couldn't finish our testimony in three minutes we could go to the end of the line and after everyone had spoken we could then finish our statements. We did this but it was extremely difficult because our testimony was fragmented at best. We are hopeful that our passion for our town and our objections to this project were heard loud and clear.

We have been opposed to this project since we first heard about it at the April 2012 Stony Point Town Board meeting, as there was no notification given to any property owners on this route in the Town of Stony Point, regarding the taking of our properties.

The NYS Public Service Commission decision for approval of the CPHE project, granted on April 18, 2013, generously gifted CHPE with a 1/8 mile (666 feet) deviation zone in any direction from the center rail of the CSX railroad. The Article VII application, which is rooted in the Eminent Domain Law, will allow CSX Railroad to take our properties without our consent. This is a travesty of justice to think that CSX will be able to take our property without our consent to be used by a foreign entity. How can CSX offer a ROW for the land installation throughout the State of New York when the ROW was never wide enough for to accommodate CHPE's transmission lines and meet CSX's construction guidelines? Through Eminent Domain that's how.

Our town has 2.2 miles of rail lines from the Stony Point Battlefield to the Haverstraw town line; within this 2.2 mile run CHPE will be in the CSX ROW only 7/10ths of one mile; the rest of the time they will be on private, commercial, town, county, and state property. The only way to move this project forward is through Eminent Domain, which is the primary reason for the New York State Public Service Commission's Article VII; it is weighted in favor of the applicant. Article VII gifts the applicant, CHPE, with wide discretionary powers with the way the information is submitted and the right to site the physical installation within 1/8 of a mile from the center rail or 666 feet from the center rail in any direction of the proposed installation route with Eminent Domain clearing the way.

When was the deviation zone approved and by whom? When did New York State residents decide to give their property away for a foreign transmission line? We certainly have not nor do we have any intentions to do so. This project will do nothing to help this town, county, state or this nation, except to make us once again dependent on foreign energy and we all know how well that has worked in the past.

The 2.2 miles of property in Stony Point yield an estimated $1.2 million dollars annually in simple property taxes and this is merely using just the homes and businesses that border the railroad. The CHPE project has estimated according to a "Confidential Document for Settlement Discussions Pursuant to the Commission's Guidelines;" states approximately $796,640.00 annually to be paid to the three Towns, County, and three School Districts equals $113,805.70 each, if divided equally. The above mentioned properties currently generate approximately $1.2 million dollars annually for the Town of Stony Point. CHPE's stated tax revenues are significantly less than what is currently being paid. Furthermore the Town will lose more revenue as each individual touched by this project asks for a reduction in taxes because our properties will be worth significantly less.

The CHPE project is not about just one transmission line, it is about a trough of transmission lines through this area which will effectively bypass NYS entire energy infrastructure and will

create a monopoly on electric, in one of the most expensive and volatile electric markets in the nation, New York City. By The Army Corp of Engineers own letter dated June 14, 2012 you state that other entities have proposed similar projects and you have questioned "how many other transmission lines could be located along the same route?". An interesting question one that we would like the answer to before the Presidential Permit is ever issued.

The CHPE transmission line is coming out of the Hudson River on to land at the site of the Stony Point Battlefield, one of the most important and significant historical sites in this nation. It is here that battles were begun in 1775 being fought by citizen-soldiers and would last 5 years. There would be five years of battles and significant deprivation to our forefathers ultimately resulting in defeating the most powerful army of the age and winning independence for this new country, the United States of America. Many of our local citizen-soldiers are buried in the Waldron Revolutionary War and the War of 1812 cemetery located west of the CSX Railroad ROW, and numerous members of their ancestors are still living in this town to this day. There are over 200 bodies in this cemetery, many without any headstones because of the length of time they have been interred. The cemetery is in the deviation zone for this project, our committee the "Just Say No to CHPE" informed Mr. Jessome about the cemetery and its historical importance and we informed him about the many burial plots that were disturbed in the mid 1800's when the railroad came through and the bodies were moved and disposed of, what a horrible tragedy for our nation. More bodies were disturbed when Orange & Rockland Utilities, Inc. constructed high-tension lines through our town. When the cemetery was mentioned as being in the way of this project Mr. Jessome's answer to the problem was "We'll just shoot a bullet under the graves"; a distasteful and most irreverent insult to our forefathers. This is a highly sensitive matter and we in this town take this very seriously and were deeply offended by this remark.

Next we must discuss the jobs issue. The NYSPSC decision (Pg. 84 Pp. 3) states "The Applicants' evidence on job creation was incomplete in a fundamental way" and further states "the record is void on the critical question of whether those jobs would be offset , or more than offset, by the jobs displaced at the conventional generational facilities that **WILL NOT** be built as a consequence." New generating stations can be built in this state and some can be re-tooled thereby creating hundreds of new jobs. Why not put **American workers** back to work allowing them to improve or to create the new infrastructure we need, thereby making us **energy independent.** This is what will increase local and state tax bases over the long haul.

The Town of Stony Point has been nearly bankrupted by the Blackstone Group, which owns Transmission Developer's, Inc. The Blackstone Group is the very same company that were the financial advisors to Mirant Corporation, when they filed for Bankruptcy. Blackstone was the financial advisor to Mirant before, during, and after the bankruptcy of the Lovett and Bow Line Power plants. The towns of Stony Point and Haverstraw will continue to struggle financially as a result of this. In addition Blackstone is the company representing United Water, GDF Suez, which is attempting to build a desalination plant which converges on the Stony Point and Haverstraw town line. This is yet another project that will most assuredly help to deepen the town's financial crisis.

CSX Railroad has also undertaken a $26 million dollar rail rehabilitation project in this same area. We have been personally approached by CSX, three times, in an effort to lease them the identical piece of property that CHPE wants from us. We have refused and we will continue to refuse. We were told by William Braman of CSX Real Estate, Jacksonville, FL., that CSX will use Eminent Domain to obtain the property they want; is this an intimidation tactic being used to force us to something we do not want to do?

On page 2 of the Joint Proposal CHPE states – "none of the provisions of the JP are opposed by any land owners along the route other than at the location of the Converter Station, by any municipalities or residents along the route, or by any business entities outside of the electric power industry." FALSE! How can CHPE state that there is no objection to their project and that they say they have overwhelming support when so many people in Rockland County and entities have come out against this project?

The Rockland Legislature came out against this project on June 12, 2012 with Resolution *10 C 1* that was signed by every legislator (16) expect one that has ties to the local utility company. Our current County Executive, Scott Vanderhoff as well as our newly elected County Executive, Edward Day have stated numerous times that they are against this project. The current members of the Town of Stony Point Town Board, as well as the newly elected members of the board, are and have been solidly against this project from the beginning. Geoff Finn, Town Supervisor of Stony Point and Howard Phillips, Town Supervisor of Haverstraw have been against this project and continue to object to it.

Congresswoman Nita Lowey alerted Ms. Patricia Hoffman, Office of Electricity Delivery and Energy Reliability, in a letter dated July 1, 2013 of our numerous concerns and wanted to make sure our voices were heard, please hear us now before it is too late.

New York State Senators William Larkin, David Carlucci, and New York State Assemblyman James Skoufis all have opposed this project, and have said so many times and they continue to support our efforts against this project to date.

On July 1, 2013, Patrick Guidice, Senior Business Representative of Local 1049 of the International Brotherhood of Electrical Workers stood on the steps of Stony Point Town Hall and again affirmed his opposition and the opposition of his Union brothers to this project.

Phil Wilcox, Business Representative for IBEW Local 97 states, "Thousands of existing New York state jobs will be lost and thousands of potential new ones as well." (Albany Times-Union, February 25, 2012). The International Brotherhood of Electrical Workers Local 97 state, "The CHPE project's failure to provide access to New York's valuable generation resources is contrary to the policy laid out by Governor Cuomo in his State of the State address." (Statement in Opposition to the Joint Proposal by Champlain Hudson Power Express, Inc. and CHPEI Properties, Inc., March 16, 2012). The New York Power Authority states "(NYPA) it is also concerned about the accuracy of CHPE's current estimates of its projected construction costs

and the results of its cost/benefit analysis. Based upon NYPA's experience, the construction costs are significantly underestimated and the cost benefits are significantly overestimated in light of current projections of load and electric prices." (Statement Regarding the Joint Proposal by Champlain Hudson Power Express, Inc. and CHPEI Properties, Inc., March 16, 2012).

On October 23, 2012 The New York State Senate Standing Committee on Energy and Telecommunications, hosted by State Senators George Maziarz, William Larkin, David Carlucci and Nancy Calhoun held a public hearing at the RHO Building in the Town of Stony Point to garner testimony regarding the CHPE project, at which time numerous people spoke against this project. Bart Brooks, Compatriot and President of the Stony Point Battle Chapter of the Sons of the American Revolution came out in opposition. Susan Filgueras, President of the Stony Point Historical Society opposed this project. Laurie Cozza, Anita Babcock, Tim Waldron, George Patonovic, President SPACE, Stony Point Action Committee for the Environment. Michele Cornish, Rebecca J. and Wellington T. Casscles, Stephen and Breda Beckerle, affected homeowners, are against the CHPE project, these are simply a few of the names of record.

Al Samuels, President, Rockland Business Association – against, Scott Jensen, Business Manager IBEW 503 – against. Mike Hichak, Recording Secretary, IBEW Local 320 (representing John P. Kaiser, President and Business Manager IBEW, Local 320) – against.

Tom Rumsey, Vice-President – External Affairs, NY Independent System Operator – against.

Gavin Donohue, President & CEO of Independent Power Producers of New York, Inc. – against.

Michael Twomey – on behalf on Entergy – against.

Arthur "Jerry": Kremer, Chairman of the New York Affordable Reliable Electricity Alliance – against.

All these people testified at the October 23, 2013 Senate hearing and all opposed this project, how could it possibly been approved by the NYSPSC?

These are only the names of our community; we know that in Canada, there is also strong opposition. With such opposition how does this project continue to move forward, perhaps politics has quite a bit to do with it.

The maps used by CHPE have changed numerous times, sometimes the line appears on our property sometimes off of our property. Which is it? These maps showed the CPHE line ending at the Astoria-Queens sub-station and suddenly now it shows it will end at the "Big Alice" Ravenswood Generating Station. What happen to the Astoria-Queens sub-station plan? Also the Danskammer Generating Station was taken off line and suddenly put back on line – why?

We feel that there are so many unanswered questions regarding this project, that the Presidential Permit must be held up until all of the queries can be answered openly and honestly by CHPE.

These are just a few of the overriding reasons we feel we need the 180 day extension.

Sincerely,

Rebecca J. Casscles
Wellington T. Casscles
69 & 71 Beach Road
Stony Point, NY 10980
(845) 786-2416 (Home phone)
casscleselec@AOL.com
becky.casscles@AOL.com

ATTACHMENT 2

November 18, 2013

U.S. Department of Energy – Draft DEIS – Champlain Hudson Power Express

Stony Point Center

17 Cricket Town Road

Stony Point, NY 10980

I would like to take this opportunity to thank the Department of Energy for holding this public hearing regarding the Champlain Hudson Power Express. I especially want to thank Congresswoman Nita M. Lowey for her letter dated July 1, 2013 to Ms. Patricia Hoffman, Office of Electricity Delivery and Energy Reliability, alerting her to our important concerns regarding this project and asking her to hold a public hearing as part of the DEIS process. Congresswoman Lowey wanted to make sure we here in Rockland County had the opportunity to express our concerns and that our voices were heard by the DOE.

I would like to begin by saying that Transmission Developers, Inc. - USA is wholly owned by the **Blackstone Group**, one of the world's leading investment and advisory firms with earning assets under management in the hundreds of billions of dollars. Blackstone specializes in private equity and has emerged as one of the largest private equity firms in the world. **Blackstone Group** is the very same company who were the financial advisers to Mirant before, during and after the bankruptcy of the Bowline and Lovett Power Plants. The towns of Stony Point and Haverstraw are still struggling financially as a result of this.

Ms. Lowey rightly states in her letter, dated July 1, 2013 that originally the CHPE line was to run under the Hudson River for most of the project, including the southern section near Rockland County; but the route has been changed so that it now runs parallel to the CSX railroad tracks, which is strongly opposed by local residents, business groups, and elected officials.

Ms. Lowey further states that eminent domain **may** be used to take residential and commercial properties; let there be no doubt, eminent domain **must** be used to achieve CHPE's goals. This project is coming out of the Hudson River in two areas, one being Albany and the second one being in Rockland County, at the Stony Point Battlefield. The Stony Point Battlefield is one of the most significant historical sites in this nation. Battles won here against the British secured our freedom and granted us the right to call ourselves the **United States of America.** Many of our citizen-soldiers fought and died for our freedom and those who survived the harsh battles suffered unspeakable hardships, no food, lack of training, lack of equipment and clothing, but they persevered. Some of those who perished are buried in the Waldron Revolutionary Cemetery. Many of their descendants still live in our town to this day.

Our town has 2.2 miles of rail lines from the Battlefield to the Haverstraw Town line. Within this 2.2 mile run CHPE will be in the CSX ROW only 7/10ths of a mile; the rest of the time they will be on private, commercial, town, county, and state property. The only way to move this project forward is through Eminent domain, which is the primary reason for the New York State Public Service Commission's Article VII; it is weighted in favor of the applicant. Article VII gifts the applicant, CHPE, with wide discretionary powers with the way the information is submitted and the right to site the physical installation within 1/8 of a mile from the center rail; which is equivalent to the size of two football fields or 666 feet from the center rail in any direction of the proposed installation route with Eminent Domain clearing the way. CHPE and CSX have stated clearly in all their documents that they will maintain the right to lease the ROW, thereby making a profit off the taking of any land deemed necessary to complete their project.

The above mentioned properties generate approximately $1 million dollars in annual taxes for Stony Point. The CHPE project, according to a "Confidential Document for Settlement Discussions Pursuant to the Commission's Settlement Guidelines dated June 23, 2011, states and I quote "The rough estimate totals are as follows:

Rockland County, 7.66 miles estimated taxes - $796,640.00.

Please understand that this means Rockland County and **all** of the towns and school districts involved in this project will share this amount of money. Exactly how much in taxes will Stony Point get; we are unsure. The financial impact of this project could be catastrophic to this county and in particular to our town. Should this project go through many of our homes will be devalued, thereby costing the town perhaps several hundred thousand dollars of tax money yearly, as affected local homeowners within the deviation zone will file for tax reductions because their properties no longer maintain their original value. There is the distinct probability that future residential or commercial endeavors will be eliminated due to this project; thereby costing potentially millions of dollars in lost revenue to the Town of Stony Point further eroding our tax base. The CHPE project is a no win situation for our town, county, state and nation.

The CHPE project is not about just 1 transmission line, it is about a trough of transmission lines through this area which will effectively bypass NYS's entire energy infrastructure and will create a monopoly on electric, in one of the most expensive and volatile electric markets in the nation, New York City. According to a letter from the Army Corps of Engineers, dated June 14, 2012, they state that other entities have proposed similar projects and they have questioned "how many other transmission lines could be located along the same route?

CHPE states 300 jobs will be created during the construction of this project. This is misleading information, there will be very few jobs, less than 30, and these highly skilled jobs will be filled by Canadian workers, not Americans.

We Americans can re-tool our infrastructures; re-build our own power houses, most notably the Lovett site and the Bowline Power Plant. We, the American people will then be able to keep American jobs in America where they belong! These long lasting jobs will bolster our local, county, state and national economies. I say let's keep American jobs in America! We do not need foreign power; we all know what happens when America becomes dependent on foreign energy.

I would also like to address the issue of safety regarding the CSX Railroad. CSX rails run through our town parallel to the proposed CHPE project. What will happen if there is a derailment and a subsequent explosion of the power cable contacting a derailed tanker car? In one such derailment outside of Baltimore, MD on February 6, 2011, a derailment damaged Verizon's equipment, disrupting land-line telecommunications services. The problems reached all the way to the U.S. Navy Base in Guantanamo Bay, Cuba, where pre-trial hearings were delayed for a day for 5 men charged with orchestrating and aiding the Sept. 11th attacks, because files on government servers were temporarily unavailable. We have an international underground telecommunications line spanning the Hudson River, just south of the Stony Point Battlefield.

These rails carry many different materials not the least of which are ethanol, heptane, and sulfuric acid , all of which are extremely volatile substances, some potentially deadly. In the event of a derailment can the hundreds of people living along the rail lines be evacuated quickly? Do our local fire departments have the necessary equipment, knowledge, and training to deal with such a situation? Where will the man power come from should this happen during the day when most of our volunteers fire personnel are at work? Is there even an evacuation plan in place, which by the way is a federal mandate.

Ladies and gentlemen I would like to state clearly that the New York State Public Service Commission's decision of April 18, 2013 clearly states there will be **no** jobs created by this project, **no** new conventional generation facilities will be built as a direct consequence of the decision, the use of eminent domain (aka /deviation **Zone) will be used to take NYS residents homes for foreign profit and there will** be **no** savings to the consumer, as these savings will be captured by the applicants and their financial backers and/or users of the Facility. No environmental Impact Statement study was done for the land installation for Rockland County. How do we recoup the lost tax revenue for the devaluation of our properties, should the CHPE transmission line in fact be built?

I believe that it is **imperative** the Presidential permit **not** be granted for the above listed reasons and I encourage the Department of Energy to **withhold this permit.** Please keep in mind we do not need this extension cord from Canada. I encourage you to deny this presidential permit for the CHPE project, indefinitely.

In closing I would like to say that we must be mindful of what precedents will be set if this project proceeds and more importantly what the effects on us will be. What kind of a legacy are we leaving future generations? Please understand once the damage is done to our environment there will be no turning back. Our homes, our majestic Hudson River and our communities will be **forever and irreparably changed.**

Rebecca J. Cassdes

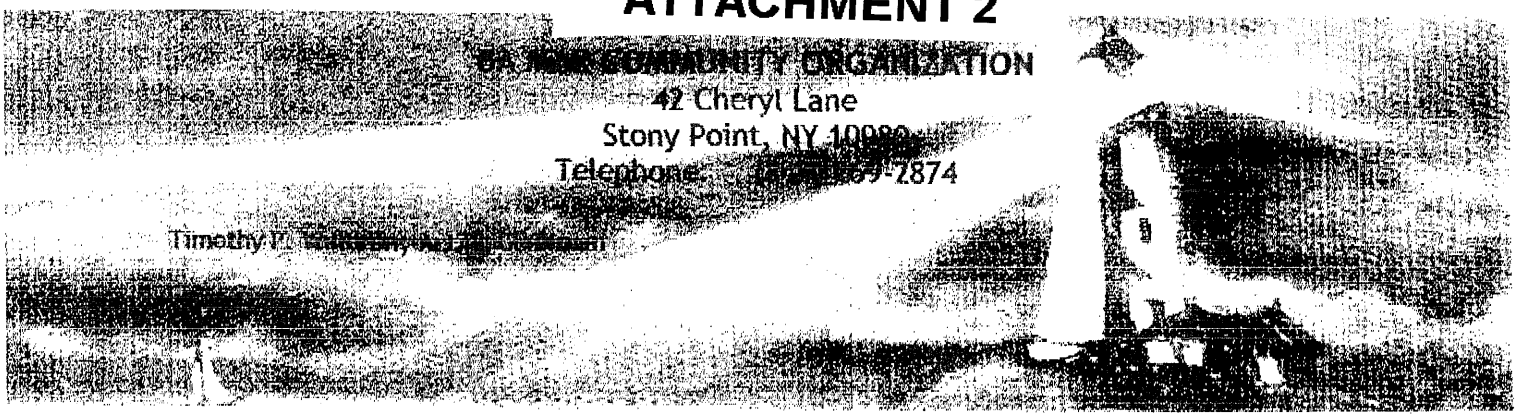
Rebecca J. Cassdes

69 Beach Road

Stony Point, NY 10980

"JUST SAY NO COMMITTEE"

ATTACHMENT 2



December 14, 2013

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

Re: Champlain Hudson Power Express

Dear Mr. Mills:

The Ba-Mar Community Organization is greatly concerned with this project. The CSX Railway is only a good stone's throw away so this project is very close to where we live and will have a great impact on us. The Ba-Mar Manufactured Community to date has received no outreach from Champlain Hudson River Express, Inc., New York State, or New York City, apparently the only beneficiary of this power line. No correspondence in English or Spanish has been received yet as Ba-Mar has a significant Spanish speaking population, whose first language is Spanish.

Our community was hit hard by Hurricane Sandy just over a year ago which has left us with a lot of uncertainty. Now we learn we have more uncertainty placed upon us. This time it come in the form of a man made storm.

The high voltage power line that is set to be placed so close to us is extremely troublesome to us and hopefully all of Stony Point and Rockland County, if not all, along its path. Currently Ba-Mar property may have little impact, as one map shows, but there is no guarantee here. The path may change. As it stands now, the line will disrupt the Stony Point Battlefield, a State Historic Site, the Historic Waldron Cemetery and a number of homes here in Stony Point where good decent people live. Let it be said now, people are no better than second on the protection line. The Sturgeon of Haverstraw Bay come first, which is why the line comes out of the Hudson into the battlefield and runs along the CSX line right of way and also will run through Stony Point's wetlands. None of this sounds

very good for Stony Point families, the Battlefield, the Waldron Cemetery, our wildlife and our environment. Along with the real possibility of the line that already traverses the tracks could end up on the east side of the tracks to disrupt Ba-Mar causing great risk to its residents.

Therefore, the Ba-Mar Community Organization must soundly, loudly and clearly call for an end to this project. If there is no way to stop it, then put it in the river.

Ba-Mar says.....People over Sturgeons.

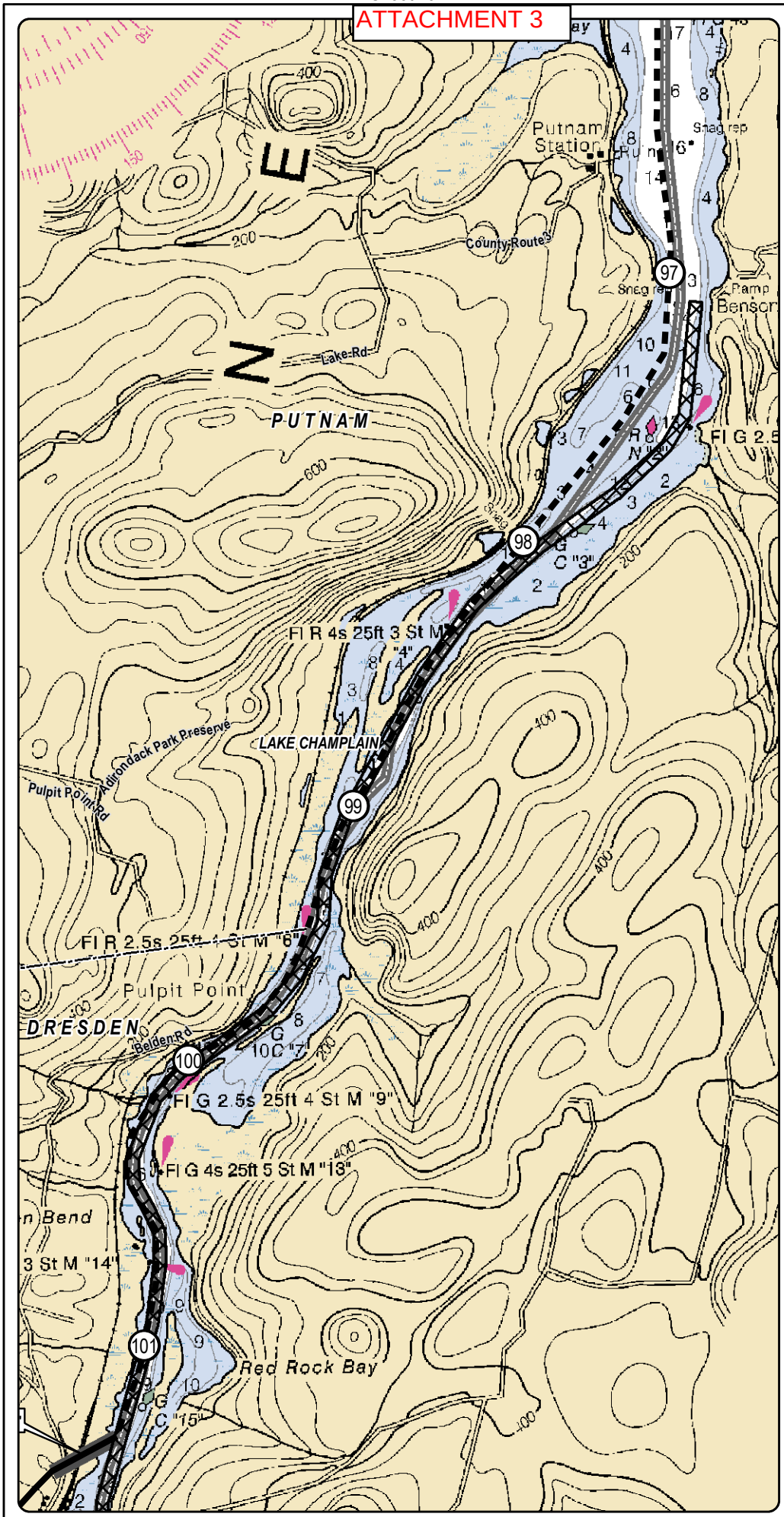
Timothy P. Waldron,

Timothy P Waldron

Chairperson, Ba-Mar Community Organization

ATTACHMENT 3

ATTACHMENT 3



LEGEND

- CHPE Project Milepost
- Proposed CHPE Terrestrial Route HVDC
- Proposed CHPE Submarine Route HVDC
- Special Anchorage Area
- Federally Maintained Navigation Channel
- Proposed Dredging Area
- Proposed HDD Location
- Significant Coastal Fish and Wildlife Habitat
- DEC Exclusion Zone
- Town Boundary
- County Boundary
- State Boundary

Note: Soundings are in feet. Please see attached legend for details on NOAA chart symbology.

0 1,000 2,000

Feet

Note for Lake Champlain (Maps 1-28): The depth soundings in the report were referenced to North American Vertical Datum 1988 and therefore required a depth adjustment using a water surface elevation of 95.5 feet based on the USGS average for Lake Champlain. (source: http://waterdata.usgs.gov/usa/nwis/uv?04279085)

Transmission Developers Inc.

Champlain Hudson Power Express Project

Champlain Hudson Power Express Inc.

Plan View Map

Submarine Route

Sheet 26 of 54

Prepared on 8/20/2013

by: AECOM

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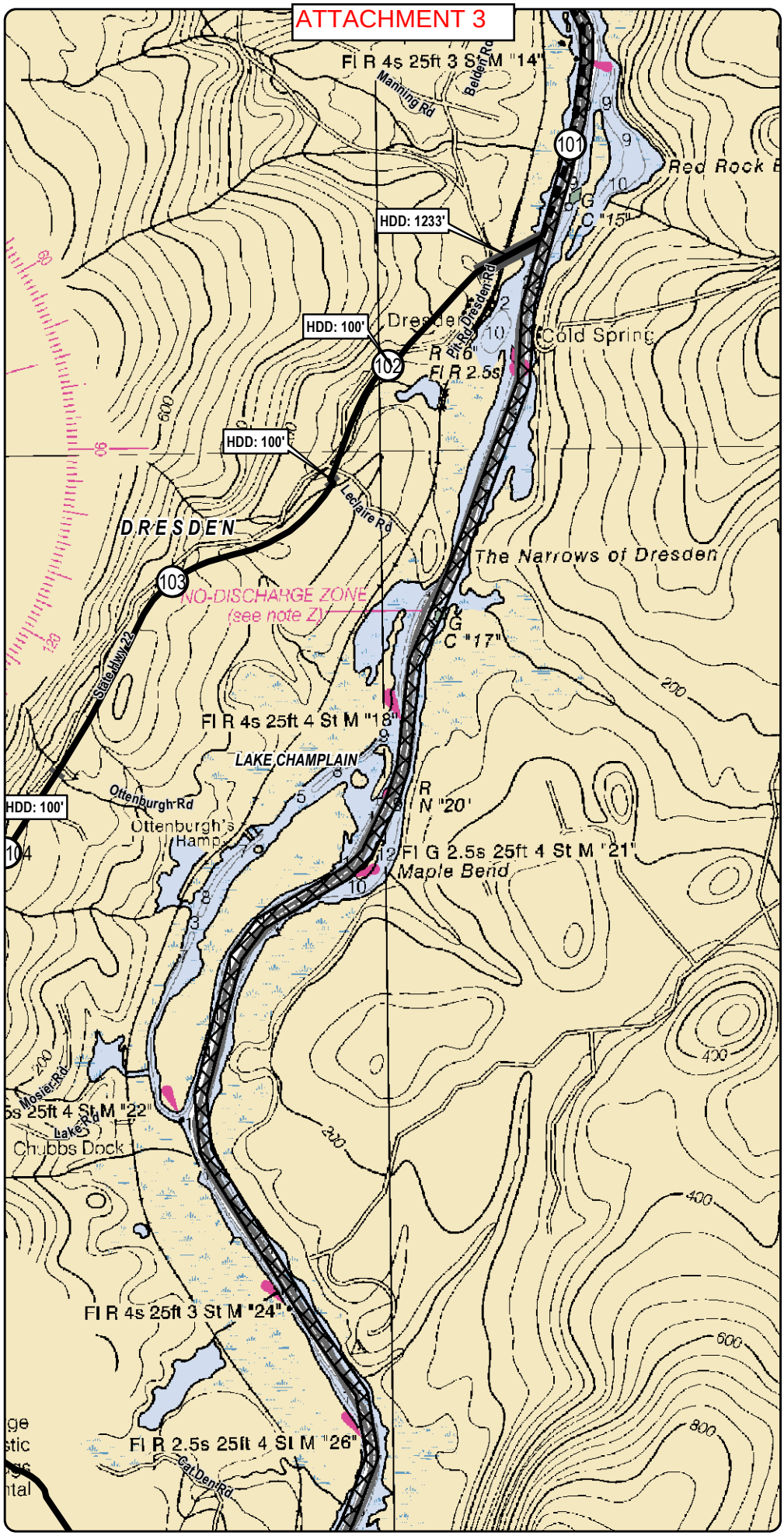
DATA SOURCES: ESRI, NYSDOT, NOAA, USACE, NYDOS, TDI, TRC

ATTACHMENT 3



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Sheet 27 of 54

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ATTACHMENT 4

ATTACHMENT 4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 11 2013

Jodi M. McDonald
Chief, Regulatory Branch
U.S. Army Corps of Engineers
Javits Federal Building
New York, NY 10278-0090

Dear Ms. McDonald:

The U.S. Environmental Protection Agency has reviewed Public Notice number NAN-2009-01089-EYA concerning an application for a wetland permit submitted by Champlain Hudson Power Express, Inc. The applicant plans to perform regulated activities in 13 New York counties and in New York City.

The applicant proposes to construct a 333-mile high voltage electric transmission cable from the U.S. – Canada border to New York City. Cable will be buried within 101 miles of Lake Champlain and 88 miles of the Hudson River. Overland installation will total approximately 140 miles. The overland portions of the cable will cross 6.3 miles of wetland. Temporary wetland impacts consist of clearing 16.2 acres of forested wetland and 51.2 acres of non-forested wetland. Permanent impacts consist of converting 2.0 acres of forested wetland to scrub-shrub or emergent wetland and periodically cutting woody plants in 8.3 acres of non-forested wetland.

As compensation for the 10.3 acres of permanent wetland impacts, the Corps will require at least a 1:1 acreage ratio for wetland mitigation and a 10:1 ratio for preservation of existing wetlands. The applicant has identified nine potential mitigation and preservation sites in Schenectady, Saratoga and Albany Counties. Given the incomplete and conceptual nature of the wetland mitigation proposal, EPA requests an opportunity to review the future draft mitigation plan.

According to Section 5.2.8 of the *Draft Champlain Hudson Power Express Environmental Impact Statement*, restoration of the temporary wetland impact areas will consist of re-grading to original contours and seeding with annual ryegrass, which will be followed by natural plant establishment and succession. Some tree species may re-sprout from stumps and roots, but this passive restoration of 16.2 acres of forested wetland will likely take 30 to 50 years to yield a mature wetland community. We recommend that the planned restoration of cleared forested wetland areas be augmented with a wetland seed mix and installation of tree and shrub saplings.

Most of the subaqueous power cable will be installed by jet plow. In limited circumstances, anchor-positioned vessels will be used in shallow water. Anchor chain sweep may disturb benthic habitat. We recommend that Corps permit conditions include use of mid-line buoys to hold up anchor chains.

EPA has no objection to issuance of a Section 404/10 permit for the Champlain Hudson power cable, provided our concerns about wetland mitigation and restoration are satisfactorily addressed by the applicant. If you have any questions regarding this matter, please contact John Cantilli at (212) 637-3810 or cantilli.john@epa.gov.

Sincerely,

Richard P. Balla
Chief, Watershed Management Branch

cc: USFWS, Cortland, NY