



Department of Energy

Washington, DC 20585

March 5, 2021

Ms. Deborah Dotson
President
Delaware Nation
P.O. Box 825
Anadarko, OK 73005
Via email ddotson@delawarenation-nsn.gov

TO: Concurring Parties

**SUBJECT: Champlain Hudson Power Express Project
Section 106 Consultation – Concurring Party Review
Updated Programmatic Agreement and Updated Draft Cultural Resources
Management Plan
Docket No. DOE/EIS-0447-SA-01
Docket No. PP-481-1**

Dear President Dotson:

The purpose of this letter is to request re-initiation of the National Historic Preservation Act Section 106 consultation process for the Champlain Hudson Power Express (CHPE) Project to address minor amendments to the existing Presidential Permit, as described below. Documentation of the previous Section 106 consultation process is available on the U.S. Department of Energy's (DOE's) CHPE Document Library at: <http://chpexpresseis.org/library.php>.

I. BACKGROUND

On October 6, 2014, DOE issued Presidential Permit No. PP-362 to Champlain Hudson Power Express, Inc. (CHPEI) for the CHPE Project. As an administrative matter, on April 6, 2020, CHPEI filed an application for transfer of the permit from CHPEI to its affiliate Champlain Hudson Power Express, LLC (CHPE, LLC or the Applicant); the Presidential Permit docket number was changed to [PP-481](#) on July 21, 2021.

The Project as permitted by DOE, the U.S. Army Corps of Engineers (USACE) and the New York State Public Service Commission (NYSPSC) comprises a 1000-megawatt high-voltage direct current (HVDC) transmission system extending approximately 333 miles from the United States' (U.S.) border with Canada to a converter station to be constructed in Astoria, Queens, New York; a 3-mile long high-voltage alternating current transmission system extending from the proposed converter station to an existing substation in Astoria; and ancillary facilities such as temporary work areas, contractor yards, laydown areas, and access roads.

Proposed Amendment to PP-481

On September 25, 2020, CHPE, LLC submitted an Amendment Application to DOE to amend its existing Presidential Permit PP-481 to allow for minor modifications in the route ([85 FR 62721; October 5, 2020](#)). On January 15, 2021, CHPE, LLC filed a supplement to its Amendment Application requesting that the capacity of the Project be increased from 1000 megawatts (MW),

as currently permitted, to 1250 MW ([86 FR 11960; March 1, 2021](#)). These permit amendment requests are described below. DOE is currently conducting a Supplement Analysis, which is a document that DOE prepares in accordance with DOE National Environmental Policy Act (NEPA) regulations (10 CFR 1021.314(c)) to determine whether an existing environmental impact statement (EIS) should be supplemented, a new EIS should be prepared, or no new NEPA documentation is required.

The eight proposed route modifications and a proposed relocation of the site of the converter station were developed by the Applicant in response to engineering, environmental, and landowner/stakeholder considerations. Table 1 describes the location and length of the proposed route modifications, as well as the length of the Permitted route.¹ In addition to these route modifications, the Applicant proposes to relocate the converter station approximately 0.2 miles north of the permitted converter station site. The new location is part of the same complex of lands (Astoria Complex) where the permitted converter site was located.² The NYPSC has approved all of these modifications.

**TABLE 1.
LOCATION, DISTANCE, AND INSTALLATION METHODS FOR SECTIONS OF THE
PROJECT**

Section	Permitted Route	Modified Route
Putman Station Alternative	0.3 miles upland 4.69 miles submarine	7.6 miles upland
Fort Ann Alternative	3.31 miles upland	3.5 miles upland
Schenectady Alternative	7.97 miles upland	9.72 miles upland
Selkirk Rail Yard Alternative	4.62 miles upland	5.30 miles upland
Catskill Creek Alternative	0.67 miles upland	0.70 miles upland
Rockland County Alternative	7.9 miles upland	8.56 miles upland
Harlem River Yard Alternative	1.19 miles upland 0.98 miles submarine	1.17 miles upland 0.95 miles submarine
Astoria Rainey Cable Alternative	3.39 miles upland	3.38 miles upland

The Applicant has also identified a modified construction method along overland sections of the route that involves installing the cables within a conduit laid in an established trench rather than the previously proposed direct burial of the cables. Construction of the Project would entail installation of buried transmission cables along waterways and within the rights-of-way of existing transportation infrastructure, including railroads and roadways located within the State of New York. This approach would minimize the visual and landscape impacts associated with traditional overhead transmission lines, while simultaneously providing the additional capacity required to meet the increasing clean energy demands of the greater New York City metropolitan area.

¹ The NYPSC approved seven of the route modifications on August 13, 2020. The eighth modification, Harlem River Yard Alternative, was approved by the NYPSC on January 21, 2021.

² The NYPSC approved the relocation of the converter station on August 13, 2020.

II. AREA OF POTENTIAL EFFECTS

Pursuant to 36 CFR § 800.16(d), DOE, in consultation with the Consulting Parties, defined an area of potential affect (APE) that includes the geographic area or areas within which the Project may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The excavation of the cable trench, installation of erosion and sediment control measures, installation of the cables, and stockpiling of excavated materials are expected to occur within a 25-foot-wide corridor, or 12.5 feet on either side of the Project's centerline. To accommodate additional areas beyond the footprint of the trench that may be necessary for laydown/staging areas, and to accommodate indirect effects of Project construction activities, the APE was defined to include an area encompassing 25 feet on either side of the Project's centerline.

The proposed width and depths of the trenches would remain unchanged from those associated with the direct burial technique, so there would be no change in the previously considered APE for the Project, subject to the modifications discussed above.

III. CULTURAL RESOURCE STUDIES

Previous Studies and Consultation

Pursuant to 36 CFR § 800.4, the Applicant completed cultural resource studies to assist DOE and other federal agencies in identifying historic properties that may be affected by the Project. DOE previously distributed the following reports entitled "Original Phase 1 and Phase 2 Reports," to the Consulting Parties:

- *Phase IA Literature Review and Archaeological Sensitivity Assessment, Champlain Hudson Power Express* [HAA 2010 Phase 1A];
- *Phase IB Archaeological Field Reconnaissance and Phase II Archaeological Site Evaluation, Champlain Hudson Power Express, Canadian Pacific Railway Segment* [HAA 2012 Phase 2]; and
- *Phase IA Literature Review and Archaeological Sensitivity Assessment Addendum, Champlain Hudson Power Express Terrestrial Route Modifications* [HAA 2012 Phase 1a Addendum].

Based on discussions with the New York State Historic Preservation Officer (NYSHPO), in 2010 the Applicant prepared a report entitled *Phase IA Literature Review and Archaeological Sensitivity Assessment, Champlain Hudson Power Express* that provided a literature review and archaeological sensitivity assessment of the Project's prospective APE. The report entitled *Phase IB Archaeological Field Reconnaissance and Phase II Archaeological Site Evaluation, Champlain Hudson Power Express, Canadian Pacific Railway Segment* presents the results of the Phase IB archaeological field investigation completed in 2010 that identified a total of 11 archaeological sites within the prospective APE and a subsequent Phase II archaeological survey that examined whether these sites were eligible for the National Register of Historic Places (NRHP). In 2012, an addendum Phase IA literature review and archaeological sensitivity assessment entitled *Phase IA Literature Review and Archaeological Sensitivity Assessment Addendum, Champlain Hudson Power Express Terrestrial Route Modifications* was completed along new sections of the Project's alignment that were not considered in the 2010 Phase IA report.

DOE initiated Section 106 consultation on January 13, 2011, but at the request of the Applicant, delayed the consultation process until the finalization of a Joint Proposal of Settlement that was signed by seven New York State agencies, three non-governmental organizations (NGO), the City of New York, and the City of Yonkers as part of the NYSpsc's regulatory process. In June 2012,

DOE confirmed that additional consultation activities would be forthcoming regarding the identification of the Project's APE and assessment of potential effects on these properties.

Consultation meetings were held with the NYSHPO on September 12, 2012, ACHP on November 26, 2012, and the Cultural Resources Working Group on November 28, 2012. Consulting parties were invited on May 14, 2013 to provide comments on the proposed APE for the Project, previously completed Cultural Resources Study Reports, and the development of a Programmatic Agreement (PA) to address potential adverse effects of the Project. A meeting was held on July 13, 2013 to discuss the proposed PA, and this document was subsequently finalized in the summer of 2014.

Recent Studies and Consultation

Pursuant to 36 CFR § 800.4, the Applicant completed cultural resource studies related to the proposed route modifications described above in Part I. These reports, entitled "Amendment Phase 1A Reports," are as follows and provided as Attachment 1:

- *Phase 1A Archeological Assessment of Champlain-Hudson Alternative Routes, New York* [TRC 2020a 6 Routes];
- *Phase 1A Archeological Assessment of Champlain Hudson Astoria Converter Station and Astoria Preferred Alternative Route, Boroughs of Queens, New York* [TRC 2020b ARC and converter station]; and
- *Phase 1A Archeological Assessment of Champlain-Hudson Power Express Project, Harlem Rail Yard Preferred Alternative, Boroughs of Queens, New York* [TRC 2020c Harlem River Yard].

The Applicant authorized TRC Environmental Corporation (TRC) to complete an analysis of six of the proposed modifications: Putnam Station, Fort Ann, Schenectady, Selkirk Yard, Catskill, and Rockland County. A review of previous research and the New York Cultural Resources Information System (NY CRIS) database showed that the Project area lies within locations sensitive for Precontact and Historic period cultural resources. A large number of studies document the existence of numerous Precontact and Historic archaeological sites and Historic properties within a 1 km radius of the Project areas. However, the Project APEs are narrow (50 feet), and the majority of the APEs are within the ROWs of long-established railroad lines and roadways. In their report, *Phase 1A Archeological Assessment of Champlain-Hudson Alternative Routes, New York*, TRC recommended that no further studies were required. NYSHPO concurred with this finding on May 5, 2020. Please see Attachment 2.

TRC completed a Phase 1A analysis for the Astoria Rainey Cable (ARC) Alternative and the relocation of the converter station. The report, *Phase 1A Archeological Assessment of Champlain Hudson Astoria Converter Station and Astoria Preferred Alternative Route, Boroughs of Queens, New York*, concluded that available information showed that both locations had archaeological and architectural resources within 1.0 km of the Project's APE. However, the ARC Alternative is located in a heavily developed area that soil data indicates was created by fill and asphalt capping. Similarly, the historic maps indicated that the converter station site was naturally inundated prior to 1898 and that after that date the areas was progressively infilled to provide a usable landform. As the history of the area showed that it was unlikely that any archaeological resources would be preserved in either APE, TRC concluded no further studies were required. NYSHPO concurred on April 22, 2020. Please see Attachment 2.

A third report, *Phase 1A Archeological Assessment of Champlain-Hudson Power Express Project, Harlem Rail Yard Preferred Alternative, Boroughs of Queens, New York*, provided an analysis of

the Harlem River Yard Alternative.³ As with the ARC Alternative and converter station relocation, the history of the area as documented by maps and soils studies indicate that the majority of the area was naturally inundated prior to 1897 and that after that date the area was progressively infilled and paved to provide usable landforms. The report notes that the significant disturbance along the Harlem Rail Yard Route, including fill deposits and existing utility corridors, also suggest it is unlikely that archeological resources are intact. In addition, the width of the trench (approximately four feet) would limit the extent of the disturbance, and in the event such resources are encountered during construction, an inadvertent discovery protocol would be in place. Therefore, TRC recommended that no additional archaeological review is required. This report was submitted to the NYSHPO on September 28, 2020, and NYSHPO concurred on October 20, 2020. Please see Attachment 2.

IV. REVIEW AND CONSULTATION

Programmatic Agreement Expiration and Update

The previous DOE-initiated Section 106 consultation resulted in the development of a Programmatic Agreement (PA) for managing historic properties that may be affected by the Project. Please see Attachment 3.

Section I(B) of the PA established that the PA would be in effect for a period of five years from the date of its execution, creating an effective ending date of the summer of 2019. ACHP guidance on drafting a Section 106 agreement states: “It is important to note here that once an agreement expires, it cannot be amended to extend its life--a new agreement must be negotiated.”⁴ As such, a new PA would need to be agreed upon by the original Signatory and Concurring parties, although it could be identical to the previous agreement except for the execution date. The PA was updated to reflect the NYSHPO’s updated *Human Remains Discovery Protocol* dated January 2021 (please see Attachment 4), as well as several other minor updates to citations. No other updates were made to the document as previously signed. NYSHPO approved the updated PA on February 22, 2021. DOE requests that the Concurring Parties review and sign the updated PA by March 15, 2021 and no later than April 2, 2021. Please see Attachment 5.

Cultural Resources Management Plan Update

The PA established certain stipulations to satisfy the responsibilities of DOE under Section 106, including the development of a Cultural Resources Management Plan (CRMP). After consultation with DOE and NYSHPO on an initial draft, the Applicant provided DOE with a Draft CRMP within one year of the issuance of the Presidential Permit, as required by the PA. Based on the paused status of the Project at that point, DOE elected to hold the CRMP from distribution to the Concurring Parties identified in the PA, which subsequently expired.

In 2020, DOE requested that the Applicant update the Draft CRMP to reflect the new studies completed by the Applicant, which were described in Part III above. The revised Draft CRMP incorporates previously completed studies by reference, so as to allow for the Draft CRMP to be distributed to outside parties. Please see Attachment 6.

³ When the report was completed, the assumed name for the relocation area was Harlem Rail Yard, but the Applicant subsequently learned that the proper name was Harlem River Yard.

⁴ See ACHP’s guidance at:

https://www.achp.gov/drafting_section_106_agreements#:~:text=It%20is%20important%20to%20note%20here%20that%20once,parties%20should%20provide%20for%20a%20longer%20duration%20period.

As provided for in the PA, the revised Draft CRMP is being provided to the parties identified in the PA for a 30-day period in which to review and provide comments. NYSHPO approved the Draft CRMP on February 22, 2021. DOE seeks your review and written comments by March 15, 2021 and no later than April 2, 2021. Following any comments received by the Consulting Parties, the Draft CRMP will be revised as needed to address the comments. Upon DOE's acceptance of the Final CRMP, it will be provided to the Signatory and Concurring Parties for any final objections. If there are none, the CRMP will be deemed finalized and provided to the Consulting Parties.

Summary of Actions Requested

- DOE respectfully requests that the Concurring Parties review and sign the updated PA no later than April 2, 2021.
- DOE respectfully requests that the Concurring Parties review and submit written comments (or indicate that you have no comments) on the updated Draft CRMP no later than April 2, 2021.

Thank you for your engagement in this consultation. DOE looks forward to your response and would be pleased to speak with you at any time. Should you have any questions or comments regarding the Project, please feel free to contact me directly at Melissa.Pauley@hq.doe.gov or 202-586-2942.

Sincerely,



Melissa Pauley
Policy Analyst
Energy Resilience Division
Office of Electricity
U.S. Department of Energy

Enclosures:

- Attachment 1: Amendment Phase 1A Reports (3 attachments)
- Attachment 2: NYSHPO Concurrence on Amendment Phase 1A Reports (3 attachments)
- Attachment 3: Updated Programmatic Agreement (one version with track changes showing edits and one clean version for signature)
- Attachment 4: NYSHPO Human Remains Discovery Protocol January 2021
- Attachment 5: Updated Programmatic Agreement signature page
- Attachment 6: Updated Draft Cultural Resources Management Plan

cc: Erin Paden, Historic Preservation Director
Stephan A. Ryba, Chief-Regulatory Branch, NY District, USACE