



Department of Energy

Washington, DC 20585

February 10, 2021

Dr. Nancy Herter, Ph.D.
Archaeology Unit Program Coordinator
New York State Historic Preservation Office
New York State Parks, Recreation, and Historic Preservation
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188
Via email nancy.herter@parks.ny.gov

Subject: Updated Programmatic Agreement and draft Cultural Resources Management Plan for the Champlain Hudson Power Express Project
Docket No. DOE/EIS-0447-SA-01
Docket No. PP-481-1

Dear Dr. Herter:

Thank you for discussing the Champlain Hudson Power Express (CHPE) Project with me on January 8, 2021. I am following up on two items: the updated Programmatic Agreement (PA) and draft Cultural Resources Management Plan (CRMP).

Programmatic Agreement Update

As described in the December 4, 2020 letter, DOE-initiated consultation pursuant to Section 106 of the National Historic Preservation Act resulted in the development of a PA for managing historic properties that may be affected by the Project. The PA was executed in June 2014.

Section I(B) established that the PA would be in effect for a period of five years from the date of its execution; therefore, the PA expired in June 2019. Advisory Council on Historic Preservation (ACHP) guidance on drafting Section 106 agreement documents 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."¹ As such, a new PA needs to be agreed upon by the original Signatory and Concurring parties. (This list was previously provided to you as Appendix B to the December 4, 2020 letter.) DOE proposes that the new PA be identical to the previous agreement with some minor edits and a new execution date.

An updated PA is provided for your review and signature as Attachment 1. If you have any edits or comments, please provide them to DOE by February 19, 2021. DOE will promptly address them. If you do not have any edits or comments, please sign the new PA at your earliest convenience, or no later than February 19, 2021. A Signatory Page (see Attachment 2) as a PDF is provided for your convenience. Following NYSHPO's signature, DOE will provide the updated PA to the Concurring Parties for their signatures.

¹See ACHP's "Guidance on Agreement Documents: Drafting," 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.

Draft Cultural Resources Management Plan Update

The PA established certain stipulations to satisfy the responsibilities of DOE under Section 106, including the development of a draft Cultural Resources Management Plan (CRMP). After consultation with NYSHPO on an initial draft, the Applicant previously provided a draft CRMP to DOE within one year of the issuance of the Presidential Permit, as required by the PA. (This file was previously provided to you as Attachment 8.)

In 2020, DOE requested that the Applicant revise the draft CRMP to reflect the new studies completed by the Applicant. (This file was previously provided to you as Attachment 9.) The updated draft CRMP incorporates previously completed studies by reference so that the CRMP can be distributed to outside parties. Some additional edits and updates were made to the document since December; please see Attachment 3 for a track change and clean version of the draft CRMP.

As provided for in Part III of the PA, the updated draft CRMP will be provided to the consulting parties identified in the PA, who will then have a 30-day period to review and provide comments. The PA outlines the steps in the process and the time limits for each.

DOE requests that NYSHPO complete its review of the draft CRMP prior to DOE providing it to the consulting parties. Please provide any edits or comments on the revised draft CRMP to DOE by February 19, 2021. DOE will promptly address them. The draft CRMP will then be shared with the consulting parties in order to start the 30-day review period no later than the last week of February 2021.

Thank you for your engagement in this consultation. Please contact me at any time at 202-586-2942 or Melissa.Pauley@hq.doe.gov.

Sincerely,



Melissa Pauley
Policy Analyst
Energy Resilience Division, OE-20
Office of Electricity
U.S. Department of Energy

Enclosures:

- Attachment 1: Updated Programmatic Agreement
- Attachment 2: Updated Programmatic Agreement signature page
- Attachment 3: Updated draft Cultural Resources Management Plan

cc: Stephan A. Ryba, Chief-Regulatory Branch, NY District, USACE
Josh Bagnato, Vice President-Project Development, Transmission Developers, Inc.