

**Case 10-T-0139**  
**Champlain-Hudson Power Express Project**  
**Environmental Trust Governance Committee Meeting Minutes**  
**June 22, 2016 Meeting**

Final – as amended and approved by vote of the Governance Committee on 09/29/2016

On June 22, 2016, the Governance Committee for the Hudson River and Lake Champlain Habitat Enhancement, Restoration, and Research/Habitat Improvement Project Trust (the “Trust”) held its regularly scheduled meeting.

The meeting took place at the NYS Public Service Commission, 19<sup>th</sup> Floor Conference Room, Albany, New York, with videoconference connections to DEC’s Region 3 Office in New Paltz, New York and to DEC’s Region 5 office in Raybrook, NY.

GC Attendees:

PSC Offices in Albany: Certificate Holders, NYC, DEC, DPS, DOS  
DEC Region 3 at New Paltz: Scenic Hudson and DEC  
DEC Region 5 at Raybrook: APA

Trout Unlimited attended telephonically

Other attendees:

Hudson River Foundation attended telephonically

Agenda Items:

1. Approval of past meeting minutes
2. Creation of online repository for meeting minutes and other CHET documents
3. Project update
4. Trust Administrator Agreement
5. Trustee Bank Agreement
6. Update on action items
7. Election of 2016-17 officers
8. Next meeting date

Meeting was called to order at 10 a.m. and a quorum was confirmed.

- Chair requested a motion to approve the draft meeting minutes.
  - DOS motioned
  - DPS seconded

- Motioned carried unanimously
- Chair asked that an online repository be created to house final meeting minutes, discussion followed.
  - Certificate holder offered to host them on the project website
  - DPS opined that their online content management system (DMM) would be inappropriate due to the separate nature of the Governance Committee from the original case.
  - All agreed to place the meeting minutes on the certificate holder's project website in a publicly available manner
    - **Certificate Holder will set up**
    - **DEC and certificate holder will work together to gather past minutes**
    - **Secretary will finalize meeting minutes following their approval and transmit to GC members**
- Project Update
  - 2015 Class Year study
    - The NYISO class year 2015 study is projected to be complete in November 2016
    - A November completion of the study will result in multiple developers posting security for system upgrades in January-February of 2017.
    - Security posting will require substantial capital outlay from the Certificate Holders which they feel further demonstrates their commitment to the project
    - A financial closing is now projected to occur in late third quarter 2017
    - Some money may be available following bond posting in the early to mid 1<sup>st</sup> quarter of 2017 for administrative expenses of the trust.
  - Navigational Risk Assessment (NRA)
    - Draft was submitted to the Army Corps and the Coast Guard at the end of March 2016
    - A final draft, reflecting Coast Guard comments, was resubmitted to the Coast Guard last week.
    - Certificate Holder offered to share the NRA
    - DPS reminded the Certificate Holder that compliance items from federal permits must be submitted to DPS so they may ensure that EM & CP documents reflect federal concerns
      - NRA
      - Cultural Resource Plan
  - Required Submittals likely by end of 1<sup>st</sup> quarter 2017
    - EM & CP
    - Municipal Consent
    - Certain ministerial items (i.e. building permits)
    - Potential Certificate amendment regarding burial depth in the Harlem River
  - Projected in service date remains 2020

- Early Construction to begin in 2017
    - Army Corp Permit requires completion by 12/31/2019
  - **Certificate Holder agreed to provide a written project schedule to GC members**
- Trust Agreement
  - Compiled by Certificate Holder
  - Substantive Changes for original draft
    - This is a Grantor Trust which will likely have a lower tax rate than a non-grantor trust
    - The Public Service Commission is the sole beneficiary
  - Agreement is based off of Standby trusts used by DPS in past proceedings and by DEC during Hazardous Waste Proceedings
  - DPS and DEC reported conversations with OAG and the OSC
    - OSC
      - No approval is required from them
      - They will not review preliminary products
    - OAG
      - Is investigating whether they need to approve the agreement but early indications appear that they will not have a formal role
      - Have indicated a willingness to review preliminary products
  - Trout Unlimited questioned why PSC was the sole beneficiary and if other entities could be the beneficiary. The GC discussed
    - The Commission is the main regulatory body and ultimate arbiter of compliance
    - The Trust was created by an order of the PSC
    - Previous trusts of this nature listed DPS or DEC (as applicable) as the sole beneficiary
    - It is legally difficult for the GC to be the beneficiary since the Certificate Holder is on it
    - Trout Unlimited offered an example of the Fisheries Enhancement Trust Agreement that has alternate language
      - **Trout Unlimited will provide a copy to the GC w/in 2 weeks if it is publicly distributable. (07/05)**
  - DEC asked for elaboration on the Irrevocability and Termination Clause (section 15)
    - This prevents remaining money from reverting to the State General Fund
    - Trout Unlimited suggested that the Trust money should not revert to the Certificate Holder
    - **DPS will review to see if this clause is consistent with the Governance Agreement**
  - GC agreed that written comment should be collected
    - **Comments Due to Certificate Holders by 7/19 with a copy to GC members**

- **Follow up conference call by 08/02 (DEC will set up)**
  - HRF requested to be included and the GC agreed
- Trust Administrator Agreement
  - Certificate Holder compiled the document and requested comments
    - **Written Comments due to Certificate holder concurrently with comments on Trust Agreement with a copy to all GC members**
  - HRF opined
    - Agreement in good shape
    - Would like language regarding an upfront payment for past work
    - Would like a flat fee for future services with “not to exceed” provisions.
    - Would like renewal terms
- Election of officers
  - Following discussion the current suite of officers was nominated to continue in their respective roles
  - The GC unanimously agreed
  - 2016-2017 officers
    - DEC –Chair
    - DPS – Vice Chair
    - Scenic Hudson – Secretary
- Next meeting date
  - **DEC will send a Doodle Poll after confirming room availability with DPS**
- The GC recognized and thanked Steve Blow for his service in recognition of his pending retirement
- Chair requested a motion to adjourn
  - DPS moved
  - DOS seconded
  - Motion carried and Meeting adjourned at 12:25