



Department of Energy

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Subject: Re-initiation of Section 106 Consultation for the Champlain Hudson Power Express (CHPE) Project
Docket No. DOE/EIS-0447-SA-01
Docket No. PP-481-1

Dear Dr. Herter:

On October 6, 2014, the U.S. Department of Energy (DOE) issued Presidential Permit No. PP-362 authorizing Champlain Hudson Power Express, Inc. (CHPEI) to construct, operate, maintain, and connect the Champlain Hudson Power Express Project (Project). As an administrative matter, please note that 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), and the Presidential Permit docket number was changed to PP-481.

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 1,000-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.

On September 25, 2020, CHPE submitted an application to DOE to amend their existing Presidential Permit PP-481. A copy of DOE's "Notice of Application to Amend Presidential Permit; CHPE, LLC" (85 FR 62721; October 5, 2020) is provided as Attachment 1.

The Applicant's Presidential Permit amendment application, provided as Attachment 2, describes eight proposed route modifications (Putnam Station, Fort Ann, Schenectady, Selkirk Rail Yard, Catskill Creek, Rockland County, Harlem River Yard, and Astoria Rainey Cable) and a proposed relocation of the site of the converter station. These proposed modifications are succinctly described, along with associated maps, on pages 5 through 24 of Attachment 2.

The applicant has also identified a modified construction method along overland sections of the route that involves installing the cables within a conduit within the established trench. The proposed width and depths of the trenches would remain unchanged from those associated with the previous direct burial technique. 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.

DOE is 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 purpose of this letter is to request re-initiation of the National Historic Preservation Act Section 106 consultation process for the CHPE Project to address these modifications.

Documentation of the previous Section 106 consultation process is available on DOE's CHPE EIS Document Library at: <http://chpexpresseis.org/library.php>.

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 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 a 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 site that examined whether these sites were eligible to 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 formerly 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 area of potential effects (APE) and assessment of potential effects on these properties. Consultation meetings were held with SHPO on September 12, 2012, ACHP on November 26, 2012, and the Cultural Resources Working Group on November 28, 2012. Consulting parties (see Appendix A) were invited on May 14, 2013 to provide comments on the proposed area of potential effects (APE) for the Project, previously completed Cultural Resources

Study Reports, and the development of a Programmatic Agreement to address potential adverse effects of the Project. A meeting was held on July 13, 2013 to discuss the proposed Programmatic Agreement and this document was subsequently finalized in the summer of 2014. See Attachment 3.

Area of Potential Effects

Pursuant to 36 CFR § 800.16(d), DOE, in consultation with the Consulting Parties, defined an 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 APE may be further refined through additional engineering analyses.

Recent Studies

Pursuant to 36 CFR § 800.4, the Applicant completed cultural resource studies related to the proposed route modifications. These reports, (see Attachment 4) entitled "Amendment Phase 1A Reports," are as follows:

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

These reports are described below.

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 areas lie within locations sensitive for Precontact and Historic period cultural resources. A large number of CRM 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 IA Archeological Assessment of Champlain-Hudson Alternative Routes, New York*, TRC recommended that no further studies were required and the SHPO concurred with this finding on May 5, 2020. See Attachment 5.

TRC completed a Phase 1A analysis for the Astoria Rainey Cable (ARC) Alternative and the relocation of the converter station. The report, *Phase IA 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 and SHPO concurred on April 22, 2020. See Attachment 6.

A third report, *Phase IA 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.¹ As with the ARC Alternative and converter station relocation, the history of the area as documented by maps and soils studies indicate that that the majority of the area was naturally inundated prior to 1897 and that after that date the areas 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 SHPO on September 28, 2020 and SHPO concurred on October 20, 2020. See Attachment 7.

Proposed Amendment

Table 1 describes the location and length of the proposed routing modifications, as well as the length of the Permitted route.² In addition to these routing 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.³

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

¹ When the report was completed the assumed name for the relocation area was Harlem Rail Yard but subsequently the Permittee learned that the proper name was Harlem River Yard.

² The NYPSC approved the seven of the route modifications on August 13, 2020. The eight modification, Harlem River Yard Alternative, is currently under review by the NYPSC.

³ The NYPSC approved the relocation of the converter station on August 13, 2020.

Section	Permitted Route	Modified Route
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 is also proposing to install the cables within a conduit laid in an established trench, rather than the previously proposed direct burial of the cables via the traditional open trench excavation and the direct placement of the cables at the bottom of the trench along the alignment, prior to the full restoration of the trench. 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.

Programmatic Agreement Expiration

As described in Section I, DOE-initiated consultation pursuant to Section 106 of the National Historic Preservation Act resulted in the development of a Programmatic Agreement (PA) for managing historic properties that may be affected by the Project.

Section I(B) established that the Programmatic Agreement would be in effect for a period of five years from the date of its execution, which was 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 (see Appendix B), although it could be identical to the previous agreement except for the execution date.

Draft Cultural Resources Management Plan

The Programmatic Agreement 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 SHPO on an initial draft, the Applicant provided a Draft CRMP within one year of the issuance of the Presidential Permit, as required by the Programmatic Agreement, to DOE for distribution. See Attachment 8. Based on the status of the Project at that point, DOE elected to hold the CRMP from the Concurring Parties identified in the Programmatic Agreement.

In 2020, DOE requested that the Draft CRMP reviewed by the NYSHPO and DOE be updated to reflect the new studies completed by the Applicant (see Section III above). The revised draft also proposes to incorporate previously completed studies by reference, so as to allow for the CRMP to be distributed to outside parties. See Attachment 9.

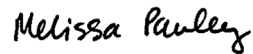
⁴ See: https://www.achp.gov/drafting_section_106_agreements#:~:text=It%20is%20important%20to%20note%20here%20that%20once,parties%20should%20provide%20for%20a%20longer%20duration%20period.

As provided in the Programmatic Agreement, the revised Draft CRMP could be provided to the parties identified in the Programmatic Agreement (see Appendix B), who would then have a 30-day period in which to review and provide comments.

Next Steps

I'll follow-up with you directly to discuss this matter at your earliest convenience. You may also contact me at any time at 202-586-2942 or Melissa.Pauley@hq.doe.gov.

Sincerely,



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Enclosures:

- Attachment 1: Federal Register Notice for Application to Amend Presidential Permit
- Attachment 2: Application for Amendment to Presidential Permit
- Attachment 3: Programmatic Agreement
- Attachment 4: Amendment Phase 1A Reports
- Attachment 5: SHPO Concurrence 6 Routes
- Attachment 6: SHPO Concurrence ARC and Converter
- Attachment 7: SHPO Concurrence Harlem River Yard
- Attachment 8: Draft CRMP
- Attachment 9: Updated Draft CRMP

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

APPENDIX A
Champlain Hudson Power Express Transmission Line Project
Section 106 Consulting Parties
Distribution List

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APPENDIX B
Champlain Hudson Power Express Transmission Line Project
Programmatic Agreement Consulting Parties
Distribution List

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