

APPENDIX A
AGENCY CORRESPONDENCE
CASE 10-T-0139

Laura Darling

From: Laura Darling
Sent: Wednesday, August 3, 2022 2:51 PM
To: Smith, Matthew (DPS); Maraglio, Matthew (DOS); sita.crounse; Behnke, Heather (DPS); Drexler, David (DPS); Gaidasz, Karen M (DEC); Rahm, Patrick J (DEC)
Cc: Josh.Bagnato; Michael Main; Ayokunle KAFI
Subject: Case 10-T-0139, CHPE Packages 3, 5B, 6, 7A, 7B, and 8 Wetland Delineation Reports and Waterbody Inventories

Dear DPS, DEC, and DOS Staff,

Pursuant to Certificate Conditions 113(a) and 114(a), below is a link to files included in the Wetland Delineation Reports for packages 3, 5B, 6, 7A, 7B and 8 of the Champlain Hudson Power Express (CHPE) transmission line, including Shapefiles. These conditions require that, at least 30 days prior to filing of a proposed Segment Environmental Management and Construction Plan (EM&CP), the Certificate Holder must share these documents with DPS, DEC and DOS. These segments are not located in the Adirondack Park, therefore the APA is not included in this distribution.

The geographic scope of these segments are as follows:

Package 3 – Fort Edward to Milton (26.5 miles along CP rail corridor starting in Town of Kingsbury and extending to Town of Ballston Spa)

Package 5B – Bethlehem (5.3 miles starting in Bethlehem along NYS Route 32, West Yard Road, and other areas in the Town)

Package 6 – Selkirk to Catskill (beginning Town of Bethlehem and extending approximately 20.8 miles on CSX rail line through Towns of Coeymans, New Baltimore, Cossackie, Athens and Catskill)

Package 7A – CSX Railroad Catskill (extending 8.7 miles along CSX railroad starting in Catskill then running along Allen Street, Route 9W and Alpha Boulevard to the west bank of the Hudson River)

Package 7B – 9W Rockland (7.6 miles beginning in Haverstraw and extending along several state and local roads)

Package 8—Bronx to Astoria (2.13 miles – areas near the Harlem and Hudson Rivers in New York City) – *Please note there are no shapefiles for Package 8, as there were no wetlands identified.*

We anticipate filing the EM&CP for these segments in the fall of 2022.

The reports and related shapefiles can be accessed here:

 [CHPE Packages 3, 5B, 6, 7A, 7B and 8 Wetland and Waterbody Reports and Shapefiles](#)

Please feel free to reach out with any questions, or if you have difficulty accessing the documents.

Sincerely,

Laura Bomyea Darling
Associate Attorney

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Executive Woods, Five Palisades Drive, Albany, NY

12205 www.youngsommer.com

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

April 11, 2022

Nicole Frazer
CHA
III Winners Circle
Albany, NY 12205

Re: Champlain Hudson Power Express - Phase 2 - Package 3, Fort Edward to Milton
County: Saratoga, Washington

Dear Nicole Frazer:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur along the project alignment or in its vicinity.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our database. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Division of Environmental Permits.

Sincerely,



Nicholas Conrad
Information Resources Coordinator
New York Natural Heritage Program





The following state-listed animals have been documented along the Champlain-Hudson Power Express Phase 2 Package 3 alignment.

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed.

For information about any permit considerations for the project, contact the NYSDEC Division of Environmental Permits.

The following species have been documented within .5 mile of the project alignment in many locations in the Town of Wilton and the City of Saratoga Springs.

The first two species have been documented directly along the railroad serving as the route of the alignment between Geyser Road and Geyser Creek in the City of Saratoga Springs.

All three species have been documented directly along the railroad serving as the route of the alignment as it runs through the Saratoga Sand Plains State Wildlife Management Area (Wilton Wildlife Preserve) and its vicinity in Wilton.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	FEDERAL LISTING
Butterflies			
Karner Blue	<i>Plebejus melissa samuelis</i>	Endangered	Endangered
Frosted Elfin	<i>Callophrys irus</i>	Threatened	
Persius Duskywing	<i>Erynnis persius persius</i>	Endangered	

This report only includes records from the NY Natural Heritage database.

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, and from NYSDEC at www.dec.ny.gov/animals/7494.html.



The following rare plants, rare animals, and significant natural communities have been documented along the Champlain-Hudson Power Express Phase 2 Package 3 alignment.

We recommend that potential impacts of the proposed project on these species or communities be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Field surveys of the project site may be necessary to determine the status of a species at the site, particularly for sites that are currently undeveloped and may still contain suitable habitat. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

From Ballard Road to southwest of Edie Road in the Town of Wilton, the project alignment railroad runs through the Saratoga Sand Plains State Wildlife Management Area (Wilton Wildlife Preserve). The following animals and natural communities are documented within .5 mile of the project alignment, either in the Wildlife Management Area or in its vicinity.

The animals in this report, while not listed by New York State as Endangered or Threatened, are rare in New York and are of conservation concern.

The natural communities in this report are considered significant from a statewide perspective by the NY Natural Heritage Program. Each community is either an example of a community type that is rare in the state, or a high-quality example of a more common community type. By meeting specific, documented criteria, the NY Natural Heritage Program considers these community occurrences to have high ecological and conservation value.

A GIS layer of Natural Heritage significant natural communities is available from the NYS GIS Clearinghouse at <http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1241>.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	HERITAGE CONSERVATION STATUS	
Amphibians				
Eastern Spadefoot	<i>Scaphiopus holbrookii</i>	Special Concern	Imperiled in NYS	
2019: The metamorphs were observed in a drying Pine Barrens Vernal Pool with tussock sedge, spirea, and gray birch and adjacent small wooded patches of mixed hardwoods with white oak, red oak, black oak, alder, white pine, and small grassy openings nearby. The soil is sandy and a few smaller vernal pools are present.				12397
Dragonflies and Damselflies				
Lyre-tipped Spreadwing	<i>Lestes unguiculatus</i>	Unlisted	Imperiled in NYS	
2008-07-26: Vernal pool complex at Wilton Wildlife Preserve.				14695
Spatterdock Darner	<i>Rhionaeschna mutata</i>	Unlisted	Imperiled in NYS	
2010-07-05: Four vernal ponds.				13569

*COMMON NAME**HERITAGE CONSERVATION STATUS***Wetland/Aquatic Communities****Pine Barrens Vernal Pond**

High Quality Occurrence of Rare Community Type

A moderate-sized pond system in very good condition within a good to fair landscape that is undergoing positive restoration efforts.

11609

Vernal Pool

High Quality Occurrence of Uncommon Community Type

This vernal pool complex is of moderate size and within a well protected, good quality landscape.

13560

Red Maple-Hardwood Swamp

High Quality Occurrence of Uncommon Community Type

Adjacent to west side of railroad from Edie Road south for 1/4 mile. This a moderately sized red maple-hardwood swamp in very good condition within a good landscape.

13557

Red Maple-Hardwood Swamp

High Quality Occurrence of Uncommon Community Type

This is a relatively small occurrence within a well protected landscape that is undergoing restoration efforts.

13563

Hemlock-Hardwood Swamp

High Quality Occurrence of Uncommon Community Type

Miller Swamp: This is a relatively large hemlock-hardwood swamp in good condition within a good quality landscape.

13553

Upland/Terrestrial Communities**Pitch Pine-Scrub Oak Barrens**High Quality Occurrence of Rare Community Type
and Globally Rare

The community is relatively small but in good condition within a good to fair landscape that is undergoing positive restoration efforts.

13550

Successional Northern Sandplain Grassland

High Quality Occurrence of Uncommon Community Type

Adjacent to railroad on State Wildlife Management Area north and south of Scout Road. This is a relatively small grassland of mostly artificial origin via restoration efforts, but may include remnant patches of natural origin, in a protected, good quality landscape that is under active management. These grasslands may succeed to pitch pine-scrub oak barrens in the future.

13554

Appalachian Oak-Pine Forest

High Quality Occurrence

Adjacent to railroad on State Wildlife Management Area north and south of Scout Road, and on private land north of West Lane. This Appalachian oak-pine matrix forest is in good condition and occurs in large patches in the Saratoga Sandplains landscape.

13565

The following plants are listed as Endangered or Threatened by New York State, and are a vulnerable natural resource of conservation concern.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	HERITAGE CONSERVATION STATUS
Plants			
Goldenseal	<i>Hydrastis canadensis</i>	Threatened	Imperiled in NYS

Documented .2 mile from project alignment between Wilton-Greenfield Town Line and Clinton Street, in a beech-maple mesic forest on a fairly steep, rocky, terraced slope. 2715

This report only includes records from the NY Natural Heritage database. For most sites, comprehensive field surveys have not been conducted, and we cannot provide a definitive statement as to the presence or absence of all rare or state-listed species. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

Information about many of the rare animals and plants in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org.

Information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org. For descriptions of all community types, go to www.dec.ny.gov/animals/97703.html for Ecological Communities of New York State.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New York Ecological Services Field Office
3817 Luker Road
Cortland, NY 13045-9385
Phone: (607) 753-9334 Fax: (607) 753-9699
Email Address: fw5es_nyfo@fws.gov



In Reply Refer To:
Project Code: 2022-0023321
Project Name: CHPE Segments 4 and 5

December 15, 2022

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New York Ecological Services Field Office

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

Project Summary

Project Code: 2022-0023321

Project Name: CHPE Segments 4 and 5

Project Type: Transmission Line - New Constr - Below Ground

Project Description: CHPE Package 3

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.1480857,-73.70054156551865,14z>



Counties: Saratoga and Washington counties, New York

Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Indiana Bat <i>Myotis sodalis</i>	Endangered
There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5949	

Insects

NAME	STATUS
Karner Blue Butterfly <i>Lycaeides melissa samuelis</i>	Endangered
There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/6656	
Monarch Butterfly <i>Danaus plexippus</i>	Candidate
No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

IPaC User Contact Information

Agency: Environmental Design and Research, D.P.C

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