



CHPE LLC
623 Fifth Avenue, 20th Floor
New York, NY 10022

**Champlain Hudson Power Express (“CHPE”)
Environmental Management & Construction Plan
Notice of Change**

Project: Champlain Hudson Power Express

Segment: 19B

Notice Number: CN 306

PSC Case: 10-T-0139

USACE Permit Number: NAN-2009-01089-M16

Location (Milepost, Town/County): Hudson River MP 274 to 296 (Newburgh/Beacon Bridge to Stony Point)

Drawing References: N/A

Other Documents/References: Segment 19B EM&CP Narrative

Component(s) Impacted by Change: Hudson River Cable Burial via Remedial Burial Tool (RBT)

Description of Change:

CHPE is requesting a brief extension of the time-of-year work windows allowed between the Newburgh/Beacon Bridge and the Stony Point transitional Horizontal Directional Drill (HDD) location (approximately MPs 274 to 296) within the Hudson River to ensure cables are buried during the current work season, which will minimize potential impacts to navigation and provide greater protection of the cable equipment. If this change were not approved, sections of cable would need to be left surface-laid on the river bottom until September 2025, when the next seasonal construction window reopens. The United States Army Corps of Engineers (ACOE), in consultation with the navigation community and the United States Coast Guard (USCG), has indicated that all possible efforts should be made by CHPE to continue work with the Remedial Burial Tool (RBT) within this portion of the Hudson River over the coming weeks, including by making this request to work outside the seasonal window, to avoid and minimize risks to navigation.

Pursuant to Change Notice 290 (DMM Item 1949), work between MP 274 and 296 is permitted through December 15, 2024. However, operational delays, including the availability of pilots needed to satisfy state compulsory pilotage laws (NY Navigation Law § 89-A), have prevented crews from completing burial between these mileposts before the available work windows are expected to lapse. Due to a shortage of qualified pilots able to operate on the Hudson River, CHPE estimates that approximately 26-30 working days within the allowed seasonal construction windows for this stretch of the river were lost during the fall, 2024 work season. But for the downtime needed to wait for qualified pilot availability, sufficient time would have been available for CHPE to complete the remaining burial work within the designated windows. While CHPE has closely coordinated with the Board of Commissioners of Pilots of the State of New York and the Hudson River Pilots' Association, and has appreciated their assistance and expertise, the lack of available pilots necessary to satisfy State statutory requirements falls far outside Certificate Holders' control. In light of this issue, and in response to concerns raised by ACOE and USCG, CHPE is seeking this extension.

By this change notice, CHPE is seeking limited authorization to enable crews to continue work to bury the cables within this stretch of the Hudson River using the Remedial Burial Tool (RBT), a methodology approved in the Segment 19B EM&CP, through January 14, 2025. By its own terms, Certificate Condition (CC) 93 authorizes appropriate modification or extension of the time of year work windows set forth in the Article VII Certificate

by making a request under CC 158, the condition allowing for change notices. CHPE submits that this modification is appropriate to ensure the burial of the CHPE cables in this stretch of the Hudson River before the end of January 2025, which is necessary to satisfy federal directives, limit risk to navigation, protect the Facility's infrastructure, and avoid delays to the Commercial Operation Date (COD) for this critical electric reliability project.¹

For work between mileposts 274 and 296 CHPE is seeking an extension to work through January 14, 2025, which is consistent with an extension agreed to by federal regulatory agencies including the National Oceanic and Atmospheric Association (NOAA)(see CHPE Army Corps Permit Modification 16, DMM Item 1961). Prior to requesting this change, CHPE consulted with the New York State Department of Public Service (NYSDPS), Department of Environmental Conservation (NYSDEC) and Department of State (NYSDOS) consistent with Certificate Condition 93.

This request would be limited to those discrete portions of this section of the Hudson River (any portions of MP 274 to 296 remaining unburied after December 15, 2024) for a limited duration within which CHPE is seeking to conduct targeted remedial burial activities (December 16, 2025 through January 14, 2025). The modification will not change the character or nature of the Facility or installation work and will aid CHPE in completing installation of this portion of the Facility as quickly as possible, and as early in the aquatic wintering season as possible, to minimize impacts to protected aquatic species. By contrast, if this change were not approved, several miles of the CHPE cables between the identified mileposts will need to remain in place on the river bottom, until September 14, 2025 when the next installation window opens—a result which ACOE has opposed.

The requested change minimizes in-water work outside of the construction windows to the greatest extent practicable and is designed to minimize impacts to resources and account for other stakeholder interests, such as navigation, while still ensuring the burial of the cables to depth as quickly as possible. NYSDEC has raised concerns that the requested extension creates the potential for adverse impacts to protected sturgeon species; however, completing the work as early as possible in the winter season (December and January) was identified as likely less impactful to the species than conducting the work later into the overwintering period for sturgeon juveniles (January to March). Once authorized by CN 290, CHPE prioritized burial work in the southernmost portion of the identified stretch, the Stony Point HDD site moving north and away from Haverstraw Bay and waters to the south, where larger populations of sturgeon are believed to overwinter—this aided in avoiding and minimizing impacts to the species within the more geographically sensitive portions of the river. Despite these efforts to avoid and minimize impacts, NYSDEC believes there remains a potential for incidental take of the species; therefore, CHPE will be required to provide compensatory mitigation consistent with the substantive requirements of 6 NYCRR Part 182 which will provide a net conservation benefit to the species for work in this section of the Hudson River beyond December 15, 2024. CHPE has agreed to closely coordinate

¹ The New York Independent Systems Operator (NYISO) has repeatedly stated that, if CHPE's COD date is delayed beyond mid-2026, neither New York City nor the State of New York could reliably provide electric service during certain parts of the year in 2026 and beyond. See, e.g., NYISO, *Timing of CHPE Transmission Project Vital to Future Grid Reliability* (<https://www.nyiso.com/-/timing-ofchpe-transmission-project-vital-to-future-grid-reliability>). As outlined in the Segment 19B EM&CP, CHPE will have an additional 21.6 miles of cable to install in the Hudson River, between the Congers HDD and the mouth of the Harlem River, in the 2025 season. It is vital that as much work in this northern portion of the Hudson River as possible be completed before mid-January 2025, to avoid adverse impacts to the construction, testing, commissioning and in-service schedules for the CHPE Facility.

with NYSDEC and NYSDPS staffs to develop a Net Conservation Benefit Plan which satisfies the substantive requirements of Part 182, to be submitted and approved by the agencies, to mitigate the impacts of additional RBT work conducted beyond December 15, 2024 between MPs 274 and 296.

Overall, results to date from installation within the Hudson River indicate that the RBT installation method will not result in significant sediment disturbances or other impacts to the environment. In-water sampling completed during this installation has demonstrated total suspended solids generally under 20 ppm.² This value is well within the expected natural range within the Hudson River and affirms that the RBT installation method would not substantially impact or impair water quality in the Hudson River. Similarly, laboratory testing has indicated that the RBT installation has no substantive impact on water quality. Conducting this work into the extended windows requested will not change the nature or extent of other environmental impacts associated with project construction, which will be the same regardless of where in the calendar year they occur.

Lastly, completion of this work in the current construction season (2024 and early 2025) reduces the potential need for CHPE work operations in these areas in the next construction season, commencing September 2025. This minimizes impacts to surrounding communities, as well as recreational and commercial river users in the northern portions of the Hudson River, where most work will have been completed within the current construction season.

CC Requirements for Modifying an EMCP

#	Certificate Condition	Description of the Proposed change
158	The EM&CP approved by the Commission may incorporate modifications from the EM&CP proposed by the Certificate Holders. No change to the approved EM&CP may thereafter be made except in accordance with the following procedures:	
158(a)	For a proposed change that: (i) would involve a site listed or eligible for listing on the New York State or National Register of Historic Places, the Certificate Holders shall give at least two (2) weeks prior notice to the Field Service Bureau of OPRHP. (ii) would involve any State-regulated wetland or protected stream or water body, the Certificate Holders shall give at least two weeks prior notice to NYSDEC, and, if within the Adirondack Park, to APA. (iii) would affect the occupied habitat of a TE species, the Certificate Holders shall give at least two weeks prior notice to NYSDEC and to the USFWS or NMFS (where applicable) prior to providing notice to DPS staff of the proposed change. (iv) would affect the individual or habitat supporting RTE plants, the Certificate Holders shall give at least two (2) weeks prior notice to NYSDEC and DPS. (v) would involve agricultural land, the Certificate Holders shall give at least two (2) weeks prior notice to Ag & Mkts. (vi) would involve the herbicides planned for use (including	Advance notice of requested change has been provided to NYSDEC, NYSDPS, USFWS and NMFS (now NOAA). No new or different impacts to the Hudson River are proposed.

² For reference, the threshold TSS exceedance is 200 PPM in the permitting record.

	mixed proportions, additives or method of application), the Certificate Holders shall give at least thirty (30) days prior notice to NYSDEC. (vii) would affect land or water owned or controlled by CNY, the Certificate Holders shall give at least two (2) weeks prior notice to CNY.	
158(b)	The Certificate Holders shall report any proposed changes to the EM&CP to DPS Staff. DPS Staff will refer to the Commission for approval any proposed changes that cause a substantial increase in environmental impact, after consultation with NYSDEC, any proposed changes that relate to contested issues decided during the proceeding, and any proposed changes affecting State highways (but need not do so if the report indicates NYSDOT's agreement to such proposed changes). DPS Staff is authorized to approve all other proposed changes, in accordance with the procedure outlined herein, and will submit reports of such changes to the Secretary or the Secretary's designee, which reports will be posted on the Commission's website under this case number.	See description above.
158(c)	Upon being advised that DPS Staff will refer a proposed change to the Commission, the Certificate Holders shall notify all active parties that have requested to be so notified, as well as property owners or lessees whose property is affected by the proposed change. The notice shall: (i) describe the original conditions and the requested change; (ii) provide documents supporting the request; and (iii) state that persons may comment by writing to the Commission within twenty-one (21) days of the notification date.	N/A
158(d)	The Certificate Holders shall not execute any proposed change until they receive written approval from the Commission (if Commission approval is required pursuant to subparagraph (a) of this paragraph) or oral or written approval from DPS Staff (in the case of a change that Staff has authority to approve) except in emergency situations threatening personal injury, property damage, or severe adverse environmental impact, or as specified in the EM&CP. When the Certificate Holders have obtained oral approval from DPS Staff for a change, DPS Staff will confirm such approval in writing within ten (10) business days.	

Proposed Change Involves:

- Site listed or eligible for listing on the New York State or National Register of Historic Places [CC 158(a)(i)]
- State-regulated wetland or protected stream or water body [CC 158(a)(ii)]
- Occupied habitat of a TE species [CC 158(a)(iii)]
- Individual or habitat supporting RTE plants [CC 158(a)(iv)]
- Agricultural land [CC 158(a)(v)]
- Herbicides planned for use (including mixed proportions, additives or method of application) [CC 158(a)(vi)]
- Land or water owned or controlled by CNY [CC 158(a)(vii)]
- Federally regulated wetland or protected stream or water body [Requires Transmittal to ACOE]



List of References and Attachments:

Signoff by: CHPE Marine Team

Date: 12-13-24

Approvals

Position	Name	Signature	Date
Segment Engineer:	Jonas Carlson	<u>Jonas Carlson</u>	12-12-24
Segment Manager:	Cesar Reyes	<u>Cesar A. Reyes</u>	12-12-24
CHPE, LLC Approval:	Sabrina Taylor	<u>Sabrina Taylor</u>	12-13-24
Transmitted to DPS by:	Laura Darling	<u>Laura Darling</u>	12-13-24
DPS Approval By:	_____	_____	_____
Transmitted to ACOE by:	_____	_____	_____