

August 25, 1998

**MINUTES OF THE REGULAR MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK**

August 25, 1998

Table of Contents

<u>Subject</u>	<u>Page No.</u>	<u>Exhibit</u>
1. Minutes of the Regular Meeting held on July 28, 1998	2	
2. Financial Reports for the Seven Months Ended July 31, 1998	4	'2-A'
3. Report from the President and Chief Operating Officer	5	
4. Greater Massena Economic Development Fund and Niagara Economic Development Fund – Modification to Fund Agreements Resolution	7	
5. Lease of Office Space, Centroplex Building – Berman Bavero Frucco & Gouz, P.C. – 17 th Floor Resolution	9	'5-A'
6. Blenheim Gilboa Pumped Storage Project – Transmission Line – South Access Road Slope – Protection and Rehabilitation of Schoharie Creek Flood Erosion Control - Expenditure Authorization Resolution	11	
7. Niagara Power Project – Conveyance of up to 1.83 Acres – Map 317-C, Parcel 3256 Resolution	14	
8. St. Lawrence/FDR Power Project Relicensing – Expenditure Authorization Resolution	16	
9. Financial Support for the Dismantling of the Prospect Park Observation Tower and Development of Certain Recreational Facilities in the Niagara Reservation in the City of Niagara Falls Resolution	19	
10. Next Meeting	22	

August 25, 1998

Minutes of the regular meeting of the Power Authority of the State of New York held at the Niagara Power Project at 11:00 a.m.

Present: Clarence D. Rappleyea, Chairman
Hyman M. Miller, Trustee
Louis P. Ciminelli, Trustee
Frank S. McCullough, Jr., Trustee
Gerard D. DiMarco, Trustee

Eugene W. Zeltmann	President and Chief Operating Officer
David E. Blabey	Executive Vice President, Secretary and General Counsel
Peter W. Delaney	Executive Vice President and Chief Financial Officer
Robert A. Hiney	Executive Vice President - Project Operations
John F. English	Senior Vice President – Corporate Planning
James Knubel	Senior Vice President – Chief Nuclear Officer
Louise M. Morman	Senior Vice President – Marketing and Economic Development
Vincent Vesce	Senior Vice President - Human Resources
Russell Krauss	Chief Information Officer
Michael L. Boxer	Inspector General
Arnold M. Bellis	Vice President - Controller
Daniel Berical	Vice President – Policy and Governmental Affairs
Woodrow W. Crouch	Vice President – Project Management
John M. Hoff	Vice President – Procurement and Real Estate
Russell J. Krauss	Vice President – Information Technology
Charles I. Lipsky	Vice President and Chief Engineer – Power Generation
Michael Petralia	Vice President – Public Affairs
Kenneth G. Vaughn	Vice President – Ethic and Regulatory Compliance
Stephen P. Shoenholz	Deputy Vice President - Public Relations
Carmine J. Clemente	Deputy General Counsel
Ronald W. Ciamağa	Regional Manager – Northern New York
James Ford	Regional Manager – Western New York
John L. Osinski	Executive Director – Regulatory Affairs
Joseph J. Brennan	Director – Internal Audit
John L. Murphy	Director - Public Information
Mark D. O'Connor	Director – Real Estate
William Slade	Director – Environmental Programs
Vernadine Quan-Soon	Assistant Secretary
Angela Graves	Assistant Secretary

Chairman Rappleyea presided over the meeting. Executive Vice President, Secretary and General Counsel Blabey kept the Minutes.

August 25, 1998

1. Approval of the Minutes

The minutes of the Regular Meeting held on July 28, 1998 were approved.

August 25, 1998

Comments of Chairman and Chief Executive Officer

Chairman Rappleyea welcomed staff to the Niagara Power Project and extended a warm welcome to the customers and other members of the public who were in attendance at the meeting.

August 25, 1998

2. Financial Report for the Seven Months Ended July 31, 1998

Mr. Bellis summarized the financial reports, noting that through July, all of the facilities show a positive bottom line result. Net revenues through July 31, 1998 were \$130 million, which was higher than budgeted, and were attributable to lower operating expenses and higher non-operating income, offset by lower revenues.

3. Report from the President and Chief Operating Officer

At President Zeltmann's request, Mr. Krauss briefed the Trustees on the current status and developments in the ongoing Year 2000 Program effort. Mr. Krauss presented a brief update on the overall schedule and milestones on the different phases such as program management, inventory, assessment, remediation/conversion, testing/validation, deployment and contingencies. He further elaborated on the preliminary detail work plan for critical, severe and high systems at all of the business unit/sites, which shows the work plan and the system compliance status. A video clip of President Clinton and Vice President Gore, was presented showing how they are actively involved in Senator Bennett's and Dodd's concerns with Y2K compliance. Mr. Krauss further noted that Authority staff is moving forward with the ongoing assessment phase of Y2K problems. In response to questions from Trustee Ciminelli concerning any impact of the IP3 refueling outage on the Y2K situation, Mr. Krauss explained that the outage's timing is late so we have to review the remediation schedules for earlier opportunities. Mr. Hiney noted that the amount of nuclear fuel available precludes plant operation beyond the fall of 1999 without an outage. Mr. Krauss further noted that should there be any delay, either in the outage start date or duration, that it might add risk.

Mr. Petralia presented a video clip of press events in the Public Affairs area over the last six months highlighting the Authority's contributions to the Western New York community. Two significant projects highlighted were the Authority's commitment of \$7 million to the City of Niagara Falls School District (for the construction and rehabilitation of recreational facilities) and the Authority's work with the Buffalo School district to convert several school buildings from coal to oil or natural gas heating with funding provided from the Governor's Clean Air Bond Act.

Other areas covered in the video were Power for Jobs expansion; electric vehicles and the visitors' center kids tours by, Community Relations staff at the Niagara Power Project.

August 25, 1998

In one news clip, Mr. Guy Sliker from Energy Services explained that the electric vehicles being utilized by the Authority run for approximately 100 miles on a full charge. A full charge takes about four to five hours at 220 volts. The Authority has put into service approximately 100 electric vehicles on the road for use by the Authority's customers or it won operations for demonstration purposes.

A third video was presented by Mr. Lipsky on the innovative team work being done by the transmission line crews and the Engineering Department at the Authority. The video depicted the relocation of two transmission towers by helicopter to make way for a shopping center parking lot near Rochester, New York. Authority crews worked under adverse conditions caused by 90-mile winds generated by the helicopter. The work, which was performed over two weekends was completed without accident and six hours under schedule.

The Trustees, Chairman Rappleyea, and President Zeltmann commended Mr. Francis Nalbach, Line Supervisor, on a job well done, along with other Niagara Power Project and Clark Energy Center employees for the work performed by the crews from both facilities.

4. Greater Massena Economic Development Fund and Niagara Economic Development Fund – Modification to Fund Agreements

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve modifications to the Economic Development and Trust Agreements for the Greater Massena Economic Development Fund (‘Massena Fund’) and the Niagara Economic Development Fund (‘Niagara Fund’). The modifications involve a change in governance of the Funds and transfer of the administration of the loan funds from the New York Job Development Authority (‘JDA’) to the St. Lawrence County Industrial Development Agency (‘St. Lawrence IDA’) for the Massena Fund and the Niagara County Industrial Development Agency (‘Niagara IDA’) for the Niagara Fund.

BACKGROUND

The Massena Fund

“At their meeting of December 16, 1986, the Trustees authorized the transfer of \$1,000,000 to the JDA, as trustee under a trust agreement, to fund an economic development program for the Massena and St. Lawrence County areas. Subsequent to that authorization, the Massena Fund was established to induce businesses to establish or expand plants, facilities or operations in the Town of Massena and St. Lawrence County by offering low interest loans for the acquisition of land, purchase of buildings or machinery and equipment. Once the transfer has been made the Massena Fund will operate under the direction of a five-member board that will consist of representatives of the Authority, the JDA, the New York State Urban Development Corporation (‘UDC’), the St. Lawrence IDA and the Town of Massena.

The Niagara Fund

“At their meeting of April 24, 1990, the Trustees authorized the transfer of \$5,000,000 to the JDA, as trustee under a trust agreement, to establish an economic development fund for Niagara County. The Niagara Fund was established with the same economic development purpose as the Massena Fund and once the transfer has been made will also operate under the direction of a five-member board. The board will be comprised of representatives of the Authority, the JDA, the UDC, the Niagara IDA and the City of Niagara Falls.

“These loan funds are a valuable economic development tool and are consistent with the economic development role assigned to the Authority in the Power Authority Act, as set forth in Section 1005.

“The Massena Fund currently has three outstanding loans and a fund balance of \$1.9 million. The Niagara Fund has 19 outstanding loans with a fund balance of \$6.3 million.

DISCUSSION

“Loans funded by the Massena and Niagara Funds are currently processed, approved and closed in the New York offices of the JDA. Both the Massena Fund and the Niagara Fund Boards, including the JDA and the UDC, agree that the administration of the funds should be performed by local IDAs. For the Massena Fund, the St. Lawrence IDA has agreed to assume the responsibility as trustee for the administration of the loan fund and

for the Niagara Fund, the Niagara IDA has agreed to do the same. A reasonable administrative fee as determined

August 25, 1998

and approved by the Authority's Treasurer will be paid annually from the Funds. This will allow for more timely and cost effective closings as well as marketing of the fund's availability.

RECOMMENDATION

"The Vice President – Policy and Governmental Affairs recommends that the Trustees approve revisions to the Massena and Niagara Loan Fund Agreements to transfer responsibility for administration of such funds to local entities on the terms set forth above.

"The Executive Vice President, Secretary and General Counsel, the Executive Vice President - Project Operations and I concur in the recommendation."

The attached resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That it is hereby authorized by the Trustees of the Power Authority of the State of New York that the Greater Massena Economic Development Agreement and associated Trust Agreement be amended to replace the New York Job Development Authority with the St. Lawrence County Industrial Development Agency as Trustee of the Loan Fund previously approved by the Trustees, as outlined in the foregoing report of the President; and be it further

RESOLVED, That it is hereby authorized that the Niagara Economic Development Agreement and associated Trust Agreement be amended to replace the New York Job Development Authority with the Niagara County Industrial Development Agency as Trustee of the Loan Fund previously approved by the Trustees, as outlined in the foregoing report of the President; and be it further

RESOLVED, That subject to approval of the form thereof by the Executive Vice President, Secretary and General Counsel or his designee, the Vice President – Policy and Governmental Affairs or his designee be, and hereby is, authorized to execute all other certificates, documents or agreements necessary or desirable to effectuate the foregoing resolutions.

**5. Lease of Office Space, Centroplex Building
Berman Bavero Frucco & Gouz, P.C. - 17th Floor**

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize the execution of a lease of approximately 7,814 square feet of office space on the 17th floor of the Centroplex Building, White Plains, New York by the Authority as landlord to the law firm of Berman Bavero Frucco & Gouz, P.C., (hereinafter ‘Berman’) as tenant. The proposed lease to Berman is for a term of six years at an average annual fixed rent of \$22.20 per square foot (including electricity) plus adjustments to recover increases in taxes and operating expenses over a base year, as more specifically described in Exhibit ‘5-A’ attached hereto.

BACKGROUND

“The Authority acquired the Centroplex Building by deed dated July 10, 1991. The Centroplex Building is a commercial office building with the majority of the existing space occupied by Authority personnel. Due to staff reductions, relocation of employees and expiration of leases over the past few years, the Authority has no present need to occupy certain space within the building. In July 1995, the Authority engaged the real estate brokerage services of Insignia/E.S.G., Inc. (formerly Rostenberg-Doern Company) to solicit offers for leasing all or portions of excess space in the Centroplex Building.

DISCUSSION

“At their meeting on October 26, 1993, the Trustees authorized the execution of a lease agreement for the said premises in the Centroplex Building with the then newly formed law firm of Borowick Feldman & Groner, P.C. (hereinafter ‘Borowick’). The Borowick lease was for a term of five years and seven months commencing on February 1, 1994 and expiring on August 31, 1999. Due to staffing changes in the Borowick firm, approximately half of the Borowick space was subleased to John Frucco, Esq. in 1995. Mr. Frucco is now a partner in the Berman firm. Berman recently requested that it become the tenant for the entire premises in place of Borowick, which wishes to terminate its lease. Pursuant to discussions with Berman, Borowick and the Authority, a proposal has been made to enter into a new lease agreement with Berman for the one year remainder of Borowick's term, plus an additional five years, and to release Borowick from the remainder of its obligation under the lease.

“Preliminary negotiations on this space have resulted in the basic lease terms set forth in Exhibit ‘5-A’. The Authority's broker has provided a summary of rent comparables for Westchester County and a review of such comparables and local market conditions indicate that this transaction compares favorably to other deals recently completed in downtown White Plains. In addition, no start-up renovation costs, such as tenant improvements will be paid by the Authority.

FISCAL INFORMATION

“Payment for the brokerage commissions will be made from the Operating Fund.

August 25, 1998

RECOMMENDATION

“The Director - Real Estate and the Vice President - Procurement and Real Estate recommend that the Trustees approve entering into a lease agreement with Berman Bavero Frucco & Gouz, P.C. for commercial office space in the Centroplex Building on terms substantially in accordance with the foregoing and as set forth in Exhibit ‘5-A’, attached hereto.

“The Executive Vice President, Secretary and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Project Operations, and I concur in the recommendation.”

The attached resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the President and Chief Operating Officer, the Executive Vice President and Chief Financial Officer or the Vice President - Procurement and Real Estate be, and each hereby is, authorized to enter into a lease agreement for office space in the Centroplex Building with Berman Bavero Frucco & Gouz, P.C. on substantially the terms set forth in the foregoing report of the President and subject to approval of such lease by the Executive Vice President, Secretary and General Counsel, or his designee; and be it further

RESOLVED, That the Executive Vice President and Chief Financial Officer, the Vice President - Procurement and Real Estate or the Director - Real Estate be, and each hereby is, authorized on behalf of the Authority to execute a release or other documentation, subject to approval of the release by the Executive Vice President, Secretary and General Counsel, or his designee, to release Borowick Feldman & Groner, P.C. from any further obligation under its lease dated October 8, 1993; and be it further

RESOLVED, That the Executive Vice President and Chief Financial Officer, the Vice President - Procurement and Real Estate or the Director - Real Estate be, and each hereby is, authorized on behalf of the Authority to execute any and all other agreements, papers, or instruments which may be deemed necessary or desirable to carry out the foregoing, subject to approval by the Executive Vice President, Secretary and General Counsel, or his designee.

6. Blenheim Gilboa Pumped Storage Project - Transmission Line – South Access Road Slope Protection and Rehabilitation of Schoharie Creek Flood Erosion Control Expenditure Authorization – A. Servidone, Inc. - Award

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize capital funding of \$1.2 million for the rehabilitation of the Schoharie Creek Flood Erosion Control and \$2.7 million dollars for the Blenheim Gilboa Transmission Line - South Access Road Slope Protection. The Trustees are also requested to approve the award of a contract to A. Servidone, Inc., in the amount of \$649,280 for the Schoharie Creek Flood Erosion Control.

DISCUSSION

Transmission Line – South Access Road Slope Protection

“At their meeting of April 28, 1998, the Trustees were advised that the south access road and transmission line corridor from the plant is located in a geologically unstable area adjacent to the lower reservoir. Movement in the slide area was observed immediately upon initial operation of the reservoir in the early 1970’s. At that time, the area of movement was thought to be limited to the immediate vicinity of the reservoir shoreline. The movements resulted in cracking of roadway pavement and displacement of electrical conductor insulators. Some localized stabilization measures such as rock buttresses at the toe and deep horizontal drains were installed along the shore area. This reduced the rate of movement to about two inches per year.

“Monitoring revealed that since the fall of 1995, the rate of movement has increased to about four inches per year. A recent infrared image and aerial topographic mapping also revealed that the slide area is much larger than previously assumed. Recent subsurface investigations between 1994 and 1998 included installation of soil borings, piezometers, slope inclinometers and laboratory soil testing. This investigation went to greater depths and covered a larger area than previously studied.

“At their meeting of April 28, 1998, the Trustees authorized the extension of contracts and increased the compensation for engineering support services for the South Access Road slope protection for the Blenheim Gilboa Power Project.

“The Board of Consultants, three independent consultants retained by the Authority, has recommended remedial measures to stabilize the slope. These measures include stone berms at the toe of the slope and an improved drainage system. These measures will effectively protect the Authority’s transmission lines and stabilize the plant access road.

“It is estimated that an additional \$2.7 million dollars will be required for continued subsurface investigations, detailed engineering, the Board of Consultants, and initial site work on the Blenheim Gilboa slide areas. The results of the subsurface investigations and the detailed engineering for Blenheim Gilboa slide area will be used to prepare the final estimate. In the fourth quarter of 1998, staff will advise the Trustees of the final estimate and request funding for the 1999 and 2000 work effort.

Schoharie Creek Flood Erosion Control

“On January 19, 1996, a flood occurred in and around New York’s Schoharie valley, which resulted in the designation of a federal disaster area in 22 counties of New York State. Subsequent to that flood, the Federal Energy Regulatory Commission (‘FERC’) requested that the Authority undertake remedial work in the streambed of the Schoharie Creek immediately below the Project spillway. The work is presently scheduled to begin in late summer, 1998 and continue into 1999.

“It is estimated that \$1.2 million dollars will be required for remediating the Schoharie Creek Flood Erosion Control area in 1998 and 1999.

“A request for proposals was issued on June 22, 1998 describing the work required for rehabilitating Schoharie Creek Flood Erosion Control. On July 13, 1998, bids were received from three bidders. The three received prices are summarized below:

	Goff	Delaney	
	<u>Construction, Inc.</u>	<u>Construction</u>	<u>A Servidone, Inc.</u>
Bid Price	\$651,000	\$678,318	\$649,280

“An Evaluation Committee with representatives from Procurement, Engineering and Project Management analyzed the bids and determined that A. Servidone Inc. was the lowest evaluated and technically qualified proposal. Accordingly, the Trustees are requested to approve award of the contract to A. Servidone, Inc.

FISCAL INFORMATION

“Payment will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Regional Manager - Central New York, the Vice President and Chief Engineer – Power Generation, the Vice President – Project Management, the Vice President – Controller, and the Vice President - Procurement and Real Estate recommend that the Trustees authorize capital funding for the Blenheim Gilboa Transmission Line South Access Road Slope in the amount of \$2.7 million and for the rehabilitation of Schoharie Creek erosion control in the amount of \$1.2 million dollars, and approve the award of a contract in the amount of \$649,280 to A. Servidone, Inc. for the rehabilitation of Schoharie Creek.

“The Executive Vice President, Secretary and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President - Project Operations, and I concur in the recommendation.”

Mr. Hiney reported that the Army Corps of Engineers had issued a permit for the stream project. In response to questions about the slide area, Mr. Hiney further indicated that the \$2.7 million request was for preliminary site work and not a permanent fix. The latter is estimated to cost about \$18 million over two years.

August 25, 1998

The attached resolution, as recommended by the President was unanimously adopted.

RESOLVED, That capital funding is hereby approved to be committed in accordance with the Authority's Expenditure Authorization Procedures for the rehabilitation of the Schoharie Creek Flood Erosion Control in the amount listed below:

Schoharie Creek Flood Erosion Control	
Current Expenditure Authorization Request	<u>\$ 1,200,000</u>

AND BE IT FURTHER RESOLVED, That capital funding is hereby approved to be committed in accordance with the Authority's Expenditure Authorization Procedures for South Access Road Slope protection in the amounts listed below:

Blenheim Gilboa Power Project Transmission Line	
South Access Road Slope Protection	
Current Expenditure Authorization Request	\$2,700,000
Expenditures Previously Authorized	<u>\$ 500,000</u>
TOTAL AMOUNT AUTHORIZED	<u>\$3,200,000</u>

AND BE IT FURTHER RESOLVED, That pursuant to the Authority's Guidelines for Procurement (Services) Contracts approval is hereby granted to award a contract to A. Servidone, Inc. for the rehabilitation of the Schoharie Creek Flood Erosion Control in the amount listed below:

<u>Capital</u>	<u>Contract Amount</u>	<u>Projected Closing Date</u>
A. Servidone, Inc.	<u>\$649,280</u>	11/30/99

August 25, 1998

7. Niagara Power Project - Conveyance of Up to 1.5 Acres -Map 317-C, Parcel 3256

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize the conveyance to the City of Niagara Falls, New York of up to approximately 1.5 acres as described on Map 317-C, Parcel 3256 (‘the Property’).

BACKGROUND

“The Property is located in the downtown area of the City of Niagara Falls in the vicinity of Main Street and Whirlpool Street along the Robert Moses Parkway. The land was purchased by the Authority for construction of the Parkway and is situated adjacent to the Parkway.

“An adjoining parcel of 1.85 acres was conveyed by the Authority to the City of Niagara Falls (‘City’) in 1964 for park purposes and is known as Di Franco Park. In 1996, the City advised the Authority that it no longer intended to maintain Di Franco Park as a park and planned to market the 1.85-acre parcel. By letter dated February 23, 1998, the City requested that the Authority convey the Property to the City so that the City could market both parcels jointly. The City is of the opinion that by combining the two parcels into one their marketability is enhanced.

DISCUSSION

“The 1.5-acre parcel is surplus to the Authority's operational needs. The New York State Department of Transportation (‘NYSDOT’), which is responsible for maintenance of the Parkway, advised the Authority that the proposed conveyance will have no impact on highway maintenance or operations as long as the required highway right-of-way is continued. Of the 1.5 acres, 1.23 acres is located outside the Federal Energy Regulatory Commission (‘FERC’) Niagara Project boundary and no notification to FERC is necessary. The remaining .27 acre is within the FERC licensed Niagara Project Boundary and would be subject to FERC approval after the Authority completes consultation with interested federal and state agencies.

“In order to obtain federal funds for the development of the Niagara Reservation under the federal Lands and Water Conservation Act, the State Office of Parks, Recreation and Historic Preservation (‘OPR&HP’) included the Property in its pledge of ‘parkland.’ Therefore the proposed change of use of the Property from park purposes to commercial use may be subject to conversion by OPR&HP under the rules and regulations of the National Park Service of the Department of the Interior. The City has been made aware of this situation which will be reflected in the contract of sale between the Authority and the City.

“The contract of sale will specify that at the time the City of Niagara Falls sells the assembled parcels, the Authority will receive proceeds from the sale equal to the percentage represented by the Property. A 1995 Authority appraisal of the 1.23-acre parcel sets the value of the property at \$90,000. Presently, the Authority does not have an appraisal for the .27 acre parcel. The anticipated marketing of the property by the City furthers the Authority goal of returning property to the tax rolls wherever possible. The contract of sale and the quitclaim deed will provide that the approximately 1.5 acre parcel will revert to the Authority in the event that the City

does not sell the parcel and pay to the Authority its share of the proceeds within five years of the Trustee Resolution authorizing the conveyance to the City

August 25, 1998

FISCAL INFORMATION

“Proceeds of the sale will be deposited in the Operating Fund.

RECOMMENDATION

“The Regional Manager - Western New York, and the Vice President - Procurement and Real Estate recommend that, subject to FERC approval, the Trustees approve the conveyance of up to 1.5 acres as shown and described on Niagara Power Project Map No. 317-C, Parcel 3256.

“The Director - Environmental Programs, the Vice President - Public Affairs, the Executive Vice President, Secretary and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President - Project Operations, and I concur in the recommendation.”

The attached resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That the Authority hereby approves the conveyance to the City of Niagara Falls of lands located in the City of Niagara Falls, New York, acquired by purchase in the name of the Authority and by appropriation in the name of the People of the State of New York, substantially as shown and described on Power Authority of the State of New York Map No. 317-C Parcel 3256, comprising up to approximately 1.5 acres. Compensation to the Authority will be made in the manner described in the foregoing report from the President; and be it further

RESOLVED, That such conveyance is to be made by the Authority on the condition that title to said lands will revert to the Authority in the event the City of Niagara Falls does not sell the property and compensate the Authority within five (5) years from the date of this resolution; and be it further

RESOLVED, That any agreement relating to this transfer of property will reflect that any change of use of the parcel from park purposes may require substitution of other land for park purposes by OPR&HP under the rules and regulations of the National Park Service, Department of the Interior; and be it further

RESOLVED, That the Authority hereby determines that such conveyance under the conditions substantially as specified above is on terms beneficial to the Authority; and be it further

RESOLVED, That the President is authorized to execute on behalf of the Authority, an agreement with the City of Niagara Falls for the conveyance of the property substantially as shown and described on Power Authority of the State of New York, Niagara Power Project Map 317-C on terms substantially as set forth above and in the foregoing report of the President, subject to approval of the agreement by the Executive Vice President, Secretary and General Counsel; and be it further

RESOLVED, That the President is authorized to execute and deliver to the City of Niagara Falls in accordance with said agreement on behalf of the Authority in the form as approved by the Executive Vice President, Secretary and General Counsel of the Authority, a quitclaim deed of the lands shown and described on Power Authority of the State of New York Map. No. 317-C; and be it further

August 25, 1998

RESOLVED, That the Director - Real Estate of the Authority be, and hereby is, authorized on behalf of the Authority, to execute any and all other agreements, papers or instruments which may be deemed necessary or desirable to carry out the foregoing, subject to approval by the Executive Vice President, Secretary and General Counsel.

8. St. Lawrence/FDR Power Project Relicensing - Expenditure Authorization

The President submitted the following report:

SUMMARY

“The Trustees are requested to authorize an additional \$5.1 million in capital expenditures for the relicensing of the St. Lawrence/FDR Power Project (‘St. Lawrence’) in 1998 and early 1999 for (1) performing studies and assessments necessary to prepare an application for a new license and an Environmental Impact Statement (‘EIS’) for St. Lawrence; (2) consultation and settlement negotiations with agencies, local governments, and other parties; and (3) third party contractor support for the cooperative environmental review process by the Federal Energy Regulatory Commission (‘FERC’) and New York State Department of Environmental Conservation (‘DEC’). To date, a total of \$8.4 million has been approved for this project. With the current request, the total expenditures for this project would be \$13.5 million. The 1998 Capital budget approved by the Trustees on December 16, 1997 included \$5.3 million for this project.

BACKGROUND

“The Authority’s existing FERC license for the Project expires in October 2003. In accordance with FERC regulations, the Authority’s application for a new license must be filed by October 2001.

“Expenditures for relicensing of the St. Lawrence Project began in 1994 when the Trustees authorized capital expenditures of \$1.8 million in December 1993. To date, the President has approved an additional \$6.6 million in accordance with the Authority’s Expenditure Authorization Procedures, for a total authorized expenditure of \$8.4 million. The major milestones completed include:

- Conducting baseline environmental studies;
- entering into a Memorandum of Understanding (‘MOU’) with FERC and DEC to conduct an integrated environmental review of the Authority’s applications for both a new FERC license and a DEC Water Quality Certification;
- developing a collaborative process with FERC and DEC, the Cooperative Consultation Process (‘CCP’);
- funding a contract for a Third Party Contractor (‘TPC’) to assist FERC and DEC in their environmental review;
- preparing and issuing the Initial Consultation Package;
- submitting a notice of intent to FERC to file an application for a new license;
- holding public scoping meetings; and
- conducting studies to address issues raised as part of the public consultation process.

“The current request will support efforts in 1998 and early 1999 focusing on continued consultation and settlement negotiations with the CCP Team and completing ongoing studies identified by the CCP Team.

DISCUSSION

“Relicensing work began in 1992 when the Authority created a Hydro Relicensing Task Force (‘Task Force’) which included representatives from most of the non-nuclear departments within the Authority. From 1993-1995, the Task Force, led by the Licensing Division, identified potential issues to address during

relicensing, conducted studies to collect and compile environmental information, and developed an overall plan and strategy for relicensing the St. Lawrence Project. Major milestones included obtaining data on existing

August 25, 1998

environment, conducting turbine upgrade studies, reviewing license compliance, and initiating a public outreach program.

“Before filing the application with FERC, the Authority must consult with the public and with regulatory agencies concerning issues to be addressed in the license application and associated studies. In 1996, the Authority entered into an MOU with FERC and DEC pursuant to which the FERC and DEC will conduct an integrated environmental review of the Authority’s applications for both a new FERC license and a DEC Water Quality Certification to facilitate the relicensing of the St. Lawrence/FDR Power Project. The MOU provides for the Authority to select and fund a TPC to assist FERC and DEC in their environmental review. This assistance includes holding certain public meetings, assisting FERC and DEC during the CCP, reviewing environmental and engineering studies as well as the applications to FERC and DEC, preparing a single EIS’ which will serve the needs of both agencies, and providing post-application assistance to FERC. Monies have been included in the current request for the TPC to continue assisting FERC and DEC during settlement negotiations, attend meetings, review studies, and begin preparation of the EIS.

“In 1996, the Authority, working with FERC and DEC, developed the CCP to relicense the St. Lawrence/FDR Project. This approach allows agencies and members of the public to participate in identifying issues, planning and reviewing associated studies, and considering potential Project enhancements and other necessary measures. Four technical subcommittees have been created within the CCP to deal with land management/recreation, ecological, socio-economic and engineering-related issues. A multi-year procurement contract was awarded to a consultant in April 1997 for facilitating the CCP Team meetings. Funding has been included to continued support for meeting with the CCP Team and for facilitation support. Funding has also been included in the current request for intervenor funding and agency consultation.

“The CCP Team has identified 48 issues to be addressed in the relicensing process. To date, drafts of one engineering report, two environmental study reports and one land management/recreation study report have been distributed to the subcommittees for review. Most of the remaining twenty-five environmental studies, land management/recreation, and socioeconomic studies are expected to be completed by the first quarter of 1999. This funding includes the services of a contractor who is managing the study efforts, report preparation, and coordination of information being provided to the CCP Team. Funding has been included in this request to support these ongoing studies and prepare reports.

“Members of the Authority’s Task Force are involved with the CCP and Subcommittees. Task Force members from the Licensing, Engineering, Environmental, Public Affairs, and Law Departments attend CCP and Subcommittee meetings at the Project and elsewhere. Payroll and travel and living expenditures for Authority staff are also included in the current request. In addition, monies have been allocated for an outside counsel to provide support to Law Department members in relicensing-related matters.

FISCAL INFORMATION

“To support relicensing activities, the Licensing Division requests \$5.1 million to be added to the Capital Expenditure Authorization Request for St. Lawrence relicensing. These funds were included in the approved 1998 budget. It is anticipated that these funds will cover expenses in 1998 and early 1999. Funds through 2003 will be included in future budget submittals. Payments will be made from the Authority’s Capital Fund.

RECOMMENDATION

“The Director - Licensing and the Vice President - Policy and Governmental Affairs recommend that the Trustees approve capital expenditures of \$5.1 million for St. Lawrence/FDR Power Project relicensing work in 1998 and early 1999.

August 25, 1998

“The Executive Vice President, Secretary and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President – Project Operations, and I concur in the recommendation.”

The attached resolution, as recommended by the President, was unanimously adopted.

RESOLVED, That additional capital expenditures are hereby approved in accordance with the Authority’s Expenditure Authorization Procedures, as recommended in the foregoing report of the President in the amount and for the purpose listed below:

<u>Capital</u>	<u>Expenditure Authorization</u>
St. Lawrence/FDR Relicensing	
Previous Authorization	\$ 8.4 million
Current Request	<u>\$ 5.1 million</u>
TOTAL AMOUNT AUTHORIZED	<u>\$13.5 million</u>

**9. Financial Support for the Dismantling of the Prospect Park
Observation Tower and Development of Certain Recreational
Facilities in the Niagara Reservation in the City of Niagara Falls**

The President submitted the following report:

SUMMARY

“The Trustees are requested to approve the commitment of up to \$5 million to the Office of Parks, Recreation and Historic Preservation (‘OPRHP’) to be used for the dismantling of the Prospect Park Observation Tower and the construction of a new elevator system to access the Niagara River Gorge within the Niagara Reservation.

BACKGROUND

“OPRHP and the Maid of the Mist Corporation have proposed to dismantle the observation tower at Prospect Point in conjunction with a comprehensive project to upgrade access to the Niagara River Gorge, the Maid of the Mist boat docks and the Crow’s Nest area. The tower is located within Prospect Park adjacent to the American Falls on the Niagara River and is within the Niagara Reservation owned by the State of New York and administered by OPRHP. The tower was constructed in 1961 and currently is in disrepair. Concern has been expressed that the tower detracts from the natural beauty of the Falls. The tower houses elevators that provide access to the Maid of the Mist facilities, a major tourist attraction in Niagara Falls. During peak season, the elevators do not meet demand, necessitating long waits on the part of tourists.

“OPRHP has proposed to replace the existing observation tower extending part way over the gorge with a new elevator shaft and tunnel within the gorge bank. The feasibility study for the project was prepared by Acres International, and funded by the Maid of the Mist Corporation. A new vertical shaft 190 feet deep would be driven, located approximately 200 feet from the edge of the gorge within the Niagara Reservation. The shaft would connect to the river via a 285-foot long tunnel. Additional facilities include upper and lower concourse buildings. At the completion of the new facilities, the existing tower would be removed. Total project cost, including the demolition of the existing tower, is approximately \$20 million. The ‘Maid’ operators have pledged \$5 million toward construction costs; New York State has pledged \$10 million from general funds, Park funds and the 1996 Clean Water/Clean Air Bond Act.

DISCUSSION

“OPRHP has requested financial assistance from the Authority for the proposed project. Staff recommends that the Authority provide up to \$5 million in response to this request.

“It is in the Authority’s interest to participate in the development, construction, renovation, restoration and enhancement of the facilities at Prospect Park within the Niagara Reservation as a continued expression of its support of public recreational opportunities. Once completed, the new facilities will be open to the general public, which will have improved access to the Maid of the Mist boats from the United States side of the Niagara River, the gorge and the other facilities. OPRHP will own the new facilities and will be responsible for their maintenance and operation.

“The Authority’s commitment to assist in the renovation of the recreational facilities at Prospect Park within the Niagara Reservation is consistent with both its current license and the Public Authorities Law. The

Niagara Redevelopment Act and the Authority's license from the Federal Energy Regulatory Commission ('FERC') for the Niagara Project require that the Authority provide certain recreational facilities for the local

August 25, 1998

community. Article 25 of the license provided that a scenic drive and park be constructed on the United States side of the Niagara River. Section 2.7 of the Commission's regulations, issued in 1965, provides that all licensees are encouraged to develop and/or cooperate with local, State and Federal governments and others in developing public recreational facilities on lands adjacent to project property. Article 406 of the license, added in 1989 and subsequently modified, contains a recreation plan for the Project. The Authority also has a responsibility, under Public Authorities Law Section 1001, to 'preserve and enhance the scenic beauty of the Niagara Falls and River...'. Consistent with these provisions and the fact that the Authority participated in the initial design of the tower, staff recommends that the Authority support the project.

"To ensure that the Authority receives appropriate recognition for supporting these recreational facilities in upcoming relicensing proceedings, the existing Niagara Project recreation plan may be amended to include these new facilities and submitted to the Commission for approval.

"In implementing the proposed Trustee action, the Authority and OPRHP will enter a written agreement that will provide, among other things, that the funds contributed by the Authority will be used to dismantle the observation tower and to rehabilitate the tower site as well as to develop the new elevator system. The agreement will also request the OPRHP to support any amendment to the Authority's recreational plan related to this tower project, as well as to provide for OPRHP's maintenance and operation of the new facilities.

FISCAL INFORMATION

"Payment will be made from the Operating Fund.

RECOMMENDATION

"The Vice President - Policy and Governmental Affairs recommends that the Trustees approve the commitment of up to \$5 million to be used for the dismantling of the Prospect Park Observation Tower and the construction of a new elevator system to access the Niagara River Gorge within the Niagara Reservation.

"The Senior Vice President - Marketing and Economic Development, the Executive Vice President, Secretary and General Counsel, the Executive Vice President and Chief Financial Officer, the Executive Vice President - Project Operations and I concur with the recommendation."

The attached resolution, as recommended by the President, was adopted 4 to 1 with Trustee Ciminelli abstaining.

RESOLVED, That the Authority hereby approves the commitment of up to \$5 million to the New York State Office of Parks, Recreation and Historic Preservation for the dismantling of the Prospect Park Observation Tower, restoration of the Tower site and construction of elevator facilities in the Niagara Reservation at Niagara Falls, New York; and be it further

RESOLVED, That pursuant to Article 5, Title 1 of the Public Authorities Law the Authority hereby finds such commitment of funds to be convenient, reasonable, and consistent with the requirements of its federal license for the Niagara Power Project and the rules and regulations of the Federal Energy Regulatory Commission for cooperation with State government in the provision of recreation opportunities on or adjacent to its Project lands, and in the public interest; and be it further

RESOLVED, That the Authority finds that the proposed project will improve the scenic beauty of Niagara Falls and the Niagara River, and be it further

August 25, 1998

RESOLVED, That the Authority will ensure that an agreement with the New York State Office of Parks, Recreation and Historic Preservation implementing this resolution will require that the New York State Office of Parks, Recreation and Historic Preservation provide for long-term maintenance and operation of the facilities; and be it further

RESOLVED, That it is hereby authorized that up to \$5 million from the Operating Fund be withdrawn from such Fund and utilized for the purposes specified in the attached President's Memorandum; and it be further

RESOLVED, That such amounts are to be withdrawn from the Operating Fund only upon the execution of a certificate of the Treasurer that the amount to be withdrawn is not required for any of the purposes specified in Paragraphs (a) - (c) of Section 503(1) of the General Resolution Authorizing Revenue Obligations adopted February 24, 1998; and be it further

RESOLVED, That the Executive Vice President, Secretary and General Counsel or his designee be, and hereby is, authorized to negotiate and execute any and all documents and agreements necessary or desirable to effectuate the foregoing.

August 25, 1998

10. Next Meeting

The Regular meeting of the Trustees will be held on **Monday, September 28, 1998, at the Indian Point 3 Nuclear Power Plant, Buchanan, NY at 11:00 a.m.**, unless otherwise designated by the Chairman with the concurrence of the Trustees.

August 25, 1998

Closing

Upon motion made and seconded, the meeting was closed at 11:55 a.m.

David E. Blabey
Executive Vice President,
Secretary and General Counsel

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