

New York Power Authority St. Lawrence – FDR Power Project Project No. 2000

Land Management Plan Public and Agency Consultation Package

October 2004

1.0 INTRODUCTION

In accordance with Article 413(a) of the Project license, public consultation was undertaken as part of the preparation of the Land Management Plan (LMP), and members of the local communities and the general public were afforded the opportunity to review and comment on the LMP. Specific outreach efforts were directed at adjoining landowners and others of the communities who may be directly affected by land management activities associated with the operation and maintenance of the Project. Copies of the Draft Land Management Plan were available for review at convenient public locations (i.e., local town hall), and a series of public meetings were held to provide a forum for the dissemination of information and receipt of public comments. Local residents and other interested parties were given the opportunity to provide written comments on the Draft LMP through September 20, 2004. Consultation meetings with local land management committees and the general public were held on the following dates:

Town of Louisville	Town of Waddington	Town of Massena
January 22, 2004	January 22, 2004	January 22, 2004
April 5, 2004	April 5 2004	April 5 2004
April 29 2004	May 6 2004	May 19 2004
April 30 2004	May 26 2004	June 22 2004
May 19 2004	June 22 2004	September 2 2004
June 22 2004	September 1 2004	
August 31 2004		

The public meetings afforded the local community an opportunity to raise issues about the LMP for the St. Lawrence – FDR Power Project (Project). Certain questions posed at the meetings did not pertain to the LMP, and these questions were addressed by NYPA in the open forum. However, for the purpose of documenting comments and responses for the LMP, these comments are not

included in the summary below. Similarly, certain written comments provided to NYPA were not germane to the LMP and are not included in this document.

2.0 PUBLIC COMMENT MEETINGS

Public comment meetings were held in the towns of Louisville, Waddington and Massena during the period between August 31 and September 2, 2004. These meetings provided the general public the opportunity to present their comments regarding the LMP directly to representatives of the New York Power Authority (NYPA).

2.1 Town of Louisville

A public meeting was held on Tuesday, August 31, 2004 at 7:00 pm at the Louisville Community Center in Louisville, New York to obtain comments on the draft LMP prepared by NYPA. The Town of Louisville hosted the meeting. NYPA gave a brief presentation summarizing the plan and then invited comments and questions. NYPA stated that in addition to the oral comments that would be received at this meeting and at other subsequent meetings in Waddington and Massena, written comments would be accepted until September 20, 2004. After receipt of all comments, NYPA would compile the comments, prepare responses, and revise the LMP as necessary to address the comments. NYPA would submit the revised LMP with the comments and responses to the Federal Energy Regulatory Commission (FERC) by October 31, 2004.

The following is a summary of the comments presented at the August 31st meeting in Louisville and the corresponding responses:

Comment: What happens when someone uses a private dock for emergency purposes and has an accident and gets hurt; will the private dock owner be sued? In emergency situations, those individuals using the dock should know their use is at their own risk. Can we minimize the risks of emergency uses?

NYPA Response: As part of the Comprehensive Relicensing Settlement Accord (Comprehensive Accord)^[1], NYPA and the Local Government Task Force agreed to guidelines for the LMP. One of those guidelines was that there would be "No trespassing on privately owned docks except in cases of marine emergency." Thus the draft LMP prohibits "trespassing on privately owned docks except in cases of marine emergency." No one can predict if there will be a lawsuit if there is an accident on a private dock in an emergency situation. NYPA encourages individual Permittees to have adequate liability insurance to protect the Permittee's interests. NYPA will work with the adjoining landowners, if there is an interest, to develop signage that explains to the general public that there is no trespassing on

privately owned docks except in the case of marine emergency and that in case of an emergency the individual is proceeding at his or her own risk.

Comment: Will NYPA require permits for removal/clean-up of large and small trees/vegetation debris on private land and as well as on areas along the NYPA Project buffer?

NYPA Response: No permit is required from NYPA for the removal of vegetation on private property. With regard to NYPA owned lands, the Vegetation Management Plan, which is part of the Land Management Plan (Appendix C), provides guidelines on vegetation removal. Generally vegetation under 5 feet and plant debris can be removed without a permit. But removal of larger trees (greater than 4-inch diameter) will require a permit.

Comment: I have an old house existing on your property, which was permitted before October 23rd and may or may not be in compliance. What would you require for me to be in compliance with my existing structure?

NYPA Response: Without more detailed information, it is difficult to answer this question. NYPA will meet with the landowner after the LMP has been approved and determine what needs to be done.

Comment: My boathouse has a current setback of 20 feet from the river. Your Draft LMP indicates that the property will have a 25-foot setback from waters edge for public access. How does that affect me?

NYPA Response: If your boathouse has an existing permit and does not interfere with public access and provided there are no other extenuating circumstances, it would be grandfathered under the proposed LMP.

Comment: Are there plans for a path along the river from the Massena Country Club (MCC) to Whalen Park?

NYPA Response: Yes. As part of the Relicensing Settlement Agreement with the Local Government Task Force, NYPA agreed to build a path between the MCC and Whalen Park. This enhancement was included as part of the Recreation Plan which was approved by FERC. Construction of this path is scheduled for 2006.

Comment: Is there a restriction on the height of boathouses? There is a concern that a boathouse could obstruct views of the river by others.

NYPA Response: The draft LMP states "New boathouses should be sited, designed and constructed with consideration of aesthetics, including water views from adjacent properties as well as views from the water toward the land." The LMP also includes construction guidelines. The guidelines state that boathouses should be one-story in height and not have rooftop decks or platforms.

Comment: Will these comments and the Land Management Plan be posted on the NYPA's Website?

NYPA Response: Yes. The comments, responses and the Land Management Plan submitted for FERC approval will be posted on NYPA's website.

Comment: Does the Power Authority have a procedure or encourage vegetation elimination for project lands. Are there specific restrictions on vegetation elimination?

NYPA Response: There are restrictions on vegetation removal that are listed in the Vegetation Management Plan (Appendix C) Generally, in areas where there has not been development and there is considerable habitat, NYPA would like to maintain the habitat. However, adjoining landowners should contact NYPA to require about specific requests for vegetation removal.

Comment: I am concerned about the impact that Canada goose and deer, which thrive on NYPA lands, including the Wilson Hill Wildlife Management Area, move onto nearby agricultural land and impact crops such as alfalfa.

NYPA Response: NYPA will assist individual landowners in applying for state regulatory approval (i.e. bird depredation permit) to help reduce the impact of nuisance species such as Canada Geese on their property.

Comment: Please explain the proposed improvements to the Wilson Hill Wildlife Management Area (WHWMA).

NYPA Response: The Wilson Hill Wildlife Management Area is part of the project and is included in the LMP. A more detailed description of the proposed improvements of the WHWMA is included in the Comprehensive Accord [Note: The improvements were discussed in detail in a subsequent meeting with the commenter.]

Comment: Is there opportunity for private commercial facilities?

NYPA Response: Yes. There are provisions in the LMP for permitting private commercial facilities that are water dependent. These facilities must not impede public access. Siting of such facilities must consider environmental resources, and an individual proposing such a facility would be responsible for obtaining all the necessary regulatory approvals including permits from state and federal agencies. Under the Comprehensive Accord, NYPA agreed to work with the Local Government Task Force and appropriate agencies to identify potential sites for commercial marina development.

Comment: In the LMP it states that the Power Authority will consider local input and concerns. I'd like to see the LMP explain how the input of the Town and Village will be considered in land management decisions.

NYPA Response: During the relicensing process, NYPA and the local municipal officials worked directly to resolve many difficult issues. Building upon the success of that approach, NYPA will continue to work directly with the municipal governments to resolve issues as they relate to the LMP.

2.2 Town of Waddington

A public meeting was held on Wednesday, September 1, 2004 at 7:00 pm at the Waddington Municipal Building in Waddington, New York to obtain comments on the draft LMP prepared by NYPA. The Town and Village of Waddington hosted the meeting. The Town Supervisor explained that the Town and Village Planning Boards and members of the Land Management Committee from Waddington helped NYPA draft the LMP. NYPA gave a brief presentation summarizing the plan and then invited comments and questions. NYPA stated that in addition to the oral comments that would be received at this meeting and meetings in Louisville and Massena, written comments would be accepted until September 20, 2004. After receipt of all comments, NYPA would compile the comments, prepare responses, and revise the LMP as necessary to address the comments. NYPA would submit the revised LMP with the comments and responses to FERC by October 31, 2004.

The following is a summary of the comments presented at the September 1st meeting in Waddington and the corresponding responses:

Comment: Is the Land Management Plan on the internet?

NYPA Response: At the time of the meeting (September 1, 2004) the Draft LMP was not available on the internet; however, copies of the draft LMP were made available at convenient public locations (i.e., local town halls) and were provided to anyone who requested a copy. These comments, corresponding responses, and the LMP are scheduled to be posted on NYPA's website in November 2004.

Comment: Does the LMP cover prescribed burning for the shoreline area and Ogden Island?

NYPA Response: Prescribed burning is addressed in Section 3.5 of the Vegetation Management Plan (Appendix C of the LMP). The LMP states "the intentional setting of fires on Project lands for vegetation management by adjoining land owners, lease holders, or permit holders is prohibited." It also states that "NYPA reserves the option to conduct prescribed burns for vegetation management on specific Project lands, specifically Ogden Island and White House Point in conjunction with the habitat improvement project for grassland birds." NYPA will work with municipal officials and individual landowners to ensure public safety when performing prescribed burns.

Comment: Explain the concepts of 25-foot and 100-foot buffers and densely population residential areas.

NYPA Response: The location of the Project boundary is either 25 feet or 100 feet upland of the Normal Maximum Surface Elevation (NMSE). In areas adjacent to significant coastal habitats the width of the buffer is 100 feet; whereas, in most other areas the width of the buffer is 25 feet.

Specifically defined Areas of Dense Residential Development, as set forth in the Comprehensive Relicensing Settlement Accord, are located immediately adjacent to the Project boundary. These areas are illustrated on Figures 3-2a and 3-2b in the LMP and identified in Section 3.2.2 of the LMP. Within Areas of Dense Residential Development there will be a 25-foot wide public use and access zone along the Project shoreline; this zone will be between the adjoining property and Lake St. Lawrence. Public recreation improvements will not be constructed in these buffer areas, but passive recreation use (e.g., walking, nature observation) will be allowed during daylight hours. No residential development or utilities (structures, septic systems or wells) will be allowed in this public use and access zone, but necessary elements of water dependent structures (i.e., docks, boathouses, utilities and shoreline stabilization) would be allowable with a permit issued by NYPA as long as they do not impede public access.

Also, within existing Areas of Dense Residential Development that include a 100-foot buffer (i.e., areas located adjacent to Significant Coastal Fish and Wildlife Habitat), a residential security zone will extend from the Project boundary toward the shoreline for a distance of up to 75 feet. In no case, however, will the residential security zone encroach on the 25-foot area for public use and access. No recreational improvements will be constructed by NYPA or other state agencies in the residential security zone. No public access will be allowed in this zone except in emergency situations.

Comment: Snowmobiles sometimes use NYPA property and then access private property outside of the buffer zone.

NYPA Response: As stated by the Mayor of Waddington, "There is a law in effect for the Village of Waddington that states no snowmobiles are allowed in the Village." In addition, according to the LMP, the use of motorized recreational vehicles including snowmobiles is prohibited on project lands. NYPA will cooperate with the municipalities, the local law enforcement agencies and adjoining landowners to attempt to prevent damage to public and private property by snowmobiles.

Comment: In the LMP it states, "The Project land in the Village of Waddington between the residences and the St. Lawrence River between Pine Street and Clinton Street has been leased to the Village of Waddington for use as a public park (i.e., Island View Park) through 2019." NYPA should change "Clinton Street" to "Maple Street" as we suggested earlier.

NYPA Response: NYPA has made that change.

Comment: Explain the location of the new project boundary and the buffer zone.

NYPA Response: Generally, the Project boundary is located either 25 feet or 100 feet upland of the Normal Maximum Surface Elevation (NMSE). Determination of NMSE considered actual recorded water levels for Lake Ontario and Lake St. Lawrence from 1960 to 1998 and a number of circumstances that can affect water levels in Lake St. Lawrence. In Waddington, NMSE is elevation 246 feet (USLS 1935) upstream of Brandy Brook and elevation 245 feet downstream of Brandy Brook.

The Project boundary is located either 25 or 100 feet upland of the NMSE. In areas adjacent to Significant Coastal Habitats (such as the area between Whitehouse Bay and Leishman's Point), the Project buffer – the distance from the Project boundary to the NMSE – is 100 feet. In most other areas, the buffer is 25 feet. As the water level in Lake St. Lawrence on any given day is often below the NMSE, the distance between the Lake and the Project boundary generally is greater than 25 or 100 feet.

Comment: Several comments were provided regarding erosion and shoreline stabilization.

NYPA Response: The draft Shoreline Stabilization Plan addresses these issues. The draft Shoreline Stabilization Plan was issued to members of the Land Management and Recreation Subcommittee^[2] for comment on September 21, 2004.

Comment: Is the water treatment center part of the land management area? Does the public have access to that land?

NYPA Response: The Water Pollution Control Plant is within the Project boundary. The Village of Waddington has leased 26 acres of NYPA land for a Village Park and public utilities including the Water Pollution Control Plant. Access to the plant is restricted for security and safety reasons. Whittaker Park is open to the public.

Comment: How much land has been removed from the Project boundary?

NYPA Response: With the issuance of the new license and subsequent approval of the new Project boundary, approximately 3,360 acres was removed from the Project. Of the 3,360 acres, approximately 2,020 acres are owned by the Seaway Corporation, 990 acres of island and mainland are upstream of Iroquois Dam, and approximately 350 acres of land is downstream of Iroquois Dam.

Comment: Does the Land Management Plan apply to land removed from the Project?

NYPA Response: No, it only applies to land located within in the new Project boundary.

Comment: Are you going to take down the "no trespassing" signs as a part of the Land Management Plan?

NYPA Response: NYPA limits access to certain Project lands for security and safety purposes. For those areas where public access is not allowed, "no trespassing" signs will be provided.

Comment: Is the tip of Whitehouse Point still within the Project boundary? What will it be used for? Will the public be allowed in that area?

NYPA Response: The tip of Whitehouse Point is within the Project boundary. As approved in the Comprehensive Accord and the new license, this area will be used as a habitat improvement project for grassland birds. Public access to this area will be allowed consistent with the management of this habitat improvement project, but camping will not be allowed.

Comment: What is the term of the general permit? What is the fee?

NYPA Response: The proposed term of the permit is 5 years. NYPA will not charge a fee for the permit.

Comment: Condition 15 of the General Permit in the draft Land Management Plan requires a landowner to have general liability insurance in the amount of at least \$300,000 for any activities taken under this permit.

NYPA Response: For residential uses, this condition has been removed from the General Permit. This condition remains for business/commercial uses.

Comment: Where will the visitor center be located?

NYPA Response: At Hawkins Point, downstream of the Robert Moses Power Dam.

Comment: How is the 246-foot above sea level elevation arrived at and can that ever be changed? Is that the elevation at sea level or at the dam?

NYPA Response: The 246-foot elevation (USLS 1935) was determined by our engineers based on historical data. It is unlikely that it will change significantly unless there is a significant change in the International Joint Commission's Plan of Regulation for Lake Ontario. The Normal Maximum Surface Elevation varies depending on the location. It is elevation 246 feet upstream of Brandy Brook and 245 feet downstream of Brandy Brook.

Comment: What is the termination date for the lease for Island View Park and can it be extended?

NYPA Response: The current lease runs through December 31, 2014, and it can be extended to the end of the license.

Comment: In the Initial Consultation Package of the CCP on page 6.7-23 is a listing of informal recreation sites within the NYPA boundary, which shows Clark Point Beach as site number

33. I request that this site be specifically named in the Land Management Plan in the third paragraph of Item 3.3, Recreation Resources, on page 3-6. This will insure there will be no confusion about public access to this site in years ahead.

NYPA Response: Clark Point Beach has been included in the LMP, as requested.

2.3 Town of Massena

A public meeting was held on September 2, 2004 at 7:00 pm at the Massena Town Hall in Massena, New York to obtain comments on the draft LMP prepared by NYPA. The Town of Massena hosted the meeting. NYPA gave a brief presentation summarizing the plan and then invited comments and questions. NYPA stated that in addition to the oral comments that would be received at this meeting and meetings in Waddington and Louisville, written comments would be accepted until September 20, 2004. After receipt of all comments, NYPA would compile the comments, prepare responses, and revise the LMP as necessary to address the comments. NYPA would submit the revised LMP with the comments and responses to FERC by October 31, 2004.

The following is a summary of the comments presented at the September 2nd meeting in Massena and the corresponding response:

Comment: Where is there a demarcation for the high-water mark along the shoreline?

NYPA Response: There is no formal demarcation for the high-water mark along the shoreline. The Normal Maximum Surface Elevation (NMSE) varies from east to west through Project area. In the Town of Massena, the NMSE has been determined to be elevation 245 feet (USLS 1935).

Comment: Did you know that New York State has defined a high water mark for all bodies of water within the state?

NYPA Response: NYPA is not familiar with the specific case referred to in this comment; however the Project boundary, which was approved by the FERC, was based on the Normal Maximum Surface Elevation plus a buffer of 25 feet or 100 feet depending on the environmental resources in the area.

Comment: Why is there a restriction that boats cannot be allowed to fish within 500 feet downstream of the dam?

NYPA Response: This is a FERC safety requirement that requires NYPA to exclude boats from the area 800 feet downstream of the dam. There are also FERC safety requirements excluding boats from an area immediately upstream of the dam.

Comment: Will NYPA consider leasing land for commercial development?

NYPA Response: Yes. NYPA has guidelines in the LMP (Section 4.5) for permitting commercial facilities that are water dependent, such as marinas.

Comment: Would NYPA consider an appeal process for its permitting process?

NYPA Response: NYPA will work with the adjoining landowner who is applying for a permit (the applicant) to resolve disagreements on implementing the permitting process. For controversial permitting decisions, NYPA is willing to work directly with the applicant and municipal officials to find a mutually agreeable local solution. However, since NYPA is responsible for the permit program as part of its FERC license, NYPA cannot transfer that responsibility for permitting decisions to another party. If an applicant is not satisfied with NYPA's implementation of any aspect of the Land Management Plan (including permitting), that individual may contact the FERC.

Comment: Does the public use and access zone apply to islands or State Parks?

NYPA Response: No, because there are no adjoining landowners. These areas are generally available to the public with the exception of certain areas that are fenced off for security or other Project reasons.

Comment: Are the islands within the Project boundary available for informal recreational use by boaters such as picnicking, shoreline fishing, hunting and wildlife/scenic viewing?

NYPA Response: Yes. Those are current uses that will continue to be allowed.

Comment: Normally, docks had to be removed annually; put in around April and removed after the season. I think that should continue. There is nothing in the plan that requires a boathouse to be removed annually.

NYPA Response: Generally, boathouses are fixed structures that are not removed. It is intended that this practice continue. If a boathouse fell into disrepair and presented a safety issue or if it prevented public access, NYPA might require its removal.

Comment: ALCOA is a valuable part of and property owner in our community. Was ALCOA consulted on the Land Management Plan?

NYPA Response: ALCOA played a critical role in the Cooperative Consultation Process that resulted in the Comprehensive Relicensing Settlement Agreement, which included the guidelines for the LMP. Subsequent to this meeting a copy of the LMP was transmitted to ALCOA, and, to date, no comments have been received.

Comment: When will the land that has been removed from the Project boundary be conveyed to the Town of Massena?

NYPA Response: In the town of Massena, land removed from the Project with the issuance of the new license and conveyed to the Town should be conveyed within the next six months.

Comment: Are there any more lands that are going to be turned over or removed from the Project boundary?

NYPA Response: There are no plans for removing additional lands from the Project other than about 50 acres near the Massena Intake.

Comment: Would NYPA consider modifying the LMP in the future?

NYPA Response: Yes. In the future, the LMP could be amended.

Comment: Is NYPA open to commercial development in areas next to the dikes? Could language in the LMP be broadened to include other water dependent activities?

NYPA Response: NYPA is interested in the continued development of the economy of the North Country and will seriously consider any commercial development proposals. Areas adjacent to Project dikes are integral to the safe performance of these structures and thus there are often restrictions associated with activities in these areas. Any commercial developments near Project dikes will have to take into account security and safety issues and may have to be approved by FERC.

3.0 WRITTEN COMMENTS FROM THE GENERAL PUBLIC

Written comments regarding the draft LMP, including comments sent via e-mail, were accepted by NYPA until September 20, 2004. The written comments received by NYPA from the general public have been compiled and summarized below; each comment is followed by a specific NYPA response. Copies of written comment letters are provided in Appendix A of this document.

E-mail dated September 3, 2004 from Nancy Foster to John Suloway, NYPA

Comment: Would you post a transcript summary of the comments on your website from our August 31, 2004 meeting "The St. Lawrence-FDR Power Project Land Management Plan - Draft"? It would also be helpful if you would add the comments made at the subsequent Waddington and Massena meetings.

NYPA Response: The discussions during the three meetings were extensive (approximately 6 hours); therefore, NYPA will not be preparing a verbatim transcript but rather a summary of the comments that were provided at each of the three meetings. These comments, corresponding responses, and the LMP are scheduled to be posted on NYPA's website in November 2004.

Comment: What do you anticipate the turn-around time would be for the posting of the comments from these meetings?

NYPA Response: The summary of all oral and written comments along with NYPA resolution or response to each comment will be provided to FERC when the LMP is filed for FERC approval in late October 2004. Subsequently, NYPA will make these documents available on the St. Lawrence Project website.

Comment: The Wilson Hill Causeway needs to be recognized and defined in the LMP.

NYPA Response: The Wilson Hill Causeway is not a Project structure in the sense that FERC considers, regulates and inspects such structures. The term "Project structure" is limited to the structures that impound Lake St. Lawrence, as described in the Project License (Ordering paragraph E). The Wilson Hill Causeway separates the East Pool of the wildlife management area from the St. Lawrence River and provides access to Wilson Hill Island. It is not considered a Project dike since it does not impound Lake St. Lawrence.

Comment: Would NYPA like to see the overall engineering plans for the proposed East Louisville Water District 2 in order to assist Louisville in determining how the East Louisville Water District 2 water main line will be brought to Wilson Hill and connected to a future Louisville Water District 3?

NYPA Response: This information is necessary for NYPA to evaluate the proposal and its impact on the Project, which must be done before NYPA issues a permit for the non-Project use of Project lands.

Comment: NYPA Engineering staff needs to meet, as soon as possible, with the following East Louisville Water District 2 Advisory Committee members: Engineer Tim Burley, Town Supervisor Larry Legault, Committee Chairperson Dalton Foster

NYPA Response: Comment noted.

Comment: Louisville officials will work with the local Land Management Advisory Committee to provide NYPA with a written recommendation for:

- a) Standards for boat houses or other items that might impede the river view of other residents
- b) A method of adjudication in the case of disputes

NYPA Response: No response necessary.

Letter dated September 12, 2004 from E. Jane Layo, to John Suloway, NYPA

Comment: The boundaries of the Island View Park indicated on page 3-5 should be between Pine Street and Maple Street, not Clinton Street.

NYPA Response: NYPA has incorporated the recommended change in the LMP.

Comment: The LMP does not address the need for consistency with the Local Waterfront Revitalization Plan (LWRP) adopted by the Town and Village of Waddington in November 1990. This LWRP was approved by the State Agencies and is currently in effect.

NYPA Response: The Town and Village LWRP is discussed in Section 5.2.2 of the LMP. As noted, operation of the Project under the Project license is consistent with the LWRP.

Comment: The LWRP states that public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, with certain

exceptions. Such access shall not be required to be open to public use until a public agency or private organization agrees to accept responsibility for maintenance and liability of the access way. Any other discussion of access that is not consistent with the LWRP would not be proper and the maintenance of this access and liability should be addressed in this LMP.

NYPA Response: As stated in Section 5.2.2 of the LMP, NYPA reviewed the 24 policies contained in Waddington's LWRP and determined that the Project is consistent with those policies. Since the LMP serves to implement conditions of the Project license, the LMP is also consistent with Waddington's LWRP.

Comment: The immediate foreground (St. Lawrence Avenue) of NYPA land could be enhanced by a series of plantings to break up stretches of rather barren shoreline and to give framing to outward views (Page II-25 of the Waddington LWRP).

NYPA Response: The Vegetation Management Plan (Appendix C of the LMP) discusses vegetation management and maintenance in the NYPA-owned buffer zone, including landscape planting in the buffer zone by adjoining landowners. NYPA reserves the right to plant or require planting of vegetative materials within the buffer zone where vegetation has been removed without permission or where vegetation is a cost-effective means of shoreline stabilization. Landscaping plans for the purpose of improving aesthetics are not proposed.

Comment: According to the LWRP, a significant adverse change includes, but is not limited to, all proposed actions with 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archeological resources and all actions within a historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. There are some historic properties within 500 feet of NYPA property, but I did not see any discussion in the LMP.

NYPA Response: As required in the Project's Programmatic Agreement for Managing Historic Properties that may be affected by a License issuing to NYPA for the Operation of the Project^[3], NYPA has prepared a draft Historic Properties Management Plan for the Project, which specifies how historic properties will be managed in the Project's Area of Potential Effect (APE). As defined in the Programmatic Agreement, the APE includes lands and properties outside the Project boundary, or a 500-foot buffer inland from the Project boundary, where the Project may cause changes in the character and use of Historic Properties. As stated in Section 5.1.7 of the LMP, "NYPA will consider the Historic Properties Management Plan when making determinations regarding Project-related activities and applications for permits and will include special permit conditions or deny the permit if the requested facility or activity would be detrimental to any identified or potentially significant historic properties."

Comment: The Agricultural Lands Policy (Policy No. 26) in the LWRP should be reflected in the LMP.

NYPA Response: NYPA will continue to accommodate requests for the agricultural use of Project lands. None of the measures in the Project License or the LMP would result in the loss of prime agricultural lands nor would these measures be harmful to agricultural lands in and adjacent to Project lands.

Comment: The LMP should reflect the permitting powers and authorities of the Town and Village Boards related to the review and approval process of waterfront development and activities. The role of the Enforcement Officer in the context of waterfront land use and development should also be addressed by the Plan.

NYPA Response: As discussed in Section 5.2 of the LMP, NYPA has determined that the LMP is consistent with local development codes and zoning regulations. Although NYPA as a state entity is not subject to local jurisdiction, NYPA personnel implementing the LMP will coordinate with local code enforcement officers and other municipal officials, as appropriate, when reviewing applications for General Permits for shoreline improvements on Project lands.

Comment: Any construction by private individuals on NYPA property should bear tax assessment to the town, school, village and county, as was the case with NYPA property at Wilson Hill.

NYPA Response: Local tax assessment is not an issue for the LMP.

E-mail dated September 13, 2004 from Jane Lawrence, to John Suloway, NYPA

Comment: On page 6.7-23 of the Initial Consultation Package of the CCP is a listing of informal recreation sites within the NYPA boundary, which shows Clark Point Beach as site number 33. I request that this site be specifically named in the Land Management Plan in the third paragraph of Item 3.3, Recreation Resources, on page 3-6.

NYPA Response: Clark Point Beach has been included in the LMP, as requested.

E-mail dated September 23, 2004 from Nancy Foster, to Carol Simpson, NYPA

Comment: I am attaching an edited copy of a recommended Appeals Process

NYPA Response: In lieu of a formal appeal process to resolve landowner disputes regarding the issuance of General Permits, the following language has been included in Section 4.6.2 of the LMP pertaining to the permit process: "For new facilities, NYPA will require that the applicant notify neighbors and local municipalities of a pending permit application for docks, boathouses and shoreline stabilization to afford them an opportunity to provide written comments. Proof of notification will be required. NYPA will work in conjunction with the municipality in an attempt to resolve disputes among adjoining landowners concerning NYPA lands.

4.0 WRITTEN COMMENTS FROM FEDERAL, STATE AND LOCAL AGENCIES

In accordance with the Project license, consultation with Federal, state and local agencies was undertaken as part of the preparation of the Land Management Plan. An initial draft of the Land Management Plan was distributed to federal, state and local agencies in July 2004 to solicit their preliminary comments. Written comments were received from several agencies, and revisions to incorporate these comments were reflected in the subsequent draft of the Land Management Plan distributed on August 20, 2004. A complete draft of the Land Management Plan, including all appendices and figures, was distributed to these agencies again in August 2004. These agencies included:

- U. S. Fish and Wildlife Service
- U. S. Department of the Interior, Bureau of Indian Affairs
- NYS Office of Parks, Recreation and Historic Preservation
- NYS Department of Environmental Conservation
- NYS Department of State, Division of Coastal Resources
- St. Lawrence County Planning Office

Written comments on the draft plan were accepted by NYPA through September 20, 2004. The written comments received by NYPA on the preliminary draft and the draft LMP have been compiled and summarized followed by the NYPA responses. Copies of written comment letters are provided in Appendix A of this document.

4.1 U.S. Fish and Wildlife Service

Letter dated July 16, 2004 from David Stilwell, Field Supervisor to Ellen Koivisto, NYPA

Comment: Appendices C, D and E were not provided. The Service must review all of these before we can concur with the Overall LMP.

NYPA Response: The Vegetation Management Plan (Appendix C), the Wildlife Protection and Management Plan (Appendix D) and the General Permit Form (Appendix E) were provided in the subsequent revised draft of the LMP, which was distributed on August 20, 2004.

Comment: Table 3-1 on Page 3-4 [Communities Containing Project Lands] needs to provide acreages.

NYPA Response: This table was eliminated from the subsequent revised draft of the LMP in favor of a summary of Project acreage in the text of Section 3.2.

Comment: Pages 3-16 through 3-19 discusses habitat for rare, threatened and endangered species, but it does not address plants or significant ecological communities. Although there are no

Federally listed plant species that fall into this category, there are numerous State listed species that could be impacted. This section should be expanded to include plants and significant ecological communities.

NYPA Response: The subsequent revised draft LMP included new sections *3.5.2.b Significant Ecological Communities* and *3.5.2.e Rare, Threatened or Endangered Plant Habitat*.

Comment: Section 4.6.2 [Permitting Process] discusses the permitting process, but it does not indicate whether NYPA will be charging a fee for processing permits and what that fee might be.

NYPA Response: NYPA does not plan to charge a fee for Privilege Permits or General Permits. Annual permit fees for Mooring Area Permits are set, collected, and retained by the town or village that administers those programs.

Comment: We recommend a wording change for Section 4.6.2 for Bullets 1, 5 and 7. These bullets reference "improvements" and "activity or improvement," however not all activities would necessarily be considered "improvements." These bullets could say "alterations" or "activities or improvements."

NYPA Response: Comment incorporated. The LMP text now consistently uses the phrase "activity or improvement."

Letter dated September 10, 2004 from David Stilwell, Field Supervisor to John Suloway, NYPA

Comment: The Service provided comments on a draft version of the Land Management Plan on July 16, 2004. Our July comments have been adequately addressed by the revised draft plan, and the Land Management Plan is acceptable to the Service.

NYPA Response: No response required

4.2 U.S. Department of the Interior, Bureau of Indian Affairs

Letter dated July 30, 2004 from Andrew Raddant, Regional Environmental Officer to Ellen Koivisto, NYPA

Comment: The Department notified NYPA of its expectation that the Bureau of Indian Affairs (BIA) should be included along with the U.S. Fish and Wildlife Service in future consultation on the Land Management Plan.

NYPA Response: The BIA was provided the subsequent draft of the LMP in August 2004.

Letter dated September 2, 2004 from the Eastern Regional Office to John Suloway, NYPA

Comment: Language needs to be included in the General Permit Form (Appendix E) and in the text of the plan to insure that proper steps are included in the LMP and non-Project use permits for the cessation of work and coordination with the State Historic Preservation Office if any artifacts or remains are discovered. If the remains and/or artifacts are determined to be of Native American origin, the St. Regis Mohawk Tribe must be consulted about proper disposition.

NYPA Response: NYPA has revised the General Permit Form (Appendix E) of the LMP to include language describing a process for cessation of work and coordination with the State Historic Preservation Office if human skeletal remains, funerary goods, or artifacts are discovered during construction of permitted facilities. NYPA has prepared an Unanticipated Discovery Plan for cultural resources, which is included in the draft Historic Properties Management Plan.

4.3 New York State Office of Parks, Recreation and Historic Preservation

Letter dated August 3, 2004 from Robert Reinhardt, Director of Planning to Ellen Koivisto, NYPA

Comment: The discussion on page 4-10 of the LMP regarding guidelines for new docks should be augmented. An additional parameter to be considered is size limit and/or number of boats permitted for a private dock. It is assumed that the 10-boat limit mentioned refers to a commercial operation.

NYPA Response: Section 4.4.2 *Private Docks* has been revised to include the following text: "Generally, only one dock structure shall be permitted per residence. To limit the size and the number of boats permitted for private docks, each dock structure approved by NYPA will be limited to accommodating the boat(s) of the Permittee and their immediate family. These docks may not be used for rental or other commercial purposes." Pursuant to Article 423 of the Project license, commercial marinas that accommodate more than 10 watercraft would require specific review and approval by FERC in addition to the permit from NYPA.

Comment: On page A-6 [Article 423 of the Project License] it is unclear whom, a municipality, private landowner, etc., would be considered in item (7).

NYPA Response: Clause (d)(7) of Article 423 of the Project License provides for the conveyance of no more than 50 total acres of Project lands annually, in parcels of five acres or less, through fee title transfer, easement or lease. The Project license does not restrict such transfers to municipalities, private landowners or commercial entities.

4.4 New York State Department of State, Division of Coastal Resources

E-Mail message dated August 2, 2004 from Vance Barr, Coastal Resources Specialist to Ellen Koivisto, NYPA

Comment: Page 4-6 [Section 4.2.2.a] "New floating docks...." Suggested change: "New floating docks will only be permitted in Whitehouse Bay if the *structure, use and* location are approved by the DEC and DOS."

NYPA Response: Suggested revision incorporated. Text has been revised as suggested.

Comment: Page 4-7 [Section 4.2.2.b] Suggested change: "No residential development or utilities...will be allowed in the public use and access zone, but necessary elements of *public* water dependent structures (i.e., docks, boathouses, utilities and shoreline stabilization) would be allowable with a permit issued by NYPA."

NYPA Response: Suggested revision not incorporated. This section of the LMP pertains to allowable development by adjoining landowners in the public use and access zone, and it is specifically stated, "public recreation improvements will not be constructed in these buffer areas...."

Comment: Page 4-7 [Section 4.2.2.b] In general "privilege permit" suggest adding, "The general 'privilege permit' shall not include the construction of waterfront structures."

NYPA Response: The intent of this comment was addressed with the inclusion of the following sentence: "Boathouses, docks, and shoreline stabilization are not covered under the privilege permit; these types of structures and activities require a General Permit."

Comment: Page 4-7 [Section 4.3] Reference Parcel A rights "...which allow a riparian right of access to the water that is reasonable and necessary for the normal exercise of such right."

NYPA Response: The text as written, along with the explanatory footnote, is considered most appropriate for describing, "Parcel A rights."

Comment: Page 4-8 [Section 4.3.2] Prohibited uses: "boathouses *with living amenities*." (see below)

NYPA Response: The suggested additional wording is not appropriate in the context of the referenced sentence, which refers to private use structures as prohibited uses on Project lands "except...boathouses...by permit." Since boathouses (by permit) are identified as an exception with regard to prohibited private use structures, further clarification regarding living amenities is unnecessary and potentially confusing. Boat houses with living quarters are specifically prohibited in Section 4.4.1.

Comment: Page 4-9 [Section 4.4.1] New boathouses should be located: (second bullet) "...public's access to and use of Project lands *or other public resource* in the shoreline buffer areas...."

NYPA Response: Suggested revision incorporated.

Comment: Page 4-9 [Section 4.4.1] Not permitted, suggest changing "quarters" to "amenities."

NYPA Response: Suggested revision not incorporated. The phrase "living quarters" is generally understood and less ambiguous than "living amenities."

Comment: Page 4-10 [Section 4.4.2] Suggest adding, "Generally, only one dock structure shall be permitted per residential parcel of land" before the last sentence in 4.4.2 at the top of page 4-10.

NYPA Response: Suggested revision incorporated. Inserted sentence reads, "Generally, only one dock structure shall be permitted per residence."

Comment: Page 4-15 [Section 4.6.2] Top bullet, suggest adding: "If a federal permit is required, the applicant must also submit a consistency certification with application materials to the Department of State, Division of Coastal Resources."

NYPA Response: Suggested revision incorporated. Inserted sentence reads, "The applicant is responsible for applying directly to the DEC and USACE for any necessary permits, and the applicant must also submit a consistency certification with application materials to the New York Department of State, Division of Coastal Resources."

4.5 New York State Department of Environmental Conservation

E-Mail message dated August 3, 2004 from William Little, Staff Attorney to Ellen Koivisto, NYPA

Comment: A vegetation management plan is necessary before final sign-off by DEC. Very little information was provided in the LMP regarding the island properties, other than OPRHP was taking responsibility for the Croil Islands. Further issues will be raised by DEC if the vegetation management plan does not address the island properties, (e.g., suggestion on Ogden Island to fence off the wooded area to promote understory growth and maintain short grass habitat on the rest of the island).

NYPA Response: The Vegetation Management Plan (Appendix C of the LMP) has been revised to reflect vegetation management on the major islands within Lake St. Lawrence.

4.6 St. Lawrence County Planning Office

E-Mail message dated August 30, 2004 from Jon Montan, Planner III to John Suloway, NYPA (with attached comments)

Comment: Regarding Section 5.1.2, Page 5-1 of the Vegetation Management Plan. We suggest the following alternate wording for the second sentence in the first paragraph and the addition of a third sentence: "Residential landscaping uses *existing at the time of the adoption of this vegetation management plan* that do not impede public use and access to Project lands will be grandfathered; however, additional vegetation removal and/or planting by adjoining landowners *after the adoption of this vegetation management plan* are subject to guidelines in Section 2.0 of Appendix C and issuance of permits by NYPA. *No additional vegetation removal or planting shall occur until this vegetation*

management plan is adopted except in accordance with the guidelines in Section 2.0 of Appendix C.

NYPA Response: The timing of the adoption of the Vegetation Management Plan is subject to FERC approval of LMP. The suggested clarification is considered unnecessary.

Comment: Regarding Appendix C, Page 3-3, *Invasive Plant Species Occurrence and Management*, we propose that whenever NYPA issues a permit for any activity on its lands, one requirement of the permit should be for the permittee to report occurrences of invasive species and agree to not spread invasives by their own actions. To help permittees satisfy this requirement, NYPA could supply plant identification information along with the issued permit.

NYPA Response: As part of the permitting process, NYPA will encourage adjoining landowner to report occurrences of invasive species and to not spread invasive species. To help permittees to address the issue of invasive plants species, NYPA will supply plant identification information upon request.

Comment: The Town and Village of Massena and the Town of Louisville are working on a Local Waterfront Revitalization Program (LWRP), which has not yet been finalized or approved by the New York State Department of State. Any use regulations that affect NYPA project lands will be consistent with the conditions of the license and the NYPA Land Management Plan.

NYPA Response: No response needed.

LIST OF APPENDICES

Appendix A Letter to Consulted Parties under Article 413
License Article 413 Compliance Filing
St. Lawrence – FDR Power Project (Project No. 2000)
Letter to Consulted Parties

Appendix B Written Comments under Article 413
License Article 413 Compliance Filing
St. Lawrence – FDR Power Project (Project No. 2000)
Written Comments

Appendix C Letter to Consulted Parties under Article 422
License Article 422 Compliance Filing
St. Lawrence – FDR Power Project (Project No. 2000)
Letter to Consulted Parties

Appendix D Written Comments under Article 422
License Article 422 Compliance Filing
St. Lawrence – FDR Power Project (Project No. 2000)
Written Comments

^[1] The Comprehensive Relicensing Settlement Accord for the Project was filed with FERC on February 6, 2003.

^[2] The Land Management and Recreation Subcommittee was formed as part of the Cooperative Consultation Process used during the relicensing of the Project.

^[3] The Programmatic Agreement among FERC, the New York State Historic Preservation Officer, and the Advisory Council on Historic Preservation for the St. Lawrence-FDR Power Project was signed by these parties in early October 2003.