

07-E-0138

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07-E-0138
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3:00 p.m.

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SECRETARY
STATE OF NEW YORK

October 15, 2007

VIA HAND DELIVERY

Hon. Jaclyn A. Brillling, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: ***Case 07-E-0138 - Petition of Canandaigua Power Partners, LLC for an Original Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law, Approving Financing Pursuant to Section 69 of the Public Service Law and Approving a Lightened Regulatory Regime***

Dear Secretary Brillling:

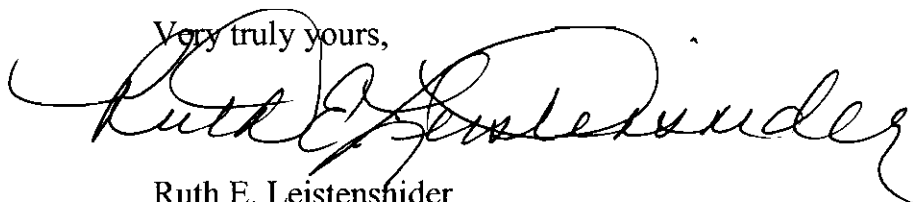
On behalf of Canandaigua Power Partners, LLC ("CPP") and Canandaigua Power Partners II, LLC ("CPP II"), please accept this original and five copies of this letter and enclosures as the final historic resources mitigation plan required by Ordering Paragraph 7 of the above referenced Order Granting Certificates of Public Convenience and Necessity, Providing for Lightened Regulation and Approving Financing, Issued and Effective August 16, 2007

Specifically, I am enclosing a Letter of Resolution executed by CPP, CPP II, Andrew C. Davis on behalf of the New York State Department of Public Service, and Ruth L. Pierpont, Director, Field Services Bureau, on behalf of the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP"). The Letter of Resolution has been submitted to the New York State Department of Environmental Conservation. CPP and CPP II have been complying with this Letter of Resolution, and has received no additional comments from involved agencies on the Letter of Resolution since it was executed. A progress report required by Ordering Paragraph 7, will be provided semi-annually. By copy of this letter, I am providing this final historic resources mitigation plan to OPRHP and involved agencies.

Hon. Jaclyn A. Brillling, Secretary
October 15, 2007
Page 2

Thank you for your consideration in this matter and please feel free to contact me should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ruth E. Leistenshider". The signature is fluid and cursive, with a large loop at the beginning and a long tail at the end.

Ruth E. Leistenshider

/rel

enclosures

cc: John Bonafide, OPRHP
Andrew C. Davis, DPS Staff
Christopher Hogan, DEC
Todd Mathes, Esq.
Raymond Schrader, Chair, Town of Cohocton Planning Board
Elizabeth Weir, Esq.
Josh Bagnato
Christopher Swartley

Canandaigua Power Partners, LLC (CPP)
CPP II (Dutch Hill Wind) LLC

PSC Case 07-E-0138
OPRHP 06PR00335 & 06PR06594

For the purposes of this letter, the two projects will be collectively referred to as the *Cohocton and Dutch Hill Projects*, as proposed by the Canandaigua Power Partners, LLC (CPP) and Canandaigua Power Partners II, LLC (CPP II), respectively.

The Department of Public Service (DPS) requested to initiate consultation pursuant to Parks, Recreation and Historic Preservation Law §14.09, by letter of March 23, 2007. The Office of Parks, Recreation and Historic Preservation (OPRHP) responded by correspondence dated June 26, 2007 that the Cohocton and Dutch Hill Projects would have adverse impacts on cultural resources within the areas of potential impact surveyed for each of the projects.

Pursuant to the reviews acknowledged in the June 26, 2007 correspondence, DPS Staff has consulted with the State Historic Preservation Officer (SHPO) regarding the *Cohocton and Dutch Hill Projects* in accordance with 9 NYCRR Part 428. Consultation has proceeded without delay and has succeeded in constructive dialogue with the Project proponents, the Department of Environmental Conservation, SHPO and DPS Staff. Consultation has advanced to the form of this Letter of Resolution, which spells out the agreement among agencies to proceed with a plan for mitigation and offsets related to the adverse effects expected to accrue from development of the *Cohocton and Dutch Hill Projects*.

The *Cohocton and Dutch Hill Projects* have been reviewed for their potential impact on cultural resources listed or eligible for listing on the State or National Registers of Historic Places. SHPO has determined that the projects will have no adverse impact on archeological resources, based upon CPP and CPP II's commitments to avoid identified resources within the project area. By correspondence of June 26, 2007, SHPO has also determined that there will be adverse impacts on the setting of historic resources listed or eligible for listing on the State or National Registers of Historic Places. These impacts are due to the contrasts and change in rural setting that the large scale and modern design of the wind turbines will create with listed and eligible resources, and with the hamlets, villages and rural setting of the survey area including the landscape in the Town of Cohocton, the Village of Naples, and surrounding areas. As indicated in correspondence of July 6, 2007, the projects have been downsized or relocated to the extent feasible. By correspondence of July 6, 2007, SHPO indicated that mitigation efforts intended to offset the adverse impacts on cultural properties are subjects appropriate for further discussion.

By correspondence of July 2 and 16, 2007, CPP and CPP II proposed a short list of historic preservation projects to initiate and advance discussions. CPP and CPP II have continued to pursue a program to identify historic preservation projects that would address local interests in historic preservation within the affected community and the area of project effect. CPP and CPP II have identified a program funding level related to the

project scope and the level of potential effect within the community. CPP and CPP II have solicited advice and interest from public officials, local historians and interested groups, including several entities which own historic structures. This local involvement is an important component in developing a locally meaningful and relevant mitigation program. The mitigation proposed by CPP and CPP II, following discussions with local historic societies and other interested parties, is a two phase mitigation program. CPP and CPP II have agreed to provide \$150,000 for the restoration of the Cohocton Larrowe House for Phase 1, and to provide \$50,000 to the Naples Historic Society for a project to be agreed upon by the Naples Historic Society and the State Historic Preservation Office for Phase 2. The Naples Historic Society has 18 months to decide on an appropriate mitigation project, and in the event they choose not to accept the funds for a particular project, then the \$50,000 funding will be used for another historic mitigation project to be agreed upon by CPP, CPP II, the State Historic Preservation Office, and other local historical societies such as the Cohocton or Wayland Historic Societies.

DPS Staff will recommend that any approval pursuant to Public Service Law (PSL) Section 68, for Certificates of Public Convenience and Necessity, be appropriately conditioned on implementation of the Historic Resource Impact Mitigation Plan, including deadlines for presenting the final Plan, and for funding the component program elements, with reasonable timeframes for specific action by CPP and CPP II.

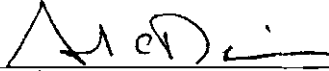
Appropriate conditions include the following requirements:

- Consultation shall be on-going regarding the historic mitigation program components, and reporting requirements;
- Final historic mitigation program plan shall be presented for approval to SHPO and to involved agencies by 60 days following certificate issuance;
- Funding for the Cohocton Larrowe House historic mitigation program plan component project (Phase 1) shall be made available by CPP and CPP II for project implementation by one year following issuance of PSL Section 68 certification;
- Funding for the program plan (Phase 2) shall reflect comments received by CPP and CPP II from officials of the Naples Historic Society, or the Town of Cohocton, as appropriate to component mitigation projects, shall be made available by CPP and CPP II for project implementation by 18 months following issuance of PSL Section 68 certification;
- Reporting on final historic mitigation program plan projects shall be provided by CPP and CPP II; reports shall summarize program status, expenditures, and estimated dates of completion, and shall be presented semi-annually until program completion is reported, by project heading.

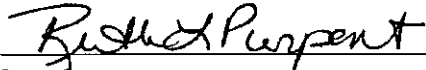
SHPO and DPS will encourage other involved agencies, including the New York State Department of Environmental Conservation (and the US Army Corps of Engineers, as

PSC Case 07-E-0138
OPRHP 06PR00335 & 06PR06594

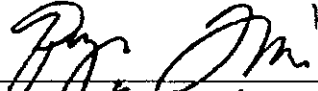
appropriate) to adopt the provisions of this Letter of Resolution in their consideration of environmental affects, pursuant to permitting program requirements and the requirements of Parks, Recreation and Historic Preservation Law §14.09 (and National Historic Preservation Act §106 as appropriate).



Name: ANDREW C. DAVIS
Title: APD Designee Utility Supervisor
NYS DPS



Name:
Title: Director, FSB
NYS OPRHP



Name: Evelyn Lim
Title: Secretary
CPP - Cohocton Wind Project
CPP II - Dutch Hill Project

Name:
Title:
NYS DEC