

October 23, 2026

VIA ELECTRONIC FILING

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 24-T-0446 — Supplemental Comments and Request for Procedural Direction Concerning the Revised Phase 1 EM&CP, Controlling Document Set, Public Inspection Copies, and Review Period

Dear Secretary Phillips:

Daniel McAree, a self-represented party and affected homeowner in Glen Head and Glenwood Landing, respectfully submits these supplemental comments concerning the Certificate Holders' revised Phase 1 Environmental Management and Construction Plan ("EM&CP"). These comments supplement and preserve Mr. McAree's October 1, 2026 Phase 1 comments and his October 22, 2026 request for procedural direction concerning the controlling Phase 1 record. They respond to the October 9 updated filing, the October 15 corrective DMM filing, the October 16 email transmission of additional documents, the October 19 Water Quality Certification rescission, and the related supplemental comments now in the record.

This submission is directed to the Secretary, the Commission, Department of Public Service Staff, and other reviewing agencies because the concerns are not limited to technical disagreements with the Applicant. They concern compliance with the Certificate's filing, service, public-access, organization and review requirements; the identity of the documents proposed for approval; and whether the Commission has a complete and traceable record on which to act.

I. REQUESTED PROCEDURAL DIRECTION

The Commission should not approve, and DPS Staff should not release, work that depends upon an incomplete, unreconciled or publicly inaccessible record. At minimum, the Certificate Holders should be required to file one authoritative current Phase 1 EM&CP package, or an equivalently complete and clearly indexed collection, together with a certified document register, drawing index, revision and supersession log, change-identification record, and location-by-location public-inspection distribution record.

The public should not be required to perform the Certificate Holders' document-control function. Nor should the Commission, DPS Staff, environmental monitors, contractors, municipalities or other agencies have to determine the approved design by searching multiple transmissions and inferring whether an omitted prior document remains operative. The present filing practice should not continue without a formal reconciliation and procedural cure.

II. THE OCTOBER RECORD IS FRAGMENTED AND NOT SELF-IDENTIFYING

The October 9 filing revised the Narrative and multiple appendices. The October 15 cover letter then acknowledged that updated Appendix A-1 and the Phase 1 Comment Responses had been served but were inadvertently omitted from the electronic DMM upload and were filed later to

complete the public record. A further Appendix N version and redline were included. Documents were also transmitted separately in an October 16 email from counsel for the Certificate Holders. These circumstances create distinct questions about what was served, what was available on DMM, what was available at public-inspection repositories, and what DPS Staff is being asked to approve.

The October 19 Water Quality Certification rescission illustrates the same problem. In rescinding the certification issued October 2, 2026, ORES, within DPS, directed the Certificate Holders to file their Application for 401 Water Quality Certification on DMM in Case 24-T-0446, which indicates that the application underlying a certification already issued in this proceeding was not then available in the case docket. Until that application is filed and its relationship to the Phase 1 work is identified, neither the public nor the Commission can verify the Section 401 status on which the Phase 1 permit record relies.

The defect is not cured merely because a determined reviewer may eventually reconstruct the package. A theoretically reconstructable docket is not necessarily a reasonably accessible review record. A reviewer may analyze a superseded drawing, overlook a controlling replacement, compare nonmatching versions, or assume that an absent document is unchanged when no authoritative register says so. Time spent resolving the Applicant's version-control uncertainty is time taken from substantive public review.

The same problem affects Commission review and enforcement. If a June drawing supposedly remains controlling because it was not revised in October, the Applicant should affirmatively identify that status. Silence should not be used as a substitute for document control. Without a revision register, the Commission cannot readily verify which revision of each drawing, appendix, certification and form it approved, and field personnel cannot reliably distinguish the enforceable approved set from prior or superseded material.

The problem is concrete, not theoretical. Other filings in the record identify specific examples. The Village of Sea Cliff reports that the October 9 revisions to Appendices A-1 and H-1 were not accompanied by ordinary redlines (October 9 Cover Letter, p. 2 n.3); that the June 22 Shore Road SWPPP still permits minor grading and wood-chip stabilization while the revised Narrative disclaims grading and the Comment Responses promise a future wood-chip correction (SWPPP §§3.1.5, 3.2; revised Narrative §§4.2, 11.2; Comment Responses, Topic 13, p. 6); and that revised Narrative §11.3 directs readers to Appendix G-1 for the SWPPPs although Appendix H-1 contains them. The supplemental comments of Doug Augenthaler and Christine Panzeca report that plans within Appendix F remain marked "Preliminary Not for Construction," and that the Environmental, Health and Safety Plan could not be located in the updated documents. Those commenters quote the Comment Responses as stating that the EHASP "is attached to the updated Construction and Safety Security Plan (Appendix O)," while the October 9 cover letter states that Appendix F-1 was updated to include the EHASP (October 9 Cover Letter, Ex. 1), and the revised Narrative identifies Appendix O as the Terrestrial Unanticipated Discovery Plan. Mr. McAree asks the Commission to verify these reports. If they are accurate, a field crew, inspector or member of the public would have to guess which conflicting instruction has been approved.

III. ONE CONTROLLED PACKAGE AND A CERTIFIED STATUS REGISTER ARE REQUIRED

Mr. McAree does not contend that every instrument must necessarily be merged into one enormous PDF. He does contend that the Certificate's filing, service, access, organization and review requirements cannot operate fairly unless the Phase 1 EM&CP exists as one complete, current and readily identifiable controlled set. The Certificate Holders are in the best position to supply that control record.

The required master register should identify, for every narrative, appendix, attachment, plan, drawing, form, certification and agency document:

- document or sheet number and title;
- site and Phase 1 activity to which it applies;
- current revision number, revision date and execution date;
- prior revision and the document expressly superseded;
- status as new, revised, unchanged and carried forward, superseded, withdrawn, protected/confidential, or later-phase only;
- responsible preparer, reviewer and issuer, including seal/signature status where applicable;
- DMM filing reference and date;
- electronic-service date;
- date supplied to each required public-inspection repository;
- field-distribution and proposed field-use status; and
- a concise description of the change and the location of the redline or keyed comparison.

For every changed drawing, the Applicant should provide a conventional redline or a revised drawing using revision clouds and deltas keyed to the revision block, identifying the revision number, date and nature of the change. If ordinary clouds are impracticable because of the extent or type of revision, the Applicant should provide a keyed change schedule offering equivalent traceability. For every drawing asserted to be unchanged, the register should affirmatively say that the identified earlier revision remains controlling.

IV. ELECTRONIC SERVICE, DMM AVAILABILITY AND PUBLIC-INSPECTION COPIES MUST BE RECONCILED

Electronic service on parties, public availability on DMM, and availability at a library or other designated public-inspection location are separate events. The October 15 acknowledgment that served materials were omitted from the DMM upload demonstrates why those events cannot be presumed identical. The Village of Sea Cliff has likewise requested a document-specific accounting, and the supplemental comments filed under the title "Supplemental Comments on EMCP 1 inclusive of Revised Docketed Submission October 9th and 16th" report, with supporting correspondence, that revised Phase 1 materials had not been supplied to the Gold Coast Public Library when inquiry was made. The Commission should verify that report but should not presume that every repository was contemporaneously updated.

For every designated repository, the Certificate Holders should identify the original delivery date; each update date; the exact documents and revisions supplied; whether superseded copies

were removed or conspicuously marked; the current contents of the inspection set; and the transmittal, receipt, acknowledgment or distribution log supporting those facts. The Commission should require proof that the set available to the public corresponds to the same controlling set proposed for approval and field implementation, subject only to lawful protection of confidential material.

V. MATERIAL LATE OR INCOMPLETE PRODUCTION REQUIRES AN APPROPRIATE REVIEW PERIOD

The review clock should not run against the public for a material document during a period when that document was not reasonably available through an applicable required review channel. Mr. McAree does not assert that every correction automatically restarts every comment period. He requests a document-specific determination of the DMM date, electronic-service date, public-inspection availability date, the nature and materiality of the change, and the resulting deadline under Certificate Condition 34(g) and any applicable procedural direction.

Where a document was omitted, replaced, materially completed or first made reasonably reviewable after the date used to calculate the original deadline, the Secretary or Commission should establish targeted supplemental review or a common supplemental deadline. Applicant-caused fragmentation should not compress the public's substantive review period or reward piecemeal production.

VI. GOVERNING ADMINISTRATIVE-LAW PRINCIPLES SUPPORT PRE-APPROVAL RECONCILIATION

These comments do not ask the Commission to adjudicate a future court challenge. They explain why the record should be repaired before approval. CPLR 7803(3) recognizes review of agency action alleged to be made in violation of lawful procedure, affected by an error of law, or arbitrary and capricious. *Matter of Pell v Board of Education*, 34 N.Y.2d 222, 231 (1974), explains that arbitrary action lacks a sound basis in reason and regard to the facts. *Matter of Featherstone v Franco*, 95 N.Y.2d 550, 554 (2000), confirms that judicial review is confined to the facts and record adduced before the agency. Those principles favor an approval record that identifies what the agency actually reviewed and approved.

The point is preservation and administrative regularity, not threat. A decision grounded in a certified controlling-document set, a reconciled service/access history, and express site-specific findings is more rational, reviewable and enforceable than a decision requiring later reconstruction of scattered filings. As the Department of Public Service explains, “[w]hile the New York Public Service Commission makes the final decision regarding all applications, Article VII establishes the forum in which community residents can participate with members of state and local agencies in the review process.” N.Y. State Dep’t of Pub. Serv., [Article VII Major Electric and Gas Transmission Facilities](#). Mr. McAree submits that effective use of that forum requires an identifiable record and a fair opportunity to review material changes.

Comparable Article VII practice confirms feasibility. The Eight Point Wind EM&CP in Case 18-T-0202 contains express sections for distribution of the EM&CP, notification of filing and proposed changes, a Certificate Conditions compliance matrix, affected properties, temporary access roads, preconstruction notification, and Commission approval. South Fork Wind and

Champlain Hudson Power Express materials likewise provide functional benchmarks for compliance matrices, inspections, reporting, affected-property controls and formal change documentation. These records are not asserted as binding precedent; they demonstrate that disciplined document control and transparent revision practice are administrable safeguards.

VII. NO UNSUPPORTED INFERENCE OF INTENT; REPEATED FAILURES AND FAILURE TO CURE ARE ENOUGH

The present record does not establish why the Certificate Holders used multiple transmissions, omitted material from the DMM upload, or failed to present a single self-identifying current package. Mr. McAree therefore does not allege deliberate concealment, bad faith or intentional obstruction. Motive is unnecessary to the requested relief. The objective facts, their foreseeable effect on review, the Certificate Holders' notice of the problem, and whether the problem is fully cured before approval are the relevant issues.

If the fragmentation continues after these objections, the Commission should not infer intent without evidence, but it should treat continued nonconforming document control as a known and preventable process deficiency. Repetition after notice bears directly on whether assurances of future compliance are adequate and whether a formal document-control condition, certification and hold point are necessary before construction authorization.

VIII. QUALITY-MANAGEMENT AND ISO 9001 DOCUMENT-CONTROL BENCHMARK

From a construction-quality perspective, the requested controls are basic safeguards against use of obsolete or unapproved information. ISO 9001:2015 guidance concerning documented information describes documentation as a means of communication, evidence of conformity and knowledge sharing, and explains that an organization determines the documented information needed for effective planning, operation and control of its processes. ISO guidance emphasizes a documented quality management system rather than paperwork for its own sake.

Mr. McAree does not assert that ISO 9001 independently governs this project merely because it is a large infrastructure project. Unless ISO 9001 is incorporated by contract, the Certificate, an approved quality plan or another binding instrument, it is used here as a recognized quality-management benchmark, not as a freestanding legal mandate. The binding basis for the requested relief remains the Certificate, Commission orders, Appendix E, applicable permits and approved plans.

The Commission should nevertheless require the same core functions: identification and description of documents by title, date, author or reference number; review and approval before use; control of distribution, access, storage and changes; protection against loss of integrity; ready availability at points of use; and prevention of inadvertent use of obsolete versions. For construction drawings, those functions should be implemented through a current drawing register, revision identifiers, clouds/deltas or equivalent keyed comparisons, approval status, supersession history, controlled distribution and confirmation that field copies match the approved set.

IX. RESPONSIBILITY OF THE COMMISSION, DPS STAFF AND REVIEWING AGENCIES

The Applicant bears the first responsibility to submit a complete and controlled package. The Commission and DPS Staff bear responsibility for ensuring that approval and any Notice to Proceed identify the documents, revisions, prerequisites and limitations that control. Other agencies should confirm the status and operative conditions of permits, certifications and consultations within their jurisdiction rather than allowing outdated tables or rescinded instruments to remain in the approval record.

Accountability should be documented through written findings and records, not assumed from informal coordination. DPS Staff should identify the exact controlling documents relied upon for each site release; disposition material unresolved comments; verify preconstruction prerequisites; and require corrections through the applicable Certificate process. Nothing in this request asks any agency to exceed its jurisdiction. It asks each responsible body to perform and document the review assigned to it.

X. REQUESTED FINDINGS, ACCOUNTABILITY MEASURES AND CORRECTIVE ACTIONS

1. Accept these supplemental comments and preserve Mr. McAree's October 1 and October 22 submissions.
2. Direct the Certificate Holders to file one authoritative current Phase 1 package, or an equivalently complete indexed collection, as of a stated date.
3. Require a certified master document register, drawing index, revision/supersession log and enclosure list containing the fields identified above.
4. Require revision clouds/deltas and revision-block descriptions, conventional redlines, or a keyed comparison providing equivalent traceability for every changed drawing or document.
5. Require affirmative identification of every unchanged earlier document or drawing that continues to control.
6. Reconcile the party-service set, DMM set, each public-inspection set, the DPS review set and the proposed field set.
7. Require a repository-by-repository distribution schedule and documentary proof of delivery, update and supersession handling.
8. Determine separately for each late, omitted, corrected or replaced item the service date, DMM availability date, repository availability date, materiality and applicable comment deadline.
9. Provide targeted supplemental review or a common supplemental deadline where necessary to preserve a meaningful review opportunity.
10. Correct the permit and consultation matrix, including the October 19 Water Quality Certification rescission and current status of affected federal and state approvals.
11. Require site-specific findings identifying authorized and excluded activities, controlling drawings and plans, completed prerequisites, hold points and suspension/restart conditions.
12. Defer approval or the affected NTP only for work materially dependent on an unresolved record, access, permit, consultation or implementation issue, while expressly preventing unresolved work from proceeding by implication.

13. Require a written DPS disposition of material unresolved comments and the record basis for closure.
14. Preserve later-phase, property, municipal, environmental, procedural, enforcement, rehearing and judicial-review rights.
15. Require an officer or responsible project executive of each Certificate Holder, together with the responsible document-control manager and design professional where applicable, to certify that the register is complete and that the identified set is the set proposed for approval and field use.
16. Require DPS Staff to file or issue a written verification identifying the register revision reviewed, any exceptions, and the exact documents incorporated into each approval or NTP.
17. Make the controlling register and repository-distribution schedule continuing obligations: each later revision must update the register, identify the approval path and comment consequence, and be distributed to DMM, the service list, affected repositories and field users before use.
18. Prohibit field use of a document that is absent from the controlling register, marked superseded, unapproved, unsigned or unsealed where a signature or seal is legally required, or inconsistent with the document identified in the applicable NTP.
19. Require immediate written notice to the Secretary, DPS Staff, affected agencies and the service list upon discovery of a material omission, wrong version, broken link, incomplete repository copy or mismatch between the approved and field sets.
20. Require a deficiency log with unique item number, discovery date, affected document and work, interim control, responsible person, correction due date, verification, closure authority and public disposition, with affected work held where the deficiency prevents reliable identification of the approved requirement.
21. Direct that repeated or uncured document-control deficiencies be addressed through written corrective action, root-cause evaluation and effectiveness verification before the affected work is released, without predetermining fault or intent.
22. Require agencies whose permits, certifications or consultations are listed as prerequisites to confirm the operative document, date, status and conditions attributable to that agency, and require the Applicant to correct any inconsistent EM&CP table before reliance upon it.
23. State expressly that approval of a general narrative does not cure a missing, superseded or publicly unavailable controlling drawing, appendix, permit condition or site-specific prerequisite.
24. Require a written determination on supplemental review time whenever operative material was materially delayed, omitted or replaced, including the factual dates and reason for granting or denying additional time.

XI. INCORPORATED TECHNICAL COMMENTS AND APPENDICES

The detailed response matrix, site-specific analysis, readiness conditions, winter and stormwater protections, federal/state closure matrix, construction and utility controls, community and property protections, delay/closeout requirements, comparative safeguards and authority crosswalk in Attachment 1 to this filing are incorporated as if set forth in full. The procedural document-control relief above is not a substitute for those substantive protections; it is the mechanism necessary to identify, review and enforce the documents that contain them.

AUTHORITIES AND RECORD SUPPORT FOR THE PROCEDURAL REQUEST

Governing authority: Certificate Conditions 32, 34, 35 and 39 (Joint Proposal Appendix D) and the EM&CP Specifications (Joint Proposal Appendix E), as adopted by the Commission's Order issued September 17, 2026. Record support includes the October 9 update cover letter; October 15 clerical-update cover letter; October 16 email transmission and enclosures; October 19 Water Quality Certification rescission; the Village of Sea Cliff supplemental comments; and the supplemental comments containing the Gold Coast Public Library correspondence.

Administrative-law authorities: CPLR 7803(3); *Matter of Pell v Board of Education*, 34 N.Y.2d 222, 231 (1974); *Matter of Featherstone v Franco*, 95 N.Y.2d 550, 554 (2000). Quality benchmark: ISO, Guidance on the Requirements for Documented Information of ISO 9001:2015 (ISO/TC 176/SC2/N1286). Comparative Article VII benchmark: Eight Point Wind, Case 18-T-0202, EM&CP Revision 1 (Sept. 2021), including §§1.1, 1.2 and 2.0. These comparative sources demonstrate feasibility and do not independently create project-specific duties.

Respectfully submitted,

/s/ Daniel McAree

Daniel McAree

Self-Represented Party, Case 24-T-0446

Email: dmcaree@ewhowell.com

Attachment 1: Detailed Technical Comments, Proposed Conditions and Appendices A–I

cc: Administrative Law Judges; Department of Public Service Staff; Case 24-T-0446 Service List

ATTACHMENT 1

DETAILED TECHNICAL COMMENTS, PROPOSED CONDITIONS AND APPENDICES

Case 24-T-0446 — Supplemental Comments of Daniel McAree on the Revised Phase 1 EM&CP
October 23, 2026

1. WHAT PROPEL CHANGED AND WHAT REMAINS

The October 9 cover letter identifies revisions to the Narrative and Appendices A-1, B, C-1, D, F-1, G-1, H-1 and N. Those changes include final-design drawing labels, revised Phase 1 notes and schedule information, an EHASP added as an attachment to Appendix F-1, updated environmental-compliance provisions, updated SPCC language, stormwater approval materials for Huntington and Hempstead, and expanded complaint-management forms and procedures. Those improvements should be credited where incorporated into the controlling field set, once that set is identified.

Direct Response-to-Response Matrix

Oct. 1 issue	Propel response/change	What remains after revision	Requested decision
Controlling field set and conformance Oct. 1 requested one final controlled field set and conformance to the issued Certificate.	Oct. 9 revised multiple documents; additional Phase 1 documents were transmitted by counsel's Oct. 16 email.	No consolidated register in the public record reconciles June 22, Oct. 9 and Oct. 16.	Require document register, supersession log and exact site-specific controlling set.
Final drawings and clearing limits Oct. 1 challenged preliminary/nonconstruction status and requested final surveyed limits.	Oct. 9 states tree-clearing plans were labeled Final Design and notes were revised.	Drawing-label issue appears addressed for the tree-clearing plans, although other commenters report Appendix F plans remain marked "Preliminary Not for Construction"; exact controlling sheets, seals, access alignment and field-adjustment envelope require confirmation.	Confirm final sheet/revision/seal and approved access/change process for each site.
Phase boundary and later work Oct. 1 requested non-prejudice and a clear boundary between Phase 1 and later work.	EHASP and master plans add safety/environmental content, including project-wide material.	Project-wide content may be useful but must not be treated as authorization for later-phase work.	Adopt authorized / excluded activity matrix by site.
Permits and approvals Oct. 1 requested permit and consultation closure before affected NTP.	Appendix C-1 updated permit dates and agency correspondence.	Oct. 19 rescinded the Oct. 2 WQC; operative status and Phase 1 relationship require correction.	Correct permit matrix; identify Section 401 application/status and affected work.
Bats / listed species Oct. 1 requested final consultation status, restrictions and release authority.	Revised record lists IPaC materials, bat assessment/report and transmittals.	Survey position and transmittal do not establish final agency action where concurrence is required.	Identify operative USFWS/USACE determination, conditions and clearing window.
Historic / archaeological resources Oct. 1 requested coverage of final footprint and discovery controls.	Revised record lists CRIS update, Phase IB addendum, no-adverse-impact finding; Appendix O supplies discovery procedures.	Procedure exists; remaining question is whether all final and adjustable Phase 1 areas are within the reviewed APE and avoid/treat known resources.	Protected confirmation of APE coverage and controlling avoidance/treatment.

Environmental personnel and stop-work Oct. 1 requested named qualified personnel, authority and closure.	Oct. 9 summary states names/qualifications/contacts will be provided before construction; independence and stop-work clarified.	Partially addressed as a preconstruction deliverable; completion must be verified before site release.	Confirm names, qualifications, alternates, independence and authority.
Stormwater / stabilization Oct. 1 requested final SWPPP record, roles, measurable stabilization and prolonged-delay controls.	Oct. 9 provides Huntington/Hempstead approval documents and clarifies roles/stabilization.	Exact controlling SWPPP and complete site-by-site certifications require confirmation; prolonged-delay and spring-thaw treatment remain unclear.	Confirm final SWPPP/MS4/SPDES package; add delay and thaw closure criteria.
Winter operations Oct. 1 raised interim stabilization; revised schedule and notes expressly contemplate winter stabilization.	Shore Road notes added mulching/winter stabilization; schedule remains winter-sensitive.	No equivalent consolidated controls identified for snow, ice, deicer, rain-on-snow, shutdown and spring thaw.	Require dedicated plan or equivalent measurable site-specific controls.
Civil inspection / acceptance Oct. 1 requested Phase 1 ITP, hold points, criteria, NCR/CAR and release.	Revised ECP improves monitoring and reporting.	General environmental monitoring does not by itself supply a civil inspection/acceptance system.	Require Phase 1 ITP or equivalent acceptance matrix.
Homes, businesses and access Oct. 1 requested affected-area method, baseline documentation, access, claims, restoration and evidence protection.	Complaint plan and forms were expanded.	Complaint intake is improved but does not itself establish impact prevention, damage evaluation or recurring-condition reopening.	Screen actual impact pathways; impose proportionate access, documentation, mitigation and restoration controls.
Complaint and claims process Oct. 1 distinguished complaints from damage claims.	Appendix N adds process steps, form, log, contacts and retention.	Substantially improved for complaints; insurance/payment/independent-review remedies remain requested protections unless separately required.	Keep complaint requirements separate from proposed claims protections.
Access routes / field changes Oct. 1 requested final access and formal change control.	Drawings and forms were revised.	Where access remains field-adjustable, criteria, review and record of adjustment remain material.	Final route or bounded adjustment/change process before use.

2. OCTOBER 16 FINAL-DOCUMENT CONFIRMATIONS

Because the October 16 submission may complete, supersede or execute documents discussed in the October 9 package, Mr. McAree requests the following confirmations before any claimed omission is treated as established or any affected site is released:

1. Identify every October 16 enclosure, revision/execution date, superseded document, applicable site and field-use status.
2. Identify the final drawing, sheet, revision and seal controlling each site.
3. Identify authorized Phase 1 activities and excluded later-phase work.
4. Confirm final personnel assignments, qualifications, alternates, independence, stop-work and restart authority.
5. Identify the executed, accepted and site-applicable EHASP.
6. Identify the controlling SWPPP, SPDES status, MS4 acceptance and required certifications for each site, including Town of Oyster Bay status.
7. Correct the permit record for the October 19 Section 401 rescission and identify the directed application and current status.

8. Identify final USFWS/USACE species determinations and clearing restrictions.
9. Confirm protected historic-resource/APE coverage for all final and reasonably foreseeable adjustable work areas.
10. Identify final access routes and the written approval process for adjustments.
11. Identify controlling utility and critical-infrastructure protections.
12. Identify measurable winter, inspection, acceptance, field-change, complaint, delay and restoration controls.
13. Provide a disposition of material October 1 comments as resolved, partially resolved, deferred, rejected, not applicable or open, with exact citations.
14. Identify the documents and prerequisites DPS relies upon for each site-specific release.

3. EXISTING PREREQUISITES, UNRESOLVED QUESTIONS AND NEW CONDITIONS

A. Existing prerequisites or current-status matters

- Controlling Certificate and final EM&CP field documents required by the approved process.
- Any permit, certification, consultation, property right, utility agreement, SPDES/MS4 item or other prerequisite that the Certificate, applicable approval or controlling plan expressly requires before the affected work.
- Current Section 401 status following the October 19 rescission.
- Final agency action where ESA, historic-preservation, water-quality, coastal or other consultation law requires agency concurrence or determination for the affected activity.
- Personnel, monitoring, preconstruction meeting, training or filing items that the Certificate or approved EM&CP makes preconstruction deliverables.

B. Unresolved factual or implementation questions

- Which June 22, October 9 and October 16 documents control each location.
- Which project-wide plan provisions apply to Phase 1.
- Whether all final and adjustable work areas fall within reviewed environmental and cultural-resource envelopes.
- Whether access, stormwater, winter, utility, traffic and emergency controls are sufficiently site specific.
- Whether inspection, acceptance, nonconformance and restart authority are measurable.

C. Additional protective conditions requested

- Site-specific written release findings.
- Dedicated or equivalent consolidated winter controls.
- Enhanced community, property, school, park, business and public-access protections where screening shows an impact pathway.
- Damage-claim, independent-review, financial, payment, warranty or reopening protections not already created by existing authority.

- Comparative EM&CP safeguards used as feasibility benchmarks rather than binding precedent.

4. PRIORITY OF REMAINING ISSUES

Priority	Items
Tier 1 – authorization/hold point	Section 401 status; controlling field set; exact Phase 1 scope; applicable permits/MS4/SPDES/property/utility prerequisites; final agency determinations; historic-resource footprint coverage; personnel/EHASP execution.
Tier 2 – immediate implementation	Final access and utility controls; Phase 1 inspection and acceptance; winter controls; stormwater/delay restoration; emergency, traffic and public access.
Tier 3 – community/property protection	Homes, tenants, businesses, schools, parks and facilities; complaint/damage/evidence process; invasive species, edge trees, rare resources and screening.
Tier 4 – closeout/enforcement	Contractor flow-down; audit trail; public transparency; financial responsibility; temporary-work removal; closeout and latent-condition follow-up.

5. SITE-SPECIFIC ANALYSIS

A. Shore Road / Glenwood Landing / landfall and TJV areas

This area warrants the most specific treatment because the public record combines coastal, historic-resource, contaminated-media, landfall/TJV, community, waterfront, access and federal-permit issues. The site release should separately identify the Phase 1 clearing boundary, Shore Road access, contaminated-media controls, cultural-resource APE, Section 401/404 relationship, coastal-consistency status, traffic and emergency interface, waterfront/community effects, winter snow and runoff controls, and later-phase activities expressly excluded from Phase 1.

B. Barrett and Ruland Road

The site analysis should focus on final access, floodplain or drainage conditions where applicable, MS4/SWPPP status, municipal and roadway access, utilities, protected resources, winter stabilization, tree fall and edge-tree conditions, emergency access, and prolonged-delay maintenance. A condition relevant only to Shore Road should not be imposed at another site without the corresponding impact pathway.

C. New Shore Road Substation

The release should distinguish substation clearing from the Shore Road landfall/TJV work and identify the respective access, utility, contamination, cultural-resource, species, stormwater, security and emergency controls applicable to each footprint.

6. COMPARABLE NEW YORK SAFEGUARDS

Comparable New York project records demonstrate that the requested control functions are feasible. South Fork Wind used a permit-compliance matrix, preconstruction site walk, inspections, reporting, meetings and graded noncompliance procedures. Eight Point Wind

addressed affected properties, access and location-specific maintenance and protection of traffic. Empire Wind 1 used structured outreach, a complaint process diagram, complaint form and log. Champlain Hudson Power Express used affected-property, presurvey, access, insurance, utility-agreement and formal change-notice structures. These examples are offered as feasibility benchmarks, not as binding precedent.

Where a comparable risk exists, Propel should identify an equivalent or stronger Phase 1 control or explain, with record support, why the safeguard is unnecessary at the affected site.

7. PROPOSED CONDITIONS

1. File a controlling document register and supersession log.
2. Correct the permit matrix for the October 19 Section 401 rescission.
3. Identify exact authorized and excluded activities by site.
4. Complete applicable permit, consultation, personnel, property, utility, MS4/SPDES and preconstruction prerequisites.
5. Provide final access routes or bounded adjustment criteria.
6. Provide a Phase 1 inspection/acceptance and graded nonconformance system.
7. Provide a dedicated winter plan or equivalent consolidated measurable controls.
8. Confirm historic-resource APE and treatment coverage without disclosing protected locations.
9. Identify final species determinations and clearing conditions.
10. Provide site-specific utility, traffic, emergency, school and public-access controls where screening demonstrates need.
11. Provide functional impact-area notice and proportionate property/business protection where a pathway exists.
12. Use corrected complaint, change, species, inspection and corrective-action forms.
13. Provide prolonged-delay, spring-thaw, temporary-work removal and restoration requirements.
14. Issue a written DPS site release identifying documents, prerequisites, conditions and limitations.

8. FINAL REQUESTED RELIEF

For the reasons stated above, Daniel McAree respectfully requests that the Commission or DPS Staff, acting within the authority established by the Certificate, applicable Commission orders and the approved EM&CP process:

1. Accept and consider these supplemental comments because they respond to material filed after Mr. McAree's October 1 comments and to the October 19 Water Quality Certification rescission, subject to any applicable procedural ruling or deadline in Case 24-T-0446.

2. Require the Certificate Holders to identify the complete controlling Phase 1 record, including the October 16 enclosures, revision and execution dates, superseded documents, applicable sites and field-use status.
3. Require a site-specific statement of the activities and equipment authorized under Phase 1 and the later-phase activities excluded from that approval.
4. Require correction of the permit and consultation matrix to reflect the October 19 rescission and identification of the current Section 401 application/status, associated federal authorization, covered activities and Phase 1 applicability.
5. Require confirmation that each permit, certification, consultation, property right, utility agreement, personnel assignment, environmental control and other prerequisite expressly applicable before commencement of the proposed Phase 1 activity at the affected site has been completed, or identify the later milestone at which the requirement becomes operative.
6. Require identification of the final agency determination and operative conditions for each federal or State review actually applicable to a Phase 1 site or activity, including ESA, water-quality, Army Corps, historic-preservation, coastal-consistency and EFH review where the jurisdictional trigger is established.
7. Require protected confirmation that final and reasonably foreseeable adjustable clearing, access, staging, chipping, snow-storage and erosion-control areas fall within the environmental and cultural-resource areas actually reviewed and comply with the applicable findings, avoidance measures and treatment conditions.
8. Require completion of the preconstruction personnel, qualification, independence, training, EHASP, emergency-information and stop-work/restart items expressly applicable to the affected Phase 1 work.
9. Require final plans and engineering criteria for each access route and temporary work actually proposed for Phase 1, including an item whose loading, drainage, stability, utility, traffic, environmental or restoration consequences require design or formal review.
10. Require a Phase 1 Inspection and Test Plan or an equivalent inspection-and-acceptance matrix identifying inspections, responsible personnel, objective criteria, hold points, nonconformance processing, correction verification and release authority.
11. Require a dedicated winter plan or an equivalent consolidated set of measurable site-specific controls addressing snow, ice, approved deicers, frozen ground, snowmelt, public-road safety, winter shutdown, post-storm tree assessment and spring-thaw restoration.
12. Require the final SWPPP, SPDES and MS4 documents actually applicable to each site, together with measurable inspection, temporary-stabilization, prolonged-delay and restoration provisions.
13. Where the controlling record or a site-specific screening identifies a reasonably foreseeable Phase 1 impact pathway, require the corresponding winter, stormwater, access, utility, traffic, emergency, historic-resource, ecological, property, school, business, park, waterfront or community-facility control described in the appendices, or an equivalent measure providing the same preventive and corrective function.

14. Require finalization and, where necessary, supplementation of complaint, damage-reporting, evidence-retention, field-change, species-observation, inspection, nonconformance and closeout procedures. Any insurance, payment, independent-review, business-loss, financial-security or warranty condition should be imposed only to the extent supported by existing authority or expressly adopted as an additional protective condition.
15. Request a concise disposition of the material unresolved October 1 issues relied upon in determining Phase 1 readiness, identifying each as resolved, partially resolved, deferred, rejected, not applicable or open, with the controlling citation and basis.
16. Withhold only the site, activity, route, work hour or equipment operation materially dependent upon an unresolved prerequisite or implementation control, and identify that dependency in the NTP or work-area finding.
17. Issue either site-specific releases or one NTP containing separate site-specific findings that identify the authorized footprint and activities, controlling documents, completed prerequisites, continuing conditions, exclusions, hold points and applicable suspension/restart procedures.
18. Provide that nothing in the approval, NTP or this filing waives any later-phase, property, municipal, environmental, procedural, enforcement, rehearing or judicial-review right available under applicable law.

9. CONCLUSION

The revised Phase 1 record should be credited for the matters it corrects. The remaining question is whether the operative June 22, October 9 and October 16 materials, considered together with the October 19 Water Quality Certification rescission, establish that each Phase 1 location is legally authorized and practically ready for the exact work proposed there.

The requested relief is deliberately proportional. Existing prerequisites should be enforced only where they apply to the proposed Phase 1 activity. Matters not established from the available October 16 enclosures should be confirmed rather than presumed deficient. Additional protective conditions should be imposed only where the controlling documents or site-specific screening identify the corresponding risk, or where the Commission expressly adopts the protection as a condition of approval.

Mr. McAree therefore respectfully requests acceptance of these supplemental comments and a written readiness determination for each affected site, whether issued separately or within one NTP. Each determination should identify the precise authorized scope, controlling documents, prerequisites completed, continuing conditions, later-phase exclusions, hold points and applicable suspension and restart procedures. Work materially dependent upon an unresolved prerequisite should remain on hold; independently ready work may proceed without establishing readiness elsewhere.

This approach does not relitigate project need or route. It applies existing authority where the jurisdictional and factual triggers are established, preserves issues arising from the revised

record, avoids treating comparative safeguards as binding precedent, and provides practical protections capable of being administered and enforced during Phase 1.

Respectfully submitted,

/s/ Daniel McAree

Daniel McAree

Self-Represented Party, Case 24-T-0446

Email: dmcaree@ewhowell.com

Dated: October 23, 2026

APPENDIX A – CORE RECORD AND CITATION SCHEDULE

Proposition	Record citation
Phase 1 scope	Order Adopting the Terms of a Joint Proposal, issued and effective Sept. 17, 2026; Notice Requesting Comments on Phase 1 and Phase 2 EM&CPs, issued Sept. 17, 2026; Revised Phase 1 Narrative §1.1 and Table 1.1-1.
Original comments	McAree Comprehensive Phase 1 Comments, filed Oct. 1, 2026, Preliminary Statement and §§1–17; transmittal letter, pp. 1–2.
October 9 update	Cover Letter Filing Phase 1 EMCP Updates & Comment Response, filed Oct. 9, 2026, pp. 1–2 and Ex. 1, pp. 4–6.
October 16 package	Email transmission from counsel for the Certificate Holders to the Case 24-T-0446 party list, Oct. 16, 2026, and enclosures (transmitted separately from the Oct. 9 DMM filing and the Oct. 15 Clerical Update).
Section 401	“Recission [sic] of Water Quality Certification,” Case 24-T-0446, issued by Jason Zehr, Interim Executive Director, Office of Renewable Energy Siting and Electric Transmission, Oct. 19, 2026, p. 1 (rescinding the Oct. 2, 2026 certification and directing the Certificate Holders to file their Section 401 application on DMM in Case 24-T-0446).
Certificate/specifications	Commission Order issued Sept. 17, 2026; Joint Proposal Appendix D (Certificate Conditions); Joint Proposal Appendix E (EM&CP Specifications).
Permits/agency	Revised Appendix C-1, Tables 2-1 and 3-1 and the underlying agency enclosures.
Historic resources	Revised Narrative §7.2; Appendix C-1 Table 3-1; Appendix O; Village filing reporting the post-Contact site, with protected locations omitted.
Species	Revised Narrative §7.7; Appendix C-1 Table 3-1. The final USFWS/USACE determination is requested; see Appendix D.
Stormwater	Revised Narrative §§6.2–6.6 and Table 6.4-1; Appendix H-1; Oct. 9 cover letter Ex. 1 p. 6.
Comparative benchmark	South Fork Wind, Case 18-T-0604, Environmental Compliance Plan (Aug. 2021), §§4.1.2–4.4.1 and §§5.1–5.3; other comparative records are identified in Appendix H.

APPENDIX B – DETAILED SITE-READINESS AND DOCUMENT-CONTROL CONDITIONS

These conditions set out the detailed implementation protections supporting the relief requested in the cover letter and in Attachment 1. Unless tied to a specific Certificate Condition, permit, order or adopted plan, they are presented as requested protective conditions, not as existing independent legal mandates.

B.1 Controlling record and scope

- File one controlling Phase 1 document register identifying each document, revision, execution date, applicable site, purpose, superseded version, required signature or acceptance, DMM location, field-distribution status and document owner.
- Provide a site-specific table separating activities authorized in Phase 1 from activities previously approved, applicable only to later phases, or expressly excluded. Inclusion in a project-wide EHASP, SPCC, emergency plan or master plan should not itself authorize later-phase work.
- Identify the exact footprint, limits of disturbance, access route, staging, chipping, snow-storage, erosion-control and restoration areas authorized at each site.
- Use a formal change-control ladder distinguishing field clarification, minor adjustment within the approved envelope, material change, permit modification, emergency deviation and prohibited later-phase work.
- For each change, identify the approved condition, proposed change, reason, environmental/property/utility/municipal effect, drawing revision, required notice, approval, field distribution and as-built incorporation.

B.2 Site-specific NTP or work-area release

- DPS Staff should issue a separate written release, or separately enumerated finding, for New Barrett, New Ruland Road, New Shore Road, the Shore Road landfall, each TJV work area, each separate access route and any independently mobilized clearing segment.
- Each release should identify the footprint, controlling drawing, allowed activities, excluded activities, operative permits and consultation conditions, assigned personnel, notices completed, work-hour and seasonal limits, unresolved conditions and automatic suspension triggers.
- Readiness at one site should not establish readiness at another site.
- Where DPS does not use separate releases, the NTP should contain a site-by-site schedule stating the same findings and limitations.

B.3 Personnel, professional responsibility and field authority

- Identify the Project Manager, Construction Manager, site supervisor, Environmental Compliance Manager, Environmental Monitor and alternates, SWPPP qualified inspector, trained contractor, safety representative, QA/QC inspector, spill-response coordinator,

utility/critical-infrastructure coordinator, cultural-resource professional, traffic/access coordinator, community liaison, complaint owner and after-hours decision-maker.

- Provide qualifications, required certifications, reporting relationships, site coverage, independence where required, stop-work authority and written-restart authority.
- Identify the New York design professional, delegated designers, temporary-works engineer where necessary, arboricultural competent person and persons authorized to accept access, erosion controls, restoration, nonconformance closure and as-built records.
- Explain how conflicts among engineering, environmental, utility, safety, schedule and construction authority will be resolved.

B.4 Inspection, acceptance and nonconformance

- Provide a Phase 1 Inspection and Test Plan or equivalent matrix identifying preparatory, initial and follow-up inspections; responsible inspector; hold and witness points; objective acceptance criteria; verification method; record generated; correction deadline; closure authority and written work-area release.
- Use a graded compliance process equivalent in function to Observation, Corrective Action and Noncompliance/Violation, with defined escalation, stop-work threshold, regulator notice, repeated-event treatment and written closure.
- Require daily Phase 1 inspection logs and weekly consolidated reports addressing clearing limits, access, tree hazards, erosion controls, winter conditions, rutting, drainage, trackout, invasive species, spills, utilities, traffic, complaints, wildlife/cultural observations, changes, open corrective actions and aging.
- Assign unique identifiers to observations, corrective actions, nonconformances, complaints, incidents, field changes and claims, and preserve original entries and subsequent corrections without silent overwriting.

B.5 Automatic suspension and restart

- Request immediate suspension of affected work for activity outside approved limits; archaeological or human-remains discovery; listed-species or protected-nest discovery requiring review; permit expiry, rescission, suspension or material modification; unknown utility; spill or leak; unexpected contamination; failed controls; uncontrolled runoff; flood; dangerous tree; excessive wind; winter conditions preventing controls; blocked access; property damage; service interruption; required monitor absence; missing controlling documents; public-road icing; repeated corrective-action failure; or agency direction.
- Restart should identify the investigation, evidence, corrective action, verifier, required agency/DPS/engineer/utility concurrence, affected-party notice, document revision and written restart authority.
- Contractor-only oral restart should not substitute for the concurrence expressly required by an applicable permit, plan, protocol, order or agency determination.

B.6 Contractor and subcontractor flow-down

- Certify before site release that applicable Certificate Conditions, permits, consultation measures, drawings, property restrictions, utility agreements, safety requirements, environmental controls, complaint protocols and stop-work requirements are incorporated into the prime contract and each affected lower-tier subcontract.
- Require pre-work training, signed acknowledgment, competency verification, communication of revisions, responsibility for lower-tier conduct and access by DPS Staff to relevant compliance records.
- Contractor transition should not interrupt stabilization, monitoring, winter maintenance, public access, complaints, evidence retention, corrective action or restoration.

APPENDIX C – WINTER, STORMWATER, FLOODING AND SITE-STABILIZATION PROTECTIONS

Phase 1 is expected to include winter-sensitive clearing, access, hauling, chipping and temporary stabilization. The requested relief is a separately titled winter plan or an equivalent consolidated set of measurable, site-specific controls.

C.1 Weather monitoring, shutdown and restart

- Daily review of temperature, precipitation, wind, icing, snowmelt, freeze-thaw, coastal-storm and flood forecasts.
- Identification of the winter decision-maker and documentation of start, restriction, suspension and restart decisions.
- Suspension of new disturbance when access, stabilization, environmental protection or emergency response cannot be maintained effectively.
- Post-storm reassessment of trees, limbs, partially cut trees, rigging areas, exclusion zones, roads, drainage and erosion controls.

C.2 Snow removal, storage and contaminated snow

- Show permitted and prohibited snow-plowing and storage areas on site plans.
- Prohibit pushing snow beyond approved limits or into wetlands, drainage ways, catch basins, public roads, neighboring property, utility equipment, emergency routes, protected vegetation or erosion controls.
- Maintain visible limits, utility markers, wetlands/resource markers, erosion controls, fire hydrants and emergency equipment.
- At Shore Road and other impacted areas, distinguish clean snow from snow contacting exposed soil, petroleum, hydraulic fluid, deicer, roadway debris or construction material; provide segregation, containment, evaluation, documented disposition and no uncontrolled off-site discharge.

C.3 Ice-control products and black ice

- Identify every approved deicer or traction material, application criteria, storage, secondary containment, protected setbacks, cleanup, tracking, corrosion concerns, vegetation/water-quality restrictions and recovery of accumulated grit.
- Inspect gates, access roads, parking, public-road approaches, pedestrian interfaces, slopes, fueling areas, emergency routes and drainage outlets for black ice and daytime meltwater that can refreeze overnight.
- Address public-road icing caused by tracked snow, meltwater, blocked drains or snowbanks.

C.4 Frozen soil, snowmelt and rain-on-snow

- Define controls for concealed soft soil, rutting during thaw, frost heave, reduced infiltration, concentrated runoff, damaged stakes/barriers, blocked outlets, unstable slopes and matting.

- Require heightened inspections before, during and after rapid warming, rain-on-snow, frozen-soil runoff, snowbank collapse, ponding and overtopping or bypass of controls.
- Mark controls that cannot be inspected under snow and document baseline condition before snowfall.

C.5 SPDES, MS4 and stabilization

- Identify the exact controlling SWPPP and authorization for each site, including MS4 acceptance, owner/operator, preparer, contractor, trained-contractor and qualified-inspector documentation.
- Reconcile cumulative disturbance under the common plan, including access, entrances, stone, staging, chipping, snow storage, rutting, controls and temporary disturbance.
- Define daily active-work, formal qualified-inspector, rainfall/snowmelt, post-storm, inactive-site and corrective-action inspections.
- Define measurable temporary-stabilization acceptance, photographic documentation, failed-germination treatment, mulch displacement repair, invasive recolonization response and correction deadlines.
- Provide a prolonged-delay trigger requiring enhanced stabilization, continued inspection, temporary-work maintenance or removal and permanent restoration if successor work is delayed, suspended, redesigned, denied or abandoned.

C.6 Floodplain and coastal storm

- Where applicable, provide forecast monitoring, equipment/fuel evacuation, portable-facility removal or anchoring, chip/material storage restrictions, reinforcement of controls, flood-safe access, post-event inspection, cleanup and written restart.
- Prevent snow, materials and temporary works from reducing drainage or displacing into neighboring property or public roads during flooding.

C.7 Spring-thaw and latent-condition assessment

- Conduct and document a spring inspection for rutting, settlement, compaction, drainage changes, erosion, sediment deposits, pavement/shoulder/curb damage, failed stabilization, invasive spread, damaged vegetation, unstable edge trees, displaced controls, utility impacts, contamination and neighboring-property effects.
- Retain Phase 1 responsibility for conditions becoming visible only after thaw or later precipitation.
- Document corrective work and written closure.

APPENDIX D – FEDERAL, STATE, ECOLOGICAL, HISTORIC AND COASTAL CLOSURE MATRIX

Inclusion below does not assert that every authority applies to every Phase 1 activity. The Certificate Holders should classify each item as applicable, not applicable, pending, complete or later phase, identify the basis, and provide the responsible agency and closure record.

Review area	Confirmation required
Clean Water Act §401	Current application/status after Oct. 19 rescission; associated federal authorization; covered sites/activities; conditions; effect on Phase 1.
Clean Water Act §404 / Rivers and Harbors Act §10	USACE jurisdiction; permit type; covered work; avoidance/minimization; special conditions; Phase 1 inclusion or exclusion.
ESA / USFWS	Official species list; action area; habitat/critical habitat; species-specific effects determination; concurrence/biological opinion if required; conservation measures; reinitiation.
Migratory birds / eagles / raptors	Seasonal screening; active nest response; buffers; survey qualifications; stop-work; reporting; restart; eagle nest/roost determination where applicable.
EFH / NOAA / marine resources	Federal action agency; EFH determination/assessment; NOAA recommendations and response; Phase 1 shoreline/runoff relationship; later-phase separation.
NHPA §106 / State §14.09	Lead agency; APE; identification; eligibility/effects finding; SHPO/THPO/tribal consultation; avoidance/treatment; resolution and completion.
Coastal consistency	Federal/State consistency status; State coastal policies; applicable LWRP policies; conditions; Shore Road/landfall applicability; change trigger.
NYSDEC wetlands/waters/species	Jurisdictional determinations; freshwater/tidal wetlands; Protection of Waters; State-listed/rare species; Natural Heritage screening; action-area and runoff/access effects.
SPDES / stormwater	Current General Permit; SWPPP; MS4; eNOI/authorization; inspections; stabilization; phase transition/termination.
Contaminated media / waste / petroleum	Shore Road Phase 1 disturbance controls; dust/trackout; decontamination; unexpected fill; spill excavation; waste/chip disposition; storage requirements.

D.1 Historic and archaeological protections

- Provide a public, non-location-specific certification stating whether the post-Contact archaeological site reported in Village comments, or any other known sensitive resource, overlaps or lies within a protective distance of any Phase 1 envelope.
- Provide protected confirmation to authorized reviewers that final and reasonably foreseeable adjustable clearing, access, staging, chipping, snow-storage and erosion-control areas are within the reviewed APE.
- Confirm the Phase IA review, Phase IB survey/addendum, architectural assessment, OPRHP/SHPO finding and tribal consultation status as applicable.
- Require worker training; immediate stop-work; protection/security of the discovery area; qualified archaeologist review; no collection or unauthorized photography; agency/tribal/law-

enforcement/medical-examiner notifications where applicable; written status and written restart.

- Address above-ground historic resources and setting, including loss of screening, seasonal leaf-off views, historic roads, districts, landscapes, cemeteries, walls, fences, gates, drainage features, lighting, access and snow storage.

D.2 Invasive species and natural communities

- Provide baseline mapping, site-specific target species, incoming/outgoing equipment inspection and cleaning, cleaning locations, material controls, segregation and documented destination of invasive wood/chips, monitoring, spread thresholds, corrective treatment and adaptive management.
- Identify State-listed species, rare plants, unlisted rare resources identified through screening and significant natural communities, including off-site runoff, downstream, access and edge-effect pathways.
- Require re-screening or consultation when access, footprint, schedule, habitat or species information materially changes.

D.3 Non-jurisdictional features

- A non-jurisdictional determination should not be treated as eliminating stormwater, drainage, hydrology, habitat, inspection or restoration controls.
- Provide equipment/matting criteria, rutting thresholds, discharge controls, hydrologic protection, photographs, restoration and stop-work criteria appropriate to the actual feature and risk.

APPENDIX E – CONSTRUCTION, UTILITY, TRAFFIC, TREE-CLEARING, FIRE AND EMERGENCY PROTECTIONS

E.1 Access and temporary works

- Show access alignment, width, section, geotextile/stone, equipment loading, grades, cross slopes, turning, drainage crossings, entrances, staging, chipping, snow storage, emergency access and restoration limits.
- Define design, inspection, maintenance, failure response, removal and restoration for access roads, mats, temporary crossings, utility ground protection, drainage, fencing, gates, barriers, lighting, power, security equipment, fuel areas, sanitation, parking and signs.
- Require engineering review where a field adjustment changes loading, drainage, slope, utility protection, environmental/cultural envelope, property rights or traffic interface.

E.2 Utilities and critical infrastructure

- Provide verified utility mapping and limitations; distinguish active, abandoned, public and private facilities.
- Address overhead clearances, tree fall, equipment swing, energized-yard restrictions, grounding/step-touch risks, buried duct banks, gas, water, sanitary, storm, communications, fire protection, drainage and cathodic protection where present.
- Identify utility-owner observers, load restrictions, outage constraints, emergency isolation, service continuity, incident notification, evidence and written release.

E.3 Traffic and access continuity

- Identify delivery/haul routes, anticipated equipment, truck movements, gate geometry, sight distance, turning templates, worker parking, queueing, special-hauling requirements, flagger/police criteria, trackout, road icing, precondition documentation and restoration.
- Screen pedestrians, cyclists, school buses, bus stops, emergency routes, refuse, deliveries, paratransit, businesses and residential access even where no lane closure is planned.
- Prepare an MPT plan where warranted or document why site-specific controls short of a full MPT plan are adequate.

E.4 Tree felling and arboricultural safety

- Address tree inventory/quantity basis, boundaries, danger trees, health/defects, lean, felling direction, tree-height fall zones, occupied structures, roads/public areas, overhead utilities, rigging, assisted removal, exclusion zones, spotters, wind/weather thresholds, retained stumps, root disturbance and edge-tree stability.
- Reassess trees and partially completed work after significant snow, icing, wind or freeze-thaw.
- Document post-clearing edge-tree and hazard inspection and any required removal/restoration.

E.5 Chipping, combustible material and fire

- Establish maximum accumulation, pile dimensions/separation, removal frequency, spontaneous-heating monitoring, hot-work and smoking restrictions, exhaust controls, fuel separation, extinguishers/water supply, fire-department access, wind restrictions and emergency notification.
- Document invasive segregation, transport covering, destination, daily cleanup and post-fire runoff/contaminated-material response.
- Coordinate with the applicable fire district where substantial material will accumulate.

E.6 Emergency and security

- Provide each site address/GPS, gate/key access, apparatus width/loading, turnaround, police/fire/EMS/emergency-management and utility contacts, communications limits, rescue capability, first aid/AED/bleeding-control resources, hazardous-material inventory, weather evacuation and restart authority.
- Address perimeter inspection, fencing/gaps, gates, unstable debris, piles, equipment keys, after-hours access, lighting, cameras/privacy, public signs, emergency egress and lawful public/waterfront access.
- Ensure security does not obstruct accessible routes or emergency response.

E.7 Noise, lighting and nuisance

- Address chainsaws, chippers, trucks, backup alarms, generators, idling, startup, simultaneous equipment, impulsive/tonal noise, lighting spill/glare, extended/weekend hours and emergency exceptions.
- Screen residences, schools, medical/senior facilities, houses of worship, parks and wildlife; identify complaint-triggered monitoring, measurement, response and escalation.
- Withhold night or extended-hour work where required mitigation has not been submitted and approved.

APPENDIX F – COMMUNITY, PROPERTY, BUSINESS, SCHOOL, PARK AND CLAIMS PROTECTIONS

F.1 Functional affected-area method

- Define affected areas by tree height/direction, rigging, equipment swing, access and haul routes, runoff/drainage, dust/noise/light, utility interruption, emergency response, public access and loss of screening, not property-line adjacency alone.
- Use the resulting map for notice, pre-work documentation, access planning, emergency coordination, complaint intake and restoration.

F.2 Homes, tenants and residential access

- Where a material impact pathway exists, provide no-cost proportionate baseline documentation of buildings, pavement, fences, walls, drainage, landscaping, utilities and accessory improvements.
- Notify owners, lawful occupants, property managers and affected tenants.
- Protect driveways, disability access, ambulance/home-health/paratransit, sanitation, mail, deliveries, fuel, parking and snow removal.
- Provide immediate hazard stabilization, evidence preservation, written disposition, comparable or functionally equivalent restoration and reopening of recurring drainage, access, vegetation or restoration conditions.

F.3 Schools, childcare and youth facilities

- Screen schools, childcare, bus routes/stops, walking/cycling routes, crossing guards, athletic fields, playgrounds, arrival/dismissal and events.
- Where implicated, avoid major mobilization during principal arrival/dismissal, prevent truck queueing, preserve bus/pedestrian/emergency access, limit idling, control dust/debris and provide direct schedule/incident notice.

F.4 Businesses and institutions

- Protect customer/employee access, parking, loading, deliveries, sanitation, visibility, utilities, refrigeration/communications, dust-sensitive operations, emergency access and temporary wayfinding.
- Notify commercial tenants and operators, not only fee owners, where an impact pathway exists.
- Provide a designated business contact and site-specific continuity measures where vehicles or equipment can interfere with operations.

F.5 Parks, waterfront and community facilities

- Screen parks, playgrounds, athletic fields, trails, beaches, waterfront access, marinas, fishing areas, public parking, bicycle facilities, libraries, houses of worship, cemeteries, medical/senior facilities, firehouses, ambulance facilities, shelters and community centers.

- Address access, events, emergency response, pedestrian routing, parking, noise/dust, landscape/trees, drainage, invasive species, visual screening and joint post-work inspection where relevant.
- Distinguish formal municipal status from practical coordination based on actual effects.

F.6 Disability and medically vulnerable access

- Preserve accessible sidewalks, curb ramps, parking, temporary routes, mobility-device surfaces, paratransit, home-health and ambulance access.
- Provide accessible notice formats and appropriate communication without collecting or disclosing unnecessary medical information.
- Plan for utility continuity and rapid escalation where facilities or residents voluntarily identify a power-dependent or access-sensitive need.

F.7 Complaints, damage, evidence and claims

- Distinguish inquiry, formal complaint, emergency, environmental complaint, property damage, business access/interruption, utility interruption, traffic, school/public-facility, drainage/flooding and alleged noncompliance.
- Show receipt, classification, acknowledgment, assigned investigator, emergency mitigation, inspection, evidence preservation, corrective action, written decision, DPS notice, escalation/review, closure and reopening.
- Retain photographs, video, work logs, inspections, equipment, weather, issue/change records and agency communications relevant to a reported impact.
- Insurance, independent technical review, emergency or undisputed payment, warranty and appeal provisions should be requested only where supported by existing authority/agreement or imposed as additional Commission conditions.

APPENDIX G – DELAY, FINANCIAL RESPONSIBILITY, CLOSEOUT AND AUDITABILITY

G.1 Delay, contractor transition and abandonment

- Identify who remains responsible for stabilization, winter maintenance, monitoring, emergency response, access, complaints, claims, corrective action, temporary works and restoration during delay, contractor default, permit dispute, redesign, suspension or abandonment.
- Project delay or phase transition should not transfer maintenance or restoration burdens to municipalities, businesses, property owners, tenants or the public.
- Identify insurance, self-insurance, bonding, reserve or another financial mechanism only to the extent required by the Certificate, permit, law, contract or a representation relied upon for readiness.

G.2 Completion and closeout

- Phase 1 should not be treated as complete merely because the clearing contractor demobilizes.
- Require final inspection, clearing-limit survey, temporary-work removal, utility verification, drainage confirmation, stabilization, invasive-species status, waste/chip records, spill closeout, complaint/claim status, photographs, as-builts, open-item list, spring-thaw follow-up, edge-tree assessment, restoration acceptance and written DPS closure.
- Invite municipal/utility participation where public infrastructure is affected and affected-property participation where private property is affected.
- Provide follow-up for latent or recurring drainage, settlement, access, vegetation, edge-tree, pavement, utility or restoration conditions.

G.3 Public transparency and protected information

- Provide a redacted public record of non-sensitive permit status, general work limits, schedule, hours, contacts, complaint/claim procedures, monitoring summaries, corrective-action status, restoration and material changes.
- Protect exact archaeological, sensitive species, critical-infrastructure, security and personal information where lawful, while providing protected access to authorized reviewers when necessary.
- Confidentiality should not conceal whether a required review occurred, its non-sensitive outcome, operative conditions or current status.

G.4 Audit trail

- Each issue record should identify location, date/time, drawing revision, inspector, weather, equipment, responsible contractor, applicable condition, due date, evidence, status, verification, closure, reopening and links to related complaints, changes, permits, photographs and agency communications.

- Records should remain available to DPS Staff through required retention and closeout periods.

APPENDIX H – COMPARABLE NEW YORK SAFEGUARDS AND PROPOSED EQUIVALENCY

Comparable cases are offered to show feasibility and regulatory practice, not as automatically binding precedent.

Comparable record	Express safeguard structure	Propel relevance
South Fork Wind, Case 18-T-0604	Permit matrix; environmental team; preconstruction walk; orientation; daily inspections; weekly reporting; construction meetings; graded noncompliance.	Use as functional benchmark for Phase 1 compliance/inspection system.
Eight Point Wind, Case 18-T-0202	Affected properties; temporary access; notifications; equipment/sequence; MPT planning at frequently used access points; traffic and residential access.	Use as benchmark for access, traffic and affected-property planning.
Empire Wind 1, Case 21-T-0366	Covered-activity segmentation; project roles; preconstruction outreach; complaint process diagram; complaint form and log.	Use as benchmark for scope clarity and complaint workflow.
Champlain Hudson Power Express, Case 10-T-0139	Affected properties; additional rights; access/staging; presurvey; regulatory prerequisites; insurance; meetings; utility agreements; formal change notices.	Use as benchmark for readiness, property/access and change control.

Requested equivalency condition. For each materially comparable risk, the Certificate Holders should identify the Phase 1 provision providing equivalent or stronger preventive and corrective protection, or explain with record support why the safeguard is unnecessary at the affected site.

APPENDIX I – APPENDIX-BY-APPENDIX CITATION AND AUTHORITY CROSSWALK

This crosswalk identifies the principal authority supporting each appendix and distinguishes direct governing authority from comparative practice and requested protective conditions.

Filing section	Subject	Primary citation/authority	Legal treatment
Main filing / Appendix A	Supplemental acceptance; response-to-response status; controlling record; prioritization.	Sept. 17, 2026 Commission Order; Sept. 17, 2026 Notice Requesting Comments on Phase 1 and Phase 2 EM&CPs; Joint Proposal App. D Certificate Conditions; Joint Proposal App. E EM&CP Specifications; McAree Oct. 1 Comments; Oct. 9 update cover letter and response matrix; Oct. 16 email transmission and enclosures; Oct. 19 WQC rescission.	Direct record and governing case documents. Items concerning specific Oct. 16 enclosures are presented as confirmation requests.
Appendix B	Document control; site release; personnel; ITP; suspension/restart; contractor flow-down.	Joint Proposal App. E specifications for final plans, drawings, organization, inspection and change control; applicable Certificate Conditions; revised Phase 1 Narrative and App. D ECP; South Fork Wind ECP, Case 18-T-0604, as feasibility benchmark.	Document control and applicable preconstruction deliverables may be direct requirements. Separate site releases, ITP detail and flow-down are requested protective conditions unless expressly required by the Certificate/plan.
Appendix C	Winter, snow/ice, stormwater, flooding, prolonged delay and spring thaw.	Revised Narrative schedule and stormwater sections; App. H-1 SWPPP; SPDES Construction General Permit GP-0-25-001; NYS erosion/sediment standards; Phase 1 winter-stabilization note.	SPDES/SWPPP obligations are direct where applicable. A separately titled winter plan is requested; equivalent consolidated controls may satisfy the request.
Appendix D	Federal/State applicability; species; cultural resources; coastal consistency; invasive species; wetlands.	Oct. 19 WQC rescission; Clean Water Act §§401/404; Rivers and Harbors Act §10; ESA; MBTA; Bald and Golden Eagle Protection Act; Magnuson-Stevens EFH; NHPA §106; NY SHPA §14.09; NY Coastal Management Program; NYSEDEC/SPDES authorities; App. C-1 and App. O.	These laws remain preserved but are tied to actual federal/state actions and Phase 1 footprints. Applicability must be classified; the filing does not claim every statute applies to every Phase 1 task.
Appendix E	Access; temporary works; utilities; traffic; felling; fire; emergency; noise/light.	Revised drawings/App. A-1; App. F-1 safety plan/EHASP; App. G-1 SPCC; applicable Certificate Conditions; utility agreements; Eight Point Wind, Case 18-T-0202, MPT/access provisions as benchmark.	Existing safety/utility/traffic duties apply where incorporated. Detailed engineering, MPT, fire and nuisance conditions are risk-based requested protections.
Appendix F	Homes; tenants; schools; businesses; parks; accessibility; complaints/claims.	Complaint-related Certificate Conditions; App. N Complaint Plan; public-outreach provisions; access/restoration conditions; Empire Wind 1 complaint plan and CHPE affected-property/notice practices as benchmarks.	Complaint and notice requirements may be direct. Baseline surveys, independent claim review, payments, warranties and broader damages procedures are additional requested protections unless separately required.

Appendix G	Delay; financial responsibility; closeout; transparency; audit trail.	Certificate/EM&CP restoration and recordkeeping provisions; SPDES stabilization/termination obligations; permit conditions; project representations; DPS enforcement authority.	Maintenance and restoration obligations apply where established. Bonding, reserves, warranties and payment remedies are requested only where authorized or relied upon.
Appendix H	Comparable-case safeguards and equivalency.	South Fork Wind, Case 18-T-0604; Eight Point Wind, Case 18-T-0202; Empire Wind 1, Case 21-T-0366; CHPE, Case 10-T-0139.	Feasibility and regulatory-practice benchmarks only, not binding precedent.

1.1 Federal-law scope

This filing preserves each federal-law issue previously identified and states it with precision. Appendix D does not allege that every federal statute applies to every tree-clearing task. It requires a site- and activity-specific determination based on the actual federal permit, funding, approval, action area, discharge, navigable-water work, species effect, historic-property effect, coastal effect or fish-habitat pathway.

Federal authority	Phase 1-specific treatment
Clean Water Act §401	Current certification/application status tied to the federal license or permit and the Phase 1 activity that may cause a covered discharge.
Clean Water Act §404	Discharge of dredged or fill material into waters of the United States; Phase 1 access, stabilization or material placement included only if the jurisdictional trigger exists.
Rivers and Harbors Act §10	Work or structures in, over or under navigable waters; retained principally for Shore Road/landfall-connected federal review, not presumed for inland clearing.
Endangered Species Act	Official species list, action area, habitat, effects determination, concurrence/biological opinion and conditions for the actual federal action and affected Phase 1 site.
Migratory Bird Treaty Act / eagle protection	Seasonal clearing, active nests, eagle nests/roosts and disturbance controls tied to observed or screened resources.
Magnuson-Stevens EFH	Federal action that may adversely affect Essential Fish Habitat; focused on shoreline, runoff or connected federal-permit pathways rather than generalized inland clearing.
National Historic Preservation Act §106	Federal undertaking and APE, including final/access-adjustable Phase 1 areas where a federal permit, license, funding or approval creates the undertaking.
Federal coastal consistency	Federal permits or authorizations affecting New York's coastal area; focused on Shore Road/landfall and actual coastal-policy effects.