

October 22, 2026
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

**Re: Case 24-T-0446 – Petition of New York Transco LLC and New York Power Authority
for a Certificate of Environmental Compatibility and Public Need – Additional Comments
Regarding the Phase 1 EM&CP**

Dear Secretary Phillips and the Commission:

We initially submitted preliminary comments on EM&CP Phase 1 on July 22, 2026, prior to the Commission's September 17, 2026 Order Adopting the Terms of a Joint Proposal and the Certificate Conditions set forth in Appendix D. The Commission's September 17 Order established October 1, 2026 as the deadline for additional comments on the Phase 1 and Phase 2 EM&CPs. A second filing of comments was then provided timely on October 1, 2026 as well.

Since that time, the Applicant filed two more sets of revised materials for EM&CP Phase 1 to the docket on both October 9th and October 16.

This filing therefore supplements our prior comments as to new information that was provided in the revised documents that was not previously available for review as well as any comments previously provided that were not addressed by the Applicants most recent filings on October 9th and October 16. Please review the comments below in conjunction with prior submissions attached hereto as Appendix A and Appendix B.

Procedural Concerns

Consistent with our prior submissions (See Appendix A and Appendix B), we respectfully bring to the Commission's attention continuing procedural concerns regarding the completeness, timing, and accessibility of the Applicants' Phase 1 Environmental Management and Construction Plan ("EM&CP") filings.

The Certificate Holders' October 15, 2026 letter acknowledges that Updated Appendix A-1 and the Phase 1 Comment Responses were inadvertently omitted from the electronic filing associated with the October 9, 2026 Phase 1 Updates, notwithstanding the Certificate Holders' representation that these documents had been served on parties to the proceeding. The October 15 filing was intended to complete the public record. However, **service upon participating parties is not equivalent to timely, complete, and meaningful public access to the same materials.** The Commission should determine when the complete filing became publicly accessible through each required channel and whether the omission impaired the public's opportunity to review and comment.

This distinction is particularly important in an Article VII proceeding involving a major transmission project and construction plans with significant consequences for affected communities, public infrastructure, and environmental resources. Meaningful participation requires not only that documents be filed and served, but also that the complete materials be available to the public through the access mechanisms required by the Certificate Conditions.

As of October 22, 2026, the revised Phase 1 EM&CP materials had not been provided to the Gold Coast Public Library, according to confirmation from the Library's Director, Michael Morea, in correspondence dated October 23, 2026.¹ The Certificate Holders had previously provided hard copies (the requested preferred delivery method of the library) of both the Phase 1 and Phase 2 materials to the Library in connection with their respective docket filings and published notices of delivery. The Director also noted that electronic service was also not provided. The absence of the revised Phase 1 materials therefore raises a specific, verifiable concern regarding the availability of the complete updated records through a local public repository.

Certificate Condition 32(i) requires that one hard or electronic copy be available for public inspection at "at least one public library or other convenient location in each municipality in which construction will take place." Condition 34(c) further requires the EM&CP Filing Notice to identify the locations and website where the EM&CP is available for public inspection. The Gold Coast Public Library as a designated location for review, should have complete revised materials available at the location in compliance with the applicable public-access requirements.

As such, we request that the Commission require the Certificate Holders to identify the designated public-inspection locations, document when the complete revised materials became available at each required location, and establish compliance with the applicable filing, notice, service, and public-access conditions.

We further request appropriate procedural relief. The October 9 electronic filing omitted two substantive components of the Phase 1 update, and the complete electronic record was not made publicly available until October 16, 2026, according to the docket history. The library's confirmation also raises a separate question concerning local public access. The Commission should therefore assess the actual dates on which the complete materials became available through the required channels and address the applicable reviews and requisite comment periods that align to the actual service dates thereby extending the Applicant's timeline to preserve a meaningful opportunity for informed public participation.

I. The Commission Should Establish When the Complete Filing Became Publicly Available

The Certificate Holders' October 15 letter states that Updated Appendix A-1 and the Phase 1 Comment Responses had been served on the parties the preceding week but were inadvertently omitted from the electronic upload. That representation does not, by itself, establish when each omitted document became accessible to members of the public, whether the documents were available with the October 9 filing, or when the complete materials became available through any designated local public repository.

The Commission should distinguish among the following dates:

1. The date the October 9, 2026 Phase 1 Updates were filed;
2. The date and time each omitted document was uploaded and first became publicly accessible through the Department of Public Service's Document and Matter Management ("DMM") system;
3. The date the complete revised materials became available at each public library or other convenient location designated for public inspection; and
4. The date any required filing notice was published or otherwise provided, together with the applicable corresponding comment-period deadline.

These dates are not interchangeable. Direct service on participating parties does not establish that the public record was complete or that members of the public had practical access to the same documents. Nor does a subsequent upload necessarily establish that the materials were simultaneously available at designated public-inspection locations.

The Commission should require the Applicant to provide a document-by-document chronology, supported by the relevant filing records, notices, and proof of service, so that compliance and any resulting effect on public participation can be evaluated on a clear factual record.

II. The Certificate Conditions Require Public-Inspection Access and Documentation of Compliance

The Certificate Conditions around the EM&CP are specific around public access, notification and proof of service. The Commission should determine whether the required documents were properly filed, whether the applicable notices accurately identified where the complete EM&CP materials inclusive of revisions could be inspected, whether the designated public-inspection locations received or otherwise made available the complete materials (original and revised), and whether the required proof of service was submitted.

Public Service Law § 16(1), which provides that Commission proceedings and documents and records in its possession are public records, further supports the importance of maintaining an accessible public record. The Commission's filing and service rules, including 16 NYCRR §§ 3.2 and 3.5, should also be considered as applicable to the filings at issue.

The omission of Updated Appendix A-1 and the Phase 1 Comment Responses is materially different from the ministerial Appendix N contact update described in the October 15 letter. The omitted items were separate documents necessary to complete the Phase 1 update record. Their omission should not be treated as inconsequential without determining when the complete record became available and whether the omission affected the public's ability to review and comment.

III. The Gold Coast Public Library Correspondence Raises a Specific Public-Access Concern

Residents who rely on local public repositories should not be presumed to have the same practical access to electronic filings as attorneys and other participants receiving direct electronic service. A public-access requirement is meaningful only if the required materials are actually available for inspection at the location designated for that purpose.

The Certificate Holders previously provided hard copies of the Phase 1 and Phase 2 materials to the Gold Coast Public Library. The Library Director's October 23, 2026 correspondence confirms that the revised Phase 1 EM&CP materials had not been provided to the library as of that date.¹ This information warrants that the library should have and does not have complete revised materials available at that location.

The Commission should require the Applicant to identify each designated public-inspection location and provide the applicable filing notice and evidence establishing when the complete revised materials became available there. If the required materials were not made available at a required location, the Commission should direct prompt compliance and determine whether the resulting access deficiency affected the public's opportunity to participate.

IV. The Commission Should Preserve a Meaningful Opportunity for Public Review and Comment

The Commission should not assume that the October 15 filing cured every consequence of the October 9 omission merely because the Certificate Holders characterize the additional filing as completing the public record. Whether the omission affected public participation depends on when the complete materials became accessible, the applicable notice and comment deadlines, and the nature of the review required.

The concern is not simply that two documents were omitted from an upload. It is that the public may have been expected to review and comment on Phase 1 construction-plan materials in a compressed timeframe as the full complete record was not accessible through all required public-access channels when the comment period was commenced. The Commission should evaluate that

concern based on verified dates and the governing Certificate Conditions, rather than presume that service on parties or a later electronic upload necessarily afforded the public a full and fair opportunity to participate.

Accordingly, we respectfully request that the Commission:

1. **Establish the dates of public availability.** Require the Certificate Holders to identify the date and time the October 9 Phase 1 Updates and each document supplied on October 15 first became publicly accessible through the DMM system, and the date the complete materials became available at each required public-inspection location.
2. **Determine compliance with the Certificate Conditions.** Review compliance with Conditions and any other governing filing, notice, service, and public-access requirements.
3. **Verify access at designated public-inspection locations.** Require the Certificate Holders to identify the public library or other convenient location designated for each affected municipality and provide documentation establishing when the complete revised materials were made available there. Where required materials remain unavailable, direct prompt delivery or other appropriate corrective action and require written confirmation of receipt.
4. **Preserve a meaningful opportunity to comment.** Determine whether the omission or any delay in public access affected the applicable review period. If the complete materials were not available through the required channels for the period contemplated by the governing procedures, extend or reopen the affected comment period as appropriate, with the deadline calculated from a date that affords the public a fair opportunity to review the complete record. Any relief should be consistent with the applicable Certificate Conditions and should not prejudice rights already available to parties or members of the public.
5. **Address any procedural consequences before further action.** To the extent the Commission determines that a filing, notice, service, or public-access requirement was not satisfied, require corrective action and determine whether any related EM&CP review or approval step must be deferred until the deficiency is remedied and the public has received the opportunity to participate contemplated by the governing procedures.

Meaningful public participation requires more than formal service among participating parties. It requires a complete and accessible record, transparency regarding when that record became available, and a fair opportunity for affected residents to review the materials and submit informed comments. We respectfully request that the Commission establish the relevant facts, enforce the applicable Certificate Conditions, and grant any procedural relief necessary to protect that opportunity.

Footnote

¹ Email from Michael Morea, Director, Gold Coast Public Library, dated October 23, 2026, confirming that the revised Phase 1 EM&CP materials had not been provided to the library as of that date (attached as Exhibit C).

A. SHORE ROAD STORMWATER, VEGETATION, INVASIVE SPECIES, SPILL MANAGEMENT, AND ENVIRONMENTAL COMPLIANCE

A.1 Site-Specific Planning and Stormwater Controls

The Applicants EMCP 1 Comment Responses file again begs the question as to what the Applicant keeps putting forward and if it is truly substantially complete to warrant a public review and comment period. Once again, it clearly states that they plan to again revise Appendix H-1 prior to approval, while signoffs are a milestone – the substance of Appendix H-1 is at issue and the comments previously provided have not been addressed. Given the Applicants desired timeline, to commence work in the next months, one has to question do they have a well thought out documented plan that is ready for review or are they still trying to figure it out after more than 2 years of supposed planning? How many versions will they paper the public with and ask them to review before something meaningful is available to review and draw comprehensive conclusions on? This piecemeal process and condensed review period are inefficient and ineffective, it would serve the best interest of all parties including the Applicant if they put forth the consequentially completed revision plans allowing everyone the benefit of a comprehensive reviews, comment periods and issue resolution. Their response comments provided further do not address how missing permits can impact the materials nor do they specifically address how items previously identified in our prior filings will be addressed with any sort of specificity or details. As such we resubmit the comments below and amend certain comments as needed based upon updated revised Appendix datapoints.

Phase 1 EM&CP seeks approval for substantial tree and vegetation clearing at the New Shore Road Substation site, while deferring subsequent construction activities to later EM&CP phases. The New Shore Road SWPPP identifies the work as a tree-clearing phase and expressly anticipates that subsequent substation construction will be addressed in a separate phase.

The Certificate Holder's documents have not demonstrated that the proposed controls are adequate, integrated, and specifically designed for the actual drainage, wetland, slope, and receiving-water conditions at New Shore Road.

The SWPPP identifies the Town of Oyster Bay MS4 and recognizes potential pollutants including excavation spoils, grading, vehicle tracking, stockpiles, fuel, hydraulic oil, lubricants, antifreeze, construction debris, and concrete washout. It nevertheless does not adequately identify the complete stormwater drainage pathway from the disturbed areas, through the stormwater collection system, to the ultimate discharge point and receiving water, or demonstrate that adequate controls are in place along that pathway.

The record should therefore identify, before construction:

- the precise limits of disturbance and construction access routes;
- each stormwater inlet that could receive runoff from the disturbed area;
- drainage patterns and flow directions;
- drainage areas contributing runoff to each inlet;
- the location and design of sediment-control measures;
- the location and capacity of stormwater basins, recharge structures, and other drainage infrastructure;

- the ultimate discharge and outfall locations;
- the protection provided at each inlet and discharge point;
- the design basis or calculations demonstrating that the proposed controls are adequate for the anticipated runoff;
- the receiving water or waters potentially affected by the discharge;
- the protections separating W01025B and other sensitive areas from construction runoff;
- the measures preventing runoff from bypassing or overtopping the proposed controls; and
- the manner in which sediment, petroleum products, hydraulic fluids, concrete washout, and other identified pollutants will be prevented from reaching the harbor or other receiving waters.

The Certificate Conditions contemplate site-specific environmental planning and require erosion and sediment controls to comply with the applicable SPDES requirements and SWPPP. They also require site-specific environmental monitoring and corrective measures. The existence of a general SWPPP framework does not substitute for demonstrating that the controls are appropriately designed for the actual site.

A site-specific stormwater protection strategy should not be developed or materially resolved after approval and after construction has commenced. The Commission and affected stakeholders should be provided sufficient information in these plans and before any approvals or authorizations to construct in order to determine whether the proposed controls are adequate.

The Certificate Holder should not be permitted to proceed on the assumption that deficiencies can be identified in the field and corrected later or that a future EM&CP will cure current deficiencies. A project of this scale should not be implemented as a ‘build-as-you-go’ process in which material environmental protections are deferred to subsequent phases or developed only after problems arise. Unfortunately, the record increasingly suggests that ‘build first, resolve later’ has become the Certificate Holder’s operating approach.

A.2 Wetland W01025B and Interim Protection

The New Shore Road SWPPP acknowledges that freshwater wetland W01025B lies within the tree-clearing limits and that disturbed areas will be temporarily stabilized. The VMP similarly provides for temporary stabilization of the wetland and associated wetland areas within 48 hours of completion of work.

At the same time, the VMP states that no permanent seeding is planned during Phase 1 because subsequent construction is anticipated, and that restoration to original contours or seeding following the Phase 1 vegetation clearing is not necessary because the wetland will be further impacted during a later phase. This creates a significant interim period in which:

trees and vegetation are removed → soil and ground conditions are disturbed → temporary stabilization is installed → the area remains in an interim condition → subsequent construction occurs at a later date.

Temporary stabilization with straw mulch and periodic monitoring do not demonstrate that these measures will remain effective for the entire period between Phase 1 clearing and subsequent construction, including circumstances in which the anticipated schedule is delayed. That

deficiency is particularly striking given the site's location. One would expect a site-specific environmental plan for a North Shore waterfront property to reflect the obvious reality that this location is routinely exposed to heavy rain, strong winds, and coastal storm conditions. Phase 1 instead appears to treat straw mulch and periodic inspection as though the site existed in a controlled environment.

. At a minimum, the Certificate Holder should provide:

- the precise limits of disturbance adjacent to W01025B and the basis for determining that the wetland cannot be avoided;
- the required wetland and adjacent-area protections;
- the precise location and design of perimeter sediment controls;
- expected runoff directions and the pollutants that could be transported in that runoff;
- measures preventing runoff from bypassing the controls;
- measures demonstrating that straw mulch will remain effective during significant rainfall;
- procedures for repairing rills, gullies, erosion, and other deterioration;
- procedures for removing accumulated sediment;
- criteria requiring additional or redundant controls; and
- a contingency plan governing the site if subsequent construction is delayed.

The Certificate Holder's statement that subsequent construction is expected to occur shortly after tree clearing is a schedule assumption, not an environmental control. The EM&CP should establish protections that remain effective regardless of whether the next phase begins on schedule.

A.3 Prevention Must Be Demonstrated—Inspection and Corrective Action Are Not Substitutes for Prevention

The Certificate Holder's plans rely substantially on inspections and corrective actions to identify and address failures. Those procedures are necessary, but they do not substitute for preventive design.

For example, if a storm event causes sediment to bypass a silt fence and enter a catch basin or W01025B, documenting the discharge during a subsequent inspection does not undo the environmental impact.

The Certificate Holder should therefore demonstrate redundant protections at sensitive locations, particularly around W01025B, drainage inlets, slopes, and pathways leading toward receiving waters.

The SWPPP provides for periodic sediment removal and inspection, including inspections following rainfall events of 0.5 inch or greater. The record should nevertheless address the site-specific effects of slope, rainfall intensity and duration, antecedent soil saturation, frozen or thawing conditions, accumulated sediment, deterioration of mulch, condition of silt fencing, potential bypass around BMPs, and the capacity of catch-basin protection.

A.4 Contamination and Integration of the SWPPP and SPCC Plans

The SPCC Plan and SWPPP address related but distinct risks. The SPCC Plan establishes procedures for petroleum and hazardous-substance storage, equipment inspections, containment,

spill response, contaminated soil removal, and disposal. The SWPPP addresses erosion, sediment, stormwater, and other pollutants.

The remaining concern is whether the plans are sufficiently integrated. The Certificate Holder should identify the site-specific measures that will prevent contaminated soil, absorbent materials, petroleum products, spill-related materials, or other pollutants or contaminated materials from being mobilized by stormwater and transported toward drainage infrastructure, W01025B, or the Harbor.

The SWPPP expressly identifies concrete washout as a potential pollutant. Identification of a potential pollutant, however, does not establish that the necessary site-specific controls have been designed.

The Certificate Holder should identify:

- the exact location of the concrete washout area;
- its capacity;
- its distance from W01025B and other sensitive resources;
- its distance from stormwater inlets;
- the required liner or containment system;
- overflow and freeboard protections;
- procedures for removal of hardened concrete; and
- procedures for protecting the washout during major rainfall events.

The same principle applies to other material-storage and equipment-maintenance areas: the record should demonstrate where these activities will occur and how their locations relate to wetlands, drainage infrastructure, slopes, and stormwater flow paths.

A.5 Recreational Areas and Water

Revised Appendix G-1 makes the following statement – “No recreational areas are in the vicinity of the EM&CP Phase 1 workspaces; therefore, specific measures to protect recreational areas are not included in this SPCC Plan. Measures to protect recreational areas will be included in future SPCC Plans for EM&CP Phases in proximity to recreational areas.” The Applicant once again ignores the fact that their work in EM&CP Phase 1 is surrounded by recreational areas such as golf courses, Hempstead Harbor, Tappan Marina and Henry Tappan Beach.

They also state “There are no water wells in the vicinity of the workspaces in EM&CP Phase 1. Therefore, groundwater and wells will not be impacted during EM&CP Phase 1 activities.” The Applicant’s analysis and statements do not seem to account for any impacts to Long Island’s Sole Source aquifers which seem to be absent from their assessment and requiring supplementation and consideration.

A.6 Interim Stabilization and the Absence of Seeding

The plan instead relies on temporary stabilization, including straw mulch, until later construction. The Certificate Holder, however, does not demonstrate the required mulch thickness and application rate; how mulch will be anchored on sloped areas; inspection and maintenance procedures; how rills and gullies will be repaired; how accumulated sediment will be removed; how stabilization will be maintained throughout the entire interim period; when supplemental stabilization will be required; and what additional measures will be implemented if the next EM&CP phase is delayed.

The Commission should not rely on an assumption that "construction will commence shortly" as the basis for environmental protection. The interim condition must be independently protective for as long as it exists.

A.7 Site-Specific Contingency Planning

Appendix D recognizes that controls can fail and establishes Level 2 and Level 3 procedures. Level 3 specifically includes improper installation of erosion/sediment controls and improper fuel/material storage, with possible site-specific stop-work authority. Again, the record fails to contain a **site-specific contingency plan** for overtopped sediment controls, breached silt fence, failed inlet protection, sediment entering a catch basin, sediment entering W01025B, petroleum spill during rainfall, contaminated runoff, washout failure, saturated soil, unexpected groundwater/dewatering.

The SWPPP currently states that dewatering is not anticipated during this initial phase. That is an assumption, not a fact. The Certificate Holder should therefore identify the required contingency procedure rather than leaving an unexpected groundwater condition to be resolved in the field.

Tree clearing at New Shore Road is not an environmentally insignificant preliminary activity. It involves the removal of vegetation, use of heavy equipment, disturbance of soils, handling and transportation of woody material, potential use of petroleum and hazardous substances, stormwater and erosion risks, and impacts to or adjacent to identified wetland resources. The Certificate Holder's own documents recognize these risks.

For the reasons set forth above, and for all reasons previously raised in our July 22, 2026 and October 1, 2026 filings attached as Appendix A & Appendix B, the Certificate Holder has not demonstrated with sufficient site-specific detail that EM&CP Phase 1 will adequately protect W01025B, stormwater infrastructure, receiving waters, surrounding properties, and the broader environmental resources affected by the New Shore Road clearing activities. These concerns relate to the completeness, integration, site-specific design, redundancy, maintenance, contingency planning, and enforceability of those protections.

B. Complaint Resolution and Noise Resolution

The Applicant once again continues to miss the mark in that the complaint resolution process outlined in EM&CP Phase 1, Appendix N even as revised on October 9th and October 15th, is not meaningful for residents of the impacted community and is wholly inadequate for a project of this size and complexity. They make general statements regarding outreach with no substantial details. The entirety of communities such as Glen Head, Glenwood Landing and beyond on our North Shore peninsula will be impacted – how exactly is every community north of Northern Boulevard going to be contacted as the number of residents will be significant as they must consider more than just those who have a home on the route. The Applicant is not even detailing out how they will reach our community that is getting 3 cables along with construction of a new substation and cables through our Harbor. This is especially concerning as to date the Applicant has done little to interact and engage our community to date. They also discuss targeted outreach another assertion with no details. Whose doors are they knocking on, who is getting a mailer, where are matters being published, what meetings are being held – when and where and at what time? Or is it another general zoom when everyone is at work and can't participate?

The staffed hours of operation for the complaint hotline, as well as the availability of inspectors, should align with the project's construction schedule. There should also be a sufficient number of inspectors available to respond to complaints in real time across the project area, with prompt investigation and mitigation implemented in the affected locations. Instead, community stakeholders are still provided with a staffed hotline that now only operates Monday through Saturday from 7:00 a.m. to 6:00 p.m. despite night work hours around mixed residential school/business areas opening residents up to 24 hour construction periods during this phase, and potentially beyond to other phases and when deemed necessary. While it is noted that the applicant expanded the hours slightly – it is not sufficient there should be someone around to address concerns during all phases and the construction hours their teams work which may extend even further beyond the manned hotline timeframes.

As noted, while the updated process adds a couple of hours to the hotline, it is substantively unchanged despite the word count addressing merely internal Applicant administrative matters with a corresponding flow chart. Residents still wait up to 24 hours/a business day to receive an acknowledgment of their complaint and then wait again while the issue is investigated. So, the Applicant decides severity and the impacted resident is left to endure the situation for how long? A resident is complaining because they are in distress and the Applicant fails to provide an on-sight real time resolution process mechanism or immediate action plans to address complaints. Then the Applicant has up to 10 days to substantiate and address the complaint, and, according to the Applicant, some issues may not be resolved at all. Instead, construction personnel provide residents with a flyer explaining how to file a complaint.

This approach is not only unacceptable for a project of this magnitude, as it creates conditions that are an open invitation for the applicant to ignore the rules because there is effectively no risk accountability. Real-time monitoring, prompt investigation, timely substantiation of complaints, and immediate implementation of mitigation measures should be required to protect the health, welfare, and quality of life of residents in the impacted community. The Applicants response on October 16 EMCP Comment 1 Responses #16 continues to expose the Applicants lack of disregard for our communities and resident quality of life consistent with day one treatment– they point to the Joint Proposal deflecting just how much they just don't care about their impact to host communities over a 4-year period or being responsive to the issues residents of host communities are being forced to endure to the Applicants desires and benefits and our detriment. They further enjoy pointing to the Joint Proposal Conditions neglecting how their treatment of impacted community concerns is exactly why 32 parties onto the Joint Proposal as settlement failed to achieve its goals. Clearly, the non-signatory parties did not agree to the conditions and pointing back to them now as justifications for their actions doesn't address any of the ongoing concerns raised for years.

Also noted, both the revised Appendix N on both October 9th and October 16th are incomplete files being put forth as ready for review while still missing Attachment 3 Compliant Forms and Attachment 4 Compliant Log. The community and parties to the case should not be repeatedly asked to review incomplete documents that are being put forth by the Applicant as complete and then constantly in a review fire drill of needing to review piecemeal plans under condensed timelines which require further review at some future date to assess completeness.

The Applicants response to previous comments on Appendix M to the EM&CP Phase 1, with respect to noise remain unresolved, the Applicant states that local ordinances regarding noise, construction hours, and time-of-day restrictions will be subject to the NYSPSC's refusal to apply. Specifically, the Applicant states that clearing will occur between 7:00 a.m. and 6:00 p.m., Monday through Saturday, and that Sunday and after-hours work will be permitted upon 24 hours' notice to the municipalities and the DPS (note: these hours fall outside the manned complaint hotline hours referenced above). Because this area is

being cleared and then left in a holding state until later phases, the proposed weekend and after-hours work is objectionable given its significant impact on residents' quality of life and the Applicants delay in performing other work activities immediately subsequent to the clearing.

In particular, there appears to be no substantiation as to how noise will be transmitted at each site location when considering seasonality (e.g., foliage versus non-foliage conditions) and local topography (e.g., water bodies, open fields, and the placement and/or elevations of nearby residences). Once again, the Applicant make blanket statements in their October 15 EMCP 1 Reply Comments as to what is and is not assessed in their estimates without providing and underlying support or substantiation. For example, at Shore Road, the clearing of a robust habitat is significant as it is proposed at over two acres (current plans also do not address how displacement of wildlife in the habitat nor how that will be managed to avoid impacts to local residents) which would imply an impact on acoustics for nearby residents – further the Applicant in their responses neglects to account for the noise to be created from the displacements they are creating to local resident homes.

The noise complaint process described in Appendix M, when considered together with Appendix N, is wholly inadequate for a project of this size and does not demonstrate consideration of the impacted community or its residents. The approach should include real-time, ongoing monitoring throughout planned construction activities; real-time field investigation of complaints as they occur; and real-time mitigation measures implemented immediately when warranted. Instead, the Applicant's approach effectively disregards community residents again by relying on a single environmental monitor who responds only to complaints received through the Applicant's complaint management system. Under this framework, the Environmental Manager has 24 hours—when deemed appropriate—to conduct a field investigation, may or may not take sound measurements, and will consider whether additional mitigation is needed only after the complaint is substantiated. The Environmental Manager has up to 10 days to address the issue before reporting it to the DPS.

This outlined approach in Appendix M is unacceptable because residents would have to endure the damages caused by the Applicant's activities and then wait for the Environmental Manager to respond after the disturbance has occurred. While various forms of wildlife are closely monitored and assessed for signs of distress which is noted to cause work to be immediately ceased– yet the distress caused to impacted community residents is of no consequence to the Applicant and their complaint management system is further proof of their lack of disregard for our communities. Moreover, if the noise cannot be replicated, it may be treated as though the complaint was not valid. The proposed approach is wholly unacceptable, and real-time monitoring, field inspections, and mitigation should be implemented for the welfare of the residents of the impacted community.

C. Fugitive Dust Plan and Construction Activities

Despite the Applicants EMCP1 Comment Responses to The Fugitive Dust Control Plan, as outlined in Appendix I, there still is no documented provides no protection for/or monitoring of the public water supply, sole-source aquifers upon which residents rely. This omission is deeply concerning, particularly because the plan does not commit to identifying all materials that may be used in the management of the construction activities or evaluate their potential impacts on local water resources, given the soil classifications within the project work areas.

Appendix I states that propylene glycol may be added to the water used for dust control. The Applicants response that it is added to water prior to application – does not change the fact that this chemical will be in water they are using that will make its way into the ground. This is especially concerning because the plan does not specify the concentrations or quantities that may be used. In excessive amounts, propylene glycol can pose risks to human health, pets, wildlife, wetlands and the environment. Without clear

standards, monitoring requirements, or protective measures, residents have no assurance that local water resources will be adequately safeguarded.

Furthermore, Appendix I states that the Applicant will use local municipal and/or private water supplies for dust control. However, the plan fails to address or evaluate the potential localized impacts of this water usage. This is particularly troubling for residents of Glen Head and Glenwood Landing, who rely on **privately supplied water** and pay directly for that service, and are frequently subject to water use restrictions, including during recent local fire emergencies. The Applicants response to this continues to treat our water situation as municipal water and is not addressing the fact that we have privatized water so once again the responses are not relevant to the concerns being raised.

Unlike the temporary and infrequent water demands associated with firefighting, the Applicant's construction activities may require substantial daily water usage over extended periods. Such sustained demand has the potential to place additional strain on the local water supply and adversely affect residents. Despite this foreseeable impact, EM&CP Phase 1 does not evaluate the potential effects of the Applicant's water usage on local water availability or service, nor does it propose any mitigation measures to address those impacts. Again, the Applicant makes vague unquantified measurements of water that will be used without every committing to amounts or quantities, so the comments still stand and remain open.

As a result, EM&CP Phase 1 fails to adequately consider the potential consequences of their actions on local water resources and does not provide a comprehensive assessment of impacts or an appropriate mitigation plan to protect the residents and water supplies of the impacted community. Lastly in the EMCP1 Comment Responses, the Applicant yet again defers impacts in this area to future EM&CP phases around Soil Management Plans for NYSDOH CAMP Protocols.

D. Appendix K Implies a Shore Road Archeological Site

Appendix K appears to identify an archaeological distinction specific to the Shore Road location that is not referenced for the Barrett Road or Ruland Road locations as detailed in excerpt below. Given this distinction, the Applicant should be required to provide detailed information regarding the archaeological significance of the Shore Road site. This information is necessary to ensure that the Applicant's proposed activities can be fully evaluated and that the potential impacts of the project are properly assessed in light of the unique archaeological considerations identified for this location.

What's interesting is that the Applicant characterizes the location as a domestic trash dump in their EMCP 1 Response Comments #7, while Glenwood Landing Historian Sally Sotirovich is cited at both the Gold Coast Library website and other websites such as the Vanderbilt Cup Races denoting the locale as part of the historic Glenwood-Hungaria/Karatsonyi's Hotel - a 27-acre resort which was a highly frequented establishment for Manhattan day trippers, celebrities and corporate outings in the early 1900s. The Vanderbilt Cup Races website also quotes her in detail about the location, its amenities, and how it handled thousands of visitors and the site even included 8 or 9 baseball diamonds, a beach, a restaurant, and a steamship dock. There are even historic and more up to date maps of the facility and its grounds with the historic baseball diamonds clearly visible with views and photos from the 1920's. We do understand that the site has changed hands to the utilities somewhere around the mid 1950's, however we do ask for details of this site and for the record to be accurate on its characterization. We ask that the Commission compel the Applicant to provide a detailed reconciliation of historic nature of the locale and property sight as the artifact findings would align with its noted publicly available historic nature as opposed to being just as a local trash dump of no consequence.

EM&CP Phase 1, Appendix K Vegetation Management Plan denoted the following as it relates to Shore Road: “At least 14 days before tree clearing at the new substations and Shore Road Landfall and TJVs begins, Propel NY will delineate the tree clearing limits as indicated on the Tree Clearing Plans (see Appendix A-1 to EM&CP Phase 1), mark any onshore (terrestrial) archeological sites in the field to restrict access, stake and/or flag any access roads, and use markers to delineate all environmentally sensitive areas including, but not limited to, wetlands and the 100-ft adjacent and setback areas associated with regulated freshwater wetlands and the 300-ft adjacent areas associated with regulated tidal wetlands, threatened or endangered species habitat, contaminated soil areas, etc. These markings will be left in place, and restored if disturbed, until completion of construction activities and restoration in the impacted area. Propel NY will notify NYSDPS, NYSDEC, and the affected municipalities when the above-described field stake-out is complete in such area.”

E. Construction Safety and Security Plan

In reviewing the Applicants EMCP1 Comment Response they confirm that Appendix F focuses on life safety and emergency issues for workers during the course of work to be performed and not the life safety or emergency impacts to community stakeholders as a result of said construction activities. Then the plans within Appendix F are also marked “Preliminary Not for Construction” which would indicate again that the materials put forth are not complete and subject to change begging the question of if said materials are even sufficiently developed for review and if the Applicant has sufficiently developed the record or if this is going to continue to be a “build as you go” project at every turn. Further, the Applicant states in EMCP1 Comment Responses “The Environmental, Health and Safety Plan is attached to the updated Construction and Safety Security Plan (Appendix O).” – unfortunately said Appendix could not be found in the updated document to even evaluate it – again the public is being papered with incomplete documents by the Applicant for review and assessment.

Conclusion

Accordingly, based upon the above EM&CP Phase 1 should not be approved in its present form. At a minimum, the Certificate Holder should be required to supplement and revise the Phase 1 materials once again to provide the missing site-specific stormwater and drainage information, wetland protections, interim stabilization requirements, contamination and spill pathways, concrete-washout controls, contingency procedures, and other environmental protections identified in both the July 22 and October 1 filings.

The recent October 9 and October 15 submissions reflect recurring procedural deficiencies: public availability of complete materials and imposed deadlines, material concerns remain unresolved that rely on assurances, anticipated revisions, or measures deferred to subsequent EM&CP phases. This process of putting revisions forward for review piecemeal should not allow the Applicant to put forth non-substantial incomplete, or internally inconsistent plans, permit essential environmental protections to remain undefined, or justify seeking authorization before deficiencies affecting the proposed work have been corrected, and then defer meaningful revisions to other future updates.

The Certificate Holders’ desired schedule in isolation does not justify the means in which they are operating - putting forth deficient plans that are predicated on unsubstantiated promises of future remedies. A material document should be submitted for approval when it accurately, completely and consistently defines the work to be performed, details protections in sufficient detail, and thereby provides a reliable basis for evaluating the environmental and public-safety

consequences before any lasting disturbances begin for the host community and its residents and environment. Approval should not be conditioned upon the expectation that a future EM&CP phase will correct deficiencies that should be resolved before Phase 1 is approved and construction is authorized, nor should it be relying on an infinite number unknown revisions to just exhaust the resources of the public and parties to the case by papering them to death on the docket with multiple incomplete revisions as opposed to a comprehensive consolidated meaningful set of revisions that allow for complete assessments to be made. The Certificate Holder's approach has repeatedly sought to move unresolved issues from one phase to the next; and now continues to state that even in this phase future revisions are pending to what they even just put forth. The Commission should not reward the Applicant for this approach by allowing incompleteness itself to become the model for EM&CP review. The environmental consequences of Phase 1 must be adequately evaluated and controlled before the work is permitted to begin.

The subsequent disclosure that documents were omitted from the October 9 public electronic filing further demonstrates the need for rigorous document control, transparent identification of controlling revisions, and verification of complete public access as both Dan Macaree on 10/22/26 and the Village of Sea Cliff on 10/23/26 have highlighted in their EMCP1 Comment Papers. The Applicant's administrative corrections made after filing cannot substitute for confirming, before approval, that the Commission and the public have a complete and consistent record on which to evaluate the proposed work in the requisite timeline. Approval should also not proceed on the strength of promised future corrections where material deficiencies remain unresolved.

For all of the reasons outlined, we request that the Commission withholds its approval of the EMCP Phase 1 until all deficiencies identified to date are actually resolved and not based upon current or future unknown promises. We reserve our rights to comment on future EMCP phases as they are put forth and inclusive of further revisions to the current phase being discussed.

Sincerely,

Doug Augenthaler and Christine Panzeca

Appendix A – Previous EM&CP 1 Submission July 22, 2026

July 22, 2026
Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Hon. Nicholas Planty
Hon. Erika Bergen
Hon. Anthony Belsito
Administrative Law Judges
Office of Hearings and Alternative Dispute Resolution
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 24-T-0446 – Petition of New York Transco LLC and New York Power Authority for a Certificate of Environmental Compatibility and Public Need – Regarding the EM&CP Phases Timeline and DPS Website Outages

Dear Secretary Phillips and Your Honors:

As there was no response provided on the request for clarification and relief, we are filing these initial comments on EM&CP Phase 1 based upon what we have been able to review to date. We do not waive the ability to file further substantive comments for Phase 1, nor do we concede that the EM&CP filings to date are complete, ready for review or procedurally proper while substantive issues pertaining to the Joint Proposal remain unresolved. This request is made without waiving, narrowing, or replacing any substantive or procedural objections, and without limiting our rights to submit comments regarding the EM&CP (filings)s.

EM&CP Phase 1 fails to give fair and reasonable consideration to all parties and stakeholders of the communities being impacted by the project. It provides substantive protective measures for the Applicant but fails in providing adequate protective measures for residents, businesses and schools in each impacted community.

A. Complaint Resolution and Noise Resolution

The complaint resolution process outlined in EM&CP Phase 1, Appendix N, is not meaningful for residents of the impacted community and is wholly inadequate for a project of this size and complexity. The staffed hours of operation for the complaint hotline, as well as the availability of inspectors, should align with the project's construction schedule. There should also be a sufficient number of inspectors available to respond to complaints in real time across the project area, with prompt investigation and mitigation implemented in the affected locations.

Instead, community stakeholders are provided with a staffed hotline that operates only Monday through Friday, from 9:00 a.m. to 5:00 p.m., despite the Applicant being authorized to conduct construction activities Monday through Saturday from 7:00 a.m. to 6:00 p.m. during this phase, and potentially beyond those days and hours when deemed necessary. In subsequent phases, construction hours may extend even further beyond the manned hotline timeframes.

Under the current process, residents must wait up to 24 hours to receive an acknowledgment of their complaint and then wait again while the issue is investigated. The Applicant has up to 10 days to substantiate and address the complaint, and, according to the Applicant, some issues may not be resolved at all. Furthermore, there is no on-site mechanism to address complaints in real time. Instead, construction personnel provide residents with a flyer explaining how to file a complaint. This approach is unacceptable for a project of this magnitude, as it creates conditions that are an open invitation for the applicant to ignore the rules because there is effectively no accountability. Real-time monitoring, prompt investigation, timely substantiation of complaints, and immediate implementation of mitigation measures should be required to protect the health, welfare, and quality of life of residents in the impacted community.

Further, as noted in Appendix M to the EM&CP Phase 1, with respect to noise, the Applicant states that local ordinances regarding noise, construction hours, and time-of-day restrictions will be subject to the NYSPSC's refusal to apply. Specifically, the Applicant states that clearing will occur between 7:00 a.m. and 6:00 p.m., Monday through Saturday, and that Sunday and after-hours work will be permitted upon 24 hours' notice to the municipalities and the DPS (note: these hours fall outside the manned complaint hotline hours referenced above). Because this area is being cleared and then left in a holding state until later phases, the proposed weekend and after-hours work is objectionable given its significant impact on residents' quality of life and the Applicants delay in performing other work activities immediately subsequent to the clearing.

In particular, there appears to be no substantiation as to how noise will be transmitted at each site location when considering seasonality (e.g., foliage versus non-foliage conditions) and local topography (e.g., water bodies, open fields, and the placement and/or elevations of nearby residences). For example, at Shore Road, the clearing of a robust habitat is significant as it is proposed at over two acres (current plans also do not address how displacement of wildlife in the habitat nor how that will be managed to avoid impacts to local residents) which would imply an impact on acoustics for nearby residents.

The noise complaint process described in Appendix M, when considered together with Appendix N, is wholly inadequate for a project of this size and does not demonstrate consideration of the impacted community or its residents. The approach should include real-time, ongoing monitoring throughout planned construction activities; real-time field investigation of complaints as they occur; and real-time mitigation measures implemented immediately when warranted. Instead, the Applicant's approach effectively disregards community residents again by relying on a single environmental monitor who responds only to complaints received through the Applicant's complaint management system. Under this framework, the Environmental Manager has 24 hours—when deemed appropriate—to conduct a field investigation, may or may not take sound measurements, and will consider whether additional mitigation is needed only after the complaint is substantiated. The Environmental Manager has up to 10 days to address the issue before reporting it to the DPS.

This outlined approach in Appendix M is unacceptable because residents would have to endure the damages caused by the Applicant's activities and then wait for the Environmental Manager to respond after the disturbance has occurred. Moreover, if the noise cannot be replicated, it may be treated as though the complaint was not valid. The proposed approach is wholly unacceptable, and real-time monitoring, field inspections, and mitigation should be implemented for the welfare of the residents of the impacted community.

B. Fugitive Dust Plan and Construction Activities

The Fugitive Dust Control Plan, as outlined in Appendix I, provides no protection for/or monitoring of the public water supply, sole-source aquifers, or private wells upon which residents rely. This omission is deeply concerning, particularly because the plan does not commit to identifying all materials that may be used in the management of the construction activities or evaluate their potential impacts on local water resources, given the soil classifications within the project work areas.

Appendix I states that propylene glycol may be added to the water used for dust control. This is especially concerning because the plan does not specify the concentrations or quantities that may be used. In excessive amounts, propylene glycol can pose risks to human health, pets, wildlife, wetlands and the environment. Without clear standards, monitoring requirements, or protective measures, residents have no assurance that local water resources will be adequately safeguarded.

Furthermore, Appendix I states that the Applicant will use local municipal and/or private water supplies for dust control. However, the plan fails to address or evaluate the potential localized impacts of this water usage. This is particularly troubling for residents of Glen Head and Glenwood Landing, who rely on privately supplied water, pay directly for that service, and are frequently subject to water use restrictions, including during recent local fire emergencies. Unlike the temporary and infrequent water demands associated with firefighting, the Applicant's construction activities may require substantial daily water usage over extended periods. Such sustained demand has the potential to place additional strain on the local water supply and adversely affect residents. Despite this foreseeable impact, EM&CP Phase 1 does not evaluate the potential effects of the Applicant's water usage on local water availability or service, nor does it propose any mitigation measures to address those impacts.

As a result, EM&CP Phase 1 fails to adequately consider the potential consequences of their actions on local water resources and does not provide a comprehensive assessment of impacts or an appropriate mitigation plan to protect the residents and water supplies of the impacted community.

C. Appendix K Implies a Shore Road Archeological Site

Appendix K appears to identify an archaeological distinction specific to the Shore Road location that is not referenced for the Barrett Road or Ruland Road locations as detailed in excerpt below. Given this distinction, the Applicant should be required to provide detailed information regarding the archaeological significance of the Shore Road site. This information is necessary to ensure that the Applicant's proposed activities can be fully evaluated and that the potential impacts of the project are properly assessed in light of the unique archaeological considerations identified for this location.

EM&CP Phase 1, Appendix K Vegetation Management Plan denoted the following as it relates to Shore Road: "At least 14 days before tree clearing at the new substations and Shore Road Landfall and TJVs begins, Proprietary NY will delineate the tree clearing limits as indicated on the Tree Clearing Plans (see Appendix A-1 to EM&CP Phase 1), mark any onshore (terrestrial) archeological sites in the field to restrict access, stake and/or flag any access roads, and use markers to delineate all environmentally sensitive areas including, but not limited to, wetlands and the 100-ft adjacent and setback areas associated with regulated freshwater wetlands and the 300-ft adjacent areas associated with regulated tidal wetlands, threatened or endangered species habitat, contaminated soil areas, etc. These markings will be left in place, and restored if disturbed, until completion of construction activities and restoration in the impacted area. Proprietary NY will notify NYSDPS, NYSDEC, and the affected municipalities when the above described field stake-out is complete in such area."

D. Construction Safety and Security Plan

Appendix F focuses on life safety and emergency issues for workers during the course of work to be performed however the EM&CP Phase 1, fails to address anywhere the life safety or emergency impacts to community stakeholders that may occur as a result of said construction activities.

We are unable to comprehensively review the EM&CP Phase 1 due to the limited amount of time allocated for the public to review of these voluminous technical documents that were released during a simultaneous response period associated with the Joint Proposal. Nonetheless, we have identified serious concerns regarding the robustness of the plans outlined as the impact on residents appears to be an afterthought. Phase 1 fails to give fair and reasonable consideration to all parties and stakeholders of the communities being impacted by the project. It provides substantive protective measures for the Applicant but fails in providing adequate protective measures for residents, businesses and schools in each impacted community.

Nothing in these comments should be construed as consent to or approval of the Project, any later EM&CP phase, or any related construction activity. We reserve the full right to supplement these initial comments at a later date pending the response to the clarification and relief filing submitted.

Sincerely

Doug Augenthaler and Christine Panzeca

**Appendix B – Previous EM&CP 1 Submission October 1, 2026 (Excluding this submissions
Appendix A – which is already provided above at it is our July 22, 2026 submission)**

October 1, 2026
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

**Re: Case 24-T-0446 – Petition of New York Transco LLC and New York Power Authority
for a Certificate of Environmental Compatibility and Public Need – Additional Comments
Regarding the Phase 1 EM&CP**

Dear Secretary Phillips and the Commission:

We initially submitted preliminary comments on EM&CP Phase 1 on July 22, 2026, prior to the Commission's September 17, 2026 Order Adopting the Terms of a Joint Proposal and the Certificate Conditions set forth in Appendix D. The Commission's September 17 Order established October 1, 2026 as the deadline for additional comments on the Phase 1 and Phase 2 EM&CPs.

This filing therefore supplements our prior comments and should be reviewed together with our July 22 filing, which is attached as **Appendix A** and incorporated by reference. We are not withdrawing, replacing, or waiving any of the concerns previously submitted.

Throughout this proceeding, we raised questions concerning the applicable EM&CP deadlines and received conflicting information regarding when the formal review period commenced. The Administrative Law Judges subsequently stated that the EM&CP phase had not formally commenced, while DPS Staff separately stated that the applicable comment periods had not begun. The Commission's September 17, 2026 Order and its September 24, 2026 Order Denying the Village of Sea Cliff's Petition for Rehearing concerning the October 1 comment deadline and renewed service and publication requirements do not eliminate the underlying concern regarding the inconsistent procedural guidance provided during this process.

Where the Commission establishes the EM&CP review process, stakeholders should not be placed under substantial time constraints to evaluate thousands of pages of pre-certification material while the underlying Joint Proposal and Certificate Conditions were under review and remained unresolved or subject to change. A meaningful EM&CP review requires a reasonable opportunity for affected municipalities, residents, businesses, schools, environmental interests, and other stakeholders to evaluate the final governing requirements and the Certificate Holder's site-specific plans. Once the Certificate Conditions were adopted, EM&CP review became the mechanism for determining whether the actual site-specific construction plans satisfy those binding requirements.

The Certificate Holder may not proceed with construction until the applicable EM&CP is approved and a Notice to Proceed is issued. The record further indicates that construction cannot proceed without satisfaction of applicable pre-construction authorization requirements, including required MS4/SPDES and NYSDEC approvals. These circumstances reinforce the need for the Commission to ensure that the EM&CP presented for review is sufficiently complete, site-specific, and capable of demonstrating compliance with applicable standards before construction is authorized.

A. SHORE ROAD STORMWATER, VEGETATION, INVASIVE SPECIES, SPILL MANAGEMENT, AND ENVIRONMENTAL COMPLIANCE

A.1 Site-Specific Planning and Stormwater Controls

The Phase 1 EM&CP seeks approval for substantial tree and vegetation clearing at the New Shore Road Substation site, while deferring subsequent construction activities to later EM&CP phases. The New Shore Road SWPPP identifies the work as a tree-clearing phase and expressly anticipates that subsequent substation construction will be addressed in a separate phase.

The Certificate Holder's documents have not demonstrated that the proposed controls are adequate, integrated, and specifically designed for the actual drainage, wetland, slope, and receiving-water conditions at New Shore Road.

The SWPPP identifies the Town of Oyster Bay MS4 and recognizes potential pollutants including excavation spoils, grading, vehicle tracking, stockpiles, fuel, hydraulic oil, lubricants, antifreeze, construction debris, and concrete washout. It nevertheless does not adequately identify the complete stormwater drainage pathway from the disturbed areas, through the stormwater collection system, to the ultimate discharge point and receiving water, or demonstrate that adequate controls are in place along that pathway.

The record should therefore identify, before construction:

- the precise limits of disturbance and construction access routes;
- each stormwater inlet that could receive runoff from the disturbed area;
- drainage patterns and flow directions;
- drainage areas contributing runoff to each inlet;
- the location and design of sediment-control measures;
- the location and capacity of stormwater basins, recharge structures, and other drainage infrastructure;
- the ultimate discharge and outfall locations;
- the protection provided at each inlet and discharge point;
- the design basis or calculations demonstrating that the proposed controls are adequate for the anticipated runoff;
- the receiving water or waters potentially affected by the discharge;
- the protections separating W01025B and other sensitive areas from construction runoff;
- the measures preventing runoff from bypassing or overtopping the proposed controls; and
- the manner in which sediment, petroleum products, hydraulic fluids, concrete washout, and other identified pollutants will be prevented from reaching the harbor or other receiving waters.

The Certificate Conditions contemplate site-specific environmental planning and require erosion and sediment controls to comply with the applicable SPDES requirements and SWPPP. They also require site-specific environmental monitoring and corrective measures. The existence of a general SWPPP framework does not substitute for demonstrating that the controls are appropriately designed for the actual site.

A site-specific stormwater protection strategy should not be developed or materially resolved after approval and after construction has commenced. The Commission and affected stakeholders should be provided sufficient information in these plans and before any approvals or authorizations to construct in order to determine whether the proposed controls are adequate.

The Certificate Holder should not be permitted to proceed on the assumption that deficiencies can be identified in the field and corrected later or that a future EM&CP will cure current deficiencies. A project of this scale should not be implemented as a 'build-as-you-go' process in which material environmental protections are deferred to subsequent phases or developed only after problems arise. Unfortunately, the record increasingly suggests that 'build first, resolve later' has become the Certificate Holder's operating approach.

A.2 Wetland W01025B and Interim Protection

The New Shore Road SWPPP acknowledges that freshwater wetland W01025B lies within the tree-clearing limits and that disturbed areas will be temporarily stabilized. The VMP similarly provides for temporary stabilization of the wetland and associated wetland areas within 48 hours of completion of work.

At the same time, the VMP states that no permanent seeding is planned during Phase 1 because subsequent construction is anticipated, and that restoration to original contours or seeding following the Phase 1 vegetation clearing is not necessary because the wetland will be further impacted during a later phase. This creates a significant interim period in which:

trees and vegetation are removed → soil and ground conditions are disturbed → temporary stabilization is installed → the area remains in an interim condition → subsequent construction occurs at a later date.

Temporary stabilization with straw mulch and periodic monitoring do not demonstrate that these measures will remain effective for the entire period between Phase 1 clearing and subsequent construction, including circumstances in which the anticipated schedule is delayed. That deficiency is particularly striking given the site's location. One would expect a site-specific environmental plan for a North Shore waterfront property to reflect the obvious reality that this location is routinely exposed to heavy rain, strong winds, and coastal storm conditions. Phase 1 instead appears to treat straw mulch and periodic inspection as though the site existed in a controlled environment.

At a minimum, the Certificate Holder should provide:

- the precise limits of disturbance adjacent to W01025B and the basis for determining that the wetland cannot be avoided;
 - the required wetland and adjacent-area protections;
 - the precise location and design of perimeter sediment controls;
 - expected runoff directions and the pollutants that could be transported in that runoff;
 - measures preventing runoff from bypassing the controls;
 - measures demonstrating that straw mulch will remain effective during significant rainfall;
 - procedures for repairing rills, gullies, erosion, and other deterioration;
 - procedures for removing accumulated sediment;
 - criteria requiring additional or redundant controls; and
-

- a contingency plan governing the site if subsequent construction is delayed.

The Certificate Holder's statement that subsequent construction is expected to occur shortly after tree clearing is a schedule assumption, not an environmental control. The EM&CP should establish protections that remain effective regardless of whether the next phase begins on schedule.

A.3 Prevention Must Be Demonstrated—Inspection and Corrective Action Are Not Substitutes for Prevention

The Certificate Holder's plans rely substantially on inspections and corrective actions to identify and address failures. Those procedures are necessary, but they do not substitute for preventive design.

For example, if a storm event causes sediment to bypass a silt fence and enter a catch basin or W01025B, documenting the discharge during a subsequent inspection does not undo the environmental impact.

The Certificate Holder should therefore demonstrate redundant protections at sensitive locations, particularly around W01025B, drainage inlets, slopes, and pathways leading toward receiving waters.

The SWPPP provides for periodic sediment removal and inspection, including inspections following rainfall events of 0.5 inch or greater. The record should nevertheless address the site-specific effects of slope, rainfall intensity and duration, antecedent soil saturation, frozen or thawing conditions, accumulated sediment, deterioration of mulch, condition of silt fencing, potential bypass around BMPs, and the capacity of catch-basin protection.

A.4 Contamination and Integration of the SWPPP and SPCC Plans

The SPCC Plan and SWPPP address related but distinct risks. The SPCC Plan establishes procedures for petroleum and hazardous-substance storage, equipment inspections, containment, spill response, contaminated soil removal, and disposal. The SWPPP addresses erosion, sediment, stormwater, and other pollutants.

The remaining concern is whether the plans are sufficiently integrated. The Certificate Holder should identify the site-specific measures that will prevent contaminated soil, absorbent materials, petroleum products, spill-related materials, or other pollutants or contaminated materials from being mobilized by stormwater and transported toward drainage infrastructure, W01025B, or the Harbor.

The SWPPP expressly identifies concrete washout as a potential pollutant. Identification of a potential pollutant, however, does not establish that the necessary site-specific controls have been designed.

The Certificate Holder should identify:

- the exact location of the concrete washout area;
- its capacity;
- its distance from W01025B and other sensitive resources;

-
- its distance from stormwater inlets;
 - the required liner or containment system;
 - overflow and freeboard protections;
 - procedures for removal of hardened concrete; and
 - procedures for protecting the washout during major rainfall events.

The same principle applies to other material-storage and equipment-maintenance areas: the record should demonstrate where these activities will occur and how their locations relate to wetlands, drainage infrastructure, slopes, and stormwater flow paths.

A.5 Interim Stabilization and the Absence of Seeding

The plan instead relies on temporary stabilization, including straw mulch, until later construction. The Certificate Holder, however, does not demonstrate the required mulch thickness and application rate; how mulch will be anchored on sloped areas; inspection and maintenance procedures; how rills and gullies will be repaired; how accumulated sediment will be removed; how stabilization will be maintained throughout the entire interim period; when supplemental stabilization will be required; and what additional measures will be implemented if the next EM&CP phase is delayed.

The Commission should not rely on an assumption that "construction will commence shortly" as the basis for environmental protection. The interim condition must be independently protective for as long as it exists.

A.6 Site-Specific Contingency Planning

Appendix D recognizes that controls can fail and establishes Level 2 and Level 3 procedures. Level 3 specifically includes improper installation of erosion/sediment controls and improper fuel/material storage, with possible site-specific stop-work authority. Again, the record fails to contain a **site-specific contingency plan** for overtopped sediment controls, breached silt fence, failed inlet protection, sediment entering a catch basin, sediment entering W01025B, petroleum spill during rainfall, contaminated runoff, washout failure, saturated soil, unexpected groundwater/dewatering.

The SWPPP currently states that dewatering is not anticipated during this initial phase. That is an assumption, not a fact. The Certificate Holder should therefore identify the required contingency procedure rather than leaving an unexpected groundwater condition to be resolved in the field.

Tree clearing at New Shore Road is not an environmentally insignificant preliminary activity. It involves the removal of vegetation, use of heavy equipment, disturbance of soils, handling and transportation of woody material, potential use of petroleum and hazardous substances, stormwater and erosion risks, and impacts to or adjacent to identified wetland resources. The Certificate Holder's own documents recognize these risks.

For the reasons set forth above, and for all reasons previously raised in our July 22, 2026 filing attached as Appendix A, the Certificate Holder has not demonstrated with sufficient site-specific detail that EM&CP Phase 1 will adequately protect W01025B, stormwater infrastructure, receiving waters, surrounding properties, and the broader environmental resources affected by the New

Shore Road clearing activities. These concerns relate to the completeness, integration, site-specific design, redundancy, maintenance, contingency planning, and enforceability of those protections.

Accordingly, EM&CP Phase 1 should not be approved in its present form. At a minimum, the Certificate Holder should be required to supplement and revise the Phase 1 materials to provide the missing site-specific stormwater and drainage information, wetland protections, interim stabilization requirements, contamination and spill pathways, concrete-washout controls, contingency procedures, and other environmental protections identified above and in our July 22 filing.

Approval should not be conditioned upon the expectation that a future EM&CP phase will correct deficiencies that should be resolved before Phase 1 is approved and construction is authorized. The Certificate Holder has repeatedly sought to move unresolved issues from one phase to the next; the Commission should not reward that approach by allowing incompleteness itself to become the operating model for EM&CP review. The environmental consequences of Phase 1 must be adequately evaluated and controlled before the work is permitted to begin.

Sincerely,

Doug Augenthaler and Christine Panzeca

Appendix C – Communications on the Lack of Availability of Revised EM&CP Documents for Public Review – Library Director of the Gold Coast Public Library

Propel Information sent to the Gold Coast Library



Michael Morea <mmorea@goldcoastlibrary.org>
To propelcommunications@outlook.com



Fri 10/23/2026 10:08 AM

Hi Christine,

Thank you for your question, just to confirm, the Gold Coast Public Library received the binders of information from Propel in July 2026 and have not been in receipt of any additional information since that time.

And just for your information, the binders were sent at my request because I believed they would be more accessible to our residents to use than the USB flash drives that had been sent in the past. I can also confirm that no additional information has been sent to the library digitally via cloud or USB since July 2026.

Thank you,
Mike

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Mike Morea
Library Director
Gold Coast Public Library
(516) 759-8300 x1012