

**Petition of New York Transco LLC and New York
Power Authority for a Certificate of Environmental
Compatibility and Public Need, Pursuant to Article
VII of the Public Service Law, to Construct,
Operate, and Maintain the Propel New York
Energy Project**

CASE 24-T-0446

**FINAL COMMENTS OF DANIEL McAREE ON THE PHASE 2
ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN
Submitted August 10, 2026**

PRELIMINARY STATEMENT

Daniel McAree, a self-represented party and homeowner in the Glen Head and Glenwood Landing community, respectfully submits these comments on the Phase 2 Environmental Management and Construction Plan. These comments are offered from the perspective of an affected resident and an experienced construction quality professional. They address whether the Phase 2 package is complete, coordinated, construction-ready, inspectable, testable, environmentally protective, and enforceable before irreversible work begins.

The filing contains meaningful protections. It also relies on future contractor submittals, pending permits and agreements, future agency consultation, complaint-triggered measures, daylight-only monitoring, provisions qualified by terms such as “where practicable,” and drawings described as illustrative, approximate, subject to change, conceptual, or not for construction. The comments below request specific conditions, review periods, inspections, tests, hold points, and compliance records so that unresolved items cannot be left solely to field coordination after approval.

Mr. McAree has also reviewed the Timely Comments and Protective Objections filed by the Incorporated Village of Sea Cliff. Several Village observations independently reinforce concerns identified in this submission, particularly concerning incomplete design, serial deferral, underwater work areas, navigation, drilling-fluid management, water-quality monitoring, shellfish and benthic resources, emergency readiness, and community impacts. Mr. McAree does not reproduce or adopt every municipal, title, procedural, or legal assertion made by the Village. Where expressly stated below, he supports a specific concern and adds a separate construction-quality or homeowner-protection basis for requiring a defined preconstruction deliverable or hold point.

SCOPE AND LIMITATIONS OF THESE COMMENTS

These comments are limited to the adequacy of Phase 2 and the information needed to review, approve, construct, monitor, and restore the Phase 2 work. They do not ask the Commission to reopen the Project merits through the EM&CP process, determine disputed title, decide matters reserved to another agency, or grant relief beyond the Commission’s lawful authority. References to proposed Certificate Conditions are made because the Applicant relies on them in the Phase 2 compliance matrix and because the final Certificate may affect the governing requirements.

Nothing in this filing should be construed as consent to the Project, acceptance of the Joint Proposal, acceptance of any proposed Certificate Condition, waiver of any property, procedural, environmental, municipal, statutory, common-law, constitutional, or other right, or agreement that the current filing, notice, comment period, design, alignment, work area, permit status, or mitigation is sufficient. Mr. McAree reserves the right, to the fullest extent permitted by law and Commission procedure, to amend or supplement these comments in response to a final Certificate, conformed filing, material revision, protected disclosure, agency determination, Applicant response, permit, title or survey production, construction change, or other material development. These comments are submitted without prejudice to any pending motion, objection, request, comment, appeal, rehearing right, or other remedy.

Statements concerning potential impacts, unresolved conflicts, exposures, releases, damage, or remedies are framed as requests for investigation, conditions, monitoring, or contingent protection. They are not assertions that a violation, release, injury, property damage, title defect, regulatory breach, or legal liability has already occurred. Where a factual point originates in the Village of Sea Cliff filing or another source, it is identified as such. Technical standards and guidance are cited for the limited purpose stated and not as a representation that each authority legally governs the Project.

REQUESTED DISPOSITION

Mr. McAree respectfully requests that Phase 2 be held in abeyance until the material deficiencies identified below are resolved. Alternatively, if the Commission determines that Phase 2 may be approved conditionally, any approval should expressly prohibit mobilization, field authorization, Notice to Proceed, or commencement of the affected work until the applicable preconstruction deliverables, permits, reviews, hold points, and acceptance criteria identified below have been satisfied in writing:

1. File a complete Phase 2 package conformed to the final Certificate, with a redline and revision matrix showing every material change.
2. File final, coordinated, construction-controlled documents, signed and sealed where required by applicable law or professional practice, and state the design-completion percentage and status of every drawing and plan.
3. File the complete final HDD execution package sufficiently before mobilization for a completeness determination, technical review, written comments, Applicant responses, revisions, and confirmation that material issues are resolved.
4. File a site-specific HDD Inspection and Test Plan with responsible personnel, qualifications, independence, inspection frequency, witness points, hold points, test methods, acceptance criteria, records, nonconformance procedures, stop-work authority, and written restart authority.
5. Obtain and file all final permits, approvals, property rights, submerged-land rights, co-located infrastructure (CI) owner agreements, municipal approvals, and agency determinations, with a condition-by-condition compliance crosswalk.
6. Establish continuous day-and-night environmental coverage and monitoring for every active HDD or marine shift presenting risk to Hempstead Harbor.
7. Resolve the water-quality, drilling-fluid, shellfish, benthic, oyster, recreational-water, noise, lighting, contaminated-site, roadway baseline and restoration, groundwater and aquifer contingency, traffic, marine, emergency-response, restoration, and community-notification issues below.
8. Provide a point-by-point response matrix stating whether each comment is accepted, rejected, or partially accepted; the basis for each response; the exact revised page, drawing, table, or plan; the responsible party; the completion date; the applicable hold point; and the record that will prove compliance. General assurances of future compliance, field coordination, contractor means and methods, future consultation, or citation to a document that does not expressly resolve the comment should not constitute a complete response.

1. Final Certificate and Conformed Phase 2 Filing

The Phase 2 filing relies on proposed Certificate Conditions that may be adopted, modified, or rejected. A complete compliance determination cannot be made against governing requirements that are not yet final. This supports the Village of Sea Cliff's sequencing concern, while the construction-quality issue is independent: the final Certificate is a governing design input that must be incorporated into the controlled construction documents.

Requested condition. If Phase 2 review proceeds before issuance of the final Certificate, any approval should remain expressly contingent upon the Applicant filing a complete conformed Phase 2 package after Certificate issuance. No Notice to Proceed or affected field work should be authorized until DPS Staff confirms that the final Certificate has been incorporated, all resulting material changes have been identified by redline and revision matrix, and any material revisions have received an appropriate opportunity for responsive comment.

2. Construction-Document Status and Design Completion

Phase 2 contains drawings and plans described as illustrative, conceptual, approximate, subject to field change, or not for construction. The filing does not identify whether each package is 60, 90, 95, or 100 percent complete, or whether it is issued for construction. A binding EM&CP should not depend on a later contractor or rig-manager configuration that may change work limits, access, environmental controls, lighting, noise, drainage, marine footprints, or utility interfaces.

Requested condition. Require a package-by-package design-status certification; final construction-controlled drawings and documents, signed and sealed where required by applicable law or professional practice; identification of each Engineer of Record; outstanding-design, coordination, and comment logs; final issue dates; and a revision matrix. Illustrative or not-for-construction material should not authorize field work.

3. Cross-Phase Closure and Serial-Deferral Matrix

The Joint Proposal deferred implementation details to the EM&CP process, while Phase 2 defers some Phase 2-related design, mitigation, monitoring, restoration, consultation, and property matters to a later phase, contractor decision, future permit, or contingency. The concern is not rational phasing. It is authorizing Phase 2 before the information necessary to evaluate Phase 2 is complete.

Requested condition. Require an Applicant-prepared matrix identifying every issue previously deferred to Phase 2, whether Phase 2 resolves it, every Phase 2 issue deferred further, the exact future filing or approval, and why the unresolved item is not necessary to evaluate or mitigate Phase 2 before approval.

4. Critical HDD Submittals and Adequate Review Time

Appendix P-2 defers critical HDD information until at least two weeks before work, including equipment, pilot-hole and reaming methods, tools and passes, tracking accuracy, drilling fluids, pullback support, buoyancy modification, disposal procedures, and inadvertent-return planning. These choices affect subsurface pressure, fluid loss, utility safety, marine safety, containment, conduit integrity, environmental response, and public impacts. Two calendar weeks does not itself provide a completeness review, agency coordination, party comment, response, resubmittal, and resolution period.

Requested condition. Require the complete final HDD package sufficiently before mobilization for a DPS completeness determination, technical review, written comments, point-by-point responses, revision, and confirmed resolution. The review period should begin only when the package is complete. Work should remain prohibited while a material issue affecting safety, environmental protection, utilities, navigation, or the community remains unresolved.

5. HDD Inspection and Test Plan and Construction Hold Points

General personnel titles do not establish who must inspect each critical operation, what qualifications and independence apply, what is continuously monitored, which tests are witnessed, what constitutes acceptance, who may reject deficient work, and who may authorize restart.

Requested condition. Require a site-specific HDD Inspection and Test Plan covering survey control, positive utility identification, equipment readiness, calibration, drilling-fluid properties, pressure and fluid-volume monitoring, tracking, pilot-hole acceptance, reaming, conduit material and fusion verification, applicable joint and integrity testing, pull-force limits, marine staging, as-builts, waste reconciliation, restoration, and nonconformance closeout. Establish hold points before mobilization, drilling, reaming, pullback, and final closeout.

6. Objective Stop-Work and Restart Criteria

The HDD documents use discretionary terms and allow operational judgment during loss of circulation or response. The Village identified potential “continue drilling,” “continue drilling with minimum fluid,” and “contain and continue” paths. An environmental release toward Hempstead Harbor should not be governed by an ambiguous or conflicting decision tree.

Requested condition. Require one conformed decision tree with numerical or otherwise objective pressure, flow, fluid-loss, tracking, turbidity, equipment, weather, and observation thresholds. Prohibit “contain and continue” for any release into or migrating toward Hempstead Harbor. Require immediate suspension, notification, a nonconformance report, investigation, corrective action, independent verification, and written restart authorization.

7. Bore-by-Bore Drilling-Fluid Reconciliation and Long-Term Fate

The Village identified substantial estimated quantities of bentonite, additives, and drilling fluid and a return-flow assumption, but no complete bore-by-bore accounting of input, recovery, treatment, disposal, formation retention, unexplained loss, or maximum credible release. Immediate plume response alone does not address material that remains in the formation or settles in the Harbor and may later be disturbed.

Requested condition. Require a controlled material-reconciliation schedule for each bore showing quantities received, mixed, circulated, recovered, processed, transported, disposed, retained in formation, lost, and unexplained. Establish an approved variance threshold that triggers suspension and investigation. Require site-specific analysis of settling, deposition, consolidation, erosion, tidal and storm resuspension, anchor disturbance, propeller wash, and migration toward shellfish, oyster-restoration, marina, shoreline, and swimming areas.

8. Actual Drilling-Fluid Mixture and Exposure Pathways

Descriptions such as non-hazardous or NSF/ANSI 60 certified do not by themselves establish ecological or public-contact safety under an uncontrolled release to Hempstead Harbor. Chemical toxicity is not the only concern. Physical smothering, clogging, abrasion, altered sediment texture, and resuspension may also matter.

Requested condition. Require the final formulation and allowable substitutions, safety data, and a scientifically supported assessment of the actual spent mixture after interaction with native sediment. Address oysters, hard clams, larvae, other filter feeders, benthic habitat, skin and eye contact, incidental ingestion, and shoreline-sediment pathways. Do not assume the mixture is hazardous, but do not assume it is harmless without site- and pathway-specific support.

9. Water-Quality Monitoring Scope Regardless of Gravity-Cell Use

Appendix AA-2 identifies gravity-cell installation and removal as the monitored HDD activity, while gravity-cell use is contingent. This may leave pilot drilling, reaming, swabbing, punch-out, flushing, pullback, loss of circulation, spudding, anchoring, anchor sweep, conduit handling, or an inadvertent return outside the formal monitoring program.

Requested condition. Require risk-based, real-time monitoring during every operation capable of causing a surface, seafloor, sediment, or drilling-fluid impact, whether or not a gravity cell is used. Include every bore, relevant seabed-disturbing activity, direct bore-fluid accounting, land and marine observation, and immediate escalation criteria.

10. Daylight Monitoring Versus 24/7 Operations

The water-quality plan schedules monitoring during daylight hours, while the HDD noise plan states that drilling, reaming, swabbing, and pullback may continue 24 hours per day. Potentially consequential nighttime work should not proceed without equivalent environmental coverage.

Requested condition. Require a qualified Environmental Monitor and Aquatic Environmental Monitor, with access to live operational data, whenever HDD or in-water work is active. If safe nighttime vessel sampling is infeasible, require an approved equivalent method or restrict risk-producing operations until monitoring is available. No contractor or schedule authority should override a valid environmental stop-work direction.

11. Immediate Exceedance Response and Schedule Subordination

Appendix AA-2 allows notice and a Corrective Action Plan within 24 hours, permits operational modifications before cessation, and states that mitigation should not materially delay completion within one construction season. Schedule protection should not compete with water-quality compliance.

Requested condition. Require a confirmed exceedance, unexpected plume, or credible release indicator to trigger immediate operational reduction or suspension; immediate notice to DPS, NYSDEC, affected municipalities, and other applicable authorities; corrective action; independent confirmation; and written restart authorization. Delete or subordinate the material-delay limitation so compliance controls the schedule.

12. Resources Within the 500-Foot Compliance Boundary

The Village correctly distinguishes a compliance boundary from a protection buffer. Compliance measured at the down-current 500-foot boundary does not establish suspended-sediment concentration, contaminant concentration, deposition, or biological effect between the work and that boundary.

Requested condition. Map all shellfish, oyster-restoration, beaches, shallow habitat, moorings, shorelines, and public-use resources inside and outside the boundary. Establish intermediate receptor stations, deposition measurements, biological or restoration criteria, and cumulative analysis for the four HDD exits and repeated operations.

13. Contaminant-Specific Monitoring and Deposition

The Phase 2 record identifies metals in Hempstead Harbor sediment. TSS and turbidity measurements do not determine what disturbed particles contain or where they settle.

Requested condition. Require contaminant-specific baseline and construction-period water and sediment sampling, sediment traps or another scientifically justified deposition method, shoreline and beach sediment sampling where a pathway exists, immediate post-activity assessment, objective action levels, and restoration triggers. Require independent marine-science review of the monitoring design.

14. Hard Clams and Timing of Mitigation

The Hard Clam Impact Minimization Plan expressly states that Propel conservatively assumes 100% mortality for hard clams within bore-disturbance and vessel-anchoring areas. The same plan identifies temporary disturbance associated with spudding, anchoring, and HDD support activities and states that the workspace is subject to change based on contractor input. Mortality cannot be minimized after it occurs.

Requested condition. Before Phase 2 marine work, require a written NYSDEC determination addressing Phase 2 impacts and whether mitigation is required. If triggered, require the mitigation plan before Phase 2, with final mortality-footprint mapping, immediate pre-work surveys, avoidance, relocation where practicable, fixed replacement ratios, restoration locations, financial assurance, reporting, and date-certain replacement and habitat restoration.

15. Oyster-Restoration Resources

Hard-clam protection does not automatically protect natural or restored oyster resources. The Village identifies public and community oyster-restoration efforts that warrant separate mapping and protection.

Requested condition. Require consultation with the relevant Harbor restoration entities and qualified scientists; mapping of natural and restored oyster areas; no-spud, no-anchor, no-gravity-cell, and no-disturbance buffers where practicable; baseline condition documentation; relocation where avoidance is impossible; immediate post-work assessment; full replacement of Project-caused losses; and enforceable habitat-restoration deadlines.

16. Winter Flounder

The winter-flounder plan identifies a restricted seasonal window, but schedule changes remain possible and the Village notes that the plan does not provide direct biological monitoring of adults, eggs, larvae, juveniles, or habitat condition.

Requested condition. Treat any schedule change entering the restricted window as a formal hold point requiring written DPS and NYSDEC approval and a Part 182 determination. Require Phase 2-specific biological monitoring, avoidance, stop-work, habitat-restoration, and mitigation measures to the extent applicable to Phase 2 impacts.

17. Phase 2-Specific Benthic Baseline and Mandatory Recovery

A later Phase 5 preconstruction survey cannot establish a true pre-Phase-2 baseline for Phase 2 HDD-exit, spud, anchor, gravity-cell, and support-work impacts. Natural recovery is an expectation, not a substitute for remediation.

Requested condition. Require immediate pre- and post-Phase-2 bathymetric, substrate, sediment-chemistry, shellfish, biological, and habitat surveys at every disturbance area; rapid reporting; justified recovery criteria; mandatory additional monitoring and root-cause analysis if criteria are missed; and date-certain corrective action, replacement, habitat restoration, and financial responsibility.

18. USCG Aids to Navigation and Final Marine Coordination

The Village identifies unresolved Phase 2 conflicts involving Bar Beach Light 11 and the Bailey Rock HDD exits, together with draft USCG action items and missing final concurrence or relocation documentation. Mr. McAree does not independently determine the required federal clearance, but unresolved agency-interface requirements should be treated as design coordination items and preconstruction hold points.

Requested condition. Require final coordinates, applicable safe-distance requirements, revised construction-controlled drawings signed and sealed where required by applicable law or professional practice, accepted relocation or protection arrangements, the responsible-agency concurrence, inspection requirements, as-built requirements, and a marine-mobilization hold point. Preserve separate open-water burial and protection issues for the applicable later phase unless formally resolved.

19. Unified Underwater Rights, Construction, Use, and Resource Overlay

The Village requests a survey-quality overlay combining marine construction footprints with municipal grants, private underwater interests, riparian rights, utilities, moorings, navigation, and environmental resources. Mr. McAree does not ask the Commission to decide disputed title in these comments. The construction-quality concern is that final work cannot be coordinated without identifying the legal and physical constraints governing it.

Requested condition. Require a controlled survey and GIS-compatible overlay showing final HDD exits, gravity cells, spuds, anchors, sweeps, lines, vessel workspaces, conduit corridors, temporary buoys, utilities, navigation and AtoN areas, municipal and private interests, mooring and anchoring uses, public access, and environmental resources. Require survey verification and a pre-mobilization hold point without prejudging ownership disputes.

20. Final Anchoring, Mooring, Utility, and Communications Plan

The Village identifies optional spud configurations, later mooring analysis, later channel-distance verification, later utility confirmation, possible additional lines and buoys, and a later communications matrix. These unresolved choices define the actual disturbance and navigation envelope.

Requested condition. Require final fixed coordinates and maximum disturbance areas for every spud, anchor, sweep, shore line, buoy, barge position, conduit-float corridor, transfer point, and contingency arrangement. Require final utility-owner confirmation, clearances, strike controls, immediate-notification language, and a signed responsibility and communications matrix before mobilization.

21. Recreational-Water Protection and Public Warning

Environmental reporting to agencies does not by itself protect swimmers, paddlers, beach users, or other Harbor users. A release or plume that may migrate toward recreational waters should trigger immediate community and health-protection action.

Requested condition. Require a year-round protocol developed with applicable health agencies, municipalities, Harbor authorities, and beach operators. Include monitoring between work and swimming areas; immediate alerts; pre-staged signs; objective advisory, closure, and reopening criteria; contaminant-specific testing when warranted; and independent confirmation before warnings are removed.

22. 24/7 Noise and STC-25 Performance

Phase 2 expressly contemplates 24-hour HDD operations when continuous work is required, with the Construction Noise Control Plan in Appendix M-2 providing the associated monitoring and mitigation framework. STC is a laboratory transmission-loss rating, not a guarantee of reduction at a home. Actual performance depends on source spectra, height, length, returns, seams, gates, equipment elevation, diffraction, reflection, absorptive treatment, low-frequency and tonal content, topography, open-water propagation, and nighttime weather.

Requested condition. Require independent acoustical-engineer review; baseline measurements; octave-band source data; receptor-specific modeling at waterfront, hillside, bluff-top, upper-floor, business, recreational, and shoreline receptors; barrier reflection and diffraction analysis; continuous independent noise and vibration monitoring; enforceable exterior and interior limits; real-time alerts; public data; mandatory mitigation and curtailment; post-installation verification before 24/7 work; and temporary accommodation where verified interior nighttime criteria cannot be met.

23. Occupational, State-Guidance, and Local Noise Framework

OSHA construction-noise requirements protect workers from occupational exposure; they are not residential property-line or community-noise standards. Under 29 CFR § 1926.52, employers must provide protection when employee exposure exceeds the permissible levels, use feasible administrative or engineering controls when those levels are exceeded, and administer a continuing effective hearing-conservation program in the circumstances specified by the standard. Those requirements support equipment-specific source control, worker dosimetry, engineering controls, and hearing protection, but OSHA compliance alone would not establish that off-site residents are adequately protected. New York State Department of Environmental Conservation Program Policy DEP-00-1 provides nonbinding guidance for evaluating sound characteristics, potential impacts, and mitigation; it expressly states that it is guidance rather than a fixed rule creating enforceable rights. New York State Department of Transportation also maintains construction-noise analysis, measurement, prediction, abatement, and noise-barrier guidance for transportation projects. Town of Oyster Bay zoning provisions contain octave-band property-line limits and identify an exemption for reasonable and customary construction noise between 8:00 a.m. and sunset. The Phase 2 Noise Control Plan itself states that local requirements will apply only to the extent they are applicable and not displaced, superseded, or refused application through Article VII. Mr. McAree therefore does not assert in this filing that any particular local standard definitively governs; he requests a written applicability determination and a performance-based plan that is at least as protective as the applicable Certificate, permit, and non-displaced local requirements.

Requested condition. Require the Certificate Holder to file a noise-requirements matrix identifying: (1) OSHA worker-exposure obligations, including exposure assessment, feasible engineering or administrative controls, hearing protection, training, and required hearing-conservation measures; (2) the State guidance and accepted acoustical methods used for community-impact assessment; (3) every Town, County, permit, Certificate, waiver, or refusal-to-apply provision claimed to govern or not govern; (4) the legal and factual basis for each applicability determination; and (5) the separate residential performance criteria, monitoring locations, metrics, alert levels, curtailment triggers, and corrective actions. Require a qualified safety professional to address worker exposure and an independent acoustical professional to address community

receptors. Do not treat OSHA compliance, an STC rating, or a complaint protocol as a substitute for demonstrated off-site performance.

24. Noise Complaints and Overnight Operations

Complaint-triggered monitoring, action “as soon as practicable,” and measures that “may” be implemented do not provide a predictable response for weeks of continuous work. Overnight impacts also include generators, pumps, solids-control equipment, vehicles, alarms, shift changes, lighting, deliveries, security, and marine support.

Requested condition. Require early community notice, weekly look-aheads, immediate schedule-change alerts, a staffed overnight liaison with authority to act, same-shift investigation, measurement and response deadlines, written complaint disposition, escalation to DPS, equipment-specific mitigation, nighttime delivery and vehicle restrictions, and corrective action that does not depend on repeated complaints.

25. Lighting and Glare

The lighting plan establishes work-area illumination but does not establish a measurable off-site limit at homes, property lines, shoreline areas, habitat, navigational approaches, or the Harbor. Conceptual layouts and later task lighting can change the impact.

Requested condition. Require a final photometric and glare plan prepared or reviewed by a qualified professional and signed and sealed where required by applicable law or professional practice, showing fixture type, color temperature, tower height, aiming, shielding, backup lights, horizontal and vertical illumination at receptors, navigation-light compatibility, and measurable limits. Require nighttime commissioning tests, complaint measurements, automatic correction, and prior approval for material layout changes.

26. Former Manufactured-Gas-Plant and Community Air Monitoring Controls

The Glenwood Landing work is adjacent to NYSDEC Site V00351 and must integrate the Site Management Plan, Community Air Monitoring Plan, Materials Management Plan, dewatering controls, and waste procedures. General incorporation is insufficient if action levels, locations, frequency, and stop-work triggers are not visible in the approved Phase 2 record.

Requested condition. Before NTP, file or expressly incorporate the controlling provisions and provide a matrix identifying numerical VOC and particulate action levels, odor and visible-emission response, groundwater procedures, monitoring locations and frequencies, community notifications, stop-work criteria, laboratory analysis, waste characterization, manifests, disposal facilities, and agency reporting.

27. Stormwater, Cumulative Disturbance, and Extreme Rainfall

The Village identifies incomplete SWPPP certifications and asks that Phase 1 clearing, Phase 2 HDD work, Phase 3 substation work, and Phase 4 transition-joint-vault work at the Shore Road complex be evaluated cumulatively. The dewatering and containment system should also be tested against a foreseeable compound event, not only ordinary conditions.

Requested condition. Require completed SWPPP certifications, named contractor and qualified inspector, MS4 acceptance, NOI authorization, cumulative disturbance and drainage analysis, and an identified design-storm capacity check. Evaluate simultaneous rainfall, runoff, groundwater, active drilling-fluid circulation, containment use, inadvertent return, saturated storage, pump or power failure, contaminated water, backup power, removal rates, reserve capacity, alarms, and shutdown criteria.

28. Sole-Source Aquifer and Public Drinking Water

The Shore Road work overlies the Nassau/Suffolk sole-source aquifer system. This designation does not establish that contamination will occur, but it supports a transparent evaluation of groundwater pathways, nearby public-water infrastructure, drilling-fluid loss, contaminated-site interaction, and emergency supply.

Requested condition. Require consultation with applicable water suppliers and agencies; mapping of relevant wells and protection areas; baseline and post-construction testing where a reasonable pathway exists; objective groundwater stop-work criteria; and an Applicant-funded emergency potable-water, treatment, replacement-supply, and corrective-action plan for any Project-caused impact.

29. Roadway Baseline, Verification, Use, and In-Kind Restoration

The public Phase 2 materials identify Shore Road as the access route and describe parking and work areas, but the materials reviewed do not establish a final, jointly accepted road-condition baseline for every public and private road, shoulder, curb, drainage feature, sidewalk, pavement marking, driveway apron, utility cover, and access surface that may be used or affected by Phase 2 traffic. Proposed Certificate Condition 101 requires restoration of the Terrestrial Cable route and disturbed pavement, markings, traffic signals, curbs, and sidewalks to preconstruction or improved condition, subject to the approved EM&CP or an applicable municipal agreement. Phase 2, however, is principally land-to-water HDD and associated staging. The filing should therefore state directly how Condition 101 and any municipal agreement apply to Shore Road and other Phase 2 haul, access, parking, and staging surfaces. “Same, similar or improved” should not permit replacement of a distinctive existing construction with a materially different assembly without municipal approval and documented equivalency.

Requested condition. Before mobilization, require a joint road and property-condition survey with the Town, affected property controllers, and other responsible owners. The survey should include dated high-resolution photographs and video; mapped limits; pavement type and layer information reasonably available; concrete panels or slabs; prior overlays and patches; cracking, rutting, settlement, potholes and joints; curb, shoulder, sidewalk and driveway-apron condition; drainage structures and flow paths; pavement markings, signs, signals, utility covers, guardrails and landscaping; and agreed benchmark elevations where settlement is a concern. Require an approved haul-route and load-control plan, periodic inspections during construction, prompt correction of safety defects, and a final joint acceptance inspection. Restoration should be in kind or structurally equivalent, match preconstruction line, grade, drainage, ride quality and appearance, comply with the controlling municipal standard, and remain subject to a defined warranty and latent-damage procedure. The Applicant should bear the burden of distinguishing pre-existing conditions from Project-caused damage where the required baseline was not adequately documented.

30. Recent New York HDD Aquifer Incident and Site-Specific Groundwater Contingency

A recent New York HDD incident provides a relevant real-world reason to require a more complete groundwater contingency without asserting that the same event will occur at Shore Road. In ORES DMM Matter No. 21-02480, Horseshoe Solar Energy LLC filed Permit Modification Request (Field Change) No. 04, dated February 16, 2026, stating that boring activities punctured an underground water aquifer and that groundwater was surfacing at approximately 50 to 100 gallons per minute, inundating the project site and adjacent agricultural fields. The filing proposed use of flexible hydrophobic foam for groundwater-control sealing through the HDD bore and indicated that the puncture occurred approximately 400 feet from the bore entry. Subsequent news reports described potable-water support or temporary water supplies for some nearby residents and reported resident concerns regarding continuing cloudiness or turbidity after sealing. Those reports are not used here to establish final causation, present regulatory status, or the long-term effectiveness of the repair. The official field-change filing establishes the limited but important point relevant here: HDD can encounter an unanticipated groundwater condition requiring immediate redesign, abandonment or sealing, regulatory review, water management, and verified recovery before work continues.

Requested condition. Require a Shore Road Hydrogeologic and HDD Groundwater Protection Plan prepared or reviewed by qualified professionals before NTP. At minimum, require: (1) identification of aquifers, confining layers, groundwater elevations, artesian or pressurized conditions, nearby public-supply infrastructure, private wells and springs within a technically justified study area, contaminated-site groundwater, and potential hydraulic pathways; (2) baseline water-level, yield, turbidity and water-quality testing for identified potentially affected receptors, with owner consent and an independent chain of custody; (3) real-time monitoring of entry-pit water, bore returns, pressures, flow balance and unexplained water gain

or loss; (4) immediate stop-work and notification thresholds for unexpected groundwater flow, sustained water gain, loss of circulation, pressure anomaly, land or shoreline seep, or change at a monitored receptor; (5) a pre-approved decision tree for stabilization, bore abandonment, sealing materials and methods, compatibility with drinking-water sources, professional review, agency approval, verification testing, and written restart; (6) a prohibition on resuming the affected bore solely because visible surface flow has stopped; (7) independent confirmation that hydraulic control and water quality have been restored and remain stable; (8) immediate potable-water supply, testing, treatment, well repair, replacement supply or public-water connection where a Project-caused impact is established; (9) long-term post-event monitoring with objective release criteria; and (10) public reporting to DPS, NYSDEC, the Town, affected water suppliers and potentially affected residents. The Applicant should also explain how lessons learned from the Horseshoe Solar HDD incident were evaluated and incorporated into Phase 2 design, risk review, emergency planning and hold points.

31. Traffic, Parking, Deliveries, and Access

The Shore Road work includes conduit fusion and staging, extended operations, worker parking, deliveries, truck movements, and marine transfer. The draft MPT plan does not establish a final cumulative operating plan for the broader Shore Road complex.

Requested condition. Require final truck routes, hourly and daily movement estimates, turning templates, oversized-load procedures, delivery windows, worker parking, no-queue and no-idling rules, protected pedestrian and bicycle routes, emergency access, road-condition baseline, damage repair, and cumulative coordination with overlapping Shore Road phases.

32. Emergency Response, Volunteer Department Capacity, and Funding

Emergency planning should not assume local volunteer departments already have the staffing, marine capability, PPE, monitoring equipment, specialized training, or replacement coverage required for a Project incident. A prolonged response must not materially impair ordinary residential fire, rescue, or medical coverage.

Requested condition. Require written protocols with applicable fire, police, EMS, emergency management, marine units, Harbor authorities, and agencies; 24/7 decision-makers; incident command and radio procedures; minimum staffing and mutual aid; emergency passage; drills; Applicant-provided specialized equipment; and full Applicant reimbursement for Project-specific training, drills, personnel, equipment, replacement coverage, and actual Project response costs.

33. Real-Time Mariner Warnings and Marine Equipment Claims

Scheduled notices and VHF broadcasts identify planned work but may not provide immediate geographically specific warning of an unexpected plume, release, or water-quality exceedance. Marine users may also incur documented equipment damage if Project-generated material enters cooling or intake systems.

Requested condition. Require immediate VHF, website, subscriber, marina, yacht-club, harbormaster, boat-ramp, fishing-organization, and municipal alerts describing location, direction, expected duration, and avoidance area. Establish a simple public claims process for documented Project-caused towing, haul-out, diagnostic, repair, and related marine-equipment costs, without presuming causation in any individual claim.

34. Fisheries Compensation and Aquatic Invasive Species

Phase 2 marine work itself uses barges, spuds, anchors, lines, buoys, work zones, and conduit corridors that may affect fishing activity. Marine equipment also may move among waterbodies or work areas.

Requested condition. Require an operational fisheries-compensation mechanism before Phase 2 marine work to the extent applicable, and require documented inspection, cleaning, decontamination, wash-water and biological-material disposal, and clearance for barges, spuds, anchors, lines, gravity cells, dive gear, and support vessels before entering Hempstead Harbor.

35. Interim, Final, Contingency, and Abandonment Restoration

Phase 2 relies partly on temporary stabilization and later phases. If later work is delayed, modified, denied, or abandoned, Phase 2 infrastructure and disturbance should not become a stranded condition or an unfunded Harbor obligation.

Requested condition. Require funded interim, final, contingency, and abandonment plans addressing conduit, casing, gravity cells, anchors, spuds, temporary structures, landfall work, seabed depressions, shellfish and habitat, drainage, and public uses. Include measurable criteria, deadlines, long-term monitoring, financial responsibility, and removal or safe-abandonment requirements.

36. Document Quality Control and Internal Consistency

The Village identifies specific errors and inconsistencies involving a case number, municipality, 24/6 versus 24/7, the phrase “immediately within 24 hours,” differing footprints, conceptual drawings, and inconsistent monitoring descriptions. These examples reinforce the need for an interdisciplinary coordination and document-control review. The Phase 2 Narrative also appears to cite “CC 472 and CC 71” for continuous or nighttime work, even though the Certificate Conditions do not appear to include a CC 472. That apparent citation error should be corrected or explained.

Requested condition. Require a corrected, conformed, engineer-reviewed package with a revision log and certification that narrative text, drawings, schedules, work windows, footprints, resource plans, permits, and contractor procedures are consistent. Material corrections should be served with a redline and an opportunity for responsive comment.

37. Public Notice and Opportunity to Respond

The Village separately challenges the adequacy and geographic reach of the Phase 2 filing notice and publication. Mr. McAree does not independently adopt every publication assertion, but he supports accurate notice of the actual marine scope and a meaningful opportunity to comment on material corrections or additions.

Requested condition. Require the Applicant to demonstrate compliance with the governing notice provisions; accurately describe the in-water HDD exits, vessels, spudding, anchoring, containment contingency, navigation measures, monitoring, shellfish and benthic impacts, recreational-water protections, and mariner hazards; provide direct outreach to materially affected community and marine constituencies; and provide a renewed comment period if the notice, governing Certificate, or filing is materially corrected or expanded.

38. Controlling Document Hierarchy and Point-by-Point Response

The Phase 2 record includes a Certificate, approval conditions, permits, narratives, plans, contractor submittals, agreements, agency conditions, and field instructions. Without a hierarchy and response protocol, an unresolved matter may be answered by referring to future coordination or a lower-tier contractor document.

Requested condition. Require a hierarchy in which the final Certificate and Commission orders control, followed by approval conditions, final permits, final construction-controlled plans signed and sealed where required by applicable law or professional practice, approved protection plans, approved contractor submittals, and field instructions. Require the response matrix described in the Requested Disposition, together with a redline or other readily reviewable comparison and an opportunity for responsive comments before approval. A response should be deemed incomplete if it relies solely on a general assurance of future compliance, contractor means and methods, field coordination, future consultation, an unidentified permit or agreement, or a citation to a document that does not expressly resolve the comment. For each requested condition not accepted, the Applicant should state whether it disputes the factual premise, technical necessity, legal applicability, timing, or requested remedy and identify the specific supporting record. A partial response should identify each unanswered component. Any unresolved or incomplete response should remain an

express condition precedent to the applicable Notice to Proceed, field authorization, or commencement of the affected work.

RESERVATION OF RIGHTS

Mr. McAree submits these comments timely and in good faith based on the public, non-confidential materials presently available. He does not warrant that the record is complete and does not waive objections based on missing, redacted, protected, later-filed, revised, corrected, or newly disclosed information. Review of any drawing, plan, permit, agreement, or procedure does not constitute professional approval, engineering certification, legal consent, acceptance of risk, or agreement that the Applicant has satisfied any legal or technical requirement.

Mr. McAree expressly reserves, to the fullest extent allowed by law and Commission procedure, all rights to object, supplement, respond, seek clarification, request conditions, move for relief, seek rehearing or reconsideration, challenge a Notice to Proceed or material field change, assert property or community impacts, and pursue any other available administrative, judicial, statutory, equitable, or common-law remedy. No silence as to an issue should be treated as agreement, waiver, estoppel, acquiescence, or consent. No statement in these comments should be construed as legal or engineering advice to another person, an admission concerning ownership or liability, or a representation that Mr. McAree has authority to speak for the Village, any municipality, agency, property owner, utility owner, Harbor user, or other party.

CONCLUSION

The Village of Sea Cliff filing and Mr. McAree's independent review reach a common practical conclusion from different perspectives: Phase 2 contains important unresolved items that should become enforceable preconstruction deliverables, review periods, hold points, monitoring requirements, acceptance criteria, and restoration obligations. The Village provides extensive municipal, title, navigation, marine-resource, public-health, notice, and emergency-service analysis. These comments add construction-document maturity, formal quality control, inspection and testing, acceptance criteria, STC-25 performance verification, overnight operational controls, contaminated-site action levels, and a structured compliance-response protocol.

Mr. McAree respectfully requests that Phase 2 be held in abeyance until the material deficiencies identified above are resolved. Alternatively, if the Commission determines that conditional approval is appropriate, the approval should expressly prohibit mobilization, field authorization, Notice to Proceed, or commencement of the affected work until the applicable preconstruction deliverables, permits, reviews, hold points, and acceptance criteria have been satisfied in writing. The Commission should require a complete point-by-point response and preserve an opportunity for responsive comment before irreversible work begins.

Respectfully submitted,

Daniel McAree
Self-Represented Party
Glen Head, New York
August 10, 2026

RECORD REFERENCES

1. Case 24-T-0446, Joint Proposal, Appendix D, Proposed Certificate Conditions (filed April 30, 2026).
2. Propel NY Energy Project, Environmental Management and Construction Plan Phase 2 Narrative, Case 24-T-0446 (July 2026).
3. Propel NY Energy Project, EM&CP Phase 2, Appendix C-2, Permits and Agency Correspondence (July 2026).
4. Propel NY Energy Project, EM&CP Phase 2, Appendix F-2, Construction and Safety Policies and Procedures (July 2026).

5. Propel NY Energy Project, EM&CP Phase 2, Appendices G-2, H-2, I-2, L-2, T-2, and U-2, addressing the SPCC Plan, SWPPPs, Fugitive Dust Plan, Invasive Species Control and Management Plan, Materials Management Plan, and Dewatering Plan (July 2026).
6. Propel NY Energy Project, EM&CP Phase 2, Appendix M-2, Construction Noise Control Plan (July 2026).
7. Propel NY Energy Project, EM&CP Phase 2, Appendices P-2, Q-2, R-2, and S-2, including Plans and Profiles, Site Plans and Construction Drawings, HDD Workplan and Inadvertent Drilling Fluid Release Contingency Plan, and Anchoring Plan (July 2026).
8. Propel NY Energy Project, EM&CP Phase 2, Appendices V-2 and X-2, Co-Located Infrastructure Documentation and Maintenance and Protection of Traffic Plan (July 2026).
9. Propel NY Energy Project, EM&CP Phases 2 and 5, Appendix Z, Mariner Notification and Public Input Process Plan (July 2026).
10. Propel NY Energy Project, EM&CP Phase 2, Appendix AA-2, Suspended Sediment and Water Quality Monitoring Plan for Submarine HDD Installation (July 2026).
11. Propel NY Energy Project, EM&CP Phases 2 and 5, Appendix AB, Benthic Sampling Plan (July 2026 filing package).
12. Propel NY Energy Project, EM&CP Phase 2, Appendix AC-2, Hard Clam Impact Minimization Plan for Submarine HDD Installation (July 2026).
13. Propel NY Energy Project, EM&CP Phase 2, Appendix AD-2, Winter Flounder Monitoring and Minimization Plan for Submarine HDD Installation (July 2026).
14. Propel NY Energy Project, EM&CP Phase 2, Appendix AE-2, Lighting Plan (July 2026).
15. Incorporated Village of Sea Cliff, Timely Comments and Protective Objections Regarding the Phase 2 Environmental Management and Construction Plan, Case 24-T-0446 (August 10, 2026). This filing is cited openly only for the specific Village concerns identified above; Mr. McAree's construction-quality and homeowner-protection requests are independently stated.
16. Case 24-T-0446, Department of Public Service Staff Letter Responding to Recent Party Filings Concerning the Phase 1 and Phase 2 EM&CPs (July 21, 2026).
17. New York City Department of Environmental Protection, Construction Noise Rules and Regulations; 15 RCNY Chapter 28, Citywide Construction Noise Mitigation; and Federal Highway Administration, Highway Noise Barrier Design Handbook. These materials are cited only as comparative guidance concerning noise-control process and performance, not as governing requirements for this Project.
18. Occupational Safety and Health Administration, 29 CFR § 1926.52, Occupational Noise Exposure, and 29 CFR § 1926.101, Hearing Protection; OSHA, Occupational Noise Exposure - Noise in Construction. These authorities concern employee occupational exposure, not residential community-noise limits.
19. New York State Department of Environmental Conservation, Program Policy DEP-00-1, Assessing and Mitigating Noise Impacts (issued October 6, 2000; revised February 2, 2001). This document is cited as nonbinding assessment and mitigation guidance.
20. New York State Department of Transportation, Environmental Manual and Noise Analysis resources concerning noise measurement, prediction, construction-noise analysis, abatement, and noise barriers. These materials are cited as technical guidance, not as governing standards for this Project unless independently applicable.
21. Town of Oyster Bay Code, Chapter 246, Zoning, § 246-10, Performance Standards, including octave-band noise provisions and the stated construction-noise exemption. Applicability to the Project is not conceded and should be resolved under the final Certificate and any waiver or refusal-to-apply determination.

22. U.S. Environmental Protection Agency, Sole Source Aquifers for Drinking Water and Map of Sole Source Aquifer Locations, identifying designated sole source aquifer boundaries and review areas. Cited to support the request for aquifer-pathway and drinking-water protections; the designation does not establish that a Project impact will occur.
23. Case 24-T-0446, Joint Proposal, Appendix D, Proposed Certificate Condition 101, addressing post-construction contours and restoration of disturbed pavement, markings, traffic signal facilities, curbs and sidewalks to preconstruction or improved condition, subject to the approved EM&CP or applicable municipal agreement.
24. Horseshoe Solar Energy LLC, ORES DMM Matter No. 21-02480, Permit Modification Request (Field Change) No. 04, dated February 16, 2026, concerning an HDD puncture of an underground water aquifer, estimated groundwater surfacing of approximately 50 to 100 gallons per minute, inundation of the project site and adjacent agricultural fields, and a proposed groundwater-control sealing method using flexible hydrophobic foam. Cited as a recent New York HDD contingency example, not as proof that the same event will occur at Shore Road.
25. News reports dated February 23 through March 26, 2026 concerning the Horseshoe Solar HDD incident, including reports of temporary potable-water support, resident water-quality concerns, and turbidity or cloudiness after sealing. Cited only as background supporting requests for baseline testing, emergency water-supply planning, independent verification, and long-term monitoring; the reports are not relied on to establish final causation, current regulatory status, or the long-term effectiveness of any repair.