Adirondack parkagency
NEW YORK STATE
P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

APA Project Order
2002-269

Date Issued: **December 18, 2002**

In the Matter of a Proposal by

THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION, THE NEW YORK STATE POLICE AND CROWN COMMUNICATIONS NEW YORK, INC.

Subject to Section 814 of the
Adirondack Park Agency Act and 9 NYCRR 4.150

INTRODUCTION AND JURISDICTION

On October 21, 2002, the Adirondack Park Agency was provided a Notice of Intent to Undertake New Land Use and Development as part of a Final Environmental Impact Statement (FEIS) submitted by the New York State Department of Transportation, the New York State Police and Crown Communications New York, Inc. They intend to construct an emergency call box system between Interchanges 26 and 35 in the right-of-way along Interstate 87 (the Northway) that will replace the existing system, and provide private cellular phone service to the Northway. The project is a major public utility use involving new communications towers in the Town of Chester, Warren County; the towns of Schroon, North Hudson, Elizabethtown, Westport, Lewis, and Chesterfield, Essex County; and the towns of AuSable, and Peru, Clinton County.

The project consists of new land use and development by a state agency on state land, that requires review by the Adirondack Park Agency pursuant to §814 of the Adirondack Park Agency Act, 9 NYCRR 579.1, and 9 NYCRR 4.150 (Executive Order 150).

Based on receipt of the Notice of Intent and other materials related to the project and due deliberation on said materials, the following Findings of Fact are hereby made and adopted.

FINDINGS OF FACT

Project Purpose

1. The purpose of the project is to replace the non-functional VHF based emergency call box system along the Adirondack Northway with a new cellular based system in the right-of-way and to provide private cellular phone service to the Northway travel corridor between Interchanges 26 and 35.

2. The original emergency call box system was constructed in 1966. Subsequent actions to maintain the system are described in the Environmental Impact Statement. On April 23, 2002, the emergency call box system suffered a complete failure of the computer's control unit, rendering it inoperable. Attempts were made to restore service to the system but to no avail. Since the old system remains inoperable, the State Police determined that a new system is needed and should be placed into service as soon as possible. The State Police have increased patrols in an effort to provide service to motorists along the corridor pending construction of the new system.

Final Environmental Impact Statement

3. The project is fully described in the Final Environmental Impact Statement (FEIS), which includes the Draft Environmental Impact Statement (DEIS) by reference, as revised in November of 2002. The FEIS was prepared by Clough, Harbour and Associates. The FEIS includes, among other things, detailed exhibits and sections entitled Project Description, Environmental Setting, Unavoidable Adverse Environmental Impacts, Alternatives, APA application forms, Site and Utility Plans, a Visual Impact Assessment and a Statement of Findings.

Description of the Project as Proposed

4. The project involves the replacement of the existing VHF based NYS Police Emergency call box system with a new wireless-based system, and the addition of private cellular phone service to the travel corridor between Interchanges 26 and 35 of the Adirondack Northway. The new system will be built in the right-of-way without cost to the State and managed by Crown Communication New York, Inc. pursuant to the NYS Telecommunications Site Manager Agreement. The term of the Telecommunications Site Manager Agreement is twenty (20) years with extension options of four, five year terms.

5. The proposed system will include a wireless based infrastructure servicing 64 call boxes. The infrastructure servicing the call boxes will consist of 33 steel antenna poles, each 38 ft. in height with a grouping of five equipment cabinets containing transmitting and receiving equipment. Each of the 33 poles will have two sets of flat panel antennas, each set capable of servicing two cellular carriers. This will provide for the call box carrier and for co-location on the poles of up to three additional carriers. The system will service the call boxes and provide private cellular phone service to the Northway travel corridor. Most of the 33 poles will be located at the edge of the tree lines and will be painted brown, green or dark grey to blend with the surrounding vegetation.

Call Boxes

6. There will be 32 emergency call boxes in the northbound lane and 32 in the southbound lane, about every two miles, beginning at Mile Marker 80.5 near the Warren/Essex County line and ending at Mile Marker 142.7 in the Town of Peru Clinton County. The new call boxes will be similar to the existing ones in size and design. They will be located across from each other, so that motorists do not have to cross the median to reach a phone. Each of the 64 new emergency call boxes will be mounted on a 14 ft. steel pole about 5 feet above the ground. The call boxes will each be about 15 inches by 19 inches in size, painted yellow and will be handicapped accessible. Each pole will also have a 12 in. x 18 in. blue sign with the words call box on it, a 10.2 in. x 36 in. solar panel and a small 8 to 16 inch antenna at the top of the pole. Each pole will be attached to a concrete base with breakaway mounts.

Support Sites

7. The 64 call boxes will be serviced by 33 support sites. Each site will allow for the call box carrier and up to three additional cellular phone carriers. The call box carrier will also provide private cellular phone service to the corridor using the same antenna and equipment cabinet that services the call boxes. Each support site will have a 38 ft. antenna pole, a small cable penetration box at the base of the pole, an electric transformer cabinet, a telephone equipment cabinet, a small GPS antenna, a backboard and up to four, 5 ft. x 5 ft. x 6 ft. equipment cabinets. This includes one equipment cabinet for each of the four carriers and a single cabinet for connection to the local telephone network. There will be two sets (i.e. two antennas per set) of 3 in. x 12 in. x 70 in flat panel antennas on each pole. The initial installation will include the 38 ft. pole, two flat panel antennas at the top of the pole, the cable penetration box, five concrete pads for the equipment boxes, two

equipment boxes (i.e. one for the call box carrier and one for the phone line connections), a ground mounted electrical transformer, the backboard and the conduits for installation of all four carriers. The equipment cabinets will be screened from the travel corridor by existing vegetation or by newly planted vegetation.

Utility Installations

8. Electric and telephone services will be provided by "land line to each of the 33 support sites. The utility lines will be installed from existing overhead lines at 24 locations to the Northway right-of-way and then underground to each of the support sites. A total of 26.5 miles of utilities will be installed underground within the Northway right-of-way by trenching (20.8 miles) and by directional boring (5.7 miles). Directional boring will be under rivers, streams, wetlands, culverts and the Northway median. Twelve of the 24 utility line connections are either located immediately adjacent to the support site or within a few hundred feet of the site. The other utility line connections vary from several hundred feet to several thousand feet in length. Two, 4 inch HDPE conduits will be installed for electric lines and one, 4 inch HDPE conduit will be installed for the telephone line. Where directional boring is required, the three, 4 inch conduits will be installed within a 12 inch pipe.

9. Two power companies and three phone companies will provide utility services to the support sites. The utility companies have indicated that adequate capacity exists to support the project and that no transmission or distribution line upgrades will be necessary. Utility installations will be done by setting new utility poles adjacent to existing ones or by underground service directly to the edge of the right-of-way.

Site and Utility Plan

10. Attachment N of the FEIS includes site and utility plans for each of the 64 call boxes and 33 support sites. Each support site plan shows location of the antenna pole and the equipment cabinets in relationship to the shoulder of the Northway and the existing tree line, as well as the proposed limits of vegetative clearing around the antenna pole and equipment cabinets and the proposed screening to be planted around the pole/cabinets. The plans also show topography at a two foot contour interval and the location of the call boxes in reference to the support site.

11. Each utility plan shows the location of the proposed underground utility lines from the existing utility pole to the support site in reference to the edge of the right-of-way, the edge of the asphalt and the edge of the woods. The utility plans also show where directional boring is required with the location of staging areas for the directional bores and the proposed pull boxes.

12. A utility plan is included for each support site showing the location of the proposed underground utility lines from the existing utility pole to the support site. The plans show the location of the underground lines in reference to the edge of the right-of-way, the edge of the asphalt and the edge of the woods. The plans also show where directional drilling is required along with the location of staging areas for directional bores and the location of pull-boxes.

Visual Impact Assessment

13. Attachment O of the FEIS is a Visual Impact Assessment (VIA) of the proposed project. There is a VIA for each support site that includes a description of the existing conditions, the proposed conditions, and the overall visibility of the antenna pole and equipment cabinets. The visual analysis for each site describes the exact location of the antenna pole and the existing visual character of the area in terms of topography, vegetation, land use, and viewer groups. The visual analysis includes a map showing the area around the antenna pole on a topographic map with photographic or key view locations and areas of potential visibility. The map also delineates public roads where the antenna poles are visible from and where are not visible from due to existing vegetation. The rest of the visual analysis includes a description of each key view and a set of photographs showing the antenna site from the key view with simulations of what the antenna will look like.

    The simulations were developed by setting a 38 ft. survey pole at each site and then photographing the site with the survey pole in it. The photo simulations were then developed from the photograph with the survey pole in it. To verify the accuracy of the photo simulations, three sites (Sites 91.0 NB, 111.3 NB and 135.5NB) were chosen where temporary poles, antennas, equipment boxes and the proposed vegetative screening were actually constructed in the field.

Environmental Setting

14. The project site is the right-of-way of Interstate 87 between Interchanges 26 and 35 and also includes the rights-of-way of several State, County and Town highways where the project ties in with existing utility lines. This is a very scenic stretch of highway surrounded by forested and mountainous terrain. The highway corridor itself can generally be described as grassed and forested areas adjacent to and in near the roadway. There are also areas of rock outcrops and wetlands adjacent to and near the roadway. Elevations within the project corridor range from 807 feet msl at the southern end of the site to 1,509 feet msl near Interchange 30. Elevations then gradually decrease to 879 feet msl near the northern end of the site.

15. Soils within the project corridor are a combination of rock, gravel and soil material used during construction of the highway. Typical soils found along the project corridor, as designated by Warren, Essex and Clinton County Soils Surveys include loams, sandy loams, fine sandy loams, and sandy soils. Soils are underlain by bedrock with frequent bedrock outcrops along the Northway travel corridor.

Surface Water Resources

16. There are numerous lakes, ponds, rivers and streams adjacent to or within the project corridor. Major rivers include the Schroon River which parallels the east side of the Northway between Interchanges 26 and 30, the Boquet River which parallels the west side of the Northway beginning near Interchange 30 and crossing the Northway just north of Interchange 31 and the AuSable River which crosses the Northway just south of Interchange 34. The Schroon, Boquet and AuSable rivers are designated Recreational Rivers by the NYS Wild, Scenic and Recreational Rivers System Act. Tributaries to these rivers in the Northway corridor include: Ash Craft Brook, Black Creek, Black River, Chester Creek, Cold Brook, Dry Mill Brook, Lindsay Brook, Marshall Brook, McGuire Brook, Mud Brook, North Branch River, Platt Brook Rogers Brook, Spruce Mill Brook and West Mill Brook. Lakes and ponds along the project corridor include Schroon Lake, Paradox Lake, Lincoln Pond, Butternut Pond and Auger Lake.

Wetlands

17. There are wetlands within Northway travel corridor adjacent to the proposed project facilities. Wetlands within the project area were delineated on the Site and Utility Plans (i.e. Attachment N to the DEIS) according to the Corp of Engineers, DEC

and APA standards. These wetlands are a variety of wet meadow, emergent, shrub and forested wetlands, in some cases associated with rivers, streams, lakes and ponds.

State Environmental Quality Review Act

18. The project is subject to the State Environmental Quality Review Act, including the preparation of an Environmental Impact Statement, public notices and public hearings. The NYS Department of Transportation (DOT) is the lead agency; the Adirondack Park Agency is an interested agency as provided in 6 NYCRR Part 617. The DEIS was determined to be complete by the DOT on August 17, 2002, and three public hearings were held on September 24, 25 and 26, 2002 in Schroon Lake, Clintonville and Elizabethtown, respectively. The date, location and time of the public hearings were published in local newspapers for 15 days prior to the hearings and flyers were posted in town halls and post 0ffices.

19. Written SEQRA comments were submitted by the Adirondack Park Agency, the Adirondack Council, the NYS Department of Environmental Conservation and the NYS Office of Parks, Recreation and Historic Preservation, among others. Comments received at the public hearings were generally positive in nature and supported the project. Responses to the written and oral public comments along with the comment letters, hearing transcripts and SEQRA Findings are contained within the FEIS. The NYS Department of Transportation as the Lead agency, issued SEQRA Findings pursuant to 6 NYCRR Part 617.11 of SEQRA:

    a. consistent with social, economic, environmental and other essential considerations from among the reasonable alternatives, available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable;

    b. adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures that were identified as practicable;

    c. the DEIS and FEIS are comprehensive and contain the facts and conclusions relied upon to support NYS DOT's Statement of Findings and indicates the social, economic and other factors, which formed the basis of its findings; and

    d. the requirements of 6 NYCRR Part 617 have been met.

Alternatives

20. The emergency call box replacement project was developed to meet the needs of the State Police, minimize environmental impacts and comply with all applicable regulations. Alternative designs discussed in the FEIS include: a land mobile radio alternative, a satellite telephone alternative, a telephone/fiber optic cable alternative and several cellular alternatives. The cellular alternatives included a separated call box with tower alternative, a combined call box antenna pole alternative and a separated call box antenna pole alternative. The proposed separated call box antenna pole design alternative was chosen as the one that had the least environmental impact while still providing the necessary services to the call box system. The separated call box antenna pole alternative included several modifications developed in consultation with the State police, DOT staff and Agency staff. The final design reduced the number of support sites from 64 to 33.

Project Impacts

21. The following potential project impacts were identified and assessed by Agency staff.

    a. There will be no impact to existing wetlands or streams due to the use of directional boring for underground utility line installation beneath the wetlands and streams.

    b. The project as proposed and authorized herein will occur within previously disturbed highway rights-of-way and does not involve historic structures. Therefore, the project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

    c. The proposed brown color shown on the photographic simulations and used at the demonstration sites does not blend well with the existing vegetation in all locations due to hue, tone and glossy finish. Dark brown, dark gray or black with a matt or flat finish would blend better with the surrounding vegetation and existing tree trunks at many of the support site locations.

    d. The FEIS identified several support sites in the Adirondack Park as "highly visible." Site visits and a review of the visual analysis lead Agency staff to concur that certain towers, as proposed, would be visible to motorists. These include Support Sites 95.2SB, 122.0NB, 133.6NB, 135.5NB and 141.0NB. Site 142.7NB is also highly visible but is located

outside of the Adirondack Park. These sites are more visible because they are located in generally open, sparsely vegetated areas. Some sites are on bedrock outcrops or extend above the tree line from certain highway viewing angles. At these sites the equipment cabinets will be screened by planting vegetation; however, the antenna poles cannot be easily screened by vegetation because of the pole heights. Additionally, in some cases bedrock conditions will not support new vegetation.

e. Trenching and grading activities might cause sedimentation into surrounding water features unless appropriate erosion controls are used.

f. There will be no undue adverse visual impact to the Northway travel corridor from utility installations as all utility lines installed within the right-of-way of the Northway will be installed underground.

g. At 26 sites, the proposed antenna poles and equipment cabinets installed at the equipment sites will be adequately screened and minimize visual impacts from the Northway travel corridor, provided that the vegetative cutting at each site is limited to that which is shown on the site plans and does not involve the cutting of any trees with a diameter at breast height (dbh) of six inches or greater. DEC has requested a count of all trees removed with a dbh of 4 inches or greater.

h. One of the utility companies proposes to set two additional poles within highway rights-of-way adjacent to the project corridor in order to provide electric service to the proposed project. If any of these poles are over 40 feet in height above ground level, then a permit would be required from the Agency pursuant to §809 of the Adirondack Park Agency Act.

Other Permits or Approvals

22. No permits or approvals are required from any local municipalities for the proposed project. A permit will be required from the NYS Department of Environmental Conservation for any call boxes or support equipment located within 500 feet of a designated river corridor (e.g. Schroon River).

23. A final determination on whether this project qualifies for a nationwide Permit must be made by the Army Corp of Engineers, at which time the Department of Environmental Conservation will advise the applicants of the need for a 401 Water Quality Certification.

24. The NYS Office of Parks, Recreation and Historic Preservation determined by letter dated October 23, 2002 that the proposed Northway Phone project will have "No Adverse Effect/No Adverse Impact on Historic Resources." Therefore, the project as proposed and described herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

Economic/Fiscal Factors

25. Since 1989, the area between Adirondack Northway Interchange 26 in the Town of Chester, Warren County, and Interchange 35 in the Town of Peru, Clinton County, has been served by a public safety communications network. This system has been an invaluable aid to motorists along this limited service section of Interstate 87 by allowing direct access to the New York State Police in case of emergency. The proposed project will restore this important public service through cellular based roadside call boxes. It will also allow stranded motorist unable to access a call box to seek assistance via the cellular 911 system.

26. The proposed system will further enable cellular telephone use by the traveling public along the Adirondack Northway, an important commercial transportation corridor between the Albany metropolitan area and Canada.

27. All costs associated with the construction and maintenance of the proposed call box system will be borne by Crown Communication New York, Inc. through its Site Manager Agreement with the State of New York. Once constructed, the system including infrastructure will become the property of New York State. No State funds will be used to maintain or replace the system and its components for the life of the 20 year Site Manager Agreement which may be extended for a an additional 20 years through the exercise of four, five year options. The Site Manager Agreement also provides for compensation to the State of New York through specified shares of gross receipts from user fees for the system.

Towers Policy

28. If located and constructed as proposed and conditioned herein, the project will be in conformance with the "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park." The proposed antenna poles and equipment cabinets will provide for co-location, and will be substantially invisible from the Northway travel corridor and other off-site locations. The proposed antenna poles and

cabinets minimize height and bulk, will not be readily apparent as to size, composition or color, blend with the wooded roadside environment and avoid locations on mountain tops and ridge lines.

HAVING GIVEN DUE CONSIDERATION to the notice of intent filed by the agencies and other materials associated with the project application, and

HAVING DULY CONSIDERED the above Findings of Fact, the Agency hereby makes and adopts the following conclusions:

1. The project would not be inconsistent with the provisions of the Adirondack Land Use and Development Plan.

2. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park, taking into account the economic and social benefits to be derived from the project provided the following conditions are met:

   a. The project is undertaken as described and modified herein.

   b. The proposed antenna pole and equipment cabinets at each of the 33 support sites shall be painted a color determined in consultation with Agency staff (i.e. flat black, dark brown or dark grey).

   c. A plan to install simulated tree towers or otherwise reduce the visual impact of the cellular phone towers at Support Sites 95.2SB, 122.0NB, 133.6NB, 135.5NB and 141.0NB is submitted to the Agency for review and approval.

   d. Prior to any cutting, the applicant or the contractor shall mark the limits of vegetative cutting in the field, and it shall be reviewed by Agency staff. Contractors who undertake the project shall minimize the removal of vegetation at each of the support sites as much as possible and in no case remove vegetation beyond the clearing limits shown on the site plans for each support site in Attachment N to the DEIS.

   e. If any of the proposed utility poles to be installed in State, County or Town rights-of-way exceed 40 feet in height, then the utility company shall submit an application for the proposed pole and receive an Agency permit prior to its installation.

f. Silt fences shall be installed around and downgrade of all directional bore sites and hand-hole pull box locations prior to undertaking any land disturbing activities associated with the proposed directional bores.

g. Prior to the discontinuance of the use of the proposed emergency call box and cellular phone system for more than ninety days, a plan for the removal of the above ground system infrastructure shall be submitted to the Agency.

h. New trees and shrubs planted to screen the towers and equipment cabinets shall be native species and be maintained in a healthy condition. Any plants that die shall be replaced annually to assure effective screening.

NOW THEREFORE, upon all of the foregoing and under authority delegated to the Deputy Director, Regulatory Programs, it is

ORDERED, that these findings and conclusions be duly reported to the NYS Department of Transportation, the NYS Police and Crown Communications New York, Inc.

ORDER issued this day

of , 2002.

ADIRONDACK PARK AGENCY

BY:_____
Daniel T. Fitts, Executive Director

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Daniel T. Fitts, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

MES:GVO:MJG:SME:tal