



LAND MANAGEMENT PLAN

Niagara Power Project

FERC No. 2216

Copyright © 2008 New York Power Authority



August, 2008

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

TABLE OF CONTENTS

1.0	Introduction	1-1
1.1	Project Location	1-1
	Figure 1-1: Project Boundary Map	1-3
1.2	License Article	1-4
1.3	FERC Policies on Use of Project Lands and Waters.....	1-5
2.0	Overview	2-1
2.1	Goals and Objectives of the Plan.....	2-1
2.2	Plan Development	2-4
3.0	Description of Project Lands and Resources.....	3-1
3.1	Current Land Uses	3-1
	Table 3-1: Area of Land Uses within the Project Boundary.....	3-1
	Figure 3-1.1: Land uses within Project Boundary.....	3-2
	Figure 3-1.2: Land uses within Project Boundary.....	3-3
	Figure 3-1.3: Land uses within Project Boundary.....	3-4
	Figure 3-1.4: Land uses within Project Boundary.....	3-5
	Figure 3-1.5: Land uses within Project Boundary.....	3-6
	Figure 3-1.6: Land uses within Project Boundary.....	3-7
	Figure 3-1.7: Land uses within Project Boundary.....	3-8
	Figure 3-1.8: Land uses within Project Boundary.....	3-9
3.1.1	Utilities	3-10
3.1.2	Public Recreation Lands	3-10
3.1.3	Transportation	3-10
3.1.4	Vacant Areas	3-10
3.1.5	Industrial	3-10
3.1.6	Open Water	3-11
3.2	Recreational, Aesthetic, Historic Properties, and Natural Resources	3-11
3.2.1	Recreational Resources.....	3-11
	Figure 3-2: Recreational Facilities within the Project Boundary	3-12
3.2.2	Aesthetic Resources	3-16
3.2.3	Historic Properties.....	3-16
3.2.4	Natural Resources	3-17
4.0	Entities Responsible for Management Within Project Boundary	4-1
4.1	Project Lands Managed by New York Power Authority	4-1

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

4.1.1	Sole Management	4-1
4.1.2	Cooperative Management.....	4-2
4.2	Project Lands Managed by Other Entities	4-2
4.2.1	National Grid Corporation.....	4-3
4.2.2	NYS Office of Parks, Recreation and Historic Preservation	4-3
4.2.3	NYS Department of Transportation.....	4-3
4.2.4	City of Niagara Falls	4-4
4.2.5	Other Entities.....	4-4
5.0	Management of Project Lands	5-1
5.1	Overall Guidelines, Policies, and Standards	5-1
5.2	Specific Power Authority Management Actions	5-2
5.2.1	Road Maintenance	5-2
5.2.2	Vegetation Management.....	5-3
5.2.3	Non-Native Vegetative Species Control	5-7
5.2.4	Nuisance Wildlife	5-7
5.2.5	Future Use of Project Lands	5-8
5.2.6	Aesthetic Enhancements.....	5-8
5.3	Management Actions of Other Entities.....	5-8
5.3.1	National Grid Corporation.....	5-8
5.3.2	NYS Office of Parks, Recreation and Historic Preservation	5-9
5.3.3	NYS Department of Transportation.....	5-9
5.3.4	City of Niagara Falls	5-10
5.3.5	Other Entities.....	5-11
5.4	Permitting Process.....	5-11
5.4.1	Permits Issued	5-11
5.4.2	Application Process	5-12
5.5	Implementation Plan and Schedule of Management Actions.....	5-15
5.6	Plan Compliance	5-15
5.6.1	Enforcement and Penalties	5-15
6.0	Relationship of the Land Management Plan to Other Plans	6-1
6.1	Other Power Authority Plans.....	6-1
6.1.1	Recreation Plan	6-1
6.1.2	Historic Properties Management Plan.....	6-1
6.1.3	Customary Use Plan	6-2
6.2	Consistency with Other Plans.....	6-2

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

7.0	Literature Cited	7-1
-----	------------------------	-----

Appendix A: Standard Land Use Article (Article 411)

Appendix B: Customary Use Plan

Appendix C: Standard Applications For Permit

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

1.0 INTRODUCTION

1.1 Project Location

On March 15, 2007, the Federal Energy Regulatory Commission (FERC) issued a new license (effective September 1, 2007) to the New York Power Authority (Power Authority) for the continued operation and maintenance of the 2,755.5-megawatt (MW) Niagara Project (No. 2216). The Niagara Project is located on the Niagara River, in Niagara County, New York and is one of the largest non-federal hydroelectric facilities in North America. In 1958, the Federal Power Commission issued an original license for the project (effective September 1, 1957); construction of the project began in 1958, and electricity was first produced in 1961.

The project has several components. Twin intakes are located approximately 2.6 miles above Niagara Falls. Water entering these intakes is routed around the Falls via two large low-head underground conduits to a 1.8-billion-gallon forebay, lying on an east-west axis about 4 miles downstream of the Falls. The forebay is located on the east bank of the Niagara River. At the west end of the forebay, between the forebay itself and the river, is the Robert Moses Niagara Power Plant (RMNPP), the Power Authority's main generating plant at Niagara. This plant has 13 turbines that generate electricity from water stored in the forebay. Head is approximately 300 feet. At the east end of the forebay is the Lewiston Pump Generating Plant (LPGP). Under non-peak-usage conditions (i.e., at night and on weekends), water is pumped from the forebay via the plant's 12 pumps into the 22-billion-gallon Lewiston Reservoir, which lies east of the plant. During peak usage conditions (i.e., daytime Monday through Friday), the pumps are reversed for use as generators, and water is allowed to flow back through the plant, producing electricity. The forebay therefore serves as headwater for the Robert Moses plant and tailwater from the Lewiston Plant. South of the forebay is a switchyard, which serves as the electrical interface between the project and its service area. See [Figure 1-1](#).

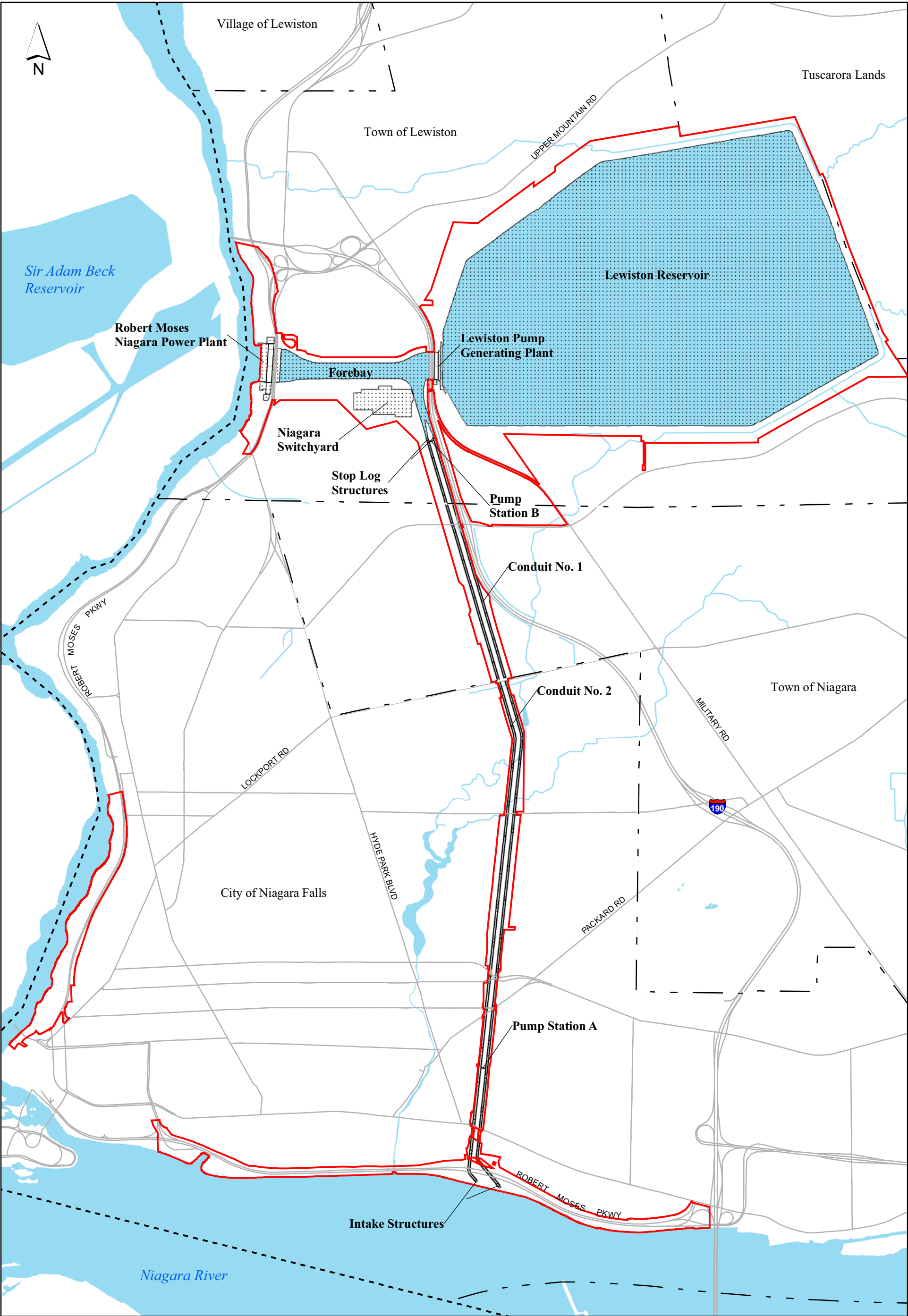
Lands that are needed for project purposes are contained within the project boundary. The Final Environmental Impact Statement for the Niagara Power Project ([FERC 2006](#)) records the area of the project boundary to include 3,222 acres. However, the March 15, 2007 license for the project approved the removal of 7 parcels of land, totaling roughly 60 acres, from the original project boundary. As a result of these changes, lands remaining within the project boundary now constitute approximately 3,162 acres.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

A map depicting the revised project boundary, as defined in the Federal Energy Regulatory Commission's (FERC) March 15, 2007 license order for the project, is presented in [Figure 1-1](#). Land management practices are inherent to ensuring the safety, aesthetics, public use, environmental resources and customary use of lands and facilities within the project boundary.

The purpose of this document is to present the proposed Land Management Plan (LMP), as required by Article 405 of the Power Authority's new license for the project (see [Section 1.2](#)). The LMP presented herein describes land management practices that will take place within the project boundary under the new license. In general, this LMP is in keeping with land management practices already being performed at the time of relicensing; therefore, the majority of practices described herein are already in effect.



Legend

- | | |
|------------------------|-----------------------|
| International Boundary | FERC Project Boundary |
| Road | Project Structure |
| Municipal Boundary | Water Body/Stream |
- 0 0.25 0.5 1 Miles 1 inch equals 0.5 miles

**Niagara Power Project (FERC Project No. 2216)
Land Management Plan**

Figure 1-1 Project Boundary



NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

1.2 License Article

The March 15, 2007 new license order approved an Offer of Settlement (Settlement), which was filed by the Power Authority on August 19, 2005. This settlement was the product of extensive public involvement and consultation and was signed by the Power Authority and most of the major parties to the relicensing proceeding. Among various other objectives, the Settlement requested that the license include an article directing the Power Authority to prepare and implement an LMP. The resulting license article is based on language suggested within the Settlement and is incorporated in the project license as Article 405. Article 405 appears in the project license as follows.

Article 405: Land Management Plan:

Within one year of the effective date of this license, the licensee shall file with the Commission for approval, a management plan for project lands. The land management plan shall identify and explain the policies, standards, guidelines, and land use designations used to enhance safety and protect and manage environmental resources, public use, aesthetics, and Tuscarora Nation customary uses. In preparing the land management plan, the licensee shall consult with the U.S. Fish and Wildlife Service, National Park Service, New York State Department of Environmental Conservation, New York State Office of Parks, Recreation, and Historic Preservation, Tuscarora Nation, Niagara Relicensing Environmental Coalition, and adjacent landowners.

The licensee shall include with the land management plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the U.S. Fish and Wildlife Service; National Park Service; New York State Department of Environmental Conservation; New York State Office of Parks, Recreation and Historic Preservation; Tuscarora Nation; and adjacent landowners, and specific descriptions of how their comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the entities to comment before filing the plan with the

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the land management plan. Implementation of the land management plan shall not begin until plan is approved by the Commission. Upon Commission approval, the licensee shall implement the land management plan, including any changes required by the Commission.

1.3 FERC Policies on Use of Project Lands and Waters

In accordance with section 4(e) of the Federal Power Act, as amended by the Electric Consumers Protection Act of 1986, FERC is required to give "equal consideration to the purposes of energy conservation, the protection, mitigation of, damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of other aspects of environmental quality" when issuing a license for a hydroelectric project. FERC encourages licensees to manage their lands with respect to these considerations via the incorporation of specific license conditions. Such provisions include standard articles pertaining to land use and occupancy. FERC's standard land use and occupancy article appears in the Niagara Project license as Article 411. A copy of this article, as it appears in the project license, is provided in [Appendix A](#).

Article 411 of the FERC license for the Niagara Project gives the Power Authority the authority to grant permission to applicants for specific non-project uses, subject to specific license conditions. Examples of relatively routine, non-project use applications that may be approved include noncommercial boating access facilities (boat docks and piers) if applicable, erosion control structures, certain types of recreation development, bulkheading, and vegetative removal or trimming, and planting new vegetation.

To exercise these authorities, the Power Authority must ensure that the proposed uses and occupancies are consistent with the purposes of protecting and enhancing the environmental values of the project, while safely operating and maintaining the project. Project environmental values that must be protected and enhanced include a number of natural resources (fish, vegetation, and wildlife), public recreation access, scenic character, and cultural resources. Article 411 includes a clause that states "the licensee may, among other things, establish a program for issuing permits for

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

the specified types of use and occupancy of project lands and waters" to assist the licensee in managing project lands and waters. It goes on to say that "the Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, and procedures."

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

2.0 OVERVIEW

2.1 Goals and Objectives of the Plan

The purpose of this LMP is to provide guidelines for the management of project lands within the FERC-approved project boundary during the new license term in a manner that is consistent with FERC policies, license requirements, project needs, protection of resources and public interest. The following goals and objectives provide direction for the content and application of this LMP. As stated in the project license, this LMP will help to avoid misunderstandings about how project lands are to be managed and provide a coordinated approach to all land management-related activities. Development of this plan has relied, in part, on the following goals and objectives.

Goal: Provide a comprehensive land management strategy that will:

- protect the integrity of project facilities;
- protect and enhance environmental, historic, aesthetic and recreational resources; and
- recognize and address specific resource values, public access requirements and the interests of adjoining landowners.

Objective: Identify land uses within the project boundary and define appropriate land management practices associated with those uses.

Objective: Identify and explain the policies, standards, guidelines that will direct land management activities within the project boundary.

Objective: Define allowable and permitted uses of project lands and continue a permit program to implement land management policies.

Objective: Implement an enforcement program to ensure compliance with the established permit programs.

Goal: To establish a Land Management Plan that is consistent with concurrent plans and policies.

Objective: Ensure that land management policies and activities are consistent with the Historic Properties Management Plan.

NIAGARA POWER PROJECT (FERC NO. 2216) LAND MANAGEMENT PLAN

Objective: Ensure that land management policies and activities are consistent with the Customary Use Plan.

Objective: Coordinate land management policies and activities with the Recreation Plan.

Objective: Ensure that land management policies and activities are consistent with the New York State Coastal Zone Management Program and any applicable local plans.

Goal: To establish a Land Management Plan that recognizes and protects natural resources, and is consistent with all environmental laws and regulations.

Objective: Ensure that land management policies and activities are consistent with state and federal environmental laws and regulations.

Furthermore, the Final Environmental Impact Statement ([FERC 2006](#)) (FEIS) provides guidance regarding some specific topics that should be addressed within the LMP. These topics include road maintenance, vegetation management, non-native vegetative species and nuisance wildlife control, use of project lands, aesthetic enhancements and customary use. Specific objectives as they pertain to these issues are set forth in the FEIS as follows.

Road Maintenance Practices:

The land management plan should designate appropriate techniques for winter maintenance and road infrastructure maintenance.

Vegetation Management:

The land management plan should designate appropriate techniques associated with mowing, herbicide use, hand and mechanical removal, standard agricultural practices, and landscaping. It should also provide guidelines for restrictions on mowing specific areas and/or habitats, integrated vegetation management (IVM) practices, and the utilization of native plants for landscaping purposes.

Non-Native¹ Species Control:

¹ Original language as it appears in FEIS is “Invasive Species.”

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

The land management plan should outline techniques to discourage the spread of invasive species located on project lands. One such area is found on the Lewiston Reservoir Dike, where crown vetch, a non-native species, has been planted and maintained.

Nuisance Wildlife:

The land management plan should designate appropriate techniques for managing nuisance wildlife.

Use of Project Lands:

The Power Authority should ensure that use of project lands would continue in public areas that are not otherwise restricted for project and public safety purposes.

Aesthetic Enhancements:

The Power Authority should implement several measures recommended by the visual assessment study, (e.g., debris clean-up, lighting adjustments, etc.) conducted during the relicensing study process, as part of normal project operation and maintenance activities. Other Power Authority proposals should include: reestablishing a vegetative screen at project service facilities, and utilization of native herbaceous plants on the Lewiston Reservoir dike.

Customary Use Plan (CUP) for the People of the Tuscarora Nation:

The LMP should include a CUP that recognizes customary uses of project lands by the Tuscarora people. The CUP, which would be developed by the Power Authority and the Tuscarora Nation, should include, as reasonably and practicably as possible, customary uses of the Tuscarora people on lands within the project boundary, including, but not limited to, fishing and gathering activities.

This LMP has been developed with respect to each of the above listed recommendations as provided in the FEIS. It should be noted that the Customary Use Plan has been prepared as a stand-alone document, and provided herein as [Appendix B](#).

NIAGARA POWER PROJECT (FERC NO. 2216) LAND MANAGEMENT PLAN

2.2 Plan Development

On July 15, 2002, the Commission approved the Power Authority's request to utilize alternative licensing procedures ("ALP") for the Niagara Project relicensing, finding the ALP would foster improved communication, participation, and cooperation among stakeholders. The Power Authority formally began the ALP process in December of 2002; thereafter, the Power Authority met with stakeholders on a regular basis to identify and scope issues associated with the Niagara Project relicensing. One issue that was raised was the subject of land management.

During the settlement phase of the ALP, the Power Authority and the stakeholders worked collectively to address issues (including land management) that had been raised during the ALP. The scoping process, which included thirteen ALP stakeholder meetings (and numerous associated small group meetings and teleconferences) culminated in the issuance of "Scoping Document 2" in December 2003. ([URS Corp., Gomez and Sullivan, E/PRO, 2003](#)) After completing most of the proposed re-licensing studies, the Power Authority initiated settlement negotiations with stakeholders in September 2004. The Power Authority was able to reach conceptual settlement with major stakeholders by December 2004, and the settlement agreements that comprise the Offer of Settlement were finalized in July 2005.

Those components of the Offer of Settlement (Settlement) that are subject to the Commission's jurisdiction were approved by FERC and made part of the project license. Article 405 of the project license mandates development of an LMP for the project. In addition to suggesting language for this article, the Settlement laid out general expectations regarding what the LMP should contain and accomplish.

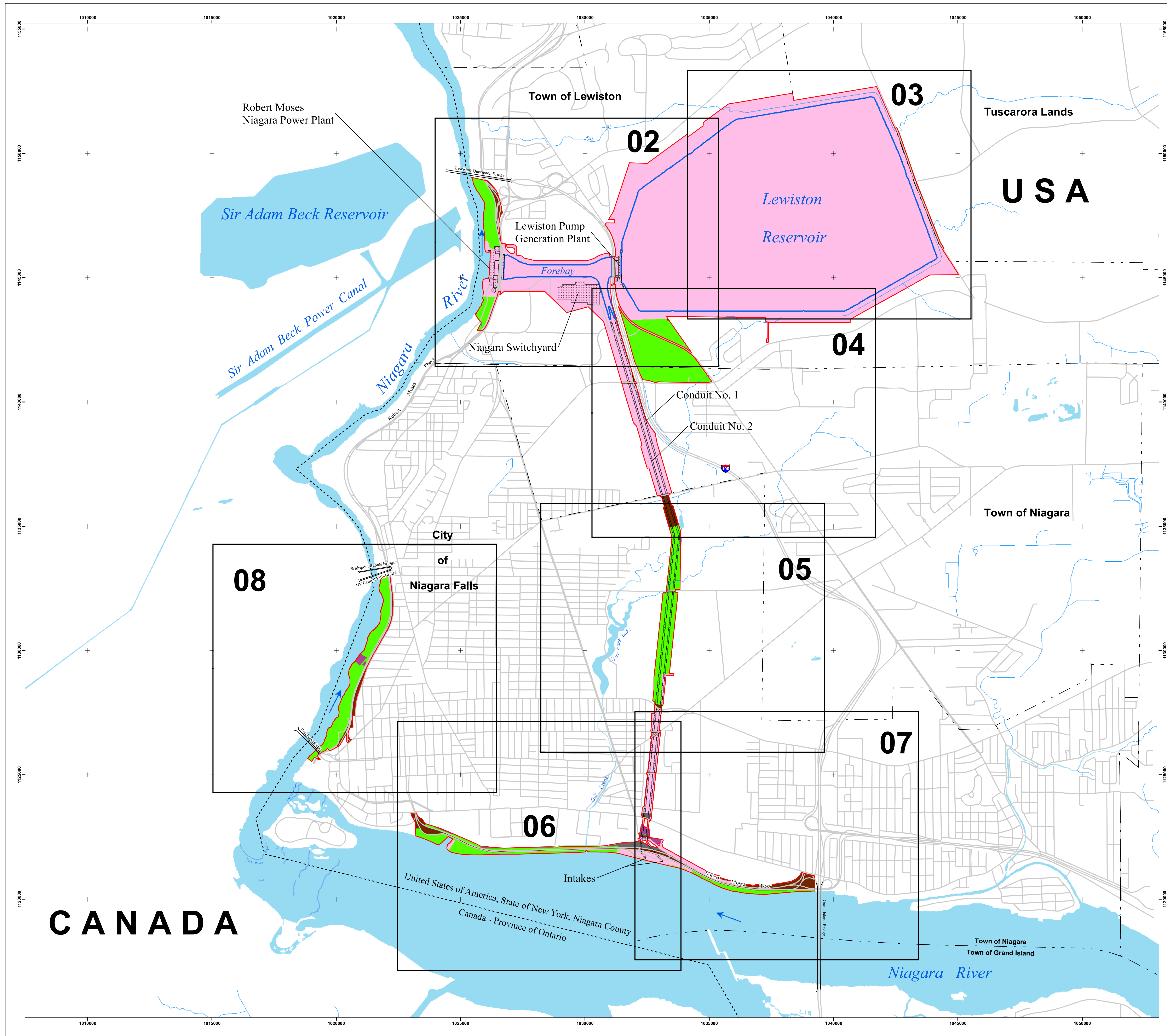
NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

3.0 DESCRIPTION OF PROJECT LANDS AND RESOURCES

3.1 Current Land Uses

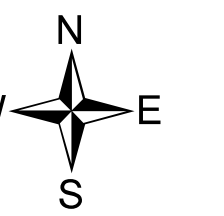
Current land uses have been mapped using a Geographic Information System (GIS). The GIS database for the project area has been developed using various current resources, ranging from local, State and Federal databases to aerial/satellite photography and ground-verification. Land uses defined within the project boundary include utilities, public recreation, transportation, vacant areas, industrial development, and open water. The acreage being utilized for each of these land uses is listed in [Table 3-1](#). Specific areas associated with each land use category are depicted in [Figures 3-1.1](#) through [3-1.8](#). Predominant land use categories are discussed, briefly, below.

TABLE 3-1: AREA OF LAND USES WITHIN THE PROJECT BOUNDARY		
Land Use Category	Area (acres)	Percent of Total (%)
Utilities*	2623	83%
Public Recreation	389	12%
Transportation	129	4%
Vacant	12	<1%
Industrial	9	<1%
Open Water**	0.11	<1%
Total:	<u>3162</u>	
*This category includes the open water of the forebay and reservoir.		
**Not associated with project utilities.		



Legend

- FERC Project Boundary
- Project Structures
- Municipal Boundary
- Road
- International Boundary
- Water Body/Stream
- Land Use
 - INDUSTRIAL
 - OPEN WATER
 - RECREATION
 - TRANSPORTATION
 - UTILITIES
 - VACANT



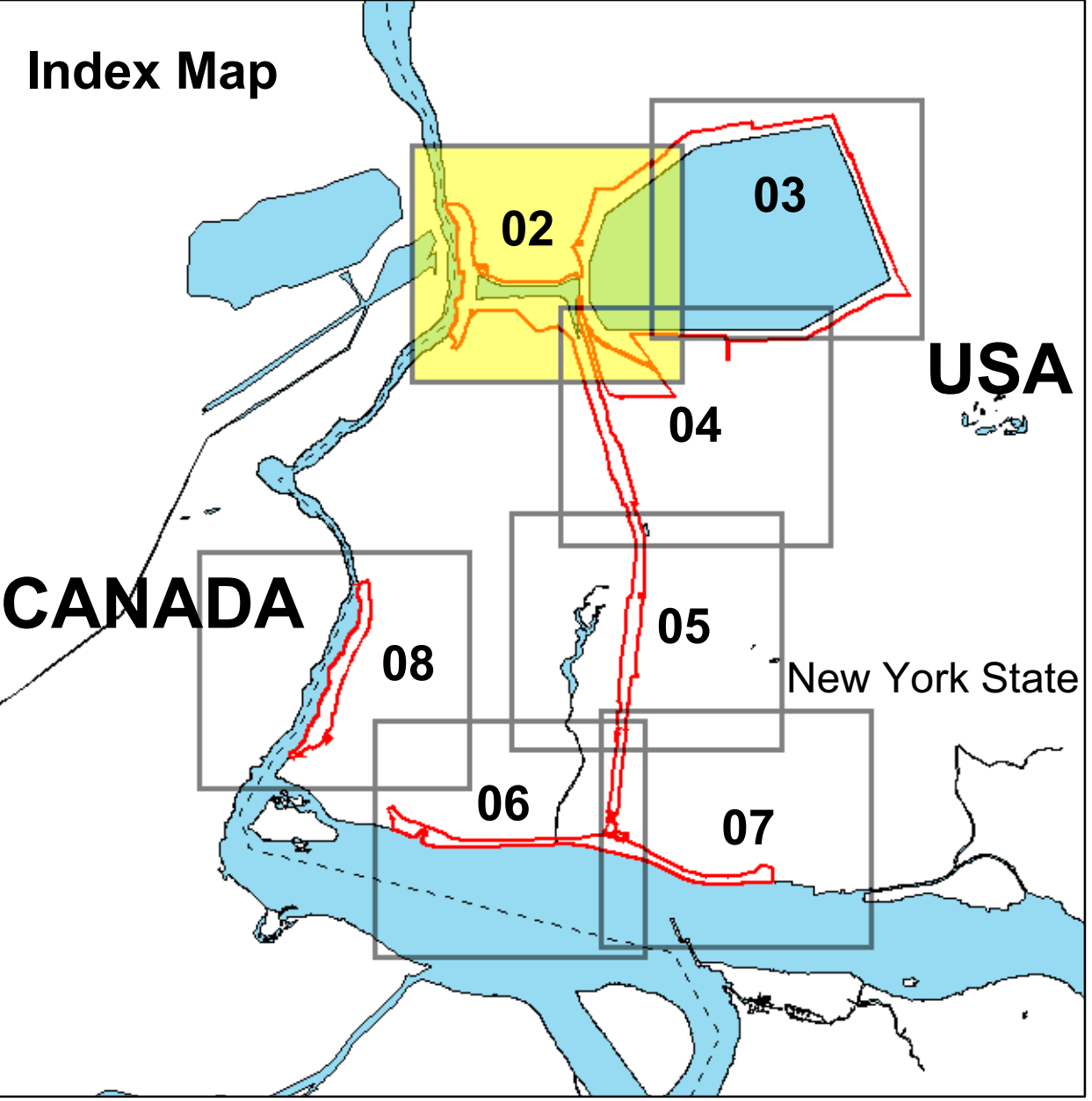
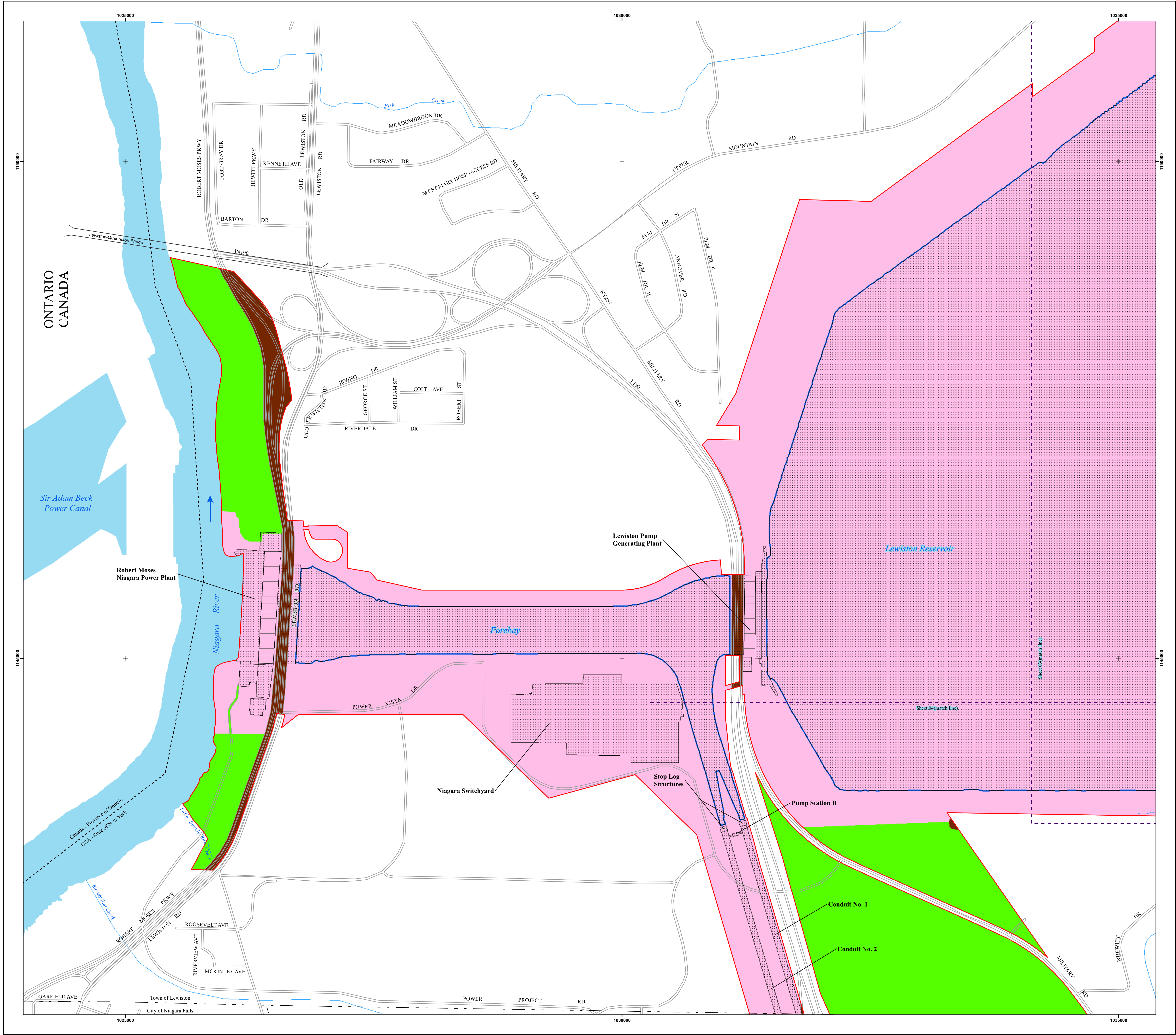
0 800 1,600 3,200 4,800 Feet

1 inch equals 1,600 feet

Niagara Power Project (FERC Project No. 2216) Land Management Plan

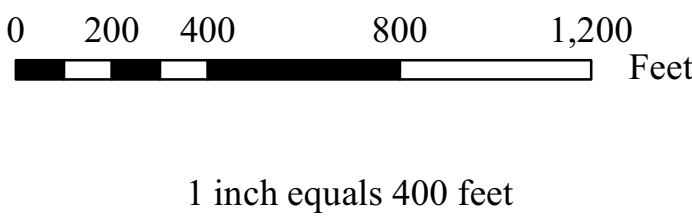
Figure 3-1.1 Land Use





- Legend**
- FERC Project Boundary
 - Project Structure
 - Municipal Boundary
 - Road
 - International Boundary
 - Water Body/Stream

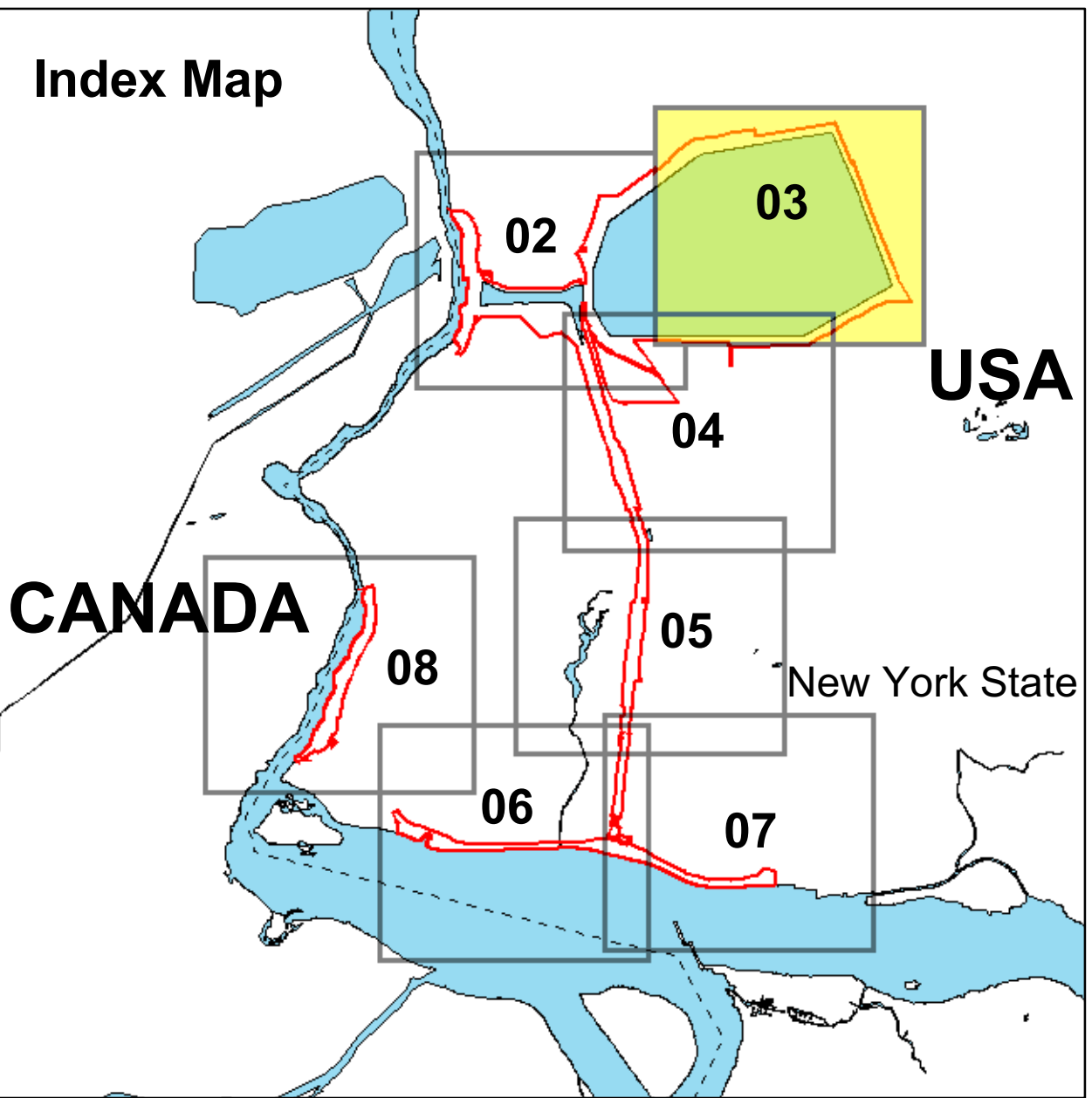
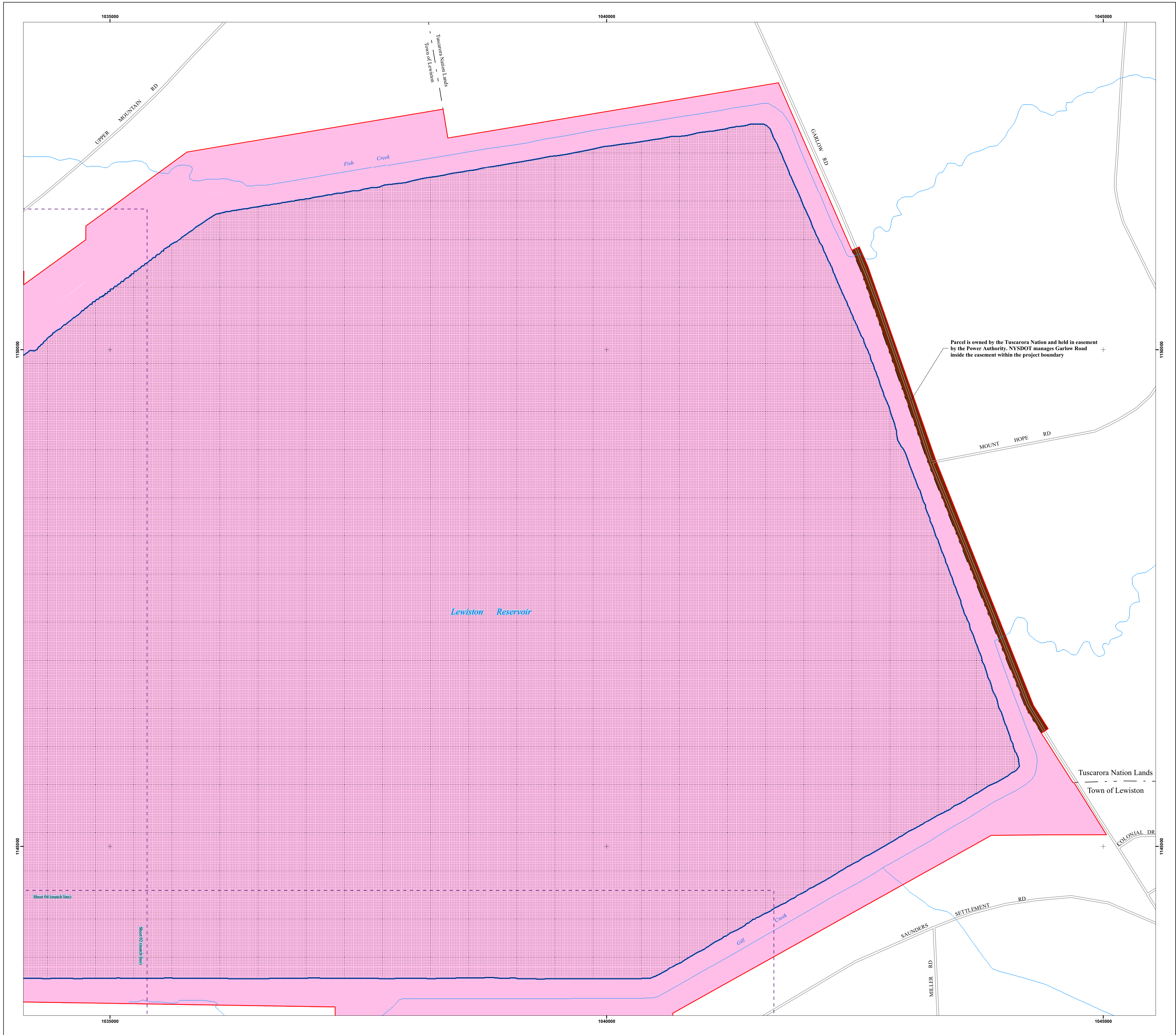
- Land Use**
- INDUSTRIAL
 - OPEN WATER
 - RECREATION
 - TRANSPORTATION
 - UTILITIES
 - VACANT



**Niagara Power Project (FERC Project No. 2216)
Land Management Plan**

Figure 3-1.2 Land Use





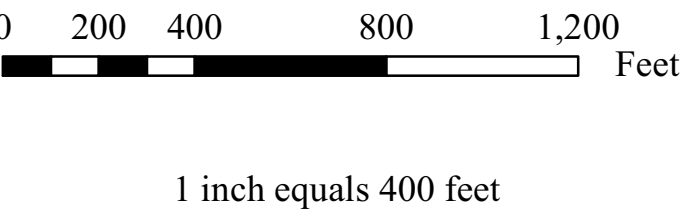
Legend

- FERC Project Boundary
- Project Structure
- Municipal Boundary
- Road
- International Boundary
- Water Body/Stream

Land Use

- INDUSTRIAL
- OPEN WATER
- RECREATION
- TRANSPORTATION
- UTILITIES
- VACANT

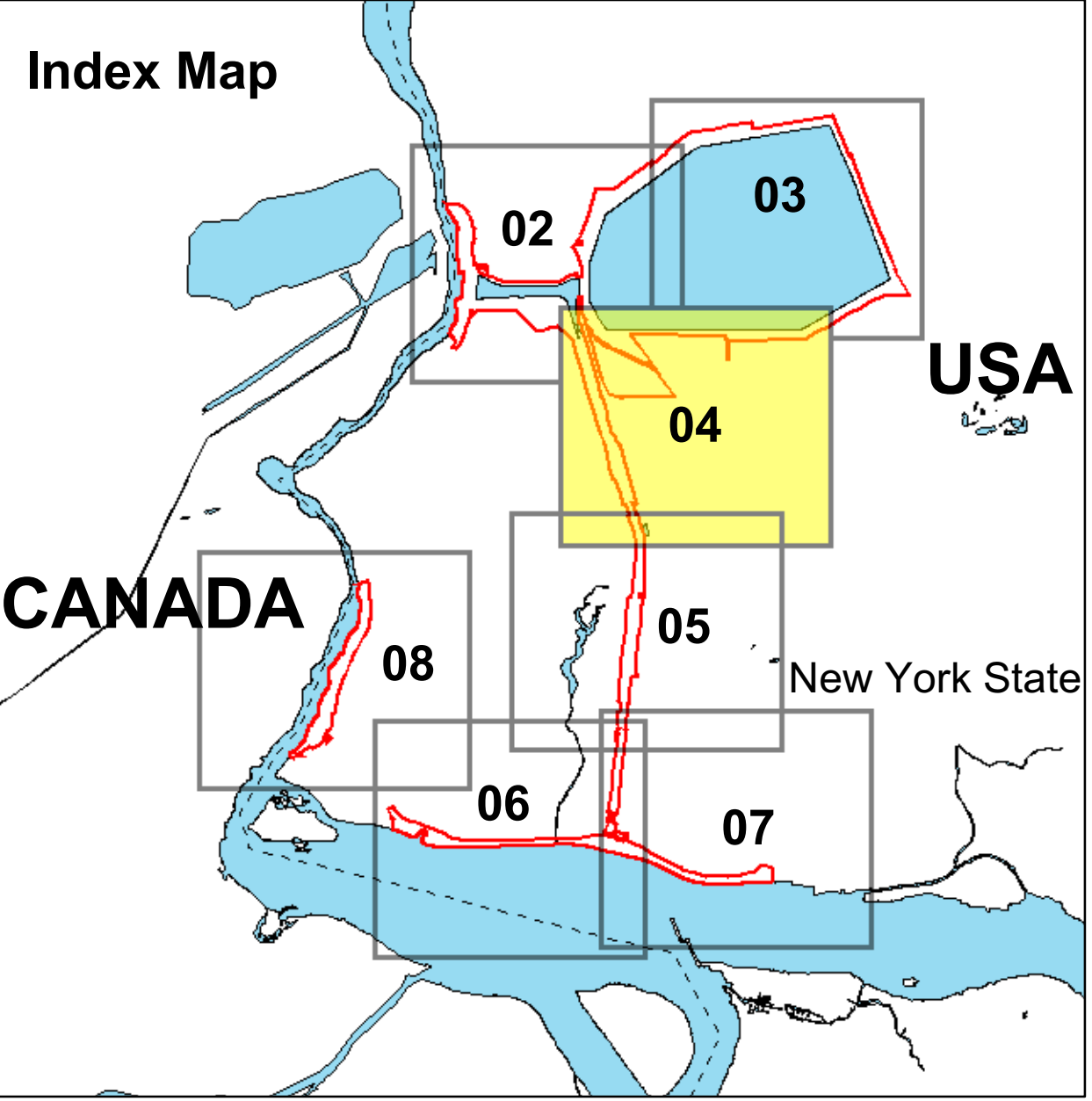
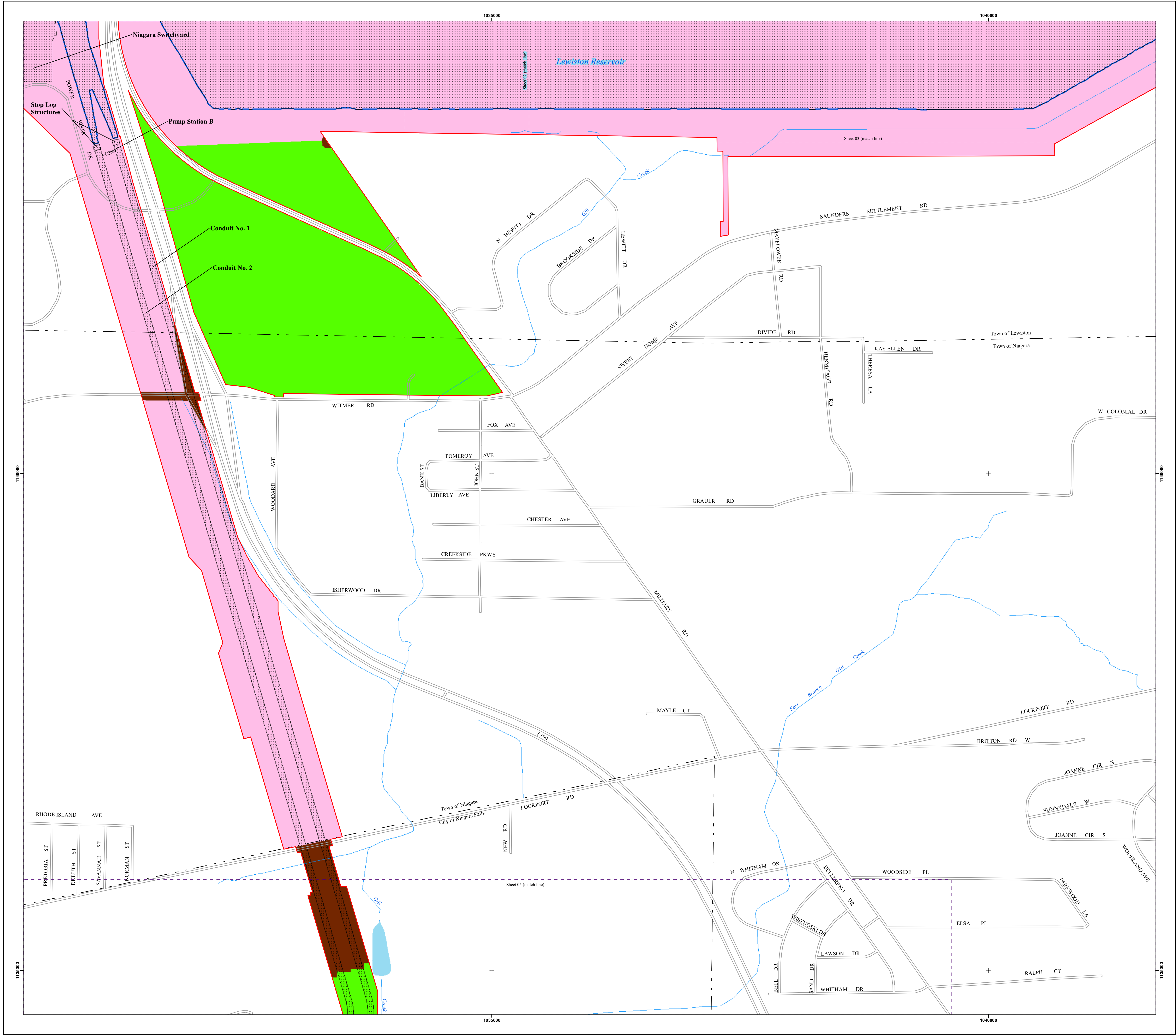
N
W E
S



**Niagara Power Project (FERC Project No. 2216)
Land Management Plan**

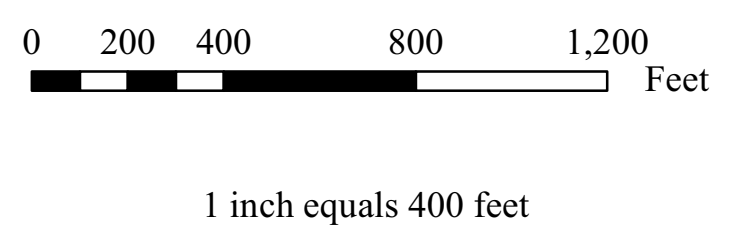
Figure 3-1.3 Land Use





- Legend**
- FERC Project Boundary
 - Project Structure
 - Municipal Boundary
 - Road
 - International Boundary
 - Water Body/Stream

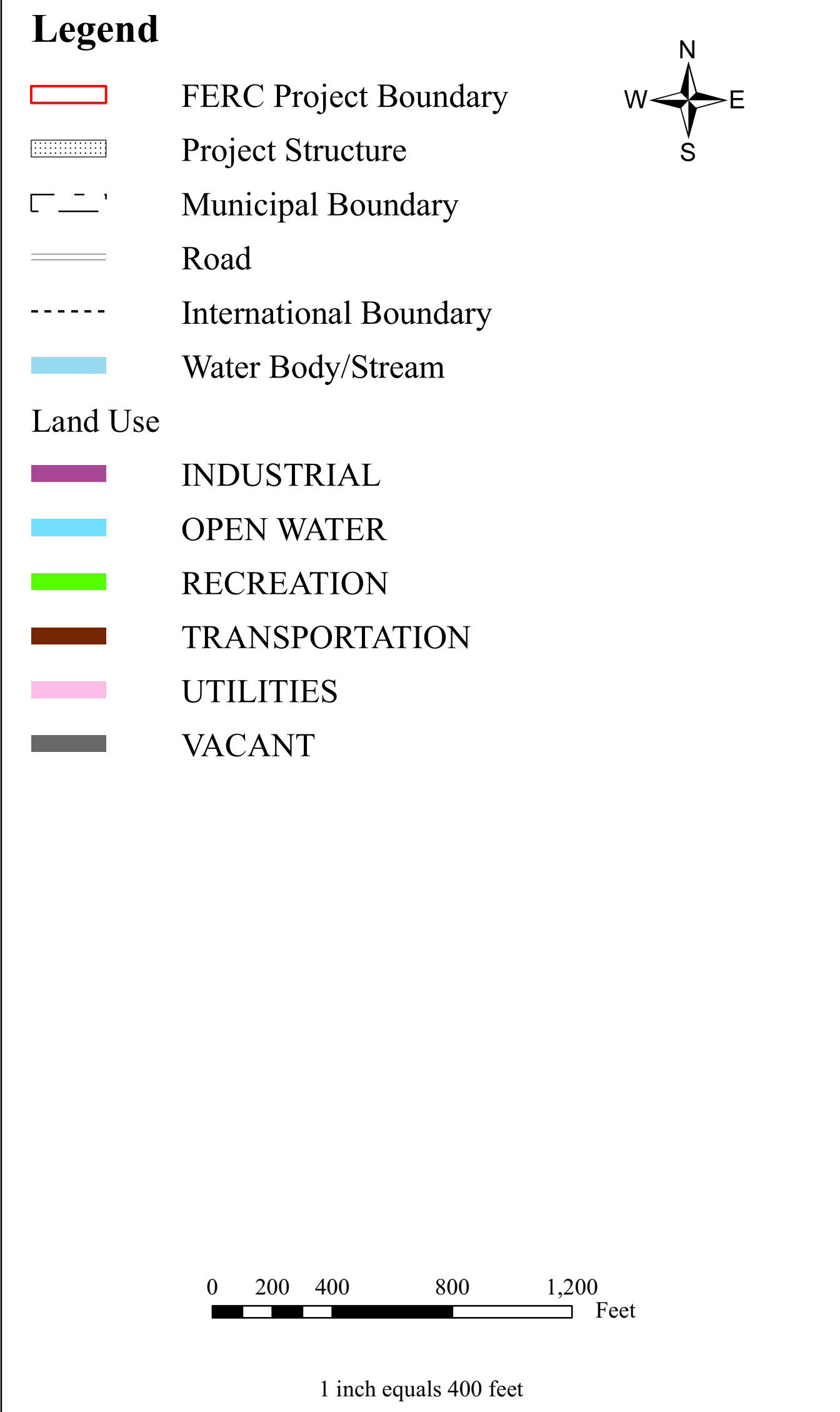
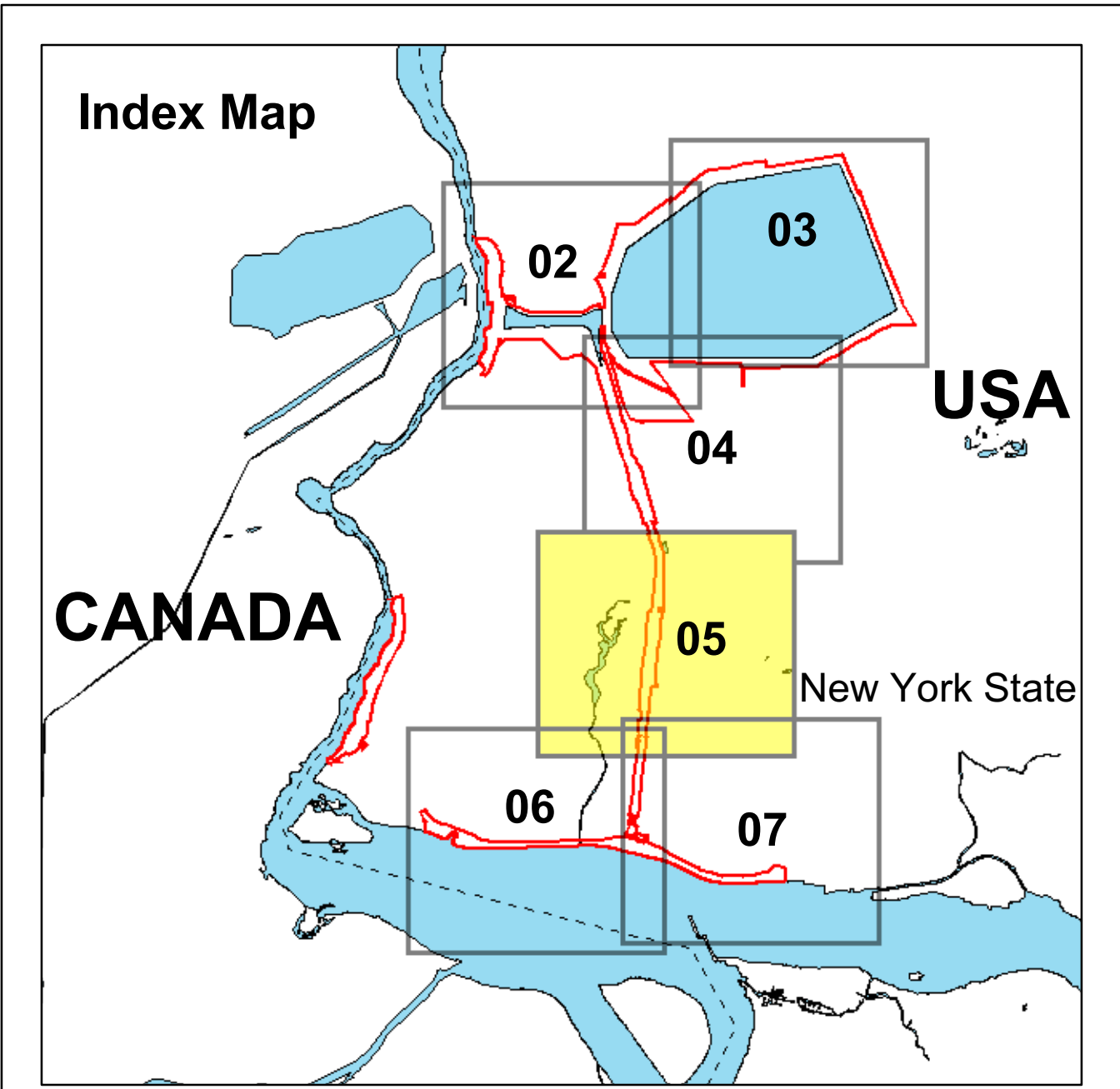
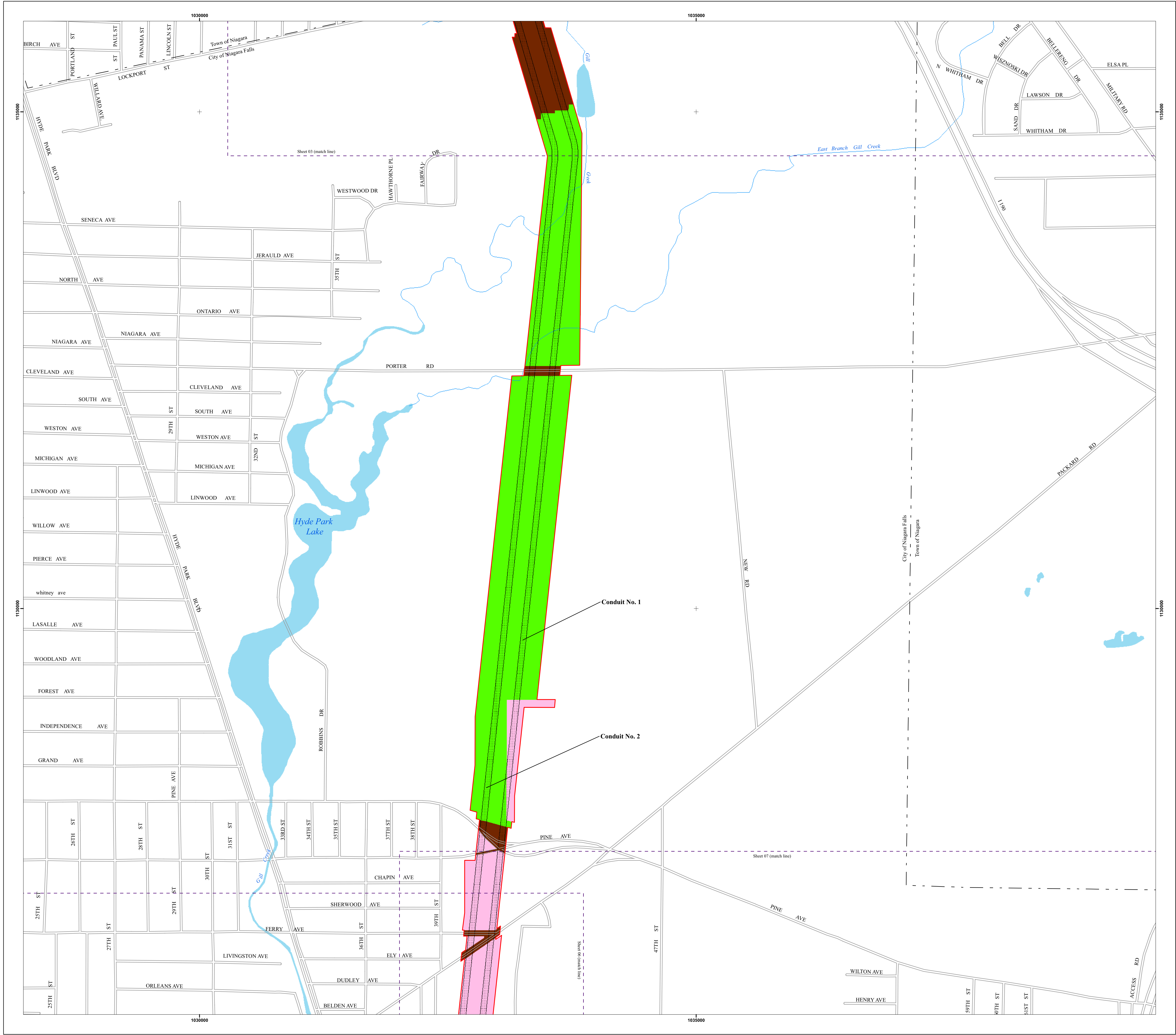
- Land Use**
- INDUSTRIAL
 - OPEN WATER
 - RECREATION
 - TRANSPORTATION
 - UTILITIES
 - VACANT



**Niagara Power Project (FERC Project No. 2216)
Land Management Plan**

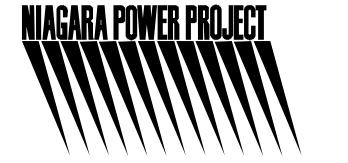
Figure 3-1.4 Land Use

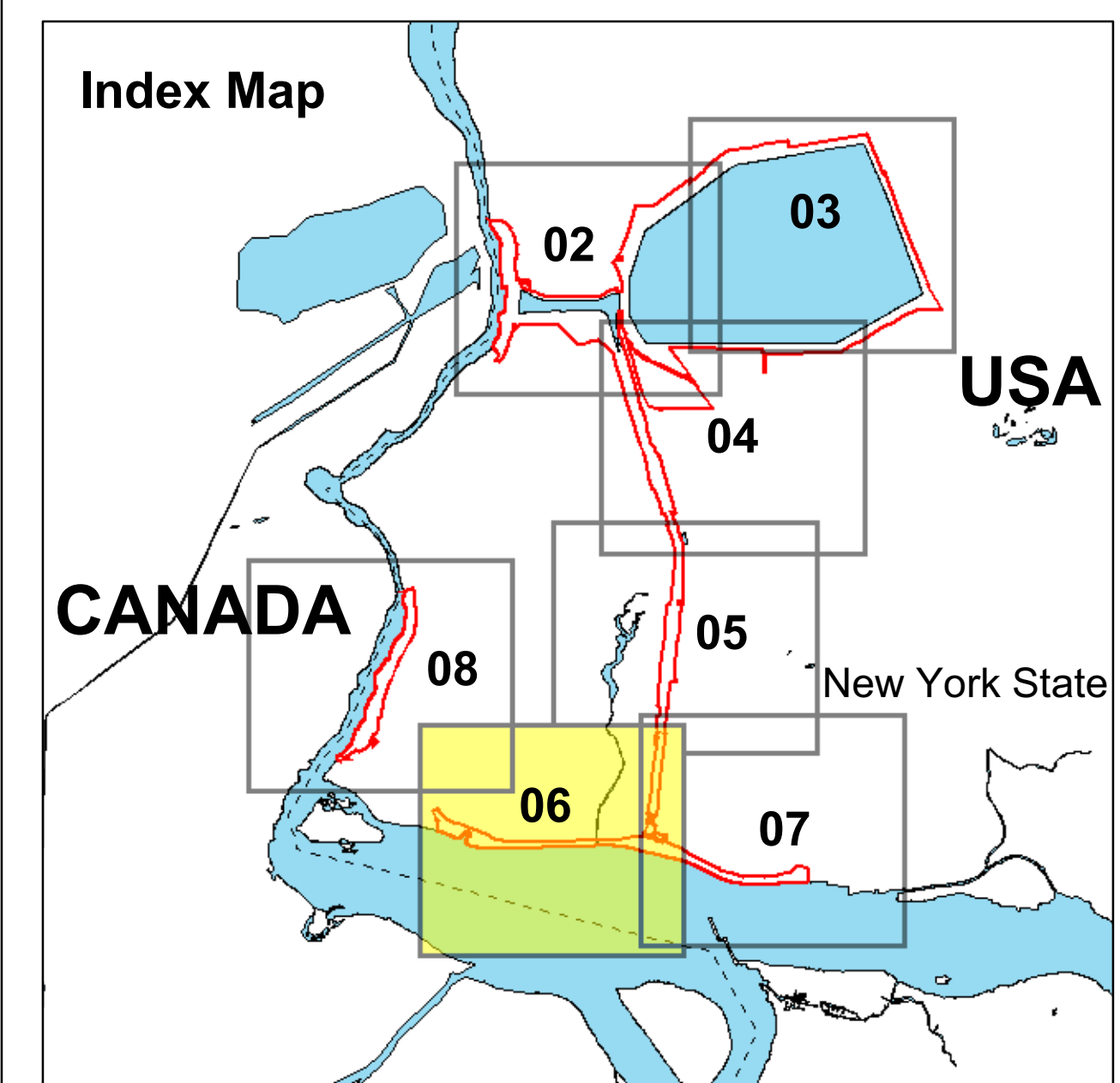
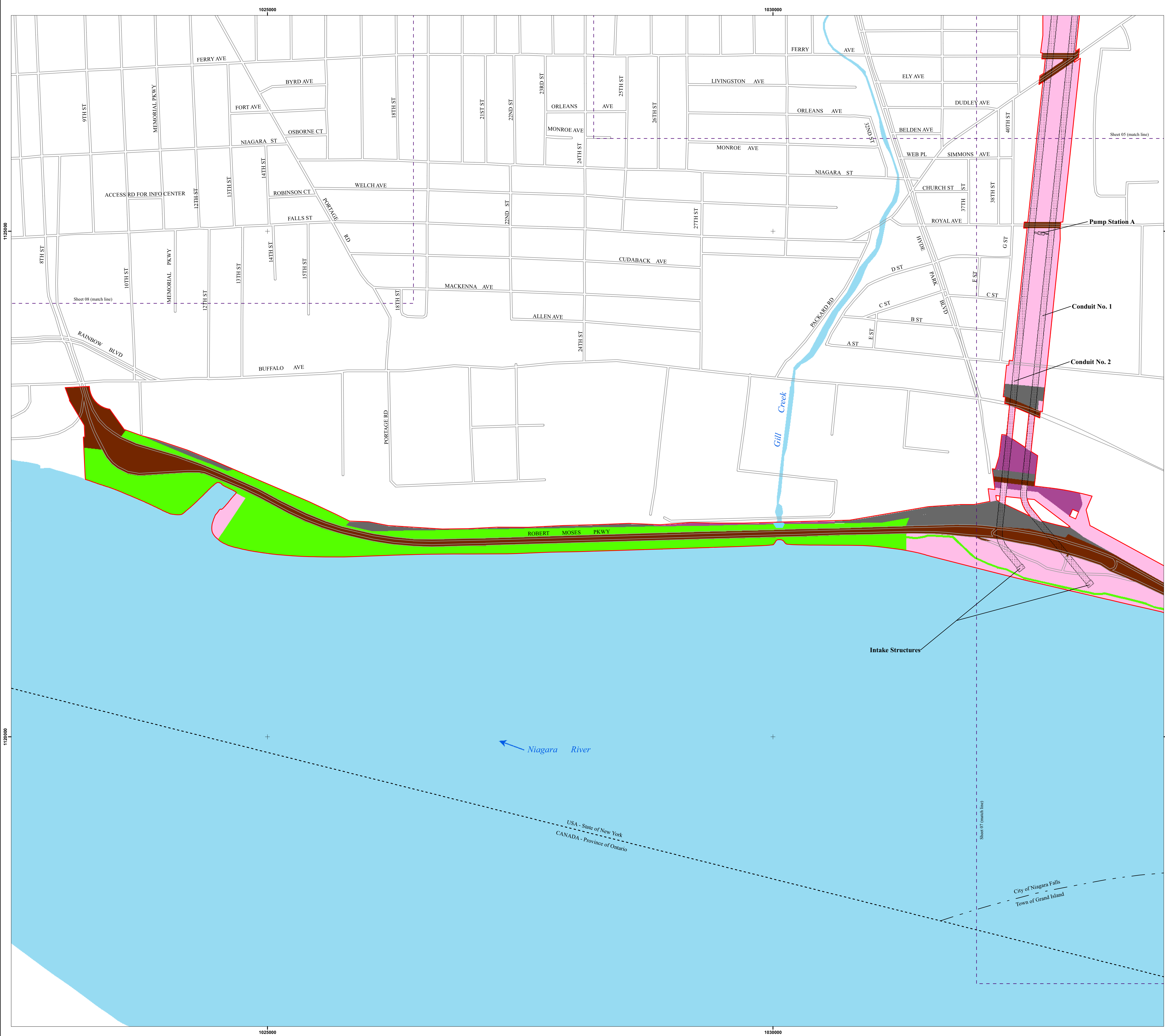




Niagara Power Project (FERC Project No. 2216)
Land Management Plan

Figure 3-1.5 Land Use





Legend

- FERC Project Boundary
- Project Structure
- Municipal Boundary
- Road
- International Boundary
- Water Body/Stream

Land Use

- INDUSTRIAL
- OPEN WATER
- RECREATION
- TRANSPORTATION
- UTILITIES
- VACANT

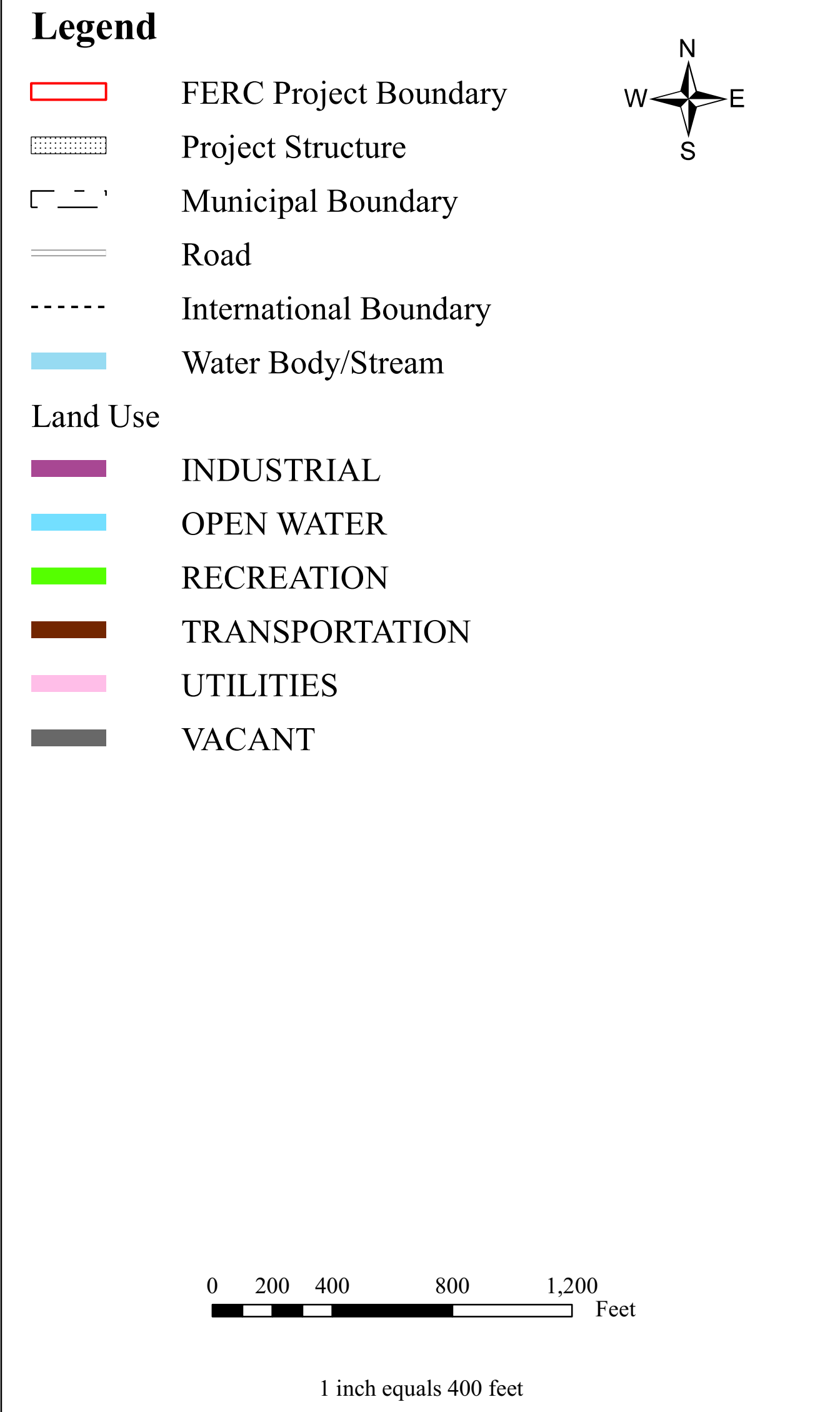
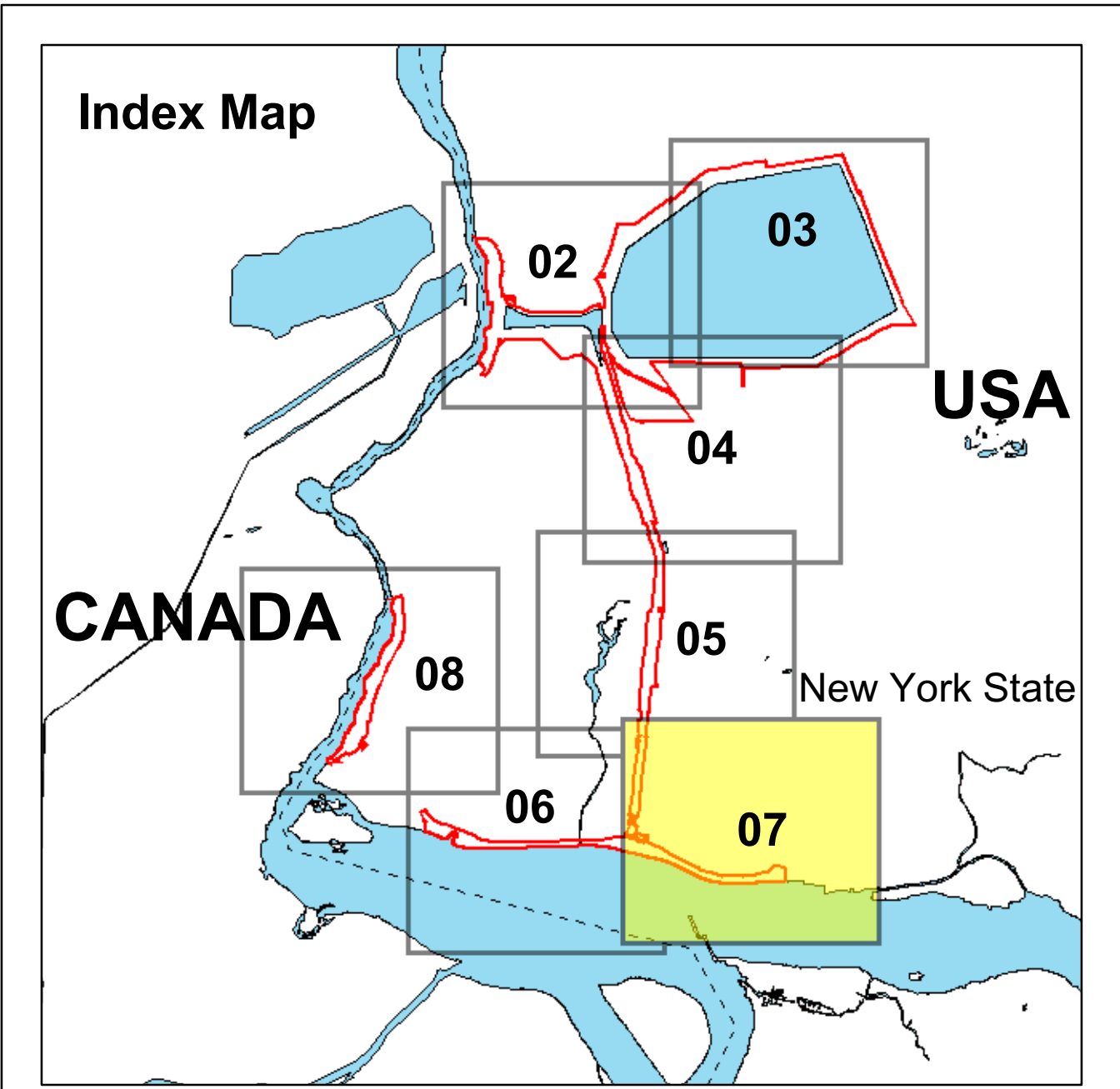
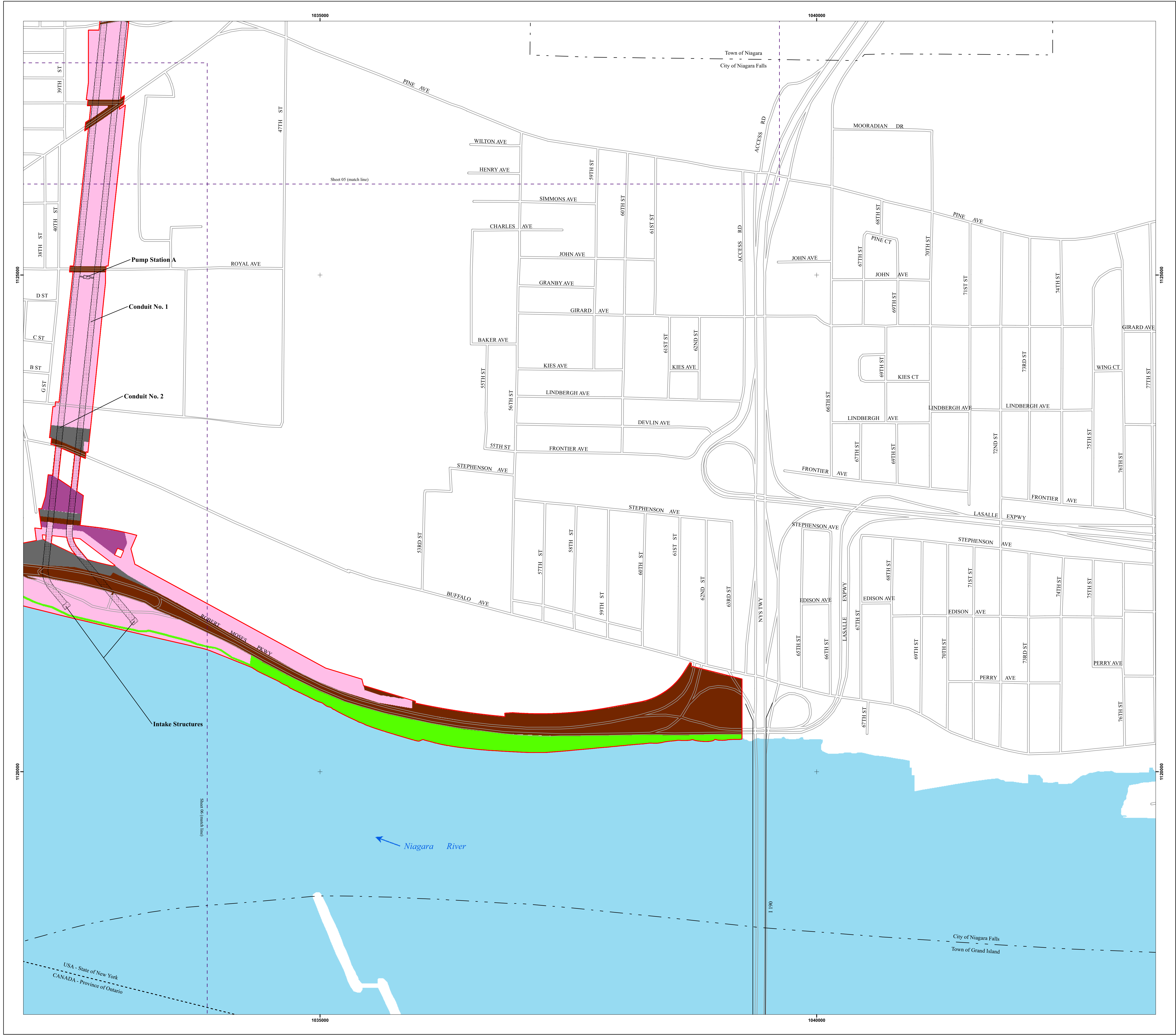
0 200 400 800 1,200 Feet

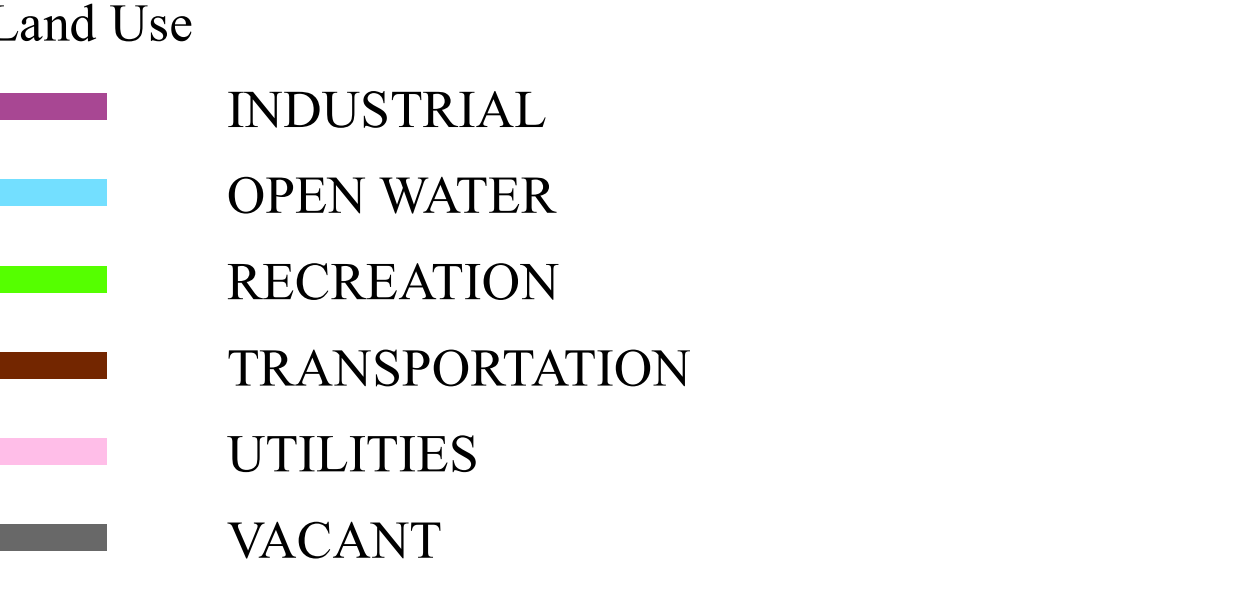
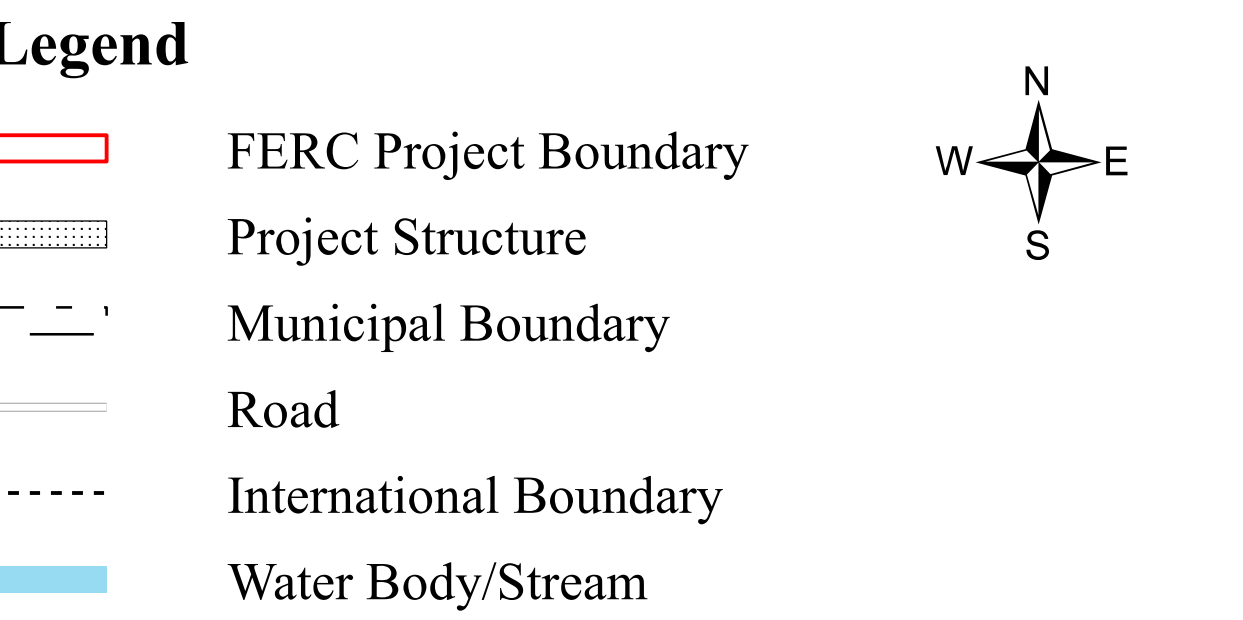
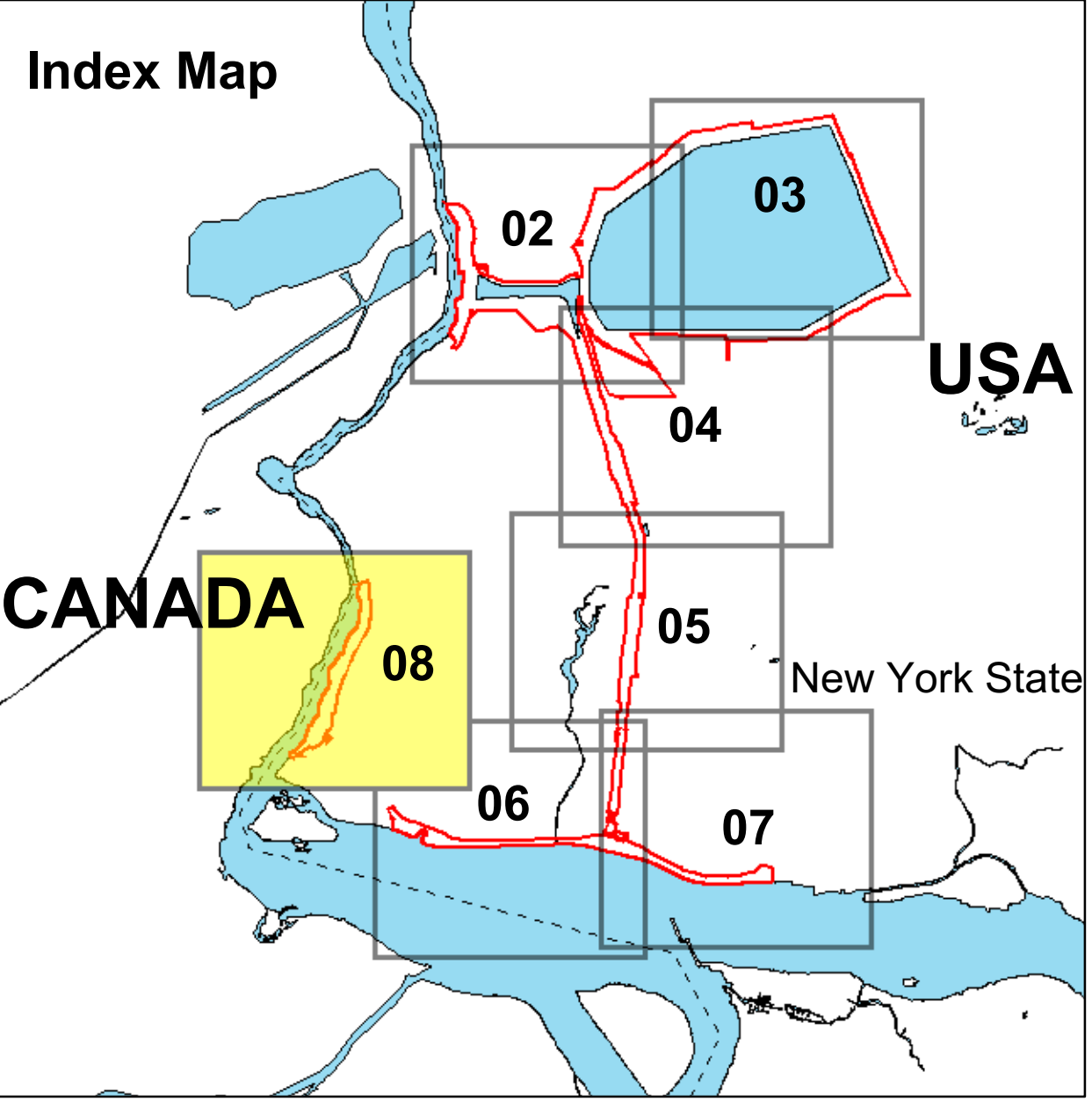
1 inch equals 400 feet

Niagara Power Project (FERC Project No. 2216)
Land Management Plan

Figure 3-1.6 Land Use







**Niagara Power Project (FERC Project No. 2216)
Land Management Plan**

Figure 3-1.8 Land Use



NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

3.1.1 Utilities

Approximately 2,623 acres (83%) of land use within the project boundary is ascribed to utilities. This includes areas that are directly associated with Project components (including the open waters of the Lewiston Reservoir and the forebay) described in [Section 1.0](#), as well as transmission facilities that are operated by the Power Authority or other entities. Details on the ownership and management of non-Project utilities are discussed in [Section 4.0](#).

Land management practices at utilities vary widely, depending on the nature of each facility, ranging from road access and parking maintenance to varying degrees of vegetation management.

3.1.2 Public Recreation Lands

Public recreation lands currently represent the second most common land use within the project boundary, with 389 acres (12% of the total area) ascribed to this use. Public recreation lands may include mowed and/or planted grounds, buildings, access drives, parking areas and/or trails. Land management practices are applied as appropriate to the nature of each facility. Existing public recreation resources are detailed in [Section 3.2](#).

3.1.3 Transportation

Approximately 129 acres (4%) within the project boundary are utilized for transportation. This includes various private and public roads, a railroad yard and a portion of the Robert Moses Parkway. These areas are subject to activities such as paving, plowing, ice control (sand, salt, and/or calcium chloride application), and infrastructure maintenance as detailed in [Section 5.0](#).

3.1.4 Vacant Areas

A few parcels exist within the project boundary that are not subject to management, and are left in a natural vegetative state. Collectively, these vacant areas represent about 12 acres (less than 1%) of the land within the project boundary.

3.1.5 Industrial

Industrial areas currently account for approximately 9 acres (less than 1%) of lands within the project boundary. Industrial land use is isolated to three specific areas within the project boundary;

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

these areas are characterized by structures, and paved areas. Lands associated with these areas are minimal and management is generally limited to road and parking lot maintenance.

3.1.6 Open Water

The remaining 0.1 acre within the project boundary is ascribed to open water that is not associated with project utilities. Open water is not directly subject to land management practices.

3.2 Recreational, Aesthetic, Historic Properties, and Natural Resources


3.2.1 Recreational Resources


This LMP, as it pertains to management of recreational resources, is specific to recreational facilities that are located within the FERC-approved project boundary. There are 11 recreation facilities open to the public located within the project boundary; these include project facilities (such as the Niagara Power project Visitor's Center) and non-project facilities (such as the Hyde Park Golf Course). These facilities offer a variety of recreation opportunities including: hiking, biking, golfing, wildlife viewing, fishing, and sightseeing.


The recreation facilities that are located within the project boundary are depicted on [Figure 3-2](#) and are described, briefly, below. Project-related recreation facilities, and their operation and maintenance, are described in detail in the Recreation Plan for the project.





Legend

 Road

 Recreation Facility

 FERC Project Boundary

 City/Town

 Water


Niagara Power Project (FERC Project No. 2216)
Land Management Plan

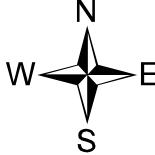
Figure 3-2: Recreation Facilities within the Project Boundary

00.250.51

Miles

1 inch equals 0.5 miles


NIAGARA POWER PROJECT



Map Document: (Y:\GISmaps\NPP\land_management_plan\f_3_2.mxd) 12/18/2007 -- 3:00:30 PM

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Upper River Trail:

Portions of the Upper River Trail pass through the project boundary near the intake structures. The trail is a paved walking/biking trail that begins at the north Grand Island Bridge and passes through the Upper Niagara River Observation Area on the way to the Niagara Reservation State Park. The trail is currently maintained by the City of Niagara Falls. The Power Authority maintains that portion of the trail that passes through the Upper Niagara River Observation Area.

Management practices associated with this facility include mowing, vegetation maintenance and trail maintenance.

Upper Niagara River Observation Area:

The Upper Niagara River Observation Area is located near the project intakes and consists of a parking area (with 40 parking spaces), a portion of the Upper River Trail, and a concrete bulkhead for fishing. This site is currently maintained by NYSDOT and the New York Power Authority.

Management practices associated with this facility include: maintenance of the parking lot (including winter maintenance: i.e. plowing, sanding and salting as needed) and bulkhead; vegetation maintenance; mowing; and trail maintenance.

Robert Moses Parkway Waterfowl Viewing Area:

The Waterfowl Viewing Area (a non-project facility) was constructed on Power Authority lands in 2003 and is located within the project boundary. The area is currently maintained by the NYSDOT; however, long term maintenance is the responsibility of the New York State Department of Environmental Conservation (NYSDEC). A parking lot containing 12 spaces can be accessed from the eastbound lane of the Robert Moses Parkway. This provides the public an opportunity to get out of their vehicles to observe waterfowl on the Niagara River just upstream of Niagara Falls.

Management practices associated with this facility include maintenance of the parking lot (including winter maintenance: i.e. plowing, sanding and salting as needed), vegetation maintenance, and mowing.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Hyde Park Golf Course:

A portion of the Hyde Park golf course (a non-project recreational facility) is located over the project water conduits (and therefore, within the project boundary). The Golf Course is currently owned and maintained by the City of Niagara Falls.

Management practices associated with the portion of this facility that lie within the project boundary include mowing and vegetation maintenance.

Discovery Center:

The Discovery Center is located on the rim of the Niagara gorge in the City of Niagara Falls; it is on Power Authority-owned lands and is operated by the NYSOPRHP. This facility offers exhibits on the geological and natural history of Niagara Falls and the Niagara Gorge. There is a 26-foot high artificial rock-climbing wall and the remains of the Schoellkopf Power Generating Plant can be seen along the gorge wall. The trailhead and parking for the Great Gorge Railroad Trail is also located at this site.

Management practices associated with this facility include: parking lot maintenance (including winter maintenance: i.e. plowing, sanding and salting as needed); vegetation maintenance; mowing and landscaping; and trail maintenance.

Great Gorge Railroad Trail:

The Great Gorge Railroad Trail (on Power Authority-owned lands, but managed by the NYSOPRHP) is located on the remains of the Great Gorge Railroad Bed; the trailhead and parking area for the trail are located at the Discovery Center. From there, the trail extends approximately 2-miles north into the Niagara Gorge. The trail ends at a rock slide just north of the Whirlpool Bridge. The trail descends gradually into the gorge and offers views of Niagara Falls and the Niagara River.

Management practices associated with this facility are limited to trail maintenance.

Robert Moses Parkway:

The Robert Moses Parkway is a two-to-four lane, limited-access highway that begins at the North Grand Island Bridges and ends at Fort Niagara (a total distance of approximately 17 miles). Approximately 5.9 miles of the Robert Moses Parkway lie within the project boundary. This section of the parkway is maintained by the New York State Department of Transportation (the NYSDOT).

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

In September 2001, two of the four lanes of the parkway that lie between the Robert Moses Niagara Power Plant and the Niagara Gorge Discovery Center were closed to vehicular traffic. This section has been opened to the public for walking, biking, rollerblading, and other activities. This modification of the parkway travel lanes has been called the Robert Moses Pilot Program.

Management practices associated with this highway include road/infrastructure maintenance, plowing, salting/sanding, and mowing.

Robert Moses Fishing Pier:

The Robert Moses Fishing Pier is located at the south end of the Robert Moses Niagara Power Plant (RMNPP). The Power Authority owns and maintains the fishing pier, fish-cleaning facility, restrooms, a handicap-accessible elevator, and stairs which lead down to the Niagara River shoreline, upstream of the plant. A roadway oval and four Americans with Disabilities Act (ADA) compliant parking spaces are available just outside of the plant fence. A 20-car parking lot for all other anglers is located at the top of the lower Plant Access Road hill.

Management practices associated with this facility include maintenance of structures and parking areas (including plowing, and salting/sanding as needed in winter). Mowing and landscaping also occur.

Niagara Power Project Visitor Center:

The Niagara Power Project Visitor Center (also known as the Power Vista) is located at the RMNPP. The facility, which is owned and operated by the Power Authority, includes a visitor center, parking facilities and an observation deck which offers scenic views of the Niagara River and the Niagara Power Project. The visitor center is open to the public, free of charge, year round.

Management practices associated with this facility include: structure maintenance; parking lot maintenance (including winter maintenance: i.e. plowing, sanding and salting as needed); vegetation maintenance; mowing; and landscaping.

Lewiston Reservoir Fishing Access:

The Lewiston Reservoir Fishing Access is a foot trail that provides public access to the Lewiston Reservoir. A parking lot and paved trail are located on the southwest side of the reservoir, at the base of the dike. The parking lot holds approximately 35 vehicles and is available for Reservoir

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

State Park users as well. There is also approximately 6 miles of gravel road that circles the reservoir atop the dike. The Power Authority maintains the roadway that can be used by hikers, joggers, bikers and anglers, as well as for operational needs of the Power Authority.

Management practices associated with this facility include maintenance of the parking lot and gravel road. Winter maintenance (i.e. plowing, salting and sanding, as needed), mowing and landscaping also occur.

Reservoir State Park:

Reservoir State Park is a 133-acre facility that is located at the base of the Lewiston Reservoir on Power Authority-owned lands; it is operated by the NYSOPRHP. The park offers a variety of recreational opportunities that include softball, basketball, soccer, walking, sledding, golf ball driving, picnicking, and tennis. The park also has a permanent restroom facility and approximately 200-parking spaces.

Management practices associated with this facility include maintenance of the parking lot, sports facilities and restroom. Winter maintenance (i.e. plowing, salting and sanding, as needed), mowing and landscaping also occur.

3.2.2 Aesthetic Resources

A Visual Assessment, which served to “describe the aesthetic effect of project facilities and operations in the context of the Niagara River and gorge viewshed and associated upland areas”, was performed in 2005. The results of this study are detailed in a report entitled “Visual Assessment” ([Saratoga Associates 2005](#)).

3.2.3 Historic Properties

Article 406 of the project license (issued March 15, 2007) requires a Historic Properties Management Plan. The article states (in part):

“...The licensee shall implement the Programmatic Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the New York State Historic Preservation Officer for Managing Historic Properties that may be Affected by Issuing a License to the New York Power Authority for the Continued Operation and Maintenance of the Niagara Project in Niagara County, New

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

York, (FERC No. 2216) executed on January 25, 2007 for the project. Pursuant to the requirements of this Programmatic Agreement, the licensee shall file, for Commission approval, a Historic Properties Management Plan (HPMP) within one year of the effective date of this license. In the event that the Programmatic Agreement is terminated, the licensee shall implement the provisions of the approved HPMP...”

In preparation of the HPMP, the Power Authority has conducted Phase 1A, 1B, and Phase 2 Cultural resources investigations in order to identify historic properties in the project area. Historic Properties that have been identified, as well as future management efforts, are discussed in the final HPMP (July 2008).

3.2.4 Natural Resources

In 2004, an investigation to assess the effects of land management practices on aquatic and terrestrial resources on project lands, as well as on Power Authority-owned non-project lands was performed. The resultant report, entitled “Effects of Land Management Practices on Aquatic and Terrestrial Habitats” ([E/PRO 2004](#)) details natural resources identified within the investigation area and describes land management practices associated with these resources.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

**4.0 ENTITIES RESPONSIBLE FOR MANAGEMENT WITHIN PROJECT
BOUNDARY**

Not all lands within the project boundary are owned by the Power Authority. While the Power Authority owns approximately 2,939 acres (92.9%) of the lands encompassed by the project boundary, other entities own the remaining 224 (approximate) acres. Regardless of ownership, the Power Authority is ultimately responsible for managing all lands within the project boundary in compliance with the obligations of its FERC license with respect to project purposes. These obligations include maintaining project facilities in good condition; insuring public safety; providing public access to project waters and lands; and protecting the scenic, recreational, historic and environmental values of the project.

The Power Authority maintains sufficient control over all project lands to guarantee compliance with the above stated obligations. For example, the Power Authority retains control over the use of lands which it owns, but are managed by other entities, via permits, management agreements and/or lease agreements.

Land management policies and practices for project lands and waters, including non-project use of project lands by adjoining landowners, are discussed in this section of the Land Management Plan. This section also describes the permit program administered by the Power Authority for certain facilities and improvements, such as utilities.

4.1 Project Lands Managed by New York Power Authority

4.1.1 Sole Management

The Power Authority directly manages approximately 2,415 acres within the project boundary. This area is devoted to utility land use and includes the open water surface area of the Lewiston Reservoir (1,885 acres) and the forebay (68 acres). The remaining 462 acres (approximate) include, but are not necessarily limited to:

- The Lewiston Reservoir Dike and surrounding lands;
- The LPGP, the RMNPP, and associated offices and structures;
- The project's security and operations buildings;
- The project switchyard; and

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

- The Upper River Observation Area, the Robert Moses Fishing Pier, the Niagara Power project Visitor Center, and Lewiston Reservoir Fishing Access

4.1.2 Cooperative Management

The Power Authority co-manages 99.1 acres of land with the New York State Department of Transportation (the NYSDOT). These lands generally surround the portion of the Robert Moses Parkway that travels along the north bank of the upper river, near the project intakes. Land uses in this area are primarily recreation, utilities, and transportation.

A signed agreement (June 15, 1998) among the Power Authority, the NYSDOT and the NYSOPRHP lays out jurisdiction and management responsibilities for numerous bridges in the vicinity of the project, several of which are located within the project boundary. A small number of these are cooperatively maintained between the Power Authority and the NYSDOT.

In addition, the Power Authority co-manages 7.7 acres of land with the CSX Railroad. This area consists of a rail yard located to the south of Lockport Road; land use at this site is categorized as transportation.

Finally, the Power Authority co-manages 1.6 acres of land with the City of Niagara Falls. This parcel is located between the railroad yard and the Hyde Park golf course; land use at this location is categorized as public recreation.

4.2 Project Lands Managed by Other Entities

In several instances, the power Authority has delegated management responsibilities for project lands to other state, federal, corporate and commercial entities. Specific management responsibilities for these lands are defined through permits, management agreements or lease agreements between the Power Authority and respective entities. In all cases, the Power Authority retains sufficient rights to oversee the management activities of these entities in order to ensure proper use and management of project lands in compliance with the project license. The Power Authority is ultimately responsible for the management of all lands within the project boundary, despite ownership and delegation of management.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

4.2.1 National Grid Corporation

National Grid Corporation manages approximately 236 acres (7.5%) of land within the project boundary. The majority of this use is related to electrical transmission rights of way; land use is generally described as utilities.

4.2.2 NYS Office of Parks, Recreation and Historic Preservation

The NYSOPRHP currently manages approximately 200 acres (6.3%) of land within the project boundary. These lands are in recreational use and they include: Reservoir State Park, Discovery Center and the Great Gorge Railroad ROW. Each of the facilities listed above was described in [Section 3.2.1](#).

According to a signed agreement (June 15, 1998) among the NYSOPRHP, the Power Authority, and the NYSDOT, the NYSOPRHP is solely responsible for the maintenance of one bridge within the project boundary. This bridge is located on the eastbound lane of the Robert Moses Parkway, near the west end of the project boundary that borders the upper river.

The NYSOPRHP co-manages 79 acres with the NYSDOT. This area includes (but is not necessarily limited to) the length of the Robert Moses Parkway (eastbound and westbound lanes) and its median that lies within the project boundary along the upper river, near the project intakes.

The NYSOPRHP has an operating and maintenance agreement with the Power Authority for Reservoir State Park. The agreement was signed in 1964 and gives the NYSOPRHP the right and privilege to operate and maintain, for State park purposes, the land and facilities comprising Reservoir State Park. These entities have a similar agreement for the Discovery Center. The Discovery Center agreement was signed on May 21, 2002, and is scheduled to terminate on December 31, 2025.

4.2.3 NYS Department of Transportation

The NYS Department of Transportation (the NYSDOT) solely manages 0.4 acres within the project boundary. In addition, the NYSDOT manages several roads (and associated rights-of-ways) within the project boundary in cooperation with other entities. These include 99 acres with the Power Authority, 79 acres with the NYSOPRHP, and 20 acres with local governments. One of the roads NYSDOT manages within the project boundary is Garlow Road, which is located on the East side of

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

the Lewiston Reservoir. This 9.9 acre parcel is owned by the Tuscarora Nation and is held in easement by the Power Authority.

According to a signed agreement (June 15, 1998) among the NYSDOT, the Power Authority, and the NYSOPRHP, the NYSDOT is solely or cooperatively responsible for maintaining several bridges within the project boundary. Furthermore, the NYSDOT holds permanent easements for three bridges within the project boundary. These include the Lewiston Road over the Robert Moses Niagara Power Plant (which the NYSOT maintains in cooperation with the Power Authority); the Military Road over the Lewiston Pump Generating Plant forebay (which is maintained by the NYSDOT), and the Niagara Expressway over the Lewiston Pump Generating Plant forebay (which is maintained by the NYSDOT). These permanent easements contain provisions for noninterference with the Power Authority's facilities.

4.2.4 City of Niagara Falls

The City of Niagara Falls owns property which contains a large school and associated facilities. The school building is situated directly adjacent to the project boundary, just south of the Hyde Park golf course. Several playing fields, a portion of a track and some access roads and parking facilities are located within the project boundary, over the conduits. The City of Niagara Falls co-manages this area, which occupies approximately 55 acres within the project boundary, with the Board of Education; land use is categorized as public recreation.

The City of Niagara Falls also manages the Hyde Park golf course, which is located over a portion of the project conduits. The area of the golf course that is within the project boundary is roughly 35 acres, and it includes portions of a golf course, parking facilities, a small structure and a portion of a large clubhouse structure. Land use at this facility is categorized as public recreation.

In addition, the City of Niagara Falls manages the Upper River Trail which runs alongside the Robert Moses Parkway near the project intakes (see [Section 3.2](#)).

4.2.5 Other Entities

Other management entities are collectively responsible for the management of less than 1% of lands within the project boundary.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

Managing entities in this category include Occidental Chemical Corporation, New York State Electric and Gas (NYSEG), Niagara Real Estate Association, and Ross Leasing Enterprises, Inc. Lands managed by these entities include utility and industrial land uses.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

5.0 MANAGEMENT OF PROJECT LANDS

5.1 Overall Guidelines, Policies, and Standards

This section provides guidelines for the performance of land management activities on lands located within the FERC-approved project boundary. The guidelines presented within this LMP are largely based on management regimes that were already in place during the process of project relicensing. For this reason, land management practices described herein are, for the most part, already in effect.

Land management practices within the project boundary shall be performed as prescribed by the FERC's requirements for maintaining project operation safety and security, and in compliance with the National Electric Safety Code (NESC).

Standards for some practices described herein are governed as delineated by separate agreed-upon strategies. For example, standards for land management on transmission ROW in the project boundary are prescribed by the Integrated Vegetation Management strategy (see [Section 5.2.2](#)); standards for road and parking lot maintenance are based on widely accepted best management practices for such activities; and maintenance of recreational facilities is performed in accordance with the Recreation Plan to achieve standards of public need and expectations as defined therein. The relationship of this LMP to other plans is further discussed in [Section 6.0](#).

[Section 5.2](#), below, discusses specific land management practices that will be employed by the Power Authority. As discussed in [Section 4.0](#), not all lands within the project boundary are managed by the Power Authority. [Section 5.3](#) discusses specific practices that will be applied by other entities maintaining lands within the project boundary. Management undertaken by other entities within the project boundary is often governed by agreements, and is subject to a standard permitting process. This process is described in detail in [Section 5.4](#).

The Power Authority will perform and allow only those practices and uses that are within Article 411 of the license (FERC's standard use and occupancy articles). Any other proposed uses or practices will be subject to the standard FERC notification and permitting process.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

5.2 Specific Power Authority Management Actions

The Power Authority is solely responsible for the management of 2,415 acres of land within the project boundary; therefore, these lands are subject solely to the Power Authority's land management practices. These practices are described in the following subsections.

In general, the land management practices that will be employed by the Power Authority include vegetation management, road maintenance, and nuisance wildlife control. This section describes these major forms of management practices as they are performed by the Power Authority, and explains why and where they are necessary.

The Power Authority also governs practices employed by other entities which manage lands within the project boundary. Non-project management of project lands is regulated by the Power Authority via easements, leases and/or a permitting process. The Power Authority's permitting process is detailed in [Section 5.4](#). Entities to which management responsibilities of project lands have been delegated, and their general practices are described in [Section 5.3](#).

5.2.1 Road Maintenance

The term "road maintenance" within the project boundary encompasses the maintenance of roads and bridges as well as parking lots and walkways. These areas need to be maintained for access and safety. Most roads within the project boundary are managed cooperatively among the NYSDOT and other entities. Numerous agreements and resolutions have been instituted over the last several decades which define jurisdiction and maintenance responsibilities for public roads within the project boundary.

Roads that are managed and maintained solely by the Power Authority are generally limited to access drives to project facilities such as administrative offices, maintenance buildings and the Robert Moses Power Plant.

General activities that are associated with road maintenance within the project boundary include vegetation management, winter maintenance, and infrastructure maintenance. Vegetation management, which is required along road ROW shoulders, is considered a stand-alone maintenance activity, and is discussed in detail in [Section 5.2.2](#). Winter and infrastructure maintenance are discussed below.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Winter Maintenance

The cold winter climate of the Niagara region inherently requires winter road maintenance. Snow plowing and ice control on roadways and parking areas are the most common winter maintenance activities performed within the project boundary. Ice control includes the application of sand, salt and/or calcium chloride as needed to enhance safety during icy conditions. The Power Authority obtains these materials from a NYSDOT maintenance facility which is located partially on NYPA property, but outside of the project boundary.

The Power Authority will perform these activities on roads and parking areas that are related to project operations. Such areas include access roads to project facilities, and project-related parking areas.

All winter maintenance activities will be performed on an as-needed basis.

Road Infrastructure Maintenance

Road infrastructure maintenance includes repaving or resealing roads and parking lot surfaces, painting of lane and parking space lines, and maintenance of curbing, signs, and guide rails. The Power Authority will perform these activities only on those roads and parking areas that are related to project operations. According to the agreement among the Power Authority, NYSOPRHP and the NYSDOT (June 15 1998), the Power Authority's responsibilities on the bridges which it maintains cooperatively with NYSDOT include (but are not limited to) maintenance, repair, reconstruction and replacement of electrical and lighting equipment and the following elements of the bridge: structural deck, supporting beams, drainage downspout pipes, substructure elements, and bridge deck joint seals.

Road infrastructure maintenance will be performed on an as-needed basis.

5.2.2 Vegetation Management

Vegetation management within the project boundary is necessary in areas associated with lawns, ROW's, recreation facilities, and building/structure perimeters. Primary techniques employed by the Power Authority include mowing, hand and mechanical removal, landscaping and planting, and herbicide application. Vegetation management on electric transmission ROWs within the project boundary is governed by an Integrated Vegetation Management (IVM) strategy. Each of these techniques and the purposes for which they are applied are discussed below.

NIAGARA POWER PROJECT (FERC NO. 2216) LAND MANAGEMENT PLAN

Integrated Vegetation Management (IVM) strategy

Vegetation management on electric transmission ROW within the project boundary is performed in accordance with an Integrated Vegetation Management (IVM) strategy ([EEANY 2002](#)); ([McLoughlin 2002](#)). The IVM approach is an existing protection and enhancement measure utilized by the members of the Environmental Energy Alliance of New York (EEANY), which includes the Power Authority, National Grid, and New York State Electric and Gas (NYSEG). All three of these entities are signatories to an IVM position paper describing the application of this strategy to utility ROW vegetation management ([EEANY 2002](#)); (Kevin McLoughlin, former Power Authority System Forester, personal communication with Dana Valleau, E/PRO, May 26, 2004); (Tom E. Sullivan, NATIONAL GRID, personal communication with Dana Valleau, E/PRO, May 26, 2004). This approach, modeled on the Integrated Pest Management (IPM) process, utilizes cultural (mechanical and manual methods that physically remove tree stems), biological (encouraging low growing plant species and herbivory), and chemical (herbicide) control.

Mowing

The Power Authority mows primarily for the maintenance of areas associated with project operations, roads, recreation facilities, and electric transmission ROW's. Mowing will be performed seasonally, as influenced by weather and growing season. Frequency of mowing varies depending on the land use. For example, lawns associated with recreational areas or buildings may need to be mowed several times per month in order to insure safety, aesthetics and proper access; meanwhile, some road shoulder areas may need to be mowed at a frequency from once per month to once per year to maintain visibility and aesthetics.

Mowing that is specific to project operations will occur around project structures (such as the exterior wall of the Lewiston Reservoir and monitoring wells), buildings, parking areas, and roads used for project access (around the Lewiston Reservoir and Lewiston Pump Generating Plant, switch yard, warehouse and Robert Moses Power Plant). In addition, the Power Authority mows the recreation facilities that it maintains (see [Section 3.2.1](#)).

Several sections of electric transmission ROW exist within the project boundary. To ensure public safety and electric system reliability, electric transmission ROW will be managed according to the IVM strategy to suppress the growth of tree and tall woody shrub species into the electric conductor safety zone ([EEANY 2002](#)). Mowing is the primary means of controlling vegetation on ROWs (including ROWs managed by the Power Authority as well as other entities) within the project

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

boundary (Kevin McLoughlin, the Power Authority System Forester, personal communication with Dana Valleau, E/PRO, March 3, 2004).

Herbicides

On land within the project boundary, herbicides will be applied on an as-needed basis in areas where mowing is impossible or ineffective. These areas include fence lines, around building foundations, and around energy transmission-related structures (e.g., around and within the switchyard). Vegetation in these areas will be maintained so as not to interfere with project structures and for security, visibility and monitoring purposes.

Application of herbicide will be done by the Power Authority personnel and contractors that are registered pesticide applicators licensed by the New York State Department of Environmental Conservation (NYSDEC) Division of Solid & Hazardous Materials, pursuant 6 NYCRR Part 325. Continuing education is required in order for the Power Authority staff to maintain their pesticide applicator certification, and these staff personnel take training courses annually (Sue Kosikowski, the Power Authority's Niagara Project Environmental Supervisor, personal communication with Dana Valleau, E/PRO, February 10, 2004).

The Power Authority will utilize DEC registered and EPA registered herbicides. Herbicides will be applied using backpack, hand pressurized, non-motorized equipment. All pressures will be kept as low as operationally possible to prevent overspray onto non-target species and locations. Products registered by DEC for use in wetland areas will be used for herbicide applications around water, but not in direct contact with standing water; such applications will follow label directions and DEC approved methods (Bill Bergeron, the Power Authority's Niagara Project General Maintenance Supervisor, personal communication with Dana Valleau, E/PRO, February 10, 2004).

As required by State law, the Power Authority maintains files of pesticide (including herbicide) use on project land. The Power Authority also files annual reports with the DEC Bureau of Pesticide Management regarding the type and quantity of herbicides (and or pesticides) applied by the Power Authority during the previous year.

Some herbicide use is specific to the Lewiston Reservoir Dike, and to transmission ROW's; these are discussed below.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Lewiston Reservoir Dike

The rip-rap lined interior side of the Lewiston Reservoir Dike will be maintained by an annual application of an EPA and NYSDEC Registered herbicide formulation to control weed and woody plant growth (Bill Bergeron, the Power Authority Maintenance, personal communication with Dana Valleau, February 10, 2004). This will be applied according to label directions only on areas above the high water line when the weather is warm and dry. This methodology is based on DEC approved methods for herbicide use around water bodies. Any plants that are not removed by this application of herbicide will be removed by hand.

Transmission ROW

The Power Authority will apply herbicides on electric transmission ROW within the project boundary on an as-needed basis (Kevin McLoughlin, the Power Authority System Forester, personal communication with Dana Valleau, E/PRO, March 3, 2004). As mentioned above, the IVM strategy governs herbicide application on electric transmission ROW ([EEANY 2002](#)); ([McLoughlin 2002](#)). Under this approach, herbicides use is minimized, and herbicides are used only to treat individual tree stems or groups of target trees. No aerial or indiscriminate ground broadcast applications are used ([EEANY 2002](#)).

Hand and Mechanical Removal

The Power Authority uses hand and mechanical removal for vegetation management in situations or areas where mowing and herbicides are not effective or practical in controlling vegetation. This includes removal of hazardous trees, tall woody vegetation, and vegetation that was not controlled by herbicide application. This type of vegetation management may take place on any of the lands within the project boundary where vegetation management is conducted.

Hand removal involves the physical pulling/uprooting of small herbaceous and shrub vegetation. Hand removal techniques may be applied in various locations, as needed.

Mechanical removal techniques vary, depending on the size of vegetation to be removed. In general, mechanical removal involves the use of tools ranging from non-motorized cutting implements, to gas-powered weed cutters and chain-saws.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

Landscaping and Planting

Landscaping activities undertaken by the Power Authority are limited to areas adjacent to buildings and project structures. Typical practices include removal and maintenance of existing vegetation, and planting of seasonal flower beds and potted plants. Maintenance of landscaping vegetation typically includes fertilizing, irrigation and, when necessary, pesticide applications. The majority of these activities will be performed as necessitated for security purposes, screening of the Power Authority facilities at the request of adjacent landowners, and for beautification of public sites (Bill Bergeron, Power Authority Maintenance, personal communication with Dana Valleau, E/PRO, February 10, 2004). For example, the Power Authority will seasonally install and maintain plantings in the area around the Visitor Center to make this public area attractive and presentable to the general public.

Landscaping activities will also include the maintenance of vegetative screens installed per public requests for aesthetic enhancement.

5.2.3 Non-Native Vegetative Species Control

In general, the landscape within and surrounding the entire project boundary has been heavily disturbed in the past. Infiltration of non-native vegetative species is inherent to human disturbance and, as such, many non-native plant species exist in the project boundary. At this time, the Power Authority has no plans to control non-native species.

5.2.4 Nuisance Wildlife

The Power Authority manages nuisance wildlife in one location: the Lewiston Reservoir Dike. This management is largely specific to woodchucks (*Marmota monax*), which construct burrows that can damage the structural integrity of the earthen dike structure. Rarely, foxes have also been observed to burrow in the dike.

Any sign of burrowing activity seen during the periodic inspections of the dike will be reported to the Power Authority facilities maintenance personnel. These personnel, in turn, will contact USDA animal damage control officials who will then visit the site and remove the nuisance wildlife.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

5.2.5 Future Use of Project Lands

Project-related use is not expected to change. Any changes to land management activities within the project boundary that are within the scope of Article 411 (FERC's standard use and occupancy article) will be applied at the discretion of the Power Authority. Any other proposed changes will be subject to the appropriate FERC notification and permitting process.

As discussed, there are several locations within the project boundary that are managed by entities other than the Power Authority. In areas where other entities manage project lands, the Power Authority governs land use via a permitting process or agreements. Permitted use by other entities on lands owned by the Power Authority is not expected to change. Management of lands within the project boundary by entities other than the Power Authority is described in [Section 5.3](#). The permitting process associated with non-project use of project lands is described in [Section 5.4](#).

5.2.6 Aesthetic Enhancements

The Power Authority will implement several measures recommended by a visual assessment study that was conducted during the project's re-licensing (e.g., debris clean-up, lighting adjustments, etc.) as part of normal project operation and maintenance activities.

5.3 Management Actions of Other Entities

5.3.1 National Grid Corporation

National Grid Corporation manages 236 acres of lands within the project boundary. This area is primarily comprised of transmission ROW. As discussed in [Section 5.2](#), all electric transmission ROWs within the project boundary will be managed according to the IVM strategy to suppress the growth of tree and tall woody shrub species into the electric conductor safety zone ([EEANY 2002](#)). Mowing is the primary means of controlling vegetation on ROWs (including those that are managed by the Power Authority as well as other entities) within the project boundary. (Kevin McLoughlin, Power Authority System Forester, personal communication with Dana Valleau, E/PRO, March 3, 2004).

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

5.3.2 NYS Office of Parks, Recreation and Historic Preservation

The NYSOPRHP solely manages approximately 200 acres of project lands. These lands include Reservoir State Park, Discovery Center and the Great Gorge Railroad ROW. Each of these facilities was described in [Section 3.2.1](#).

Primary maintenance activities performed at these parks include vegetation management (particularly mowing and landscaping), access road and parking lot maintenance, and trail maintenance. Practices employed are consistent with those described in [Section 5.2](#).

Management activities at Reservoir State Park are currently governed by a 1964 letter of Agreement between the NYSOPRHP and the Power Authority. Management activities at the Discovery Center are governed by a similar agreement, signed May 21, 2002. A new agreement for Reservoir and similar agreements for other parks may be developed and implemented in the future.

In addition, the NYSOPRHP co-manages roughly 79 acres of lands (which includes segments of the Robert Moses Parkway and the Lewiston Road) with the NYSDOT. Numerous agreements and resolutions have been passed over the last several decades which define jurisdiction, activities and maintenance responsibilities for public roads within the project boundary.

5.3.3 NYS Department of Transportation

As mentioned previously, the NYSDOT co-manages travel corridors within the project boundary in cooperation with several other entities, including the Power Authority, the NYSOPRHP and local governments. The NYSDOT also maintains the Robert Moses Parkway and associated Waterfowl Viewing Area recreation facilities.

The NYS Department of Transportation (the NYSDOT) has 60 Transportation Maintenance Residences in New York State. The crew responsible for the day-to-day maintenance and operation of the state roadways that occur within the project boundary is based in Niagara County. Their responsibilities include doing minor road or bridge repairs, removing snow, repairing and replacing signs, repairing guide rails, and mowing grass.

The NYSDOT has developed an Environmental Handbook for Transportation Operations which is intended to provide general awareness and guidance of the primary environmental requirements that apply to the types of activities conducted by the NYSDOT Operations ([the](#)

NIAGARA POWER PROJECT (FERC NO. 2216) LAND MANAGEMENT PLAN

[NYSDOT, 2006](#)). This handbook describes road maintenance practices applied by the NYSDOT. It is updated periodically and is available on-line at:

<https://www.nysdot.gov/portal/page/portal/programs/envi-init/envi-handbook>.

In addition to details on activities in sensitive areas (such as wetlands, streams and historic sites), the handbook details general practices as they apply to infrastructure maintenance, waste disposal, snow and ice control and emergency actions. For example, the handbook explains their approach to ice control as follows:

“Salting the road before a storm forms a layer of brine on the pavement, greatly decreasing the formation of ice on the roadway. Pre-treating allows us to use less salt and also makes it easier to plow the snow off of the road safely since the snow is not frozen to the pavement. This treating is also done with liquid products such as calcium chloride.”

5.3.4 City of Niagara Falls

The city of Niagara Falls manages the Hyde Park golf course, roughly 35 acres of which lie within the project boundary. The golf course is mowed several times per week, and is subject to seasonal landscaping practices (seeding, fertilizing, irrigation, pesticide application when necessary, etc.) as are inherent to the manicuring of a golf course. Associated trails and paved walkways are maintained, as appropriate, on an as-needed basis. The area of Hyde Park which lies within the project boundary also includes a paved parking lot; maintenance practices associated with this facility are consistent with those described in [Section 5.2](#).

The city of Niagara Falls also co-manages (with the Board of Education) approximately 54 acres over the project conduits, just to the south of Hyde Park. This area consists of several playing fields, a track and a parking area (associated with a school which is adjacent to the project boundary). Maintenance of the playing fields includes mowing and grooming of playing surfaces, application of appropriate “chalk” lines and markers. The track requires surface maintenance on an as-needed basis. The parking area and associated access road are subject to maintenance practices that are consistent with those described in [Section 5.2](#).

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

5.3.5 Other Entities

A very small proportion of lands within the project boundary are managed by Occidental Chemical Corporation (about 13 acres) and New York State Electric and Gas (0.1 acre). Both of these areas are managed electric transmission right of ways.

As discussed, all management activities on project lands are governed by the Power Authority via a permitting process (see [Section 5.4](#)).

5.4 Permitting Process

In accordance with Article 411 (standard land use article) of the project license, the Power Authority is afforded the right to permit certain types of use and occupancy of project lands, without prior Commission approval. Such non-project use of project lands must be consistent with the purposes of protecting and enhancing the scenic, recreational, historic and environmental values of the project. Permitted and prohibited uses are defined in the standard land use article (see [Appendix A](#)).

The Power Authority has developed a system-wide permitting process which was in effect prior to project relicensing. The Power Authority will continue to use its established process under this LMP. Entities desiring to do work on or to use real property owned by, or under the jurisdiction of, the Power Authority must submit an application to the Power Authority to request a permit for such use. The following subsections detail: the types of permits that are issued by the Power Authority for non-project use of Niagara Power Project lands; and the Power Authority's standard permit application process.

5.4.1 Permits Issued

The Power Authority issues three types of permits for acceptable non-project uses on project lands at the Niagara Power Project. These include Permits Requiring Insurance, permits for Temporary Agricultural or Recreational Use of Land, and Short Form permits. Permits Requiring Insurance are an all-purpose permit for any party proposing to use project land. Many of these permits have been issued since the inception of the Niagara Power Project in the late 1950s; they are still the most common type of permit issued for the project. Temporary Agricultural or Recreational Use of Land permits are more specialized and are therefore issued much less frequently than Permits Requiring Insurance. A short form permit is generally used in situations where the Authority owns only an easement and the

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

landowner is performing minor work within the easement. This permit is seldom utilized. To date, only two Short Form Permits have been issued at the Niagara Power Project.

The Power Authority keeps records of all standing permits that it has issued. In January of each year, the Power Authority submits a report to the FERC which documents all new permits issued for the project during the previous calendar year.

5.4.2 Application Process

The Power Authority will adhere to its existing programs for issuing permits for appropriate non-project activities on project lands. The permitting process will be readily accessible to adjoining landowners and others requiring Power Authority permits. Prior to the signing and issuance of a permit by the Regional Manager – Western N.Y., the proposed use of project lands must be reviewed and approved by the Regional Real Estate Administrator, the Director of Real Estate, the Director of Risk Management, the Vice President and Chief Engineer, an Assistant General Counsel in the Law Department and the Vice President of Environment, Health and Safety.

An example of the standard application for permit is provided in [Appendix C](#). The following framework will guide the preparation, submittal and review of permit applications.

- An adjoining landowner or other entity desiring a permit for non-project use of project lands initiates the process by contacting the Power Authority and providing the following information:
 - Applicant's name, phone number and address;
 - General description of the proposed activity or improvement; and
 - General location of the proposed activity or improvement.
- The Power Authority will then determine whether any restrictions would preclude the proposed activity or improvement, including the sensitivity of the property for historic properties.
- If the proposed activity or improvement is not permissible, the Power Authority will so notify the inquiring person or entity.
- If the proposed activity or improvement is permissible, a Power Authority permit application form (see [Appendix C](#)) will be forwarded to the applicant. If the proposed activity or improvement requires a DEC/USACE permit, a copy of their Joint Permit

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

Application form will also be forwarded to the applicant. The applicant is responsible for applying directly to the DEC and USACE for any necessary permits, and the applicant must also submit a consistency certification with application materials to the New York Department of State, Division of Coastal Resources.

- The applicant must complete the Power Authority's permit application form and return it to the Power Authority.
- The Power Authority will review the application materials for completeness and conformance with the Land Management Plan's guidelines. The Power Authority will work in conjunction with the municipality in an attempt to resolve disputes among adjoining landowners concerning the Power Authority lands.
- The Power Authority will schedule a meeting with the applicant. At the meeting, any required additional information or revisions to the proposed plans or activities will be discussed.
- If the proposed activity or improvement cannot be permitted as proposed, the applicant will be informed, the reason for the denial will be explained, and necessary revisions to the activity or improvement will be discussed.
- If appropriate, the Power Authority will prepare and issue the permit in a timely fashion. The Power Authority's standard permit contains requirements that the Permittee will need to comply with as conditions of the permit. For example, the permit will require immediate cessation of work and notification to the Power Authority should human skeletal remains, funerary goods or archeological resources be discovered while undertaking the work authorized by the permit. Such notification will allow the Power Authority to follow the Procedures for Unanticipated Discovery of Human Remains and Archeological Resources set forth in the Historic Properties Management Plan.
- During construction and within 60 days following the completion of construction, the Power Authority will conduct interim and a final inspection of the subject property to ensure that the facility or improvement is constructed and installed in accordance with the proposed plans and permit. The Power Authority will notify and, if necessary, issue a notice of violation if any changes are required to bring the facility into compliance with the guidelines or permit.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

The duration of permits issued is variable, and is generally negotiated during the application process. With respect to permit expiration, the Power Authority recognizes the importance of renewal to adjoining landowners who construct substantial private facilities that require a permit. Generally, permits will be renewed, provided the permitted use remains consistent with FERC requirements and the Power Authority's land management policies, and the permit holder has no unresolved permit violations. The permit renewal process will proceed as follows:

- The Power Authority will notify the permit holder of the upcoming permit expiration date by forwarding two copies of the renewed permit;
- Upon receipt of the renewed permit, the permit holder shall sign both copies and return them to the Power Authority, thereby certifying that all permitted facilities are in good repair, structurally sound, and in compliance with the original permit and any other state or federal permits;
- The Power Authority will reserve the right to inspect the permitted facilities prior to permit renewal and to require any repairs or modifications needed to bring the facilities into compliance with the permit;
- The Power Authority will return a copy of the fully executed, renewed permit to the permit holder, following verification that any required repairs or modifications have been completed;
- A permit may be cancelled by the Power Authority for default by the permit holder in the performance or observance of any of the conditions of the permit, or if the Power Authority determines that any of the structures erected or maintained by the permit holder pursuant to the permit, or the continued use of the land for such structures, is no longer consistent with the proper operation of the project. A permit holder will be given a reasonable amount of time to correct conditions that would result in a cancellation of a permit. The Power Authority will give 60 days notice of any such cancellation of a permit; and
- If a permit is not renewed or is cancelled by the Power Authority, the permit holder, at its sole expense, must remove any and all structures and any other materials associated with the permitted facility and restore the project lands to acceptable condition.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

5.5 Implementation Plan and Schedule of Management Actions

This LMP will be effective immediately upon approval by FERC. Given that most of the management practices described herein are continuations of those practices that were in effect at the time of project licensing, implementation will be immediate and contiguous with ongoing management.

5.6 Plan Compliance

5.6.1 Enforcement and Penalties

Pursuant to Article 411 of the project license, the Power Authority has the responsibility to supervise and control the uses and occupancies of project lands that have been permitted and to ensure compliance with the conditions of permits that are issued. If a use or occupancy violates any condition of the permit issued, the Power Authority will take any lawful action necessary to correct the violation. For a permitted use and occupancy, this action includes, if necessary, canceling permission to use and occupy project lands or waters and requiring the removal of any non-complying structures and facilities.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

6.0 RELATIONSHIP OF THE LAND MANAGEMENT PLAN TO OTHER PLANS

6.1 Other Power Authority Plans

6.1.1 Recreation Plan

This LMP has been written in parallel with the Recreation Plan. This LMP was developed with respect to the prescriptions set forth by articles 405 and 411 of the project's license; these articles state, in part, that this plan must be consistent with the purpose of protecting and enhancing recreation and public use.

As demonstrated by this LMP, recreation is the second most common land use within the project boundary, with approximately 387 acres of land devoted to this purpose (compared to utilities which occupy roughly 2579 acres, 1,953 of which are the open waters of the reservoir and forebay). Therefore, a large proportion of land management on project lands is directly related to recreation. Recreation facilities on project lands are subject to agreements which govern land use and management. All uses and management activities on recreation lands within the project boundary have been carefully assessed in order to assure compliance with the prescriptions of the project license.

6.1.2 Historic Properties Management Plan

According to article 406 of the project license, the licensee is mandated to implement the *Programmatic Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the New York State Historic Preservation Officer for Managing Historic Properties that may be Affected by Issuing a License to the New York Power Authority for the Continued Operation and Maintenance of the Niagara Project in Niagara County, New York, (FERC No. 2216)* executed on January 25, 2007 for the project. Pursuant to the requirements of this Programmatic Agreement, the licensee must file, for Commission approval, a Historic Properties Management Plan (HPMP) within one year of the effective date of the project license.

Until such time as the HPMP has been approved, the Power Authority will obtain approval from the Commission and New York State Historic Preservation Officer before engaging in any ground-disturbing activities or taking any other action that may affect any historic properties within the project's area of potential effect.

NIAGARA POWER PROJECT (FERC NO. 2216)

LAND MANAGEMENT PLAN

The Power Authority's standard permit for use and occupancy of project lands contains specific provisions which protect potential unknown historic or archaeological sites. For example, the permit requires immediate cessation of work and notification to the Power Authority should human skeletal remains, funerary goods or archeological resources be discovered while undertaking the work authorized by the permit. Such notification will allow the Power Authority to follow the Procedures for Unanticipated Discovery of Human Remains and Archeological Resources set forth in the HPMP (once approved). Likewise, the Power Authority will comply with the provisions of the HPMP in all of its land management activities.

6.1.3 Customary Use Plan

The Customary Use Plan (CUP) is listed among prescriptions made within the Settlement Agreement for the provisions of this LMP, and is therefore required by Article 405 of the project license (which mandates the LMP). The CUP, however, has been prepared as a separate appendix to LMP. The CUP and the LMP have been created to be consistent with one another's practices and objectives. The CUP is included in [Appendix B](#) of this LMP.

6.2 Consistency with Other Plans

The project is located in the Town of Niagara, the City of Niagara Falls, and the Town of Lewiston. All of the project's facilities are located in areas that have been designated as a Coastal Management Zone. Accordingly, the Application for New License that was submitted to the Commission by the Power Authority was required to confirm its consistency with the New York State Coastal Zone Management Program (CMP). The CMP was established in 1981 by the Waterfront Revitalization and Coastal Resources Act (Article 42 of the Executive Law) and is administered by the New York Department of State (DOS), under the authority of the Federal Coastal Zone Management Act (CZMA) of 1972.

The principal function of the CMP is to provide a framework for government decision-making in the coastal area. The CMP is based on 44 policies, which are grouped into eleven categories that address: 1) Development; 2) Fish and Wildlife; 3) Flooding and Erosion; 4) General Policy; 5) Public Access; 6) Recreation; 7) Historic and Scenic Resources; 8) Agricultural Lands; 9) Energy and Ice Movement; 10) Water and Air Resources; and 11) Wetlands.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

Article 42 of the Executive Law requires state agency actions within the coastal zone to be undertaken in a manner that is consistent with the state's coastal area policies and any state-approved Local Waterfront Revitalization Programs (LWRP). A LWRP is a refinement of the state's coastal policies, developed jointly by the state and a municipality. Land development and related activities in New York's coastal area that involve state agency direct action for funding, or require state permits, must be consistent with the coastal policies in Article 42 and the applicable local community LWRPs. While several Niagara-area localities have LWRPs approved by the State, there are currently no LWRPs for those towns located within the project boundary.

As part of its application process for a new license, the Power Authority was required to prepare a coastal policy consistency statement. This statement examined the consistency of the project and its use of project lands and waters with the CMP, as well as the LWRPs of nearby municipalities (including the Town of Grand Island, the Village of Lewiston, the City of North Tonawanda, the City of Tonawanda, the Town of Tonawanda, and the Village of Youngstown). The final statement was submitted to the New York Department of State (NYDOS). On February 17, 2006, the NYDOS issued a letter declaring its concurrence with the Power Authority's certification of consistency with the CMP and local LWRPs for the Niagara Power Project.

This LMP is based on a continuation of the same land management practices that were in effect at the time of this certification. Therefore, the practices described herein are, and are expected to remain, consistent with the CMP.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

7.0 LITERATURE CITED

Coastal Zone Management Act of 1972. 1972. As amended through P.L. 104-150, the Coastal Zone Protection Act of 1996.

Environmental Energy Alliance of New York. 2002. Application of Integrated Pest Management to Electric Utility Rights-of-Way Vegetation Management in New York State. Land Use Subcommittee of the EEANY Transmission and Distribution Committee.

E/PRO Engineering and Environmental Consulting. 2004. Effects of Land Management Practices on Aquatic and Terrestrial Habitats. Report to the New York Power Authority.

Federal Energy Regulatory Commission (FERC). 2006. Final Environmental Impact Statement for the Niagara Power Project, New York, FERC Project No. 2216-066. 888 First Street NE, Washington, DC 20426.

McLoughlin, K. 2002. Integrated Vegetation Management: The Exploration of a Concept to Application. In: Seventh International Symposium of Environmental Concerns in Right-of-Way Management. ed. Goodrich-Mahoney, Mutrie, and Guild. Elsevier Science, Ltd.

New York State Department of State Coastal Management Program. 1982. State of New York Coastal Management Program and Final Environmental Impact Statement, Section 6, August 1982 With changes made to incorporate routine program changes approved in 1983 and 2001. 41 State Street, Albany, NY.

New York State Department of Transportation (NYSDOT). 2006. Environmental Handbook for Transportation Operations: A Summary of Environmental Requirements and Best Management Practices for Maintaining and Constructing Highways and Transportation Systems. April, 2006. Available online at:
<https://www.nysdot.gov/portal/page/portal/programs/envi-init/envi-handbook>

Saratoga Associates. 2005. Visual Assessment. Report for the New York Power Authority.

URS Corp., Gomez and Sullivan, E/PRO. 2003. Scoping Document 2 for the Relicensing of the Niagara Project (FERC No. 2216).

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

APPENDIX A: STANDARD LAND USE ARTICLE (ARTICLE 411)

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

Article 411 of the project license contains FERC's standard land use prescriptions. This article appears as follows:

Article 411. *Use and Occupancy.* (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article.

If a permitted use and occupancy violates any condition this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use and occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and water for which the licensee may grant permission without prior Commission approval are:

- (1) landscape plantings;
- (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single family type dwellings;
- (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

- (4) food plots and other wildlife enhancement.

To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and project No. 2216-066 - 49 - occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall:

- (1) inspect the site of the proposed construction;
- (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and
- (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline.

To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of the standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

- (c) The licensee may convey easements or right-of-way across, or leases of, project lands for:

- (1) replacement, expansion, realignment, or maintenance of bridges or roads there all necessary state and federal approvals have been obtained;
- (2) storm drains and water mains;
- (3) sewers that do not discharge into project waters;

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

- (4) minor access roads;
- (5) telephone, gas, and electric utility distribution lines;
- (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary;
- (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69 kV or less); and
- (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir.

No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for:

- (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained;
- (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained;
- (3) other pipelines that cross project lands or waters but do not discharge into project waters;
- (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

(5) private or public marines that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina;

(6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and

(7) other uses, if; (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period. (e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project, and (iii) the grantee shall not unduly restrict public access to project waters.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be change to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposal to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

APPENDIX B: CUSTOMARY USE PLAN



Customary Use Plan

**Niagara Power Project
FERC No. 2216**

Prepared by:

TRC Engineers, LLC

Van Ness Feldman, PC

Copyright © 2008 New York Power Authority



August, 2008

NIAGARA POWER PROJECT (FERC NO. 2216)
CUSTOMARY USE PLAN

TABLE OF CONTENTS

1.0 Introduction - 1 -

2.0 Background On Haudenosaunee Customary Use..... - 1 -

3.0 Identification Of Project Lands Applicable To This Plan - 2 -

4.0 Notification System For Pre-notification And Pre-authorization By The Power Authority. - 2 -

5.0 Identification Of Restrictions On Project Lands - 3 -

6.0 All Activities To Conform With Applicable Federal, State, And Local Law..... - 4 -

7.0 Procedure To Review And Amend The Customary Use Plan - 5 -

Figure 1. Customary Use Map..... - 6 -

NIAGARA POWER PROJECT (FERC NO. 2216) CUSTOMARY USE PLAN

1.0 INTRODUCTION

On March 15, 2007, the Federal Energy Regulatory Commission (FERC) issued a New License to the New York Power Authority (Power Authority) for the continued operation of the Niagara Power Project (Project), FERC No. 2216. Article 405 of the license requires Power Authority to develop a management plan for Project lands. The land management plan is to identify and explain the policies, standards, guidelines, and land use designations used to enhance safety and protect and manage environmental resources, public use, aesthetics, and Tuscarora Nation customary uses.

This Customary Use Plan (Plan) has been developed in consultation with the Tuscarora Nation and recognizes, as reasonably and practicably as possible, customary use of Project lands by citizens of the Tuscarora Nation. Because the Tuscarora Nation owns in fee a small portion of land within the Project boundary, subject only to an easement held by the Power Authority for the maintenance of Garlow Road, this Plan does not apply to Project lands owned in fee by the Tuscarora Nation. Thus, as described in Section 3.0, this Plan applies only to Project lands not owned in fee by the Tuscarora Nation, which Project lands are referred to herein as “Applicable Project Lands.”

2.0 BACKGROUND ON HAUDENOSAUNEE CUSTOMARY USE

During consultation on the development of this Customary Use Plan, the Tuscarora Nation provided the following explanation to put into context Haudenosaunee beliefs and traditions regarding customary use:¹

“In Haudenosaunee culture, land and living things are not resources or assets intended for the use and enjoyment of humans, but as vital parts of a larger circle of life. Natural resources are called ‘relations’ by the Haudenosaunee for this reason. It is considered impossible to isolate one ‘relation’ from another—the waters, grasses, medicine plants, food plants, berries, trees, insects, animals, birds and people—or from the winds and other unseen forces that benefit the natural world. There is an acknowledgement that each part of the natural world seeks to fulfill its responsibility and human relationships with these ‘relatives’ are one of gratitude and humility.

¹ The Power Authority respects and appreciates the Tuscarora Nation's willingness to unilaterally share its cultural perspectives as part of this Customary Use Plan and, therefore, takes no position on perspectives expressed in this Section 2.0.

NIAGARA POWER PROJECT (FERC NO. 2216) CUSTOMARY USE PLAN

“Since time immemorial, the use and harvest of the natural world by the Haudenosaunee to support human life in a usual and accustomed manner (known as ‘customary use’) has been governed by these relationships in addition to a number of protocols. One such protocol is found in the One Dish, One Spoon Principle. To gain sustenance, the Haudenosaunee people were advised to eat from one dish using one spoon and to always avoid introducing into the dish a sharp implement (similar to a knife) that may cause harm (the spilling of blood) to the people. All of the natural world would be shared in common to ensure survival. A wampum belt was created at this time to remind the people of this. The One Dish, One Spoon agreement is one of many well-established but unwritten protocols governing customary use. Another well-known protocol is to refrain from taking or harvesting the first plant or animal identified to ensure it is not the last. There are currently no seasons, bag limits, size limits, and other specific limitations on this use which currently apply to the Haudenosaunee.

“The Tuscarora Nation and the United States of America have had a treaty based relationship for over three centuries old. Agreements between representatives of our governments occur within the context of this relationship. It is a relationship of mutual respect, trust and friendship, symbolized by the Silver Covenant Chain. This Customary Use Plan is created in the spirit of this relationship.”

3.0 IDENTIFICATION OF PROJECT LANDS APPLICABLE TO THIS PLAN

[Figure 1](#) depicts Project lands that are applicable to this Plan. Such Project lands are described in [Figure 1](#) as “Access for Tuscarora Nation Customary Use,” and are referred to in the text of this Plan as “Applicable Project Lands.”

4.0 NOTIFICATION SYSTEM FOR PRE-NOTIFICATION AND PRE-AUTHORIZATION BY THE POWER AUTHORITY

Several activities identified in [Section 5.0](#) below require a citizen of the Tuscarora Nation seeking to engage in a customary use to either: (1) obtain prior authorization from the Power Authority, or (2) provide pre-notification to the Power Authority. Prior authorization and pre-notification of activities must be made to Power Authority Security and Power Authority Real Estate

NIAGARA POWER PROJECT (FERC NO. 2216)
CUSTOMARY USE PLAN

staff. Prior authorization shall be obtained two (2) weeks prior to proposed initiation of such activity. Pre-notification shall be made one (1) week prior to initiation of such activity.

For any customary use requiring prior authorization or pre-notification, a citizen of the Tuscarora Nation seeking to engage in such use must, as necessary, obtain prior authorization from, or provide pre-notification to, each of the Power Authority offices below:

Niagara Power Project Security (716) 286-6712

Niagara Power Project Real Estate (716) 286-6923

5.0 IDENTIFICATION OF RESTRICTIONS ON PROJECT LANDS

A. Prohibited Activities

In order to protect public health, safety, and ensure security of Project operations, the following activities are prohibited on Applicable Project Lands:

- Hunting or the use of firearms or explosives.
- Operation or use of any motorized vehicle, except on designated public access roads.
- Operation or use of any off-road motorized vehicle.
- Digging on dike slopes at Lewiston Reservoir.
- Planting on dikes at Lewiston Reservoir.
- Impeding the flow of water of creeks, conduits, or drainage ditches.
- Disturbance or movement of rip rap on the inside of dikes at Lewiston Reservoir.

B. Activities Requiring Prior Notification

In order for Power Authority personnel to adequately provide for public health, safety, and security at the Project, the activities listed below to be conducted on Applicable Project Lands require prior notification to Power Authority personnel, as provided in [Section 4.0](#). Upon receiving such a notification, the Power Authority may require reasonable restrictions on the activity to ensure public health, safety, and Project security. Activities on Applicable Project Lands requiring prior notification to the Power Authority consist of the following:

- Any activity involving open fire.

NIAGARA POWER PROJECT (FERC NO. 2216)
CUSTOMARY USE PLAN

- Any activity to occur during night-time hours.
- Any large group activity.

C. Activities Requiring Prior Approval

In order for Power Authority personnel to adequately provide for public health, safety, and security at the Project, the activities listed below to be conducted on Applicable Project Lands require prior approval of Power Authority personnel, as provided in [Section 4.0](#). Upon receiving a request for any activity listed below, the Power Authority will review the request, consulting with the applicant, as necessary and appropriate, to obtain additional information about the requested activity. Following such review, the Power Authority may approve the request, imposing any restrictions or conditions (such as any required Federal, State or local approval or permit) as necessary to ensure compliance with the Power Authority's license for the Project, any applicable Federal, State or local law, or the Power Authority's own policies and procedures. If the Power Authority determines that the proposed activity cannot be restricted or conditioned in a manner that would ensure compliance with the Project license, applicable Federal, State or local law, or its own policies and procedures, the Power Authority will not approve the requested activity, and the proposed activity cannot be undertaken at the Project. Activities on Applicable Project Lands requiring prior approval of the Power Authority consist of:

- Any commercial activity.
- Any construction or ground-clearing activity.
- Any significant ground-disturbing activity.

6.0 ALL ACTIVITIES TO CONFORM WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAW

All customary uses occurring on Applicable Project Lands, regardless of whether or not they require prior notification or prior approval shall adhere to applicable Federal, State, and local law, including, but not limited to, the following:

- The Power Authority's license for the Project and applicable FERC rules and regulations.
- For activities occurring within any state park, the rules and regulations of the New York State Office of Parks, Recreation, and Historic Preservation applicable at the state park.
- Any applicable State requirements governing recreational and commercial fishing.

NIAGARA POWER PROJECT (FERC NO. 2216)
CUSTOMARY USE PLAN

7.0 PROCEDURE TO REVIEW AND AMEND THE CUSTOMARY USE PLAN

In order for the Customary Use Plan to adapt to any changed circumstances during the term of the Project license, the Power Authority recognizes the need to periodically review and possibly amend this Plan. Periodic reviews will allow the Power Authority and the Tuscarora Nation to assess new issues that may arise that would affect Tuscarora Nation customary use access areas and prohibited uses of Project lands.

This review process will provide the means for the prior authorization or pre-notification procedures and identification of prohibited activities to change, if necessary. Updates will incorporate any revisions that are deemed necessary to enhance safety and protect and manage environmental resources, public use, aesthetics, and Tuscarora Nation customary uses.

At a minimum, consultation with the Tuscarora Nation will occur biannually (every two years) to assess new issues that may affect the Tuscarora people's customary use of Project lands. Any proposed changes to the Plan will be approved by FERC, as appropriate.

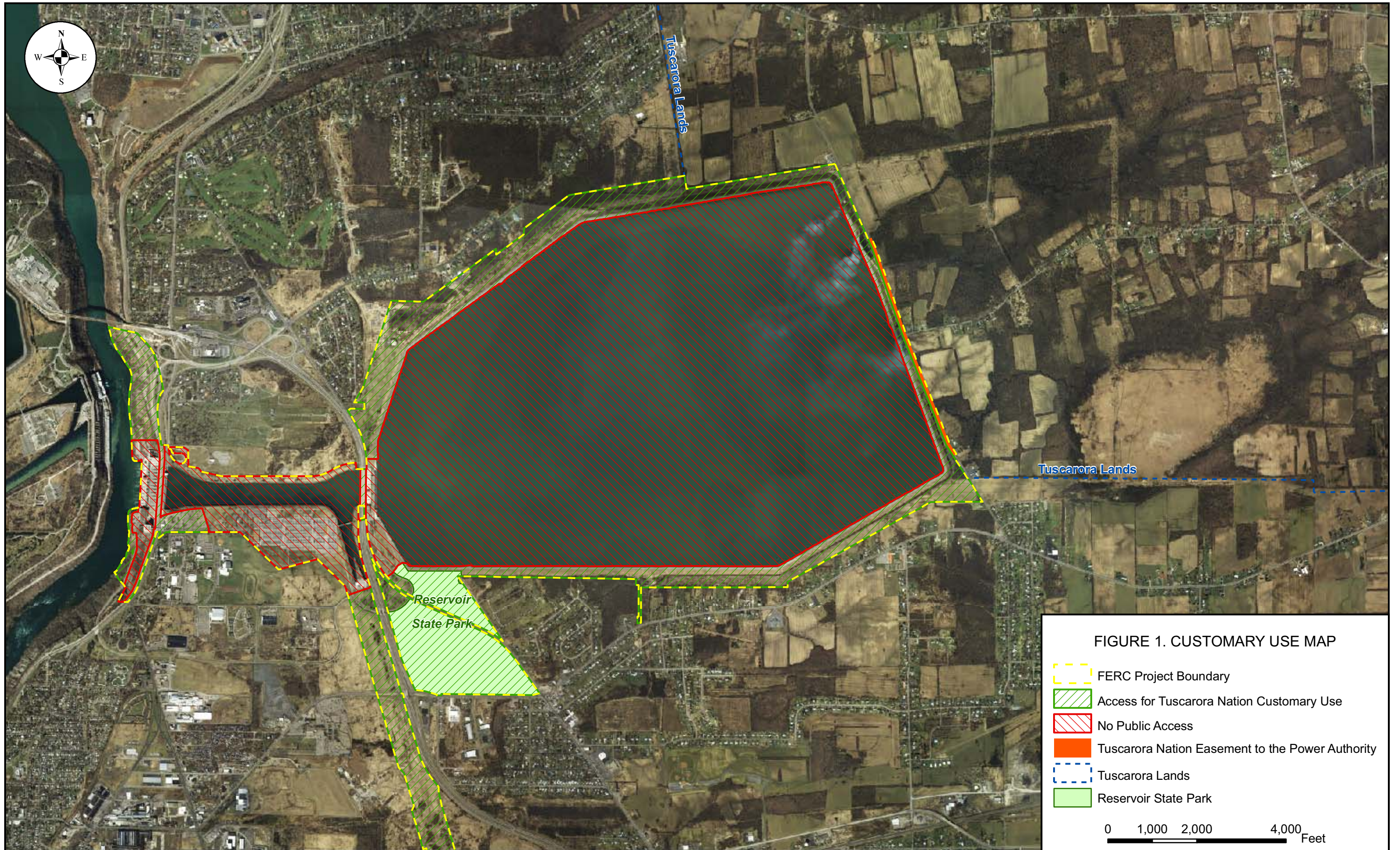








FIGURE 1. CUSTOMARY USE MAP

-  FERC Project Boundary
-  Access for Tuscarora Nation Customary Use
-  No Public Access
-  Tuscarora Nation Easement to the Power Authority
-  Tuscarora Lands
-  Reservoir State Park

0 1,000 2,000 4,000 Feet

NIAGARA POWER PROJECT (FERC NO. 2216)
LAND MANAGEMENT PLAN

APPENDIX C: STANDARD APPLICATIONS FOR PERMIT

POWER AUTHORITY OF THE STATE OF NEW YORK

PERMIT FOR TEMPORARY AGRICULTURAL
OR RECREATIONAL USE OF LAND OWNED BY OR
UNDER JURISDICTION OF POWER AUTHORITY

PROJECT(S) _____

MAP NO. _____ PARCEL NO(S). _____ COUNTY _____

MAP NO. _____ PARCEL NO(S). _____ TOWN _____

POWER AUTHORITY OF THE STATE OF NEW YORK (hereinafter referred to as "Authority"), with its principal office and place of business at 1633 Broadway, New York, New York 10019, insofar as it lawfully may, and without covenant or warranty of any kind, express or implied, hereby grants permission _____ hereinafter referred to as "Permittee") residing at _____

to use land consisting of _____ +/- acres, owned by or under the jurisdiction of the Authority, in the Town of _____, County of _____, New York as shown on the attached sketch upon the following terms and conditions:

1. Permittee may use the said lands for the purpose of _____

and for no other purpose.

2. The consideration for this permit is _____, payable by Permittee upon receipt hereof.

3. This permit shall be for a term of _____ commencing _____, and terminating _____, subject to revocation at any time and for any reason at the sole discretion of the Authority upon thirty (30) days' written notice to Permittee who, upon such revocation, shall be entitled to a pro rata refund of the consideration for any portion of the permit term thereby terminated.

4. This permit is nonassignable and shall inure only to the personal use and benefit of Permittee.

5. Permittee shall use the premises in a careful and prudent manner and do no damage to the land, structures or trees thereon. Permittee shall on expiration of this permit leave the land in good condition free of rubbish and herbage or other crop waste.

6. The Permittee shall not use or bring on the property covered by this permit any material listed as hazardous, toxic, or dangerous or of restricted use, as classified or defined by any federal or New York State law, regulation or agency policy, without prior written

permission from Regional Manager, Western, NY of the Authority.

7. Permittee assumes all risk of and indemnifies, protects and saves harmless the Authority, its successors and assigns, and the State of New York from all loss, damage or injury to persons (including personal injuries resulting in death) or property (including property of the Authority) and from all claims, demands, suits, liabilities, obligations and expenses arising therefrom, including legal fees and expenses, caused by or in any way connected with the exercise of the rights granted hereunder, including, but not limited to costs associated with environmental contamination response and cleanup, and all loss, damage or injury to property or persons resulting from or arising out of strict liability or intentional conduct, regardless of the active or passive negligence of the Authority or the State of New York and notwithstanding any review or approval by the Authority of Permittee's actions or its exercise of the rights granted hereunder.

8. No cancellation and revocation of this permit shall affect a liability herein assumed or any indemnity herein given in respect of acts of things which shall have been done or have happened before the date fixed for such cancellation and revocation.

9. Permittee assumes responsibility for compliance with all applicable federal, state and local laws and regulations and for obtaining all other permits and consents required by others including governments and the owner(s) of any other interest(s) in the property.

10. Special Conditions:

POWER AUTHORITY OF THE
STATE OF NEW YORK

Regional Manager - Western New York

Date _____

Recommended:

Director of Real Estate _____ Date _____

Director-Environmental Division Date

I AGREE TO AND ACCEPT THE
CONDITIONS OF THIS PERMIT

Permittee

Date _____

PERMIT NO. permit no.

POWER AUTHORITY OF THE STATE OF NEW YORK

PERMIT REQUIRING INSURANCE

PROJECT(S): project

MAP NO. map no. PARCEL NO(S). parcel no. COUNTY OF county

MAP NO. map no. PARCEL NO(S). parcel no. TOWN OF town

POWER AUTHORITY OF THE STATE OF NEW YORK (hereinafter referred to as "Authority") with its principal office and place of business at 30 South Pearl Street, Albany, New York 12207, insofar as it lawfully may, and without covenant or warranty of any kind, express or implied, hereby grants permission (hereinafter referred to as the "Permit") to permittee (hereinafter referred to as "Permittee") residing at address to construct, install, operate, maintain, repair, replace and remove permitted activity together with necessary accessories and appurtenances thereto (hereinafter referred to as the "Facilities") on or across land owned by or under the jurisdiction of Authority located in the Town of town, County of county, State of New York, shown and described on the above designated map(s) (hereinafter referred to as the "Premises") at the location shown on and in accordance with the map or plan and pursuant to the conditions hereinafter set forth, to wit:

CONDITIONS

1. INSPECTION: The work authorized hereunder shall be subject to inspection by and performed to the satisfaction of the Authority's (Regional Manager - area) (Transmission Superintendent) Permittee shall give Authority days (days) days prior notice in writing or by telephone before commencing construction of the facilities and subsequently whenever work (except for emergency repairs, in which case Permittee will give notice as soon as is reasonably possible) is to be performed by or on behalf of Permittee on the Premises. Such notice shall be given to Authority's (Regional Manager - area) (Transmission Superintendent) at Authority's Administrative Offices at address and telephone, or some person in authority at his office. Authority at its election, may have an inspector present at the time such work is being executed

and such inspector shall have the right and the authority to require modification or cessation of any or all work hereunder when in the inspector's judgment such work is contrary to the provisions of this permit or is or may become a source of danger to person's or Authority facilities.

2. CONDUCT OF THE WORK:

(a) All operations hereunder shall be carried on in such a manner so as not to interfere with the operation, use and maintenance of Authority facilities or property.

(b) All heavy equipment or heavy material shall be kept at all times at least feet (feet) feet away from the nearest pole or tower structure.

(c) The Facilities shall be constructed, operated, maintained and repaired without the aid of cranes, backhoes, bulldozers or other mechanical equipment, having extensions whose highest point reaches (or which is capable of reaching) within feet (feet) feet of the lowest electrical conductor on the premises or adjacent thereto.

(d) Work authorized under this permit shall be performed in a workmanlike manner and there shall be provided suitable safeguards so as to reduce to an absolute minimum any dangerous conditions which may be hazardous to life, limb or property. Any Facility constructed under this Permit shall thereafter be maintained and operated in a safe condition.

(e) Permittee will not store or allow to remain any equipment or fill underneath the electric lines of the Authority or upon the Premises. The Premises or any part thereof, where disturbed, shall be restored to its original condition at the expense of the Permittee as soon as the work has been completed.

(f) Within thirty (30) days after completion of the work authorized hereunder Permittee shall furnish Authority with a set of "as-built" location drawings (including plan and profile) of such Facilities adequately referenced to Authority's property lines and existing structures.

3. PROHIBITION OF USE OF HAZARDOUS MATERIAL: The Permittee shall not use or bring on the property covered by this Permit any material listed as hazardous, toxic, or dangerous or of restricted use, as classified or defined by any federal or New York State law, regulation or agency policy, without prior written permission from regional manager of the Authority. If Permittee generates hazardous waste on the Authority's property, Permittee will promptly remove such waste to an Authority approved licensed hazardous waste disposal facility. The Permittee shall take title to any and all hazardous waste generated by its activities.

4. INDEMNIFICATION: To the extent permitted by law, Permittee, (its, their) contractors and subcontractors, assume all risk of and indemnify, protect and save harmless the Authority, its officers, trustees, employees, successors and assigns, and the State of New York from all loss, damage or injury to persons (including personal injuries resulting in death) or property (including property of the Authority) and from all claims, demands, suits, liabilities, obligations and expenses arising therefrom, including legal fees and expenses, caused by or in any way connected with the exercise of the rights granted hereunder including, but not limited to, costs associated with the generation and disposal of hazardous wastes and any environmental contamination response and cleanup, and all loss, damage or injury to property or persons resulting from or arising out of strict liability or intentional conduct, regardless of the active or passive negligence of the Authority or the State of New York and notwithstanding any review or approval by the Authority of Permittee's actions or its exercise of the rights granted hereunder.

5. INSURANCE: Permittee(s) and each of (its, their) contractors and subcontractors will procure and maintain throughout the time this Permit or any extension thereof remains in force, at their own cost and expense, insurance in the kinds and amounts listed below and shall not commence work until the Authority has been furnished a completed Certificate or Certificates of Insurance stating that the policies will not be changed or canceled without thirty (30) days' prior written notice to the Authority. All coverages, except Workers' Compensation (see 5.a. below), should be evidenced on: 1) the Authority's annexed form; or 2)

an Accord form accompanied by the endorsement page, with the identifying policy number, specifically naming the Power Authority of the State of New York and the State of New York as additional insureds to the policy (a blanket additional insured clause is not acceptable). The form and sufficiency of each insurance policy required to be obtained herein will be subject to the Authority's approval and obtained from insurance companies acceptable to the Authority. The Permittee(s) will deliver or cause to be delivered to the Authority, upon request, a copy of each such policy of insurance. The kinds and amounts of insurance required including responsibility for any deductible or self-insured retention are as follows:

(a) Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation/Occupational Disease laws, including Employer's Liability Insurance with a minimum limit of \$1,000,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act (44 U.S. Stat. 1424) and the Jones Act (41 U.S. Stat. 988). Under Sections 57 & 220 Subd. 8 of the New York State Workers' Compensation Law, it is required that Permittees doing business with Municipal or State entity evidence proof of workers' compensation coverage on approved forms, (ACCORD FORMS ARE NOT ACCEPTABLE) as listed below:

i.) If, coverage is with a private insurance carrier, the entity must provide evidence of coverage on either NYPA's form or a completed C105.2 form. The C105.2 form is supplied and completed by the insurance carrier or its authorized agent.

ii.) If, coverage is with the State Insurance Fund, the entity must provide a completed U-26.3 form provided by the Fund.

iii.) If, the business entity has been approved by the Workers' Compensation Board's Office of Self Insurer, a completed SI-12 form is required. The SI-12 form is provided by the Board's Office of Self Insurance.

(b) Commercial General Liability Insurance, including Contractual Liability coverage covering all operations and where applicable coverage for damage caused by any

explosion or collapse with minimum limits of \$2,000,000 per occurrence for bodily injury and \$2,000,000 per occurrence for property damage liability. The Authority and the State of New York must be named as additional insureds on Permittee's policy, if applicable, each contractor and subcontractor's policies, including cross-liability coverage to be evidenced on the Certificate(s) furnished to the Authority. The insurer will have no right of recovery or subrogation against the Authority or the State of New York. It is the intent of the parties that the insurance placed in accordance with the provisions of this paragraph will be primary insurance and will protect the Permittee, the Authority and the State of New York for all losses arising from all operations, activities, work services, items or performance relating to the Permit.

The Contractual Liability Insurance coverage will insure the performance of the contractual obligations of the Permittee contained in this Permit including, without limitation, all contractual indemnity obligations.

(c) A Business Automobile Policy protecting the Permittee, its contractor and each subcontractor for automobile bodily injury and property damage liability, including coverage for liability arising out of owned, hired or non-owned vehicles. Such insurance will cover all vehicles bearing or required to bear by the motor vehicle laws of the state of registry, licenses or registration plates in limits of a least \$ 1,000,000 each accident.

6. RELOCATION OF FACILITIES: In the event that at any time Authority in its sole discretion deems it necessary or convenient, in connection with the exercise of the rights acquired by it affecting the premises, that the facilities or any part or parts thereof should be removed as located pursuant to this permit, Permittee will at (its, their) sole cost and expense remove the facilities or part or parts thereof as so located within ninety (90) days of written notice from Authority to Permittee so to do. Authority will use its best efforts to limit such removal to a relocation on the premises. However, Authority shall not be obligated to limit such removal to a relocation on the premises. In the event of such removal or relocation, Permittee will at (its, their) sole cost and expense, if so directed by Authority, restore the Premises and

any structures located thereon disturbed by such removal or relocation to the condition existing before such Facilities were installed.

7. TERM: This Permit shall run from the date it is accepted by the Permittee, and shall terminate term. The terms of this permit shall be subject to renegotiation upon any renewal or extension.

8. CANCELLATION OR TERMINATION:

(a) This Permit may be canceled by Authority on thirty (30) days written notice (1) for default by the Permittee in the performance or observance of any of the conditions herein, or (2) if the Authority in its sole discretion shall determine that activities and/or facilities authorized herein are no longer consistent with Authority's use of the Premises.

(b) No cancellation or termination of this Permit shall affect a liability herein assumed or any indemnity herein given in respect of acts or things which shall have been done or have happened before the date fixed for such cancellation or termination.

(c) In the event the property affected by this Permit ceases to be owned by or to be under the jurisdiction of Power Authority of the State of New York, this permit shall thereupon terminate and the Permittee will be required to obtain any permits, license or consents which may be required by law to accomplish or continue the purposes set forth herein as though this permit had not been granted.

9. REMOVAL OF FACILITIES: In the event that the Permit terminates pursuant to Paragraph 7 or Permittee ceases to operate the Facilities constructed and installed pursuant to this Permit or in the event that Authority cancels this Permit in accordance with Paragraph 8(a) hereof, Permittee shall within sixty (60) days thereafter or within sixty (60) days of receipt of notice from Authority for cause other than expiration of term, at its sole cost and expense remove said Facilities and restore in a manner satisfactory to Authority the Premises and all structures located thereon disturbed by such removal to the condition existing before such Facilities were installed. If Permittee fails to effect such removal within the sixty (60) day period, the Authority shall have the right to proceed with removal of such Facilities subsequent to thirty

(30) days from the date of written demand to the Permittee to proceed therewith. Permittee hereby agrees that in the event of such removal by Authority, all of the equipment of Permittee located on the property of Authority may be retained by Authority as its property without accounting therefor to Permittee and the expense of such removal and restoration of the premises shall be charged to Permittee and paid by it without credit for the value, if any, of the equipment removed by Authority.

10. NOTICES: All notices provided for hereunder or permitted to be given hereunder, and claims of default hereunder, or otherwise, shall be delivered to the party affected or sent by certified mail to the party affected at the address stated in the first paragraph of this Permit or at such other address as such party may designate by notice as herein provided, and, if mailed by first class mail, shall be deemed given on the date of mailing thereof.

11. NO ASSIGNMENT: This Permit shall not be assigned without the prior written consent of the Authority. Any assignment in contravention of the foregoing sentence shall be null and void and without legal effects on the rights, interests, obligations, or remedies hereunder.

12. AUTHORITY'S RIGHTS: This Permit shall be subject and subordinate to the paramount right of Authority now and hereafter to occupy and use the whole or any part or parts of the premises in accordance with such rights, privileges or easements therein as have been heretofore or are hereafter acquired by Authority.

13. COMPLIANCE: Permittee assumes responsibility for compliance with all applicable federal, state and local laws and regulations and for obtaining all other permits and consents required by others including governments and the owner(s) of any other interest(s) in the property.

14. SPECIAL CONDITIONS:

A.

POWER AUTHORITY OF THE
STATE OF NEW YORK

By _____
(Regional Manager - area)
(Transmission Superintendent)

Dated at _____, New York, this ____ day of _____, 20__.

In consideration of the granting of the within permit, the undersigned hereby accepts the same subject to the conditions herein described.

Name of Applicant

By _____
Its _____

Attest:

Dated at _____, New York, this ____ day
of _____, 20__.

POWER AUTHORITY OF THE STATE OF NEW YORK

SHORT FORM PERMIT

To: _____
Name

Street or P.O. Box

City or Town State

Re: _____
Project

Map No. Parcel No.

Power Authority of the State of New York (hereinafter referred to as the "Authority") has reviewed your request dated _____ to _____

_____ (hereinafter referred to as the "facility") on or across real property owned by you subject to the easement in favor of the Authority shown and described on the above designated map(s) (hereinafter referred to as the "premises"). In the judgment of the Authority the proposed construction (use) would not interfere with or prevent the use or exercise of its permanent easement in the foreseeable future.

Accordingly, subject to your agreement and acceptance hereof to be indicated by signing in the space provided below and returning a copy of this consent to the Authority in the enclosed envelope, the Authority hereby grants

consent to you and to any subsequent owner of the premises to construct, operate and maintain the facilities upon the following terms and conditions:

1. PLAN AND LOCATION: The facilities shall be constructed and located in conformity with the attached plan and location sketch and shall be subject to inspection by and constructed and maintained to the satisfaction of the Authority.

2. NOTICE TO AUTHORITY: Property owner shall notify the Authority's Project Manager _____ located at _____ telephone number: _____, at least _____ () days before the commencement of construction of the facilities.

3. CONDUCT OF THE WORK:

(a) All operations hereunder shall be carried on in such a manner so as not to interfere with the operation, use and maintenance of Authority facilities or property.

(b) All heavy equipment or heavy material shall be kept at all times at least _____ () feet away from the nearest pole or tower structure.

(c) The facilities shall be constructed, operated, maintained and repaired without the aid of cranes, backhoes, bulldozers or other mechanical equipment, having extensions whose highest point reaches (or which is capable of reaching) within _____ () feet of the

lowest of the electrical conductors on the premises or adjacent thereto.

(d) The work to which the Authority hereby consents shall be performed in a workmanlike manner and Property Owner shall provide suitable safeguards so as to reduce to an absolute minimum any dangerous conditions hazardous to life, limb or property. Any facilities constructed hereunder shall thereafter be maintained and operated in a safe condition.

4. RESTORATION OF PREMISES: Upon completion of the work, the premises shall be left in a condition satisfactory to the Authority.

5. PROHIBITION OF USE OF HAZARDOUS MATERIAL: The Property Owner shall not use or bring on the property covered by this permit any material listed as hazardous, toxic, or dangerous or of restricted use, as classified or defined by any federal or New York State law, regulation or agency policy, without prior written permission from _____ of the Authority.

6. INDEMNIFICATION: Property Owner assumes all risk of and indemnifies, protects and saves harmless the Authority, its successors and assigns, and the State of New York from all loss, damage or injury to persons (including personal injuries resulting in death) or property (including property of the Authority) and from all claims,

demands, suits, liabilities, obligations and expenses arising therefrom, including legal fees and expenses, caused by or in any way connected with the exercise of the rights granted hereunder, including, but not limited to costs associated with environmental contamination response and cleanup, and all loss, damage or injury to property or persons resulting from or arising out of strict liability or intentional conduct, regardless of the active or passive negligence of the Authority or the State of New York and notwithstanding any review or approval by the Authority of Property Owner's actions or its exercise of the rights granted hereunder.

7. TERM OF CONSENT: The Authority reserves the right to require removal of the facilities at any time. Property Owner covenants and agrees to forthwith remove the facilities upon receipt of notice to do so at his sole cost and expense. Under no circumstances shall this consent be construed as granting Property Owner the right to permanently maintain the facilities within the easement. If the premises cease to be under the jurisdiction of Authority this consent shall thereupon terminate and Property Owner will be required to obtain any permits, licenses or consents which may be required by law to accomplish or continue the purposes set forth herein as though this consent had not been granted.

8. COMPLIANCE: Property Owner assumes responsibility for compliance with all applicable federal, state and local laws and regulations and for obtaining all other permits and consents required by others including governments and the owner(s) of any other interest(s) in the property.

9. SPECIAL CONDITIONS:

POWER AUTHORITY OF THE
STATE OF NEW YORK

Resident Manager

Date

Recommended:

Director of Real Estate Date

Director-Environmental Division Date

V.P. & Chief Engineer-System Operations Date

I UNDERSTAND AND AGREE TO THE
ABOVE TERMS AND CONDITIONS:

Property Owner

Date

POWER AUTHORITY OF THE STATE OF NEW YORK

APPLICATION FOR PERMIT TO DO WORK ON OR TO USE
REAL PROPERTY OWNED BY OR UNDER THE JURISDICTION
OF POWER AUTHORITY

1. Name of Applicant

Address

Telephone No.

2. Location of property for which permit desired.

3. Power Authority Map & Parcel No.

4. Is Applicant the fee owner of the property? No

If not:

a) What is the name and address of the fee owner?
People of the State of New York

5. What use will be made of the property?

a) Will there be any permanent facilities constructed?

b) Will there be any temporary facilities constructed? If yes, how long will
the facilities be in place?

c) Is the use of the premises for:

1) private residential _____

2) multiple/subdivision residential _____

3) commercial _____

4) other _____

6. If the proposed use will require chemicals, combustibles and/or explosives, list the chemical, combustible and explosive materials to be used:
7. If the proposed use will require an excavation or construction:
 - a) Attach a map, plan or sketch showing location of excavation or construction.
 - b) Attach a sketch of proposed facility or architect-engineering drawings.
 - c) How long will construction take?
 - d) Describe in detail the activity to take place on Power Authority land or within the Power Authority easement, including the type of equipment and its maximum height if working within a Power Authority transmission line easement.
8. Will work be performed by Applicant or Contractor?
 - a) If known at this time, what contractor will perform the work? If contractor is unknown at this time, notification of the contractor must be made to the Authority prior to the start of any work.
9. Applicant understands that issuance to him/her/them of a permit by the Power Authority to accomplish the foregoing does not relieve him/her/them of the responsibility to comply with all applicable federal, state, and local laws, rules, codes and regulation and to obtain all other permits, consents, and licenses required by others including governments and the owner(s) of the property if other than applicant.

Date:

Signature:

INSURANCE

The following insurance coverage's are required by all Permittee's, however, the limits may be adjusted according to the work to be performed:

Permittee and each of its contractors and subcontractors will procure and maintain throughout the time this permit or any extension thereof remains in force, at their own cost and expense, insurance in the kinds and amounts listed below and shall not commence work until the Authority has been furnished a completed Certificate or Certificates of Insurance stating that the policies will not be changed or canceled without thirty (30) days' prior written notice to the Authority. All coverages, **except Workers' Compensation** (see below), should be evidenced on: 1) the Authority's annexed form; or 2) an Accord form accompanied by the endorsement page, with the identifying policy number, specifically naming the New York Power Authority and the State of New York as additional insureds to the policy (a blanket additional insured clause is not acceptable). The form and sufficiency of each insurance policy required to be obtained herein will be subject to the Authority's approval and obtained from insurance companies acceptable to the Authority. The Permittee will deliver or cause to be delivered to the Authority, upon request, a copy of each such policy of insurance. The kinds and amounts of insurance required including responsibility for any deductible or self-insured retention are as follows:

(a) **Workers' Compensation Insurance** for statutory obligations imposed by Workers' Compensation/Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of \$1,000,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act (44 U.S.Stat 1424) and the Jones Act (41 U.S. Stat 988). Under Sections 57 & 220 Subd. 8 of the New York State Workers' Compensation Law, it is required that Permittees doing business with a Municipal or State entity evidence proof of workers' compensation coverage on approved forms, (**ACCORD FORMS ARE NOT ACCEPTABLE**) as listed below:

- i.) If coverage is with a private insurance carrier, the entity must provide evidence of coverage on either NYPA's form or a completed C105.2 form. The C105.2 form is supplied and completed by the insurance carrier or its authorized agent.
- ii.) If coverage is with the State Insurance Fund, the entity must provide a completed U-26.3 form provided by the Fund.
- iii.) If the business entity has been approved by the Workers' Compensation Board's Office of Self Insurance as a qualified self insurer, a completed SI-12 form is required. The SI-12 form is provided by the Board's Office of Self Insurance.

(b) **Commercial General Liability Insurance, including Contractual Liability** coverage covering all operations and where applicable coverage for damage caused by any explosion or collapse with minimum limits of \$2,000,000 per occurrence for bodily injury and \$2,000,000 per occurrence for property damage liability. The Authority and the State of New York must be named as additional insureds to the Permittee's policy and, if applicable, each contractor and subcontractor's policies, including cross-liability coverage to be evidenced on the certificate(s) furnished to the Authority. The insurer will have no right of recovery or subrogation against the Authority or the State of New York. It is the intent of the parties that the insurance placed in accordance with the provisions of this paragraph will be primary insurance and will protect the Permittee, the Authority and the State of New York for all losses arising from all operations, activities, work services, items or performance relating to the Permit.

The Contractual Liability Insurance coverage will insure the performance of the contractual obligations of the Permittee contained in this Permit including, without limitation, all contractual indemnity obligations.

(c) A **Business Automobile Policy** protecting the Permittee, its contractor and each subcontractor for automobile bodily injury and property damage liability, including coverage for liability arising out of owned, hired or non-owned vehicles. Such insurance will cover all vehicles bearing or, required to bear by the motor vehicle laws of the state of registry, licenses or registration plates in limits of at least \$1,000,000 each accident.

Subject to the work to be performed, NYPA may require additional insurance coverage, not inclusive of the insurance coverage's listed below, and the limits adjusted accordingly:

If the Work requires professional services, such as, but not limited to, accounting, architectural, engineering, legal, medical and surveying, a standard professional liability insurance policy with a minimum limit of \$1,000,000. Policy is to be endorsed to include "fee for service" coverage and evidence of endorsement must be furnished to the Authority.

If the Work requires the use of watercraft or aircraft, Watercraft or Aircraft Liability Insurance with a minimum limit of \$1,000,000 per occurrence.

If the exposure poses an environmental risk, known or suspected, Pollution Liability with minimum limits of \$1,000,000 per occurrence.

Certificate of Insurance

This is to certify that the policies of insurance listed in this Certificate have been issued to the Named Insured and are in force and effect as of the date of this Certificate. It is agreed that these policies will not be cancelled or materially changed until the New York Power Authority has been given at least thirty (30) days prior written notice of any proposed cancellation or change.

NYPA PERMIT		Description of Operations
Named Insured <input type="checkbox"/> Prime Contractor <input type="checkbox"/> Sub Contractor		Address

Certificate Holder: **New York Power Authority**
123 Main Street
White Plains, New York 10601

Type of Insurance	Insurance Co./ Policy #	Effective Date	Expiration Date	Limits per occurrence (thousands)	Deductible per occurrence (thousands)
General Liability _ Comprehensive Form _ Occurrence Form _ Claims Made Form _ Contractual Coverage _ Products/Compl. Ops.				BI PD CSL	
Auto Liability _ Any Auto _ All Owned Autos _ Scheduled Autos _ Hired Autos _ Non-Owned Autos				BI PD CSL	
Excess Liability _ Umbrella Form _ Other than Umbrella Form					
Workers' Compensation and Employers' Liability					
Other					

The New York Power Authority and the State of New York have been named as additional insured on the policies specified herein, excluding Worker's Compensation, Employer's Liability and Auto Liability, with respect to all operations, activities, work, services, items or performance relating to the contract specified herein. The specified insurance policies have been endorsed to a) be primary to any and all other insurance coverage; b) contain cross liability coverage; and c) provide that the insurer has no right of recovery or subrogation against the Authority or the State of New York.

Date Issued	Name of Issuer	Title
Company		Address
Signature of Authorized Representative		