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Environmental and Community Review Process

Introduction

The Repowering Project must be reviewed under several regulatory programs that are designed to ensure protection of the environment and public health. In responding to the Article X mandate of pursuing "the active involvement" of those people who may be affected by a new or expanded power plant, Orion Power has created an inclusive program of dialogue, input, and information.

At the completion of this effort, it is the intention of Orion Power to transform a facility that was state-of-the-art during the 1950's to a modern, clean, and efficient power plant that can meet emerging energy and environmental demands. In doing so, it is our hope that the Repowering Project becomes the standard of excellence in meeting Article X criteria for forging a partnership with our neighboring communities.

3.1 Environmental Review Process

The Repowering Project must be reviewed under several state and federal regulatory programs that are designed to ensure the protection of the environment and public health. Foremost among these is Article X of the New York State Public Service Law. In accordance with Article X, the Repowering Project must:

- Comply with all legal requirements, including those designed to protect the environment and public health; and
- Be evaluated in a forum providing maximum opportunity for participation by the public.

Orion Power’s implementation of the Repowering Project will meet the letter and spirit of Article X and, in the words of the Article X statute, “enable citizens to participate in decisions that affect their health and safety and the environment.” This PSS initiates the Article X process for the Repowering Project.

What is Article X?

Article X is the stringent and exhaustive regulatory process used by New York State to determine whether to authorize construction of new electric generating facilities.

Any new electric generating facility that will generate 80 MW or more is subject to Article X and must obtain a certificate of Environmental Compatibility and Public Need. This is commonly referred to as an “Article X Certificate.” The Article X Certificate is issued by the New York State Board on Electric Generation Siting and the Environment (the “Siting Board”). The Siting Board is comprised of the heads of five state agencies:

- Department of Public Service (DPS),
- Department of Environmental Conservation (DEC),
- Department of Health (DOH),
- Energy Research and Development Agency (ERDA),
- Empire State Development, and
- Two citizens from the locale of the Repowering Project will be appointed to the Siting Board by the Governor.

The Siting Board is responsible for overseeing the public decision-making process that consists of a required public participation program, the opportunity for public statements and comment, and a

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trial-type hearing process in which qualifying municipalities and citizens can participate using funds provided by the Applicant. For the Repowering Project, at least \$300,000 will be available for this purpose.

What is the outcome of the Article X process?

Before the Siting Board can issue an Article X Certificate, it must find that the Repowering Project is designed to operate in compliance with applicable state and local laws and regulations (except any local requirements that the Siting Board determines are unreasonably restrictive) concerning, among other things, the environment, public health, and safety. In addition to verifying compliance with laws and regulations, the Siting Board also must find that any project to which an Article X Certificate is granted complies with the following:

- Minimizes adverse environmental impacts, considering the state of available technology, the nature and economics of reasonable alternatives as are required to be considered, the interests of the State with respect to aesthetics, preservation of historic sites, forests and parks, fish and wildlife and other pertinent considerations;
- Is compatible with public health and safety;
- Will not discharge any effluent to waters of the State in excess of State standards;
- Will not emit any air pollutants in contravention of applicable emission control requirements or air quality standards; and
- Is in the public interest, considering the Repowering Project's environmental impact and any alternatives required to be evaluated.

The Siting Board's findings must be based on the record developed in the Article X proceeding. That record will be developed before two administrative law judges—one from DPS and one from DEC.

Article X vs. SEQR

Although the terminology differs, the environmental evaluations under the Article X process are as thorough, if not more so, than under SEQR.

How does the Article X Process Differ from SEQR?

The Article X evaluation of environmental and public health concerns is equal to or more thorough than the State Environmental Quality Review (SEQR) Act and New York City's Environmental Quality Review (CEQR) process. SEQR and CEQR requirements are deemed satisfied by the Article X process. Appendix E presents a comparison of the key provisions of Article X and SEQR

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and demonstrates how Article X provides a more thorough and rigorous environmental review process.

“Stipulations” define the scope of studies to be performed for the Article X Application.

What are Stipulations?

Stipulations are written agreements between the applicant and the various regulatory agencies and other parties, including members of the public, that define the scope of studies to be performed by an applicant as part of the Article X review process. The studies analyze potential environmental impacts and mitigation measures. The Proposed Stipulations provided in Appendix B of this PSS are based generally on Article X stipulations for previous projects before the Siting Board and take into account the unique nature of repowering an existing facility.

The Repowering Project must comply with federal PSD air emissions requirements and NPDES water discharge standards. NPDES.

What About Federal Permits?

To the extent required, the Repowering Project will comply with the permitting requirements of the federal National Pollutant Discharge Elimination System (NPDES) for wastewater discharges and the Prevention of Significant Deterioration (PSD) for air emissions. Authority to issue these federal permits has been delegated to DEC by the EPA and the Siting Board. Orion Power’s Article X Application will include separate applications for these two federal permits, as required. Based on the record developed in the Article X proceeding, these federal permits would be issued by DEC in conjunction with the Article X process.

Questions?

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1-877-87ORION

Website:
www.orionpower.com

3.2 Community Involvement Process

Orion Power’s plan for involving the community in the Repowering Project respects the history and diversity of the Astoria community, which now comprises approximately 10% of the population of Queens. Orion Power is keenly aware of concerns arising as a result of the deregulation of electricity. In the interest of forging a partnership with our neighboring communities, Orion Power is committed to addressing social and environmental concerns in the development of the Article X Application for the Repowering Project.

What will the public involvement review process entail?

Orion Power is committed to working with the community to address issues of concern and being proactive in implementing mitigation measures. As issues are raised during the Article X process, Orion Power will evaluate public comments with respect to possible changes in design. Opportunities for public involvement during the Article X process are described below:

- Early Planning and Informal Consultations,
- PSS Submittal,
- Preparation and Submittal of Article X Application for Certification,
- Adjudicatory Hearings,
- Ongoing Public Participation.

3.2.1 Early Planning and Informal Consultations

As summarized below, Orion Power has met and conferred with a representative cross-section of stakeholders, including local elected officials, community board representatives, members of the business community, civic groups, environmental organizations, and appropriate government agencies. Orion Power has documented each of these meetings and will continue to do so for future meetings. A copy of the meeting documentation form used for this purpose is presented in Appendix D.

Orion Power met with a wide cross-section of stake holders, which has helped shape this PSS.

Orion Power has participated in over 20 meetings and informal presentations to date. A summary of the meetings convened and the issues discussed at each meeting is provided in Table 3.2-1. Initial contacts were well-known community leaders, including the Office of the Queens Borough President

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Table 3.2-1 Summary of Early Planning and Informal Consultation Activities Held/Scheduled to Date

Stakeholder	Date(s)	Key Topics
Informal Meetings		
Queens Borough President Claire Shulman and staff	Jan. 18, 2000; May 16, 2000; Aug. 2, 2000	<ul style="list-style-type: none"> ■ project need ■ air emissions ■ economic benefits to Queens and energy distribution use ■ cumulative impacts ■ public involvement opportunities ■ cost of energy in NYC
NYC Council: Speaker Peter Vallone Gail Benjamin, Director of Land Use	Nov. 15, 1999; May 1, 2000; July 27, 2000	<ul style="list-style-type: none"> ■ air emissions ■ project need ■ cumulative impacts ■ concentration of new plants in northern Queens ■ Unit 2 start up ■ technology options ■ transmission constraints ■ load pockets
NYC Council: Councilman Sheldon Leffler	March 16, 2000	<ul style="list-style-type: none"> ■ Orion Power participation on cable TV program
US Congress: Staff of Congressman Joseph Crowley	April 7, 2000	<ul style="list-style-type: none"> ■ general briefing ■ project/ NYC energy needs ■ attraction of northern Queens ■ air emission benefits
NYS Senate: Senator George Onorato	April 17, 2000	<ul style="list-style-type: none"> ■ general briefing ■ plant siting legislation ■ air emission benefits
NYC Economic Development Corporation: Richard Miller, VP, Energy NYC Law Department: Bruce Regal, Assistant Corporation Council	April 27, 2000	<ul style="list-style-type: none"> ■ air; water, visual impacts as result of cooling towers ■ project need
Natural Resources Defense Council (NRDC): Ashok Gupta	May 22, 2000; August 22, 2000	<ul style="list-style-type: none"> ■ project need ■ alternative energy sources ■ air emissions ■ legislation ■ community perceptions
CHOKE (coalition to Help Organize a Kleaner Environment): Anthony Gigantiello, Herb Greenberg, co-presidents NRDC: Ashok Gupta, Peter Vallone (CHOKE counsel)	June 15, 2000	<ul style="list-style-type: none"> ■ overview presentation of the re-powering project ■ benefits of Orion's plan on air quality impacts

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Table 3.2-1 Summary of Early Planning and Informal Consultation Activities Held/Scheduled to Date

Stakeholder	Date(s)	Key Topics
CHOKE: Herb Greenberg, co-president	July 7, 2000	<ul style="list-style-type: none"> ■ air emissions ■ cumulative impacts ■ relative deficiencies of the proposed projects ■ potential community benefit ■ projects offered by Orion ■ general community sentiment
Queens Community Board No. 1: George Delis, District Manager NYS Office of the Attorney General: Lois Menyweather, intergovernmental relations	July 12, 2000	<ul style="list-style-type: none"> ■ air, emissions and reductions ■ land use and visual impacts ■ project need
NYC Council – Infrastructure Division: Allison Sacks, Jeffrey Haberman, James Gennaro NYC Council – Office of the General Counsel: Kathy Cudahy, Director; Louis Vetrone, Nelson Perez	Aug. 3, 2000	<ul style="list-style-type: none"> ■ Repowering and restart plans ■ Benefits of Orion Power’s plan, especially with respect to air emissions
Queens Community Board No. 2, Environmental Protection Committee	Sept. 28, 2000	<ul style="list-style-type: none"> ■ scheduled: review of Repowering Project and environmental benefits.
Written Communication		
NYS Assembly (36 th AD): Denis Butler	April 3, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
7 th Congressional District: Joseph Crowley	April 3, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
NYS Assembly (30 th AD): Margaret Markey	April 3, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
NYS Assembly (37 th AD): Catherine T. Nolan	April 3, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
NYS Senate (14 th District): George Onorato	April 3, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
14 th Congressional District: Carolyn B. Maloney	April 6, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
Queens CB No. 1: George Delis, District Manager	May 1, 2000	<ul style="list-style-type: none"> ■ Project Overview ■ Further discussion encouraged
Media and Formal Presentations		
Queens Cable Television	April 29, 2000	<ul style="list-style-type: none"> ■ ½ hour segment, broad discussion of power issues and overview of Repowering Project.
NYC Council Hearings, Committee on Consumer Affairs	July 11, 2000	<ul style="list-style-type: none"> ■ Details of Repowering Project; ■ Q&A

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and the Chamber of Commerce. Review of local newspapers such as the *Queens Chronicle* and *Queens Tribune* helped to identify environmental concerns and issues associated with power projects in NYC. Representatives of Orion Power also attended scheduled meetings of various local civic organizations.

3.2.2 PSS Submittal

Following the filing of this PSS, Orion Power will continue to foster two-way communication and consult informally with community representatives. This will consist of presentations at regularly scheduled community, borough board and other meetings, as well as site visits and tours of the facility to promote a first-hand understanding of the repowering process. Opportunities for public involvement will include:

How will the meetings be publicized?

The dates of upcoming public meeting will be announced through several media:

- Project Website;
- Local newspapers, including the *Queens Tribune*, *Queens Chronicle* and *Daily News*; and
- Bulletin boards at the Queens Borough Public libraries and Queens Chamber of Commerce.

- **Distribution and Notice of the PSS.** Distribution of the PSS will be in accordance with statutory requirements for service and notice lists. A list of persons receiving copies of the PSS is provided in Appendix C. A notice of the PSS was published in *The New York Daily News*, *The New York Times*, the *Queens Tribune*, and the *Queens Chronicle*. Copies of the PSS are available at several libraries in Queens and Brooklyn.

- **Public Meeting/Open House.** Two public meetings will be held on October 3 and 12, 2000. The purposes of these meetings are to listen to public concerns, share information, and be available to answer questions. Orion Power representatives will present an overview of the project, the PSS, and studies outlined in the Proposed Stipulations. The information will be provided in a presentation and/or a video display. Orion Power representatives will also be available at the meeting to discuss comments on a more informal basis. Fact sheets will be available for the public to take home, and comments can be provided to Orion Power at a later date.

Comments received at this public meeting and other community meetings will be formally documented and addressed in the development of the Article X Application.

- **DPS Open Forum.** In addition to the public meeting/open house hosted by Orion Power, DPS will convene an open forum on the Repowering Project in October. Orion Power will take an active role in supporting this effort with DPS. The open forum will initiate a formal public comment period.

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Comments received during this period will be formally documented and addressed.

3.2.3 Preparation and Submittal of the Article X Application for Certification

Following submittal of the Application, Orion Power will continue to provide additional information on the Repowering Project and its development using a variety of methods, including:

- **Mailing lists and data base.** The names of interested parties will be incorporated into a data base. The lists will be updated via sign in sheets at meetings and presentations and inquiries made through the toll free number and web site;
- **Periodic mailings of newsletters and fact sheets.** The schedule and distribution will be determined, in part, by critical milestones in the project schedule;
- **Community Outreach.** Orion will continue to give presentations to community and civic groups and plans to offer site tours of the facility to foster first-hand understanding of the repowering project;
- **Media Outreach.** Media Outreach will include press releases, notices, and regular articles in the *Queens Chronicle*, *Queens Tribune* and other local papers;
- **Website.** Maintenance of the project website (proposed stipulations and regular project updates will be posted here);
- **Formal document repositories.** Copies of the PSS and other information will be deposited at several branch libraries in Queens as developed;
- **Toll free hot line.** Calls will be recorded and responded to within 48 hours except during holidays and weekends; and
- **Neighborhood presence/community benefits programs.** These will include participation in local events, sponsorship of local scholarships, development of a local tree planting program, and initiation of other benefits programs in consultation with the community.

Orion Power intends to file a complete Application in April 2001.

During the application phase of the Repowering Project, Orion Power will host additional public meetings/open houses to discuss

3.2. Community Involvement Process

the status the project, the findings of the studies as set forth in the stipulations and proposed mitigation measures. These meetings will also ensure that community input is reflected in the Article X Application and that public concerns are adequately addressed.

3.2.4 Adjudicatory Hearings

After Orion Power files the Article X application with the Siting Board, the application will be reviewed by several agencies. When the Chairman of the Siting Board determines that the application is complete, formal adjudicatory hearings will be scheduled. Citizens who have filed for and been granted intervenor status may file testimony and otherwise participate in the hearings. The process for obtaining intervenor status will be explained at public and community meetings and in a fact sheet distributed before the Article X Application is filed.

If the Siting Board approves the Article X Application and issues the Article X Certificate, a formal notice will be published in a local newspaper. Notices will also be mailed to persons appearing on the formal service list.

3.2.5 Ongoing Public Participation

What happens after the Article X Certificate is issued?

Orion Power understands that public involvement is an ongoing and evolving process that continues beyond the submittal of the formal Article X Application. Public outreach and community involvement will be ongoing through construction and operation. Orion Power will participate in regularly scheduled community and borough board meetings, maintain the project website, issue press releases, update the mailing list, and distribute periodic mailings of newsletters and fact sheets.