



Request for Expressions of Interest

Access and Conservation Easement (ACE) Program

1. Mission and Goals

This Request for Expressions of Interest (“RFEI”), issued by the New York Power Authority (“NYPA”) and the New York State Canal Corporation (“NYSCC”), in partnership with the NYS Department of Environmental Conservation (“NYSDEC”), seeks to gauge interest in the new Access and Conservation Easement Program (“ACE Program”), which will make funding available to acquire easements from willing property owners with lands adjacent to certain Lake Ontario tributaries for public fishing access and other, negotiable conservation rights. The ACE program will provide compensation to landowners for these easements, which will reside with NYS DEC ensuring public access, protection of fish habitat, and water quality are improved for years to come.

The ACE program stems from the success of the Fall Fishing program launched by NYPA and the Canal Corporation in 2020 to augment flows in specific Lake Ontario tributaries to improve angling opportunities across Western New York. Stakeholders (including fishing guides, anglers and local tackle shops) have responded positively to the increased flows but have expressed concerns of limited public access along certain tributaries, which can lead to overcrowding at publicly accessible areas. As a result, NYPA/Canals and NYSDEC have jointly launched this ACE program to help alleviate these concerns, increase public fishing access and environmental resiliency along these tributaries so more anglers can enjoy these opportunities without compromising the quality of their experience.

2. Definitions

Wherever the following words and expressions are used in this RFEI, it is understood that they have the meaning defined below.

ACQUISITION	The acquisition by New York State of Property from an Owner, including Access and Conservation Easements, consistent with the purposes of the ACE Program.
ACQUISITION PRICE	The price paid to an Owner of Property for an Access and Conservation Easement.
ACCESS AND CONSERVATION EASEMENT	A conservation easement as that term is defined in Article 49 of the Environmental Conservation Law, that is consistent with the purposes of the ACE Program.
CANAL-RELATED WATERS	A stream or other waterbody that is a tributary or distributary of the Canals.
PURCHASE AGREEMENT	A written agreement between NYSDEC and a landowner providing for the State’s acquisition of an Access and Conservation Easement
REPPONENT	A property owner who owns property located within the scope of this RFEI who has responded to this RFEI
RFEI	Request for Expressions of Interest
TRIBUTARIES	North-flowing Lake Ontario tributaries receiving or being considered to receive Canal Related waters.

3. Background

New York State Canal System

Operated and maintained by the New York State Canal Corporation, a subsidiary of NYPA, the Canal System is comprised of the Erie, Champlain, Oswego, and Cayuga-Seneca Canals, and includes 57 locks and 16 lift bridges spanning 524 navigable miles linking the Hudson River with the Great Lakes, the Finger Lakes, and Lake Champlain. These waterways are navigable seasonally—typically from late May through early October—during which time local and long-distance boaters move through the network. Vessel traffic is at present solely recreational, comprising a variety of both engine- and human-powered crafts.

Reimagine the Canals initiative

New York State's *Reimagine the Canals* initiative involves a commitment by NYPA of \$300 million to energize, activate, and preserve the Canal System for recreational use over the course of its third century. This initiative aims to boost economic development and environmental resiliency. This includes promoting tourism and recreation as well as adaptively reusing canal water control structures to address the threats of climate change and environmental degradation in upstate New York.

Fall Fishing program

Due to long-term improvements to water quality, stocking, and resource management in Lake Ontario and the lake's tributary streams, Western New York has become a popular recreational destination for trout and salmon fishing. The region is well-known among anglers for flourishing fisheries for brown trout, rainbow trout/steelhead, Atlantic salmon, and Pacific salmon, including chinook salmon and coho salmon.

Atlantic and Pacific salmon fishing opportunities can begin as early as the beginning of September, usually peaking from mid-September through late October. Brown and rainbow trout runs begin in mid-October and run through winter, with prime brown trout fishing typically occurring in November to early December. Prior to the initial Fall Fishing Program pilot in 2020, episodic water releases from the Canal into Lake Ontario tributaries to maintain Canal water levels for navigation or to drain the Canal at the end of the navigation season present opportunities for fish to run upstream from Lake Ontario; however, the irregularity of the water releases and thus irregular stream flow did not provide suitable fish habitat or predictable angling conditions.

In September 2020, NYPA (in consultation with NYSDEC) launched the Fall Fishing program, which was the first time flows from the Canal into the Lake Ontario tributaries were managed specifically to enhance the fisheries. These increased releases are designed to:

- Improve recreational fishing opportunities;
- Create suitable fish habitat and improve existing fish habitat;
- Protect fish from predators and predatory angling methods;
- Help juvenile fish and their prey survive during low-flow periods;
- Promote larger spawning migrations and enhance natural reproduction in some streams; and
- Provide more predictable angling opportunities.

The program ran from September to December, and largely focused on Oak Orchard Creek (Orleans County) and Sandy Creek (Monroe and Orleans Counties). Data collection efforts included collecting discharge data from U.S. Geological Survey (USGS) gages, temperature and dissolved oxygen (DO) monitoring in the Canal and the receiving tributaries, an angler survey to assess the impact of the water releases on the fishing experience along the tributaries, and interviews with stakeholders to provide feedback on the 2020 Fall Fishing program. The program was deemed a success and was expanded in 2021, to include Eighteenmile Creek (Niagara County) and is anticipated to continue in future years with the potential to expand to more tributaries.

4. Access and Conservation Easement (ACE) Program

Through the Reimagine the Canals initiative and in partnership with the NYSDEC, the New York Power Authority ("NYPA") and New York State Canal Corporation ("NYSCC") have created an Access and Conservation Easement ("ACE") program for landowners with waterfront property along on north-flowing tributaries which are currently or planned to become part of the ongoing Fall Fishing Program and receive Canal Related water (see "RFEI Area" below). The program will provide compensation to landowners to secure public fishing access and other conservation rights. Conservation rights could include development rights, timber rights, erosion control access, stream habitat improvement, or other rights that provide the NYSDEC the ability to improve and protect fish habitat. The ACE Program seeks to increase public fishing access and provide conservation value to the public.

The rights transferred will be negotiated with each landowner separately and can differ based on the property and rights acquired. Easements will reside with NYS DEC ensuring public access, fish habitat, and water quality are improved for years to come.

Funding and timeline: NYPA estimates investing up to \$1.25 million over the next ten years into the ACE Program. This RFEI will result in the priority properties becoming part of an initial pilot for proof of concept. All responses will be reviewed and ranked. Those selected to begin initial negotiations following the pilot will be contacted following the proof of concept. Future RFEIs (or similar processes) may be released if NYPA and NYSDEC choose to expand this program and acquire more easements in the future.

Process:

Step 1: Interested landowners are invited to respond to this RFEI document

Step 2: NYPA and NYSDEC will assess responses and will evaluate each respondent's property based on criteria detailed below in the 'Scope' section.

Step 3: NYPA and NYSDEC will contact selected property owners to discuss the potential of acquiring an access and conservation easement. Those selected for initial inclusion in the Program will be notified within 60 days.

Step 4: An independent appraiser will conduct an appraisal including the current property value and a property value with the negotiated rights to be conveyed in the ACE to determine the acquisition price.

Step 5: If acquisition price and other terms pertinent to the access and conservation easement are mutually agreed upon by the respondent, NYSDEC and NYPA, a purchase agreement will be executed between NYSDEC and the property owner subject to all required reviews.

Note that the respondent and NYPA will each have the opportunity to opt out of the process should a final agreement not be reached.

5. Scope

This RFEI invites respondents to submit a package of materials demonstrating their interest in taking part in the Access and Conservation Easement (ACE) Program.

To be considered for the ACE Program, the respondent's property should be part of the RFEI Area (defined below) and should at least be 20 feet in width (length between the high-water and the end of the easement).

The "RFEI Area" is defined as properties with waterfront access to the following tributaries and the portion of those tributaries described below:

Eighteenmile Creek (Niagara County) – Downstream of Burt Dam to Lake Ontario

Johnson Creek (Orleans County) – Downstream of Lydonville Dam to Lake Ontario

Oak Orchard River (Orleans County) – Downstream of Waterport Dam to Lake Ontario

Sandy Creek - East and West Branches and main stem (Monroe and Orleans Counties) – From the Erie Canal to Lake Ontario

Additionally, there are a variety of factors that NYPA and NYSDEC may look at to determine the appropriateness of a property to be part of the ACE Program. These include, but are not limited to the length of waterfront access, topography of the land, availability of public parking and other amenities nearby, proximity to existing Public Fishing Rights (PFR) sites, etc.

6. Submission Considerations

Timetable

Following is a tentative timetable spanning the release of the RFEI and is subject to change. Any changes will be communicated to respondents.

RFEI Released	February 4, 2022
Informational Sessions	March 8, 2022; 11 am and 6 pm
Deadline to submit questions	March 11, 2022
RFEI Submittal Due Date	April 4, 2022

Submission Requirements

Responses must include:

A. Owner and Property Information

- Name and contact information of property owner
- Property address and size
- Tributary Name
- Tax Parcel ID

Submission Guidelines

- Respondent package (items listed above in “Submission Requirements”) should be submitted by 4PM EST on April 4, 2022.
- Respondents can download the RFEI and Submittal Response Form from the NYPA website: nypa.gov/procurement.
- The submission must be submitted on the provided form.
- Respondents should submit their responses electronically via email to OnTheCanals@nypa.gov, with subject title: *Q22-7262NF ACE Program 2022* or by regular mail (postmarked by April 4, 2022 to:
 - New York Power Authority, 123 Main Street, 5th Floor, White Plains, NY 10601.
Attention: ACE Program 2022.
- When submitting your response, please use the following format for your attachments:
 - *Q22-7262NF ACE Program 2022*

Informational Sessions

Two virtual, informational sessions regarding the RFEI will be held on March 8, 2022, the first at 11 am and the second at 6 pm. Attendance at the sessions are not mandatory to submit an RFEI response, they are for informational purposes only. There are three ways to attend a session. If you should have any technical difficulties joining the sessions, please call 716-481-6759 for assistance.

1. Via [youtube.com](https://www.youtube.com/channel/UC_5XDOLQny9Xb7W6wICkHzw/featured) which provides the audio but does not provide an option to speak:
https://www.youtube.com/channel/UC_5XDOLQny9Xb7W6wICkHzw/featured

2. By Zoom providing audio and video as well as the chance to speak:
<https://nypa-gov.zoom.us/j/83176204965?pwd=cIFoZUZZUHpRem5ZVWxOVXhoUHplUT09>
3. By phone:
+13017158592
Meeting ID: 831 7620 4965
Passcode: 523262

7. Questions and Inquiries

All inquiries and requests for information regarding this RFEI must be submitted via email to OnTheCanals@nypa.gov no later than the date noted in the above timetable. The organizers will provide written responses to substantive questions in the form of one or more addenda to the RFEI. Such addenda are the only authorized method to communicate substantive information, including the clarification or modification of the timeline, terms, or other requirements of this RFEI.

8. Disclaimer

Respondents will not receive any preference for any future solicitation, license, or permit should they choose to submit materials in response to this opportunity. NYPA reserves the right, at its sole discretion to: withdraw or discontinue this RFEI in whole or in part; use the ideas or materials submitted in any manner deemed to be in the best interests of NYPA, including but not limited to, the undertaking of the prescribed work in a manner other than that which is set forth herein. NYPA likewise reserves the right, at any time, to change any components, concepts, or approaches of the RFEI.

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