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On behalf of the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP), I respectfully submit the following comments regarding New York State's Draft State Energy Plan, dated August, 2009. We note that, in several sections, the draft plan uses the term "public trust and parkland doctrines" in recommendations relating to the development of energy resources on State-owned lands. We recommend that this phrase be removed from the document. We are not aware of any set of policies constituting "parkland doctrine." The term "public trust doctrine" captures a broad set of legal issues that is ambiguous in regard to the Energy Plan.

1. Marcellus Shale We recommend that the Draft Plan be revised to make a clear statement that New York State will not seek to develop or state-owned oil and gas resources within State Parks under the jurisdiction of OPRHP. Here is the current language from the Draft Plan (p. 51): "Section 3.2.2 Recommendations · Study the potential for new private investment in extracting natural gas in the Marcellus Shale on State-owned lands where it would not be inconsistent with public trust or parkland doctrines, in addition to development on private lands." We recommend that this bullet be revised to read as follows: · Study the potential for new private investment in extracting natural gas in the Marcellus Shale on State-owned lands, in addition to development on private lands (with the exception that development of State-owned natural gas and petroleum resources is prohibited in the Adirondack and Catskill Forest Preserves and state parkland under the jurisdiction of the Office of Parks, Recreation and Historic Preservation).

2. Alternative Energy Section 3.1.4 of the Draft Plan (p. 48) includes the following: "Recommendations · Assess the potential for siting renewable energy projects, including wind, solar, geo-thermal, hydrokinetic and hydropower on those State-owned lands and waterways where such development would not require a constitutional amendment or be inconsistent with the public trust or parkland doctrines. This will be accomplished by developing a process for installing renewable energy technologies on State facilities, particularly those that are energy intensive, and have open space and/or compatible roofing." We recommend that this bullet be edited as follows: · Assess the potential for siting renewable energy projects, including wind, solar, geo-thermal, hydrokinetic and hydropower on those State-owned lands and waterways where such development would not require a constitutional amendment. This will be accomplished by developing a process for installing renewable energy technologies on State facilities, particularly those that are energy intensive, and have open space and/or compatible roofing. Renewable energy development in State Parks should be limited to appropriately scaled installations that are compatible with maintaining natural, historic, and recreational resources.

3. Electricity Distribution Transmission Section 4.2.2 of the draft Plan (p. 60) includes the following:

"Recommendations · The State should encourage cooperation in the development of electricity transmission and distribution infrastructure, including Smart Grid technologies, using State-owned lands and rights-of-way unless such development would require a Constitutional amendment or be inconsistent with the public trust or parkland doctrines." We recommend that this bullet be edited as follows: · The State should encourage cooperation in the development of electricity transmission and distribution infrastructure, including Smart Grid technologies, using State-owned lands and rights-of-way unless such development would require a Constitutional amendment or would result in significant adverse impacts to natural, historic, or recreational resources within State Parks. 4. Recommendations Section We note the three revisions requested above would also need to be incorporated into Section 7 of the Draft Plan, which restates all of the Recommendations from throughout the report. Thank you for considering these proposed revisions to the State Energy Plan. Sincerely, Andy Beers Executive Deputy Commissioner New York State Office of Parks, Recreation and Historic Preservation