January 17, 2013

John R. Koelmel  
Chairman  
The New York Power Authority  
c/o First Niagara Bank  
Larkin at Exchange, 6th Floor  
Buffalo, NY 14210

RE: NYPA's Responsibility for the Robert Moses Parkway

Dear Chairman Koelmel:

The Robert Moses Parkway separates much of the City of Niagara Falls from its waterfront, and in so doing it suppresses property values, encourages blight and the concentration of poverty, and depresses property tax receipts.

Over the years, numerous plans have been developed by local and international planners to reclaim the Niagara Falls waterfront. While they may vary slightly in detail, there is a clear consensus that in order to open up the Cataract City’s waterfront, the absurdly overbuilt Robert Moses Parkway needs to be turned from a barrier into modern waterfront infrastructure which would connect the city to its waterfront instead of separating them.

The various plans published over the years call for generous pedestrian and bicycle access, the removal of viaducts and berms which obstruct waterfront views and increase noise pollution, the elimination of acres of extraneous asphalt and concrete, and the enhancement of permeability between the waterfront and the adjacent neighborhoods. We anticipate that these priorities will also be reflected in each of the alternatives for the northern section of the Parkway to be unveiled by authorities later this month.

Historically, the only thing which has prevented the implementation of the various plans to retake this waterfront has been the lack of funding. For that reason, I do not write today to advocate for this or that specific design alternative for the Robert Moses Parkway, I instead write to remind the New York Power Authority that regardless of which alternative is
selected, NYPA is responsible for the it. NYPA planned the Parkway, NYPA built it, NYPA evicted several scores of homeowners and other property owners to seize the land on which it sits, and NYPA owns the land under the Parkway to this day. As such, NYPA bears the responsibility for fixing it – for financing the implementation of this plan.

To increase understanding of NYPA’s responsibility for the Robert Moses Parkway, my office has developed a report entitled “The Niagara Falls Waterfront: NYPA’s Responsibility for the Robert Moses Parkway”. I herewith transmit a copy of this report for your review.

It is well within NYPA’s means to meet this obligation. Over the past six years, through the use of excess revenue from the Niagara Power Project at other operations and through “voluntary contributions” to the state treasury, NYPA and the State of New York have expropriated more than $1 billion from Niagara Falls. This re-occurring expropriation is particularly startling when one considers the staggering concentration of poverty and blight in this community.

I have a deep and abiding respect for you, for your expertise and your leadership, and for your volunteer service to the people of the State of New York as Chairman of the Power Authority. As the successor to Robert Moses, you have an historic opportunity to right one of the more egregious historic wrongs which he committed by reworking the roadway which bears his name to actually serve the interests of the city and the neighborhoods in which it sits. Thank you very much for your leadership and your consideration.

Sincerely,

Brian Higgins
Member of Congress
THE NIAGARA FALLS WATERFRONT:
NYP A's Responsibility for the Robert Moses Parkway

OFFICE OF CONGRESSMAN BRIAN HIGGINS
WASHINGTON, D.C.
JANUARY 17, 2013
THE HISTORICAL CONTEXT – ROBERT MOSES AND HIS NIAGARA PARKWAY

Robert Moses has had a devastating effect on the Niagara Frontier, and it will never again be the same.

-The Niagara Falls Gazette, February 5, 1961, p. 3H

Robert Moses held multiple and concurrent leadership positions in various state authorities and other agencies involved in the construction and planning of public works from 1938 to 1968. In addition to serving as Chairman of the Power Authority from 1954 to 1963, during which time he brought to fruition the Niagara Power Project, he also lead several state transportation and park agencies, through which he “had a profound and determinative effect on national and even international policy, [having] popularized the limited-access highway in the United States.”

While other early proponents of limited access highways proposed that they only be used to connect cities, Moses is associated with advocating that they should proceed through cities, through neighborhoods, and very often along waterfronts. Since his time, there is a growing recognition of the injurious impact limited access highways have on property values and development prospects in urban neighborhoods, and how, in the urban waterfront context, they severely stifle waterfront development potential.

The Robert Moses Parkway, which

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4 Norquist, Wealth of Cities, P. 156.
was constructed between 1958 and 1964, and had been named the Niagara Parkway until June 27, 1963\(^7\), was in several regards typical of Moses' work. Its viaducts, flyovers and berms afford drivers pleasurable views, but they obstruct views from the neighborhoods past which it sails. In addition to the visual obstruction, the parkway physically obstructs passage from city neighborhoods to the river.\(^8\) While being alongside water should raise property values, being alongside a noisy, polluting superhighway actually has the opposite effect. Critics of the Parkway understood this even as it was being planned and built.\(^9\)

The Parkway that bears Moses’ name was also typical of his work in terms of the process he employed to build it. Throughout his career, Moses had been known to have been “ruthless in dealing with… those who would obstruct his plans”\(^10\). In 1956, as the Parkway was being planned, the Common Council of the City of Niagara Falls objected to what they indicated would be a $12 million reduction in the City’s tax base.\(^11\) This was only based on the direct impact of the Authority’s takings, and did not include the reduction in values over time of properties which had been near the waterfront and which would be cut off from the waterfront by the new highway. Moses responded by publicly dismissing, chiding and belittling local elected officials.\(^12\) This prompted then-councilman John B. Daly to reply “It

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\(^7\) “Niagara Parkway Renamed for Moses,” *Niagara Falls Gazette* June 28, 1963 p. 4.


\(^10\) Rodgers, “Robert Moses: An Atlantic Portrait.”

\(^11\) *Niagara Falls Gazette*, October 2, 1956, p1.

\(^12\) E.g., *Niagara Falls Gazette*, January 16, 1961.
is quite easy for Mr. Moses to take the adamant stand that he does. He doesn't live in Niagara Falls and he doesn't have to be concerned with the serious loss of assessable property and resultant higher taxes that face our city and each and every one of our taxpayers.\footnote{Niagara Falls Gazette, August 16, 1961 (Page number not found. A copy is located in the hydropower scrapbook in the local history section of the Niagara Falls Public Library).}

The development of this Parkway was also similar to Moses' other work in terms of his aggressive use of eminent domain powers. It is estimated that Moses displaced 250,000 residents over the course of his career,\footnote{Caro, \textit{Power Broker}, p. 19.} and he has become infamous for his disregard for the hardship of homeowners and renters whom he had forced to move, having said that "there are... people in the way—that's all. There's very little real hardship in the thing. There's a little discomfort and even that is greatly exaggerated."\footnote{Caro, \textit{Power Broker}, p. 876.}

In one case, the Power Authority caused an 85 year-old invalid named Anna Pierce to be forcibly removed from her home on Chasm Ave.\footnote{Niagara Falls Gazette, September 19, 1959, p. 11.} She had not previously been outside her home in 35 years. Another resident, one of more than 150\footnote{Niagara Falls Gazette, November 2, 1958 p. 2-C.} impacted property owners on Whirlpool Street and Rapids Boulevard, who was characterized by Niagara Gazette reporter Joe Donaldson only as an "elderly lady", put her situation this way: "I'm too old to fight. I have lived in this house for 60 years and I hate to have to go. I didn't get what I thought I should, but I can't fight any more."\footnote{Niagara Falls Gazette, February 8, 1959.}

The Parkway was atypical compared to most major highway projects in terms of how it was financed and the agency used to execute the requisite planning, acquisitions, demolition and construction. The 1957 Niagara Redevelopment Act specifically authorized NYPDA to include parkway construction costs in the overall cost
of the Niagara Power Project, which would be financed by the largest bond issue ever undertaken by any government in the world up to that point. It was not NYSDOT, not the Thruway Authority, nor the State Parks Office nor the Niagara Parks Commission, but it was NYP\textsuperscript{a} which planned the parkway, seized the properties, and let the contracts for its construction. The Power Authority hosted lavish parties to fete its opening, and it is NYP\textsuperscript{a} which owns the land on which the Parkway sits to this very day.

In the years leading up to the passage of the Niagara Redevelopment Act in 1957, there was a bitter, protracted and public dispute between those who preferred state ownership of the Niagara hydropower resource and those who preferred that it would remain in private hands as it had been previously. It is too easy to view this dispute as an argument between public and private interests, however. From a Western New York perspective, it could be alternately viewed as a dispute between local control (in the hands of local industrialists like Paul Schoellkopf and other largely local private investors) and control by downstate New York politicians. Just as Moses had wrested control of the Niagara Parks Commission from local philanthropist Ansley Wilcox and his allies some thirty years earlier, the 1957 Niagara Redevelopment Act codified his seizure of uniquely local resources for the service of the interests of Albany and New York City.

\textsuperscript{19} 16 USC § 836
\textsuperscript{20} Caro, \textit{Power Broker}, p. 1023
\textsuperscript{21} \textit{Niagara Falls Gazette}, October 14, 1958, p. 17; October 2, 1956, p. 1; February 5, 1951, p. 3-H.
\textsuperscript{22} \textit{Niagara Falls Gazette}, April 19, 1959, p. 11; September 4, 1959, p. 20; November 2, 1958, p. 2-C; February 8, 1959, p. 1; February 10, 1950, p. 1; February 24, 1959, p. 1; February 25, 1959, p. 1; June 2, 1959, p. 9; July 19, 1959, p. 7-A; November 6, 1960, p. 5-C.
\textsuperscript{26} \textit{Niagara Falls Gazette}, February 5, 1961, p. 3-H
\textsuperscript{27} Caro, \textit{Power Broker}, 246-56.
MAKING IT RIGHT – THE CURRENT SITUATION AND NEXT STEPS

The 2005 relicensing of the Niagara Power project was a good start at returning some of the benefits from the Niagara Power project to its host communities, but it was very modest in comparison to the amount of benefit NYPA annually expropriates from Western New York.

In addition to one-time concessions, the Niagara Power Project’s 2005 relicensing agreements provides for $18.5 million in annually re-occurring payments.\(^{28}\) Considerable though it is, this sum pales in comparison to the hundreds of millions of dollars which NYPA continues to expropriate from Western New York. Consider:

- Over the past six years, the NYPA and the State of New York have taken over $1 billion in excess revenue from the Niagara Power Project to fund operations elsewhere.\(^{29}\)
- In 2008 alone NYPA had a surplus of $309 million. \$236 million of this, or 76%, came from the Niagara Power Project.\(^{30}\) Most of NYPA’s other operations typically lose money or break even.
- NYPA’s own studies, prepared in anticipation of relicensing, found that only 14% of the economic benefit from the Niagara Power Project remains in Western New York.\(^{31}\)
- Last year alone, excess water flows at Niagara generated an extra \$39.5 million more for NYPA than the Authority had budgeted.\(^{32}\)
- Prospectively, NYPA’s profits will only increase, as they received authorization from FERC on April 25 of this year to increase their generating capacity by 10%.\(^{33}\)

As discussed in the previous section, NYPA is historically responsible for foisting the Robert Moses Parkway upon Western New York. These figures demonstrate that NYPA clearly has the capacity to meet its obligations relative to its future disposition.

In September, 2009, the City of Niagara Falls made application to the Federal Highway Administration (FHWA) under the TIGER\(^{34}\) grant program for the conversion of substantial portions of the Robert Moses Parkway to infrastructure more appropriate to this unique

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\(^{29}\) NYPA Niagara Power Project excess revenues from quarterly revenue statements from www.NYPA.gov.


\(^{31}\) NYPA Niagara Power Project Socioeconomic Study, Prepared by the Center for Development Analysis-CENDA, August 2001 Table 5.3-5, Page 5-45


\(^{34}\) Transportation Investment Generating Economic Recovery, a nationally competitive program wherein major projects are selected for funding by the Secretary of Transportation.
waterfront context. While this application was ultimately unsuccessful, it is useful because it galvanized the body of existing planning work into one coherent plan and gathered community support for it.

At a cost of $59.5 million (in 2009), their proposal would have addressed the South segment of the Robert Moses Parkway from the Falls east to just past John Daly Blvd., and from the Falls north to De Veaux Woods State Park. As this is approximately half of the portion of the Parkway which is which was built by the Authority and which sits on Authority land, it is a reasonable approximation to suggest that the Authority could meet its obligation to undo the damage it has done to this waterfront for a sum on the order of approximately $120 million.

Attached to this report please find tables and figures from the 2009 TIGER application including site plans for the project as proposed at that time, a table outlining the minimal current traffic counts on the Robert Moses Parkway and a table estimating the positive economic impacts of this initiative.
A Federal Role

The necessity for NYPAPA to meet its obligations to the communities whose resources it uses to generate its vast revenues is not only a matter of state policy, but it is a matter of federal policy as well. Hydropower plants are licensed by the Federal Energy Regulatory Commission (FERC). In the context of seeking a license, applicants will typically seek to demonstrate to FERC that they are meeting their obligations to their host communities. While the Niagara Power Project received its 50-year license only a few years ago, the impending license application at another plant can provide the Niagara Falls community with leverage to encourage NYPAPA to meet its obligations.

NYPAPA’s Blenheim Gilboa power plant, located in Schoharie County, is a hydropower plant which, on a net basis, actually uses more power than it produces. Theoretically, it is a battery.\(^{35}\) When power is cheap, as it may be in the middle of the night, it takes power off the grid to pump water to a reservoir on top of a hill. When power is expensive and possibly in short supply, the water is allowed to flow back down the hill and through power generating-turbines. In theory, this prevents outages downstate.

The Blenheim Gilboa project is up for relicensing in 2019. While this sounds like it is a long time off, preparations are already underway for the renewal of this 50-year license by FERC.\(^{36}\) Western New York has a substantial interest in this proceeding, as this project and the Niagara Power project are linked in a very important way. From January of 2010 through March 2012, the Niagara Power Project subsidized the Blenheim Gilboa project by $62.3 million.\(^{37}\)

This transfer of wealth from Niagara Falls, NY, which is beset with a staggering concentration of poverty and blight, to the New York City Area – the world’s financial capitol – is inequitable and unconscionable. On this basis, if the Authority cannot appropriately meet its obligations in Niagara Falls – including its obligations relative to the Parkway it built, stakeholders in Niagara Falls may wish to contemplate objecting to FERC’s proposed issuance of a license to NYPAPA for the continued operation of the Blenheim Gilboa plant. The proposed objection would not necessarily be to the continued operation of the Blenheim Gilboa by some entity – its continued operation may be necessary or economically important. The objection would specifically be to its continued operation by NYPAPA, as its continuation in the NYPAPA portfolio perpetuates the aforementioned objectionable and ongoing transfer of capital.


\(^{37}\) The sum of Blenheim Gilboa’s quarterly deficits (less the few instances of quarterly surpluses) from NYPAPA’s financial statements from this period. [www.nypa.gov](http://www.nypa.gov).
RESPONSES TO POTENTIAL CONCERNS

Q) The Niagara Redevelopment Act of 1957 limits the amount of money which NYPA can invest in the Parkway to $15 million. Doesn’t this preclude NYPA investment?

A) No. That stipulation was a condition of NYPA being granted a 50-year license to build and operate the Niagara Power Project. That license has since been granted and has expired, so that requirement is no longer valid. The law cannot reasonably be interpreted as instructing NYPA that it cannot meet its obligations to appropriately maintain land that it owns 56 years after-the-fact.

Further, it seems that the $15 million figure in statute was not binding on the Authority even during the term of the initial license. This is evidenced by that fact that the initial construction of the Parkway cost well in excess of $15 million. A compilation of the contracts contemporaneously reported in the *Niagara Falls Gazette* sums to a total of $16.7 million. This tabulation includes very few of the acquisitions and none of the engineering contracts and so can only be a partial list of the total outlays for the Parkway:

<table>
<thead>
<tr>
<th>Use</th>
<th>Date in NFG</th>
<th>Page in NFG</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition</td>
<td>2/10/1959</td>
<td>11</td>
<td>$275,000.00</td>
</tr>
<tr>
<td>Acquisition</td>
<td>2/24/1959</td>
<td>1</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>Acquisition</td>
<td>6/2/1959</td>
<td>9</td>
<td>$745,000.00</td>
</tr>
<tr>
<td>Construction</td>
<td>2/24/1960</td>
<td>22</td>
<td>$2,626,997.00</td>
</tr>
<tr>
<td>Construction</td>
<td>2/26/1962</td>
<td>1</td>
<td>$127,732.00</td>
</tr>
<tr>
<td>Construction</td>
<td>4/3/1962</td>
<td>1</td>
<td>$1,166,409.00</td>
</tr>
<tr>
<td>Construction</td>
<td>5/24/1962</td>
<td>24</td>
<td>$8,934,625.25</td>
</tr>
<tr>
<td>Construction</td>
<td>8/2/1963</td>
<td>1</td>
<td>$1,868,159.00</td>
</tr>
<tr>
<td>SUM</td>
<td></td>
<td></td>
<td>$16,743,922.25</td>
</tr>
</tbody>
</table>

Q) As then-Attorney General, Governor Cuomo issued a formal opinion stating that authorities like NYPA should stop providing generous discretionary grants to local communities in order to comply with the law. Doesn’t this action run contrary to those instructions?

A) No. Those instructions said that an authority could not make grants that did not specifically flow from a “power, duty, or purpose” of that authority. The specific matter under considerations was grants to civic and non-profit organizations. Nothing in that opinion can reasonably be construed as suggesting that NYPA cannot prudently and appropriately maintain land that it owns.

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Figure 1: Project Location

- Project Location
- Regional Location
- Buffalo Avenue
- John B. Daly Blvd Interchange
- Robert Moses Parkway – South Segment
- Upper Niagara River
- Whirlpool Street
- Robert Moses Parkway – North Segment
- Lower Niagara River/Gorge

From 2009 TIGER Application
Figure B-1: Conceptual Alignment - Robert Moses Parkway South Segment - John B. Daly Blvd to Prospect Street
Selected as the preferred alternative arising out of its Public Scoping Process, the alignment would remove all existing expressway/interchange infrastructure and grade separation to create a two-lane entry road from John B. Daly Blvd to Prospect Street. The concept design includes a full program of landscape/habitat restoration, new trail connections to/along the River, scenic overlooks, and better transitions to the Buffalo Avenue Heritage District and the City street grid.
Figure B-3: Concept Design - Reconfiguration of Robert Moses Parkway North/Whirlpool Street, Main Street to Findlay Drive: Originally proposed as part of the Niagara Falls Waterfront Master Plan and later refined in various other plans, the concept would remove expressway features of the RMP North segment and consolidate access along a new Riverfront Boulevard along the current alignment of Whirlpool Street. This would fully open downtown and the City’s north end to pedestrian/bicycle access to various park and natural resources along the Niagara Gorge (See also Section in Figure B-4).
### Table 1
Total Daily Traffic Volumes
Selected Road Segments along Niagara River

<table>
<thead>
<tr>
<th>Segment</th>
<th>Average Annual Daily Traffic (AADT)</th>
<th>Year of Count</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NYS Thruway – Niagara Section (I-190):</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Niagara County Line (N. Grand Is 3r) to NYS 384 Buffalo Ave</td>
<td>66,900</td>
<td>2006</td>
</tr>
<tr>
<td><strong>Robert Moses Parkway – South Segment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Lane Expressway Transitioning to 2 Lane Arterial (use of NB lanes only) north of John Daly Blvd:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>I-139 (N. Grand Is 3r) to John B. Daly Blvd Interchange</td>
<td>20,400</td>
<td>2004</td>
</tr>
<tr>
<td>John B. Daly Blvd Interchange to Buffalo Ave(^a)</td>
<td>13,000</td>
<td>2007</td>
</tr>
<tr>
<td>John B. Daly Blvd Interchange to Prospect Street(^b)</td>
<td>5,000</td>
<td>2005</td>
</tr>
<tr>
<td><strong>Buffalo Avenue: 4 Lane Collector – Daly Blvd to First Street:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>John B. Daly Blvd to First Street</td>
<td>2,000</td>
<td>2006</td>
</tr>
<tr>
<td><strong>Robert Moses Parkway – North Segment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Lane Expressway Transitioning to 2 Lane Arterial (use of NB lanes only) north of Cedar Street:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Main Street (NYS 104) to Findlay Dr</td>
<td>3,300</td>
<td>2008</td>
</tr>
<tr>
<td><strong>Whirlpool Street</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Lane Minor Arterial – Main Street (NYS 104) to First Street:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Main Street (NYS 104) to Third St</td>
<td>300</td>
<td>2007</td>
</tr>
<tr>
<td>Third St to Cleveland Ave (NYS 182)</td>
<td>3,800</td>
<td>2006</td>
</tr>
<tr>
<td>Cleveland Ave (NYS 182) to Whirlpool Br</td>
<td>3,400</td>
<td>2006</td>
</tr>
<tr>
<td>Whirlpool Br to Findlay Dr</td>
<td>2,800</td>
<td>2008</td>
</tr>
</tbody>
</table>

**Notes:**
- **Shaded Rows** indicate road segments proposed for consolidation and/or reconfiguration to provide better multi-modal access to and along the Riverfront.
- \(^a\) Traffic count taken at RMP on/off-ramps connecting to intersection of Buffalo Ave/John B. Daly Blvd. Indicates that majority of RMP South Segment traffic enters/exits RMP at John B. Daly Blvd.
- \(^b\) NYS DOT AADT not available; extrapolated from peak hour counts taken as part of 2005 Downtown Niagara Falls Multi-Modal Access Program.

Source: NYS DOT, Greater Buffalo Regional Transportation Council 2008

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From 2009 TIGER Application
<table>
<thead>
<tr>
<th>Benefit</th>
<th>Unit</th>
<th>Effect</th>
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</thead>
<tbody>
<tr>
<td>Total Savings in Regular Road Maintenance</td>
<td>2009 dollars</td>
<td>$4,500,000</td>
</tr>
<tr>
<td>Total Savings in Road Capital Maintenance &amp; Repair</td>
<td>2009 dollars</td>
<td>$24,000,000</td>
</tr>
<tr>
<td>Increase in Property Value (500 ft from RMP)</td>
<td>2009 dollars</td>
<td>$10,500,000</td>
</tr>
<tr>
<td>Total Increase in Local Property Taxes (500 ft from RMP)</td>
<td>2009 dollars</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>New Hotel Demand</td>
<td>Room Nights</td>
<td>1,000,000</td>
</tr>
<tr>
<td>New Hotel Rooms Supported</td>
<td>Rooms</td>
<td>1,036</td>
</tr>
<tr>
<td>New Retail/Non-Retail Local Expenditures</td>
<td>2009 dollars</td>
<td>$2.0 Billion</td>
</tr>
<tr>
<td>New Employment (non-construction)</td>
<td>Jobs</td>
<td>2,880</td>
</tr>
<tr>
<td>New Total Permanent Payroll (non-construction)</td>
<td>2009 dollars</td>
<td>$1.03 Billion</td>
</tr>
<tr>
<td>Net New Retail Supported</td>
<td>Sq. Ft</td>
<td>548,000</td>
</tr>
<tr>
<td>Net Impervious Surface Areas Removed</td>
<td>Acres</td>
<td>20</td>
</tr>
<tr>
<td>Net New State Sales Taxes Collected</td>
<td>2009 dollars</td>
<td>$40,000,000</td>
</tr>
<tr>
<td>Net New State Income Taxes Collected</td>
<td>2009 dollars</td>
<td>$10,000,000</td>
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Table 3
Summary of Quantitative & Qualitative Benefits
20-Year Horizon
(Net Present Value - Discounted at 7%)