



SCENIC HUDSON, INC.
One Civic Center Plaza,
Suite 200
Poughkeepsie, NY 12601-3157
Tel: 845 473 4440
Fax: 845 473 2648
ScenicHudson.org

October 28, 2021

By email: Brad.Sherwood@usace.army.mil

US Army Corps of Engineers
New York District, CENAN-OP-R
Upstate Regulatory Field Office
1 Buffington Street, Bldg. 10, 3rd Floor
Watervliet, New York 12189-4000

Re: Public Notice Number: NAN-2021-00296-USH

Dear Brad Sherwood:

Scenic Hudson is a not-for-profit organization that preserves land and farms and creates parks that connect people with the inspirational power of the Hudson River while fighting threats to the river and natural resources that are the foundation of the valley's prosperity.

Scenic Hudson opposes the above-referenced application that would result in moored barges that would have adverse visual impacts from both the Germantown shoreline as well as potentially damaging the viewshed of the Olana State Historic Site, a National Historic Landmark. We are also concerned that the action may set a precedent for additional moorings in the vicinity, which would cause cumulative impacts on views and may set precedent for moorings for oil barges in other reaches of the Hudson River. We urge you to deny the application and take the steps outlined below.

The Supplemental Public Notice states that "the USACOE will evaluate the probable impact including cumulative impacts of the proposed activity on the public interest, including among other issues, impact on historic properties." The Notice also states "That decision will reflect the national concern for both protection and utilization of important resources."¹ Scenic Hudson believes this application cannot be approved based on currently available information. Therefore, we urge the USACOE to deny this application until the following are conducted: 1) a National Historic Preservation Act Section 106 review; 2) a visual analysis, including simulations, of impacts on the Olana viewshed; and 3) an alternatives analysis that considers other ways to provide staging of empty and full aggregate barges.

Impacts on the Olana State Historic Site Viewshed

Olana is the greatest masterpiece of Frederic Edwin Church (1826-1900), the preeminent American artist of the mid-19th Century and the most important artist's home, studio and designed landscape in

¹ Supplemental Public Notice No. NAN-2021-00296-USH <https://germantownny.org/wp-content/uploads/2021/10/NAN-2021-00296-USH-NYS-MarineHWY-GermantownBuoy-SupplementalPN.pdf>

the United States.² Olana is located within the Catskill-Olana Scenic Area of Statewide Significance (SASS) and NYS Department of State guidance speaks to the need of protecting views from Olana and the SASS.

Olana is one of the Hudson Valley's most important economic engines. According to an updated economic impact study in 2019, Olana's impact on the Capital Region's economy was \$9.3 million and operations and visitor spending supported 210 jobs.³ Olana attracts about 170,000 visitors annually. As a result of the Olana viewshed's importance—historically, aesthetically, and to the regional economy—Scenic Hudson has invested \$7.94 million in protecting 1,697 acres within the viewshed.

Frederic Church designed Olana as a holistic environment integrating his advanced ideas about art, architecture, landscape design, and environmental conservation. Olana's 250-acre artist-designed landscape with a Persian-inspired house at its summit embraces unrivaled panoramic views of the Hudson Valley and Catskill Mountains. The view from Olana's front porch, a place frequented by many visitors, includes the Hudson River, as well as a direct view of the proposed barge mooring site. In fact, this view is so important that, in addition to being featured in several of Church's paintings, The Olana Partnership's website features a Sky Cam with views directed toward the proposed mooring site <https://www.olana.org/olanaeye/>.

While some may maintain that the 5.33-mile distance between the Olana State Historic Site and the proposed mooring site is just beyond the 5-mile threshold for visual impact, other extenuating circumstances and New York State guidance as indicated in *Scenic Areas of Statewide Significance* (see below) suggest that a visual analysis, including visual simulations, of the proposed mooring site, as well as other precautionary measures, should be conducted before a permit is considered.

Purpose for Including Olana in the SASS

The Olana State Historic Site is located within the Olana Subunit of the Catskill-Olana SASS. Olana was included in the SASS because of its unique landscape in an exceptional setting. Olana's historic mansion and designed landscape are works of art by Frederic Church, and this noted Hudson River School landscape painter incorporated the superlative views of the Hudson Valley into the design of both the mansion and the grounds. Most notably, the SASS guidance states that "This design *establishes an intrinsic connection between the property and the land outside its borders*"⁴ (emphasis added).

Olana's Viewshed Extend Beyond the Proposed Mooring Site

According to *Scenic Areas of Statewide Significance*, Olana's views "extend over five miles down the Hudson and over twenty miles to the Catskill Mountains. Although distant, the Hudson River plays a major role in the setting, its broad expanse and undulating shoreline adding variety and ephemeral qualities of ever-changing reflected color and light."⁵

² <https://columbiacountytourism.org/business/olana-state-historic-site/>

³ <https://www.columbiaedc.com/member-profile-the-olana-partnership/>

⁴ *Scenic Areas of Statewide Significance*; NYS Department of State; July 1993;

<https://dos.ny.gov/system/files/documents/2020/08/hudson-river-valley-sass.pdf> p. 103

⁵ *ibid*; p.102

The proposed mooring site lies just one mile south of the Catskill-Olana SASS and *Scenic Areas of Statewide Significance* is clear that views beyond the SASS are important: “Whether within or outside a designated Scenic Area of Statewide Significance (SASS), all proposed actions subject to review under federal and State coastal acts or a Local Waterfront Revitalization Program must be assessed to determine whether the action could affect a scenic resource and whether the action would be likely to impair the scenic beauty of the scenic resource.”⁶ In other words, location within a SASS is not a prerequisite for taking the necessary precautionary steps to avoid impairment of scenic views. Further, these actions are subject to federal and state consistency review under the Coastal Zone Management Act.

Extenuating Circumstances that Suggest the Potential for Adverse Visual Impact

According to the Supplemental Public Notice, the proposed mooring could accommodate up to six barges with a total area of 250’x156’⁷. This equates to 39,000sf or about 0.9 acres in size. While over five miles from Olana, its elevated vantage point looking down at the Hudson River, the barges’ 39,000sf area and dark color would present the barges as a discordant element against the white river. Unlike river traffic in transit, the barges could be present for extended periods of time. The application makes no statement as to the length of time barges would be moored at that location.

Section 106 Review is Recommended

Given that this application requires a federal permit and the Olana State Historic Site is a National Historic Landmark, Scenic Hudson recommends that a Section 106 Historic Review should be conducted so that the USACOE and other interested parties can fully understand the potential for visual impact on views from the Olana State Historic Site.

Alternatives Not Considered

To the best of our knowledge, the application is being considered without a thorough examination of alternatives that would avoid visual impact on the Germantown community and on Olana. According to the application, its stated purpose is to provide a new commercial mooring point/buoy to provide staging of both empty and full aggregate barges during the course of normal transportation from

quarries in Catskill, New York and Hudson, New York.⁸ Given this discretionary nature, Scenic Hudson recommends that the large dock at the former Atlas Cement plant, about 1.3 miles south of the existing jetty, should be considered as an alternate site to stage aggregate barges. This would further mitigate—and possibly even avoid—visual impacts from Olana and address Germantown residents’ concern about a mooring in close proximity to parks and homes on the Germantown shoreline.

We understand that on at least one occasion, barges used by the applicant have broken loose from the existing jetty, most likely a result of the wakes from commercial vessels. If this is a concern, we

⁶ *ibid*; p.83

⁷ Supplemental Public Notice No. NAN-2021-00296-USH <https://germantownny.org/wp-content/uploads/2021/10/NAN-2021-00296-USH-NYS-MarineHWY-GermantownBuoy-SupplementalPN.pdf>

⁸ *Ibid*

recommend that slow speed zone be established in the vicinity of the jetty. In addition, use of an alternate site, such as the Lehigh Cement dock just to the south would help alleviate this concern.

Public Hearing Request

Finally, due to the extensive and serious concerns voiced by the Town of Germantown, other stakeholders, and raised in this letter, Scenic Hudson respectfully requests that the US Army Corps of Engineers conduct a Public Hearing in Germantown so that stakeholders can have an opportunity to be heard and ask questions on this application. We also request that the public comment period be held open at least a 30-days after conclusion of the Public Hearing.

Conclusion

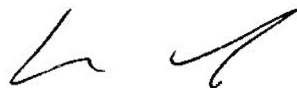
For the reasons stated above, Scenic Hudson requests that the US Army Corps of Engineers deny the application pending 1) a Section 106 review; 2) a visual analysis and simulations of impacts on the Olana viewshed; and 3) an alternatives analysis that considers other ways to provide staging aggregate barges.

The USACOE has a responsibility to “evaluate the probable impact including cumulative impacts of the proposed activity on the public interest, including among other issues, impact on historic properties” and that “that decision will. for both protection and utilization of important resources.”⁹ Given this responsibility and Olana’s importance as a National Historic Landmark, Scenic Hudson believes more information is needed before this application can be considered.

Further, given the USACOE’s responsibility to evaluate the potential for cumulative impact, measures should be taken to ensure that actions related to a potential mooring at this location does not set precedent for additional nearby moorings or moorings in other reaches of the Hudson River, including moorings and/or anchorages for oil barges.

We believe that potential adverse and cumulative impacts, including the impact on views from Olana, a National Historic Landmark, cannot be understood until these steps are taken.

Sincerely,



Hayley Carlock
Director of Environmental Advocacy and Legal Affairs

Cc Daniel Mackay, New York State Historic Preservation Office
Sean Sawyer, President, Friends of Olana

⁹ Ibid