



June 14, 2011

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Re: Comments on the Scoping for the Northern Pass Transmission Line Project Environmental Impact Statement (EIS) and Presidential Permit, Federal Register Notices Vol. 76, No. 29, pgs. 7828-7831 (February 11, 2011); and Vol. 76, No. 73, pgs. 21338-21339 (April 15, 2011)

Dear Brian,

Please accept these comments from the Wilderness Society (TWS) on the Northern Pass Transmission LLC application for Presidential Permit and Notice of Intent to Prepare an Environmental Impact Statement (EIS) as contained in Federal Register scoping notices published in Vol. 76, No. 29, pgs. 7828-7831 (February 11, 2011); and Vol. 76, No. 73, pgs. 21338-21339 (April 15, 2011). On behalf of our 500,000 members and supporters, we work to protect wild places and to ensure that the development of needed energy resources is done in a way that protects the ecological integrity of the land through science-based planning and meaningful stakeholder engagement. We have long had an interest and involvement in activities and projects affecting New Hampshire, with particular interest in the White Mountain National Forest (WMNF), and units of the U.S. Fish and Wildlife Service National Refuge System including the Silvio O. Conte National Wildlife Refuge.

More generally, TWS, founded in 1935, works to protect America's wilderness and wildlife and to develop a nationwide network of wild lands through public education, scientific analysis and advocacy. Our goal is to ensure that future generations will enjoy the clean air and water, wildlife, beauty and opportunities for recreation and renewal that pristine forests, rivers, deserts and mountains provide. Our staff, members and supporters have a long-established history of involvement and interest in the protection and management of public and conserved lands in New Hampshire and throughout New England, with particular interest in potential wilderness areas and roadless areas, endangered species management and energy development. TWS members and supporters use the proposed project lands for hunting, fishing, hiking, backpacking, photography, wildlife viewing, and other recreational, aesthetic, and educational purposes.

There are a number of outstanding elements of this project which have yet to be analyzed and disclosed. While the first scoping notice did a good job of detailing the issues and concerns to be studied in the EIS, several elements bear additional attention. We address each in turn below.

The Merge Process: How the Various Decisions by Multiple Federal and State Agencies and Departments Fit Together Needs More Explanation

The scoping notices and various documents created for this application process by both the DOE and the applicant provide some insight into the various state and federal agencies that have some role in this process. It is clear to us that the USDA Forest Service, in particular the White Mountain National Forest, has a role to play in potentially issuing a special use permit for the use of a right-of-way on national forest system (NFS) lands. The U.S. Army Corps of Engineers (COE) also has a role in the proceedings in addressing floodplain and wetlands issues. Both agencies are listed as cooperating agencies.

But a number of other state and federal agencies appear to have roles as well. The exact nature of their roles, timing of any decisions they would have to make, and scope of their information needs are unclear. Council on Environmental Quality (CEQ) regulations encourage the sharing of information and joint analysis such that environmental documentation can suffice for all cooperating agency decisions. That appears to be the goal for at least the DOE, the Forest Service and the COE. Further explanation is needed to understand if this goal extends to other federal and state agencies. If there is a “merge process” proposed or underway, we would like to understand better the various parties to that process, the information needs they have, the decisions they must make and how all of these fit together in the project timeline.

Our current understanding is that the following state and federal agencies, departments and organizations have some role to play in the Northern Pass Transmission Line Project:

- ❖ Department of Energy (DOE)
- ❖ U.S.D.A Forest Service (White Mountain National Forest)
- ❖ U.S. Army Corps of Engineers, New England District (COE)
- ❖ Department of Defense
- ❖ Department of State
- ❖ Federal Emergency Management Agency (FEMA)
- ❖ Federal Aviation Administration (FAA)
- ❖ Environmental Protection Agency (EPA)
- ❖ U.S. Fish and Wildlife Service (FWS)
 - Compliance staff - consultation under Sections 7 and 9 of the ESA
 - Refuge managers for the:
 - Pondicherry Unit of the Silvio O. Conte National Wildlife Refuge
 - Karner Blue Easement of the Great Bay National Wildlife Refuge
- ❖ ISO-New England (ISO-NE) (private non-profit regulated by the Federal Energy Regulatory Commission – FERC)
- ❖ Natural Resources Conservation Service (NRCS), Farm Service Agency (FSA) and / or Forest Service as administrators of the U.S.D.A. Federal Grassland Reserve Program
- ❖ New Hampshire Site Evaluation Committee (NH SEC)
- ❖ New Hampshire Department of Environmental Services (DEC)
- ❖ New Hampshire Nongame and Endangered Wildlife Program of the Department of Fish and Game
- ❖ New Hampshire Natural Heritage Bureau (NHB) in the Division of Forests and Lands in the Department of Resources and Economic Development
- ❖ New Hampshire Division of Historic Resources (DHR) and State Historic Preservation Officer (SHPO)

Given the number of agencies, programs, departments and organizations, and the likely complexity of the interconnectedness of the various decisions to be made, it would be helpful if the DOE as lead agency would publish a list of official cooperating agencies, non-cooperating but involved agencies, departments, programs and organizations, and how each of their decisions contributes to the overall process and fits within the project timeline. This would be invaluable in helping interested citizens and organizations take advantage of opportunities for public participation.

The Purpose and Need for the Project

“The purpose and need for DOE’s action is to decide whether to grant Northern Pass the subject Presidential permit.” Federal Register, Vol. 76, No. 29, pg. 7830. This purpose and need is far too narrowly drawn for the requirements of the National Environmental Policy Act (NEPA). It provides no information upon which to formulate alternatives to the proposed action as required by the NEPA and further, no information upon which to ensure a reasonable range of alternatives as required. The purpose and need statement provides no information upon which to judge whether an alternative meets the purpose and need, nor to judge whether one alternative better meets the purpose and need than another alternative. In effect, the purpose and need becomes whatever Northern Pass Transmission LLC proposes in the Presidential permit application.

This must be corrected. The purpose and need must allow comparison between alternatives. The DOE must broaden its purpose and need statement. A reasonable range of alternatives must then be formulated which does not rest solely on slight variations to the currently proposed route. Alternatives which include burying the line, using other already disturbed rights-of-way, and changing the configuration of the proposed line should all be analyzed in the EIS.

Environmental Impacts

There are a variety of environmental impacts which must be analyzed and disclosed in the EIS. While the Federal Register scoping notice listed a good many, we touch on a few in more detail below.

Canadian Impacts

As the proposed Northern Pass transmission line will be dedicated solely to the transmission of power generated by Hydro-Quebec, the environmental impacts of the project include the impacts from power production. Hydro-Quebec downplays the role of the Northern Pass in fueling future growth in hydroelectric capacity in the far north, but the Strategic Plan for 2009-2013 (http://www.hydroquebec.com/publications/en/strategic_plan/index.html) clearly outlines a very aggressive development agenda that depends on export markets. Impact assessments should be forward-looking to anticipate the landscape-scale effects of future projects that are justified in part by increased exports to the U.S. market. Aside from the nearly-completed Rupert and Eastmain diversions feeding the LaGrande complex in the James Bay region, immediate plans include four generating stations on the Romaine (1,550 MW), additional dams on the Petit-Mecatina (1,200 MW) and Magpie (850 MW) - all three active Atlantic salmon spawning rivers flowing into the St. Lawrence. Longer term, the as-yet-unspecified “Northern

Project” calls for 3,000 MW of new capacity north of the 49th parallel by 2035, a region where climate stresses are already severe and barren ground caribou populations have collapsed for unknown reasons. The strategic plan clearly states that the planned expansion in supply is geared toward fulfilling Objective 2, Strategy 2 of the plan “Step Up Exports to New England and New York”, and that the Northern Pass transmission line is an integral part of this grand plan. Because of this, these actions and their impacts are reasonably foreseeable consequences of the proposed action; they are cumulative effects which must be analyzed and disclosed in the EIS for the Northern Pass Project.

The Northern Pass permit application stresses the importance of low-carbon power delivered to the New England grid, and its role in reducing permitting burdens under the Regional Greenhouse Gas Initiative and helping New Hampshire achieve the goals of its Climate Action Plan. As Northern Pass has not shown that increased generic electrical power is needed within the ISO-NE interconnect, the claim that a new source of power is needed rests solely on the potential for imported Hydro-Quebec power to lower average GHG emissions associated with electricity supply. DOE must require documentation of GHG effects of HQ power, including full life-cycle accounting, and compare any benefits to alternative means of achieving the same goals (including energy efficiency investments and distributed locally-produced power).

Flooding generates emissions of both carbon-dioxide and more potent methane, and recent research documents that these emissions may be significant. The World Commission on Dams (2000) concludes that emissions from reservoirs may amount to as much as 28% of the total global warming potential from GHG emissions worldwide. Calculations should include not only diffusion of carbon dioxide from reservoir waters, but also loss of forest carbon through removal of vegetation previous to flooding, bubbling of methane from decomposition of flooded soils and washed-in sediments, out-gassing from tailwaters, end-of-life emissions from silted-in reservoirs after dam decommissioning, and emissions from concrete and other construction materials and activities. Emissions from construction of the transmission line itself must also be accounted for, including emissions from construction activity and loss of carbon stored in vegetation along the right-of-way.

Aside from greenhouse gas emissions, impacts of expanded energy generation and transmission in Quebec necessary to supply the proposed transmission line are relevant to the analysis and should be included. Hydro-Quebec’s generation system depends upon diverting the flow of multiple rivers into watersheds with turbines installed, a practice which affects the health of both de-watered rivers and those subject to intense flooding. Massive reservoirs affect habitat and migration pathways for caribou. Elevated methyl mercury content in reservoir waters affects aquatic organisms and concentrates in the animals that feed on fish, including humans. All of these impacts must be studied and disclosed in the EIS.

NH Conservation Lands Impacts

The northern portion of the proposed Northern Pass Project route passes through or near multiple conserved lands. Each ownership has its own management priorities involving protection of unique resources. Those subject to easements have terms that restrict activities permitted on those properties. The environmental impact statement must include a list and map of all such lands affected, and evaluation and disclosure of how Northern Pass construction would conflict with management priorities.

From north to south, the northern portion of the Northern Pass proposed route passes near or through:

- ❖ CT Lakes Headwaters (state easement),
- ❖ Hurlburt Swamp Preserve (TNC fee),
- ❖ Stevens/Dumoine Farms (private easement),
- ❖ Vickie Bunnell Preserve (private fee),
- ❖ Bunnell Working Forest (private easement),
- ❖ Veraar Memorial Forest (private fee),
- ❖ Augustus Hemenway Memorial Forest (private fee),
- ❖ Marceau (private easement),
- ❖ Fort Hill Wildlife Management Area (state easement),
- ❖ Cape Horn State Forest (state fee),
- ❖ Lancaster Town Forest (town fee),
- ❖ Pondicherry unit of Silvio O. Conte Wildlife Refuge (federal fee),
- ❖ The Rocks (SPNHF fee),
- ❖ Hannah (SPNHF easement),
- ❖ Sugar Hill Town Forest (town fee),
- ❖ Pinney (SPNHF easement),
- ❖ White Mountain National Forest (federal fee).

In addition to lands under some form of conservation, New Hampshire's Wildlife Action Plan has identified highest ranked habitat that should be a priority for future protection (http://www.wildlife.state.nh.us/Wildlife/Wildlife_Plan/highest_ranking_habitat.htm). A substantial portion of the proposed Northern Pass route is located in highest ranked habitat areas, particularly in the northern part of the state. The EIS must include analysis and disclosure of impacts on these high-priority habitats.

Alternatives routes to the proposed route will no doubt include possibly these and other conserved lands. As these alternatives are developed, the direct, indirect and cumulative impacts on conserved lands must be analyzed and disclosed.

Social and Economic Impacts

The Northern Pass Transmission Project is proposed as a merchant line, with “public need” not established. The project is proposed in part for the money it would make for Hydro-Quebec, the companies that make up Northern Pass Transmission, LLC and their shareholders. The EIS must compare the financial benefits that would accrue to Northern Pass, LLC with the economic costs and benefits that would accrue to New Hampshire residents, landowners, business owners, towns, etc. should this project move forward as proposed.

New Hampshire and northern New Hampshire in particular depends on tourism as a significant component of its economy. In addition, in the absence of a general state sales tax and an income tax, the state relies on property taxes for a good deal of its revenue. The placement of large transmission towers and lines on both public lands and private property is likely to adversely affect both the revenues accruing from tourism (as well as forest products and other economic sectors) and the revenues accruing from property taxes.

We believe the EIS must thoroughly analyze and address this issue. Given the importance of the social and economic effects, we believe it would best be done with an independent contractor as a stand-alone study that would inform the EIS analysis. This social and economic assessment should include a cost-benefit analysis. It should also include a social assessment component to analyze the changes this line might bring to the North Country and its people. It should be completed and released before the DEIS and given its own comment period under NEPA in order that those affected by the potential project can weigh in on the results.

Endangered Species Act (ESA)

Under the ESA, a species is listed as “endangered” when it is “in danger of extinction throughout all or a significant portion of its range,” 16 U.S.C. § 1532(6), and listed as “threatened” when it is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range,” 16 U.S.C. § 1532(20). Once listed, a species is entitled to a number of protections, including prohibitions on harm and harassment and affirmative duties to promote the species’ conservation and recovery.

Section 9(a)(1) of the ESA makes it “unlawful for any person subject to the jurisdiction of the United States to” . . . “take any such [endangered] species within the United States or the territorial sea of the United States” or to “take any such species upon the high seas.” 16 U.S.C. §1538(a)(1)(B)–(C). It is a violation of the ESA for “any person subject to the

jurisdiction of the United States to attempt to commit, solicit another to commit, or caused to be committed” any such offense. Id. § 1538(g).

The ESA defines the term “take” as meaning “to harass, harm, pursue, hunt, shoot wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” 16 U.S.C. § 1532(19).

The FWS has defined the term “harm” to mean “an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding or sheltering.” 50 § 17.3 (FWS definition).

The FWS has defined the term “harass” as meaning “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.” Id. § 17.3.

Federal land management agencies must consult with the FWS under Section 7 of the ESA. Section 9 governs take and harm of listed species on private lands. Consultation under both sections must inform the Northern Pass Transmission Project.

Impacts on Bats

While there are a number of species which bear careful survey and analysis in the EIS, effects on bats are especially important. Adverse impacts are likely to endangered bats and must be considered in consultation with the FWS. White Nose Syndrome (WNS) is prevalent in the Northeast and has led to significant declines in bat populations. Due to this deadly disease, protecting endangered bats and bats in general in this project area is more important than ever. The excessive mortality rate due to WNS makes even the most minor impacts from projects such as the Northern Pass critical to bat survival.

The Indiana bat is a listed endangered species. Petitions have been presented to the FWS to list the Little Brown Bat (*Myotis Lucifugus*), as well as the Eastern Small-footed bat and the Northern Long-eared bat on the Endangered Species list. The Eastern Small-footed bat is listed as endangered in the state of New Hampshire. The Eastern red bat, Silver-haired bat, Northern myotis (also known as the Northern long-eared bat), Tricolored bat (also known as the Eastern pipistrelle), the Hoary bat, as well as the Eastern Small-footed bat are New Hampshire state species of “conservation concern”. All should be assessed for the direct, indirect and cumulative effects the Northern Pass Project might have on them at this critical point in their survival.

We look forward to continued discussion of this project. As interveners, we would like to be kept informed of the progress of the Northern Pass Transmission Line Project, including the various studies, determinations, consultations and decisions needed from various federal and state agencies in order to ultimately be issued a Presidential Permit. We hereby request hard copies of the draft EIS and any associated appendices be sent to the address below when they are prepared and available, with email notification that these materials are on their way. We would also like hard copies of any additional studies of significant size (greater than 50 pages). Electronic copies will suffice for smaller studies and materials. Please do not hesitate to contact us. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary C. Krueger". The signature is fluid and cursive, written over a light gray rectangular background.

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