

**Conservation Law Foundation
Appalachian Mountain Club
The Nature Conservancy in New Hampshire**

**Ammonoosuc Conservation Trust
Conservation New Hampshire
Society for Protection of New Hampshire Forests**

March 31, 2011

BY ELECTRONIC AND FIRST-CLASS MAIL

Mr. Anthony J. Como
Director, Permitting and Siting
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Mr. Brian Mills
Office of Electricity Delivery and Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

**Re: Northern Pass Transmission, LLC, Presidential Permit Application
OE Docket No. PP-371
Requests for Additional Post-Scoping, Pre-Draft-EIS Report and for Written Decisions
on Pending Protests, Objections, Motions, and Comments**

Dear Messrs. Como and Mills,

By this letter, the undersigned interveners and stakeholders in the above-referenced docket hereby request that the U.S. Department of Energy (“DOE”) prepare a report – following the scoping process, and in advance of the preparation of the draft Environmental Impact Statement (“EIS”) – specifically identifying (i) the specific alternatives to be studied in detail in the EIS, including the rationales both for the selection of such alternatives, and for the exclusion of any others from the reasonable range of alternatives to be carried forward in the EIS review, and (ii) the specific categories of environmental impacts to be studied for each alternative in the EIS. We further request that DOE publish the availability of the report in the Federal Register and on DOE’s Northern Pass EIS website, and provide the public the opportunity to comment on that report.¹

To satisfy the mandates of the National Environmental Policy Act (“NEPA”), DOE’s effort to prepare the EIS will require substantial analytical work addressing the full reasonable range of alternatives including, but not limited to, Northern Pass Transmission, LLC’s “preferred” alternative, alternative transmission routes, alternative transmission designs, energy efficiency, demand response, conservation, and the no-action alternative. It also will require substantial analytical work studying

¹ In its Federal Register notice announcing DOE’s intention to prepare an EIS, DOE stated that, following the close of the scoping public comment period, it will issue a “scoping report” summarizing all comments received at the public scoping meetings and in writing. 76 Fed. Reg. 7,828, 7,831 (Feb. 11, 2011). As discussed above, the request herein is for a report – based on both the public’s and cooperating agencies’ scoping input, and on DOE’s and the cooperating agencies’ analysis – that specifically identifies, and seeks public input on, the alternatives and impacts proposed to be studied in the EIS.

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and comparing the impacts of each alternative. In light of the substantial public interest this project has generated, and in light of significant public input into the scoping process currently underway, we believe that *before* DOE embarks on this extensive undertaking, it should publish for public review and comment the above-requested report specifically identifying the alternatives (and rationales for selecting and excluding alternatives for EIS analysis) and impacts it intends to study. We further believe – again, in light of the significant public interest in this project – that it would be a major mistake on DOE’s part to simply issue a scoping report summarizing the content of public input and then not “re-emerge” until it publicly issues a completed draft EIS.

Granting this request would help ensure that DOE’s scoping process is responsive to the extraordinary public interest and controversy surrounding this project and would promote public confidence in DOE’s review of the project and the outcome of that review. It also would be consistent with guidance from the Council on Environmental Quality (“CEQ”), which encourages agencies to engage stakeholders in the process of developing the right list of alternatives and impacts to study, including through the use of public workshops on draft alternatives. *See* CEQ, *Collaboration in NEPA 20-22 (2007)*, at http://ceq.hss.doe.gov/nepa/nepapubs/Collaboration_in_NEPA_Oct2007.pdf.² There is no legal or procedural reason to deny this request.³

On a separate note, several interveners and stakeholders have raised significant concerns regarding the incompleteness of Northern Pass Transmission, LLC’s Presidential Permit application and, based on those concerns, protested, objected to, or requested dismissal of the application submitted to date. We believe that the incomplete nature of the application has, thus far, greatly impaired the public’s and DOE’s ability to understand and begin to assess the project as proposed, and alternatives to the applicant’s “preferred” alternative, including during the scoping process. DOE has provided no response to the protests, objections, motions, and comments pertaining to the incompleteness of the Presidential Permit application. We request that DOE issue affirmative decisions responding to those protests, objections, motions, and comments challenging the completeness of the application.

We request that DOE treat this correspondence as a formal submission in the above-referenced docket and, for the foregoing reasons, respectfully request that DOE:

1. Promptly consider the requests contained herein;

² DOE’s own guidance encourages the agency to tailor its scoping process to the circumstances of a particular project. *See* *Effective Public Participation under the National Environmental Policy Act* (2d ed. 1998), at http://nepa.energy.gov/nepa_documents/TOOLS/GUIDANCE/Volume2/4-1-pubpart.html (“Design the scoping process individually for each proposal. Be flexible. Tailor the type, timing, and location of public participation activities to the proposal.... In addition to the required public scoping meeting, consider holding other public meetings during the preparation of the draft EIS.”).

³ DOE’s regulations implementing NEPA do not address – but in no way prohibit – DOE’s issuance of the post-scoping, pre-draft-EIS report requested here. *See* 10 C.F.R. § 1021.311.

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2. Issue a written decision granting our request for a post-scoping, pre-draft-EIS report specifically identifying – and providing for public review and comment – the alternatives and impacts to be studied in detail in the EIS, as discussed herein; and
3. Issue written decisions responding to the protests, objections, motions, and comments submitted to date relative to the incompleteness of the pending Presidential Permit application.

We appreciate DOE's prompt consideration of these requests, which we provide without prejudice to any and all legal rights of the signatories to this letter, each of which is hereby expressly reserved.

We hereby certify that a copy of this submission has this day been sent via electronic mail, and by U.S. Mail, to Anne Bartosewicz (bartoab@nu.com), Northeast Utilities, 107 Selden Street, Berlin, CT 06037 and Mary Anne Sullivan, Esq. (maryanne.sullivan@hoganlovells.com), Hogan Lovells, LLP, 555 13th Street, NW, Washington, D.C. 20004.

Respectfully submitted,

Conservation Law Foundation

/s/ Thomas F. Irwin
Thomas F. Irwin, Esq.
N. Jonathan Peress, Esq.
Christophe G. Courchesne, Esq.*
Conservation Law Foundation
27 North Main Street
Concord, NH 03301
(603) 225-3060
ccourchesne@clf.org

*admitted in Mass., motion for admission pending in N.H.

Appalachian Mountain Club

/s/ Susan Arnold
Susan Arnold
Vice President for Conservation
Appalachian Mountain Club
5 Joy Street
Boston, MA 02108
(603) 664-2050 or (617) 391-6595
sarnold@outdoors.org

Ammonoosuc Conservation Trust

/s/ Rebecca Brown
Rebecca Brown
Executive Director
Ammonoosuc Conservation Trust
80 Post Road
Sugar Hill, NH 03586
(603) 823-7777
rbrown@aconservationtrust.org

Conservation New Hampshire

/s/ Jim O'Brien
Jim O'Brien
Executive Director
Conservation New Hampshire
88 North Main Street, Suite 303
Concord, NH 03301
(603) 228-1970
jobrien@conservationnh.org

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The Nature Conservancy in New Hampshire

/s/ Joel M. Harrington
Joel M. Harrington
Director of Government Relations
The Nature Conservancy in New Hampshire
22 Bridge Street, 4th Floor
Concord, NH 03301
(603) 224-5853 ext. 28
jharrington@tnc.org

**Society for Protection of New Hampshire
Forests**

/s/ Will Abbott
Will Abbott
Vice President for Policy and Land Management
Society for the Protection of New Hampshire
Forests
54 Portsmouth Street
Concord, NH 03301
(603) 224-9945
wabbott@forestsociety.org

cc: Anne Bartosewicz, Northeast Utilities
Mary Anne Sullivan, Esq., Hogan Lovells

Governor John Lynch
Senator Jeanne Shaheen
Senator Kelly Ayotte
Representative Charlie Bass
Representative Frank Guinta