

January 30, 2013

Thomas G. Wagner
Forest Supervisor
White Mountain National Forest
United States Forest Service
71 White Mountain Drive
Campton, NH 03223

Re: Northern Pass Transmission LLC, Special Use Permit Application (SF-299)

Dear Mr. Wagner:

We are a diverse group of White Mountain National Forest (“WMNF”) stakeholders participating in the pending federal review of the Northern Pass transmission project, including the United States Forest Service’s review of Northern Pass Transmission LLC’s application for a Special Use Permit (“SUP”) to authorize the construction and operation of high-voltage transmission lines through the WMNF. We are writing to urge you, in your roles as a cooperating agency in the project’s National Environmental Policy Act (“NEPA”) review and as an independent decision-maker on the SUP application, to take all available steps to ensure comprehensive and rigorous scrutiny of the project and a full analysis of all reasonable alternatives.

The lead agency for the NEPA review, the United States Department of Energy (“DOE”), has no particular expertise with the requirements and standards governing your review of the SUP application, such as United States Forest Service (“USFS”) regulations and guidance and the provisions of the WMNF Land and Resource Management Plan (“Forest Plan”). Indeed, those requirements and standards, such as the mandate that the project, given its proposed location within the Appalachian Trail management area, constitute the “only feasible and prudent alternative to meet an overriding public need,” are very different from and independent of DOE’s standards for review of a Presidential Permit application. Even the similar standard governing both approvals—that the project be “in the public interest”—implicates a separate and special set of considerations in the context of your management and stewardship of the WMNF. We appreciate your initial effort to address these distinctions in your February 16, 2011 screening letter to Northern Pass project director Anne Bartosowicz.

Nevertheless, we are deeply concerned that DOE will treat WMNF issues as an afterthought in the NEPA process. As you suggest in the screening letter, the information required to apply the standards for your decision on the SUP application should shape the drafting of the EIS. To ensure that the NEPA review provides the information you will need to review the SUP application, we believe that it is critical you play an active role in

developing the scope of the Environmental Impact Statement (“EIS”), defining the work plan for DOE’s third-party NEPA contractors, and identifying project alternatives for detailed study in the EIS.

Your vigorous involvement is especially important here because Northern Pass is a highly unusual project. As proposed, Northern Pass is fundamentally different from all prior utility lines constructed in the WMNF and elsewhere in New England because it is a private transmission project with the primary purpose of providing economic benefits to its private sponsors. Unlike virtually all prior “utility” projects intended to ensure electric system reliability or extend power distribution, the project will not be funded by ratepayers through transmission or distribution rates. Instead, Northern Pass is structured as a “participant-funded” project, with the project ultimately financed by a single enterprise, Hydro-Québec, which will pay Northern Pass Transmission LLC to build and operate the line and recover those costs by selling power through the line to New England customers.

The project is more like a privately-owned merchant power plant than a traditional utility line. Regional grid operator ISO New England has made clear that the project is “elective” and is not intended to meet any specific electric system reliability needs. Likewise, the project does not respond to any specific regulatory requirement or mandate at the federal or state levels. In contrast with needed reliability transmission projects and domestic renewable energy facilities, there are no affirmative public policies favoring Northern Pass. For example, last spring New Hampshire Governor John Lynch signed into law a bill prohibiting private transmission projects like Northern Pass from having access to state eminent domain powers. The project’s unique private structure means that your decision on the project’s SUP application, including your application of United States Forest Service requirements and the Forest Plan, will set an important precedent for future private transmission projects, both within the WMNF and nationally.

Because Northern Pass lacks the public purposes and policy support that favor typical utility projects, we are writing to urge you to take advantage of several immediate opportunities, discussed below, to influence the course of the federal review so that it appropriately develops the full range of information on the project’s consistency with the Forest Plan and the potential impacts of the project on the WMNF’s extraordinary natural, recreational, and scenic resources and other public values. We believe this information will be essential for you to reach a well-informed decision on whether the project is in the public interest.

We will strongly support your efforts to advance this outcome. Our specific recommendations follow.

Addressing United States Forest Service and WMNF Requirements

The EIS should include a searching assessment of the project's compliance with the applicable criteria for special uses in the affected management areas, including the Appalachian National Scenic Trail ("AT"). This assessment would benefit from the following studies:

- A robust and objective visual impact study that is specific to the WMNF, including:
 - Systematic selection and evaluation of visual impacts for all significant viewpoints encompassed by the WMNF and AT that are potentially impacted;
 - Study of the cumulative visual impacts on WMNF resources and the AT, including on major roads that WMNF visitors use to access the WMNF; and
 - Measurement of visual impacts against the Scenic Integrity Objectives included in the Forest Plan;
- A full assessment of the project's potential economic impacts on businesses that rely on WMNF resources as well as on WMNF visitor impressions and satisfaction;
- A complete update of the visual and recreational impact study completed in connection with the 1986 EIS for the "Phase II" high-voltage transmission line, which addressed the rejected alternative route along the same WMNF transmission corridor where the proposed project would be sited;
- A detailed assessment of the project's direct and indirect impacts to threatened, endangered, and USFS Region 9 sensitive species; and
- A detailed cumulative impacts study utilizing WMNF's customary approach, specifically considering the proposed project and future transmission projects that may seek to use the same route as Northern Pass or otherwise impact the WMNF.

Advancing a Thorough Alternatives Analysis

In addition to WMNF-specific studies, we support your efforts to secure comprehensive analysis, as required to review the SUP application, of all credible alternatives that would fulfill the project's broadly defined purposes, would accommodate the project on non-WMNF lands, or would have fewer WMNF impacts than the proposed project, even if those alternatives are more costly or less convenient for the applicant than the proposed project. The EIS's alternatives analysis is the "heart" of the EIS and takes on heightened importance in your substantive decision on the SUP application.

As discussed in many of our entities' scoping comments filed with DOE, the applicant has failed to provide a detailed assessment of alternatives and appears to believe that DOE will adopt an overly narrow approach to identifying alternatives for in-depth study in the EIS. In this regard, the SUP application utterly fails to provide meaningful

information, leaving DOE, its third-party NEPA contractor team, and the cooperating agencies to design an appropriate alternatives analysis.

We strongly urge you to insist that the EIS analyze in depth, at a minimum: routing options that avoid or minimize impacts on the WMNF, such as co-location with the existing “Phase II” transmission corridor to the west of the WMNF; technological alternatives permitting full or partial burial of transmission project, especially in transportation corridors; importation alternatives that displace coal- and oil-fired generation and complement deployment or operation of domestic renewable energy facilities; energy supply alternatives, such as conservation, energy efficiency, and domestic renewable energy programs; and a robustly-assessed “no-build” alternative. Such analyses should include a thorough comparison of impacts of the proposed alternative with the above alternatives.

Analyzing Energy Policies and Needs

We appreciate your efforts to ensure that the EIS and your independent review of the project for compliance with USFS and WMNF-specific requirements considers the Northern Pass project’s relationship, if any, to demonstrated energy needs and to federal energy policy. We support this focus but recommend that you carefully and specifically delineate the specific statutory and regulatory provisions that are directly relevant to the project.

In particular, we urge you to focus your evaluation of energy policy on its relationship to the atypically private characteristics of the Northern Pass project discussed above. Although there are a number of general statements of federal policy that favor expanding and upgrading electric transmission infrastructure or that encourage interagency coordination on transmission siting issues, some of which you identify in your screening letter, these statements *do not* endorse deployment of private, for-profit, non-reliability transmission projects like Northern Pass that are primarily intended to facilitate foreign power exports to the United States. Statutory provisions like Section 368 of the Energy Policy Act of 2005 that facilitate reliability transmission upgrades and development along federally designated energy corridors, including through federal lands, are not relevant to projects like Northern Pass, which is not a reliability project nor is proposed to be located in such a corridor.

We urge you to recognize as well that virtually no policies that encourage “renewable energy” projects address or favor Canadian hydropower, a mature energy technology that does not qualify for policy incentives like tax credits and state renewable portfolio standard programs. Likewise, we do not believe the Federal Energy Regulatory Commission’s limited approval of the project’s financing should be read to constitute a federal policy endorsement of the project or its power source. More recent FERC decisions,

like Order 1000 and its November 15, 2012 Policy Statement on transmission investment (41 FERC ¶ 61,129), strongly encourage open and robust transmission planning by regional system operators; Northern Pass was conceived and proposed without the benefit or endorsement of any such planning process.

Regarding energy needs, we suggest that you commission a deep and searching analysis of those needs and how, if at all, the project addresses them. In this regard, your work should be informed by ISO New England's most recent plans and forecasts, which show that electric demand within the region is *not* expected to increase over the next decade, that energy efficiency deployment has deferred or eliminated the need for hundreds of millions of dollars of transmission projects, and that natural gas reliance risks will be successfully addressed by a suite of wholesale market design improvements.

Ensuring the Independence and Integrity of Data Collection and Analysis

As you know, DOE selected a new third-party NEPA contractor team after the withdrawal of DOE's first contractor, due to the conflict of interest inherent in the fact that the contractor was and is engaged by Northern Pass Transmission LLC to help the project obtain state siting approvals. Many stakeholders in the NEPA process, including many of the undersigned entities, have objected to the current contractor team in light of the circumstances of its selection and its potential conflict of interest. In this context, the objectivity of the NEPA process, as a whole and as it addresses the WMNF in particular, is of paramount importance.

We recommend that you avoid relying on data or analysis generated by the applicant's withdrawn contractor or that has become outdated given the passage of time since the project's SUP application. As discussed above, we recommend that you seek objective and comprehensive studies of the project's potential impacts on the WMNF, especially its unique natural, recreational, and scenic resources. We also urge you to be proactive and vigilant in reviewing data and analysis from the current contractor team to ensure their quality, independence, and integrity and to raise immediately any concerns about their impartiality or adequacy. For those studies with elements addressing the WMNF, it may be appropriate and necessary for you to supervise directly the work of the current contractor team or to commission studies above and beyond DOE's work plan that engage additional independent contractors with more meaningful experience and expertise with the Forest Plan and WMNF resources than the current contractor team.

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We acknowledge and appreciate your prior statements regarding your special role and obligations in the permitting process for Northern Pass. We care deeply, as you do, about the White Mountain National Forest, the integrity of its landscapes, the conservation

of its natural resources, and the gateway it provides to New Hampshire's North Country. Addressing the issues discussed above now, before DOE and its contractor team begin working on the EIS in earnest, is vital to the public's interest in a sound, well-informed USFS decision on the Northern Pass SUP application.

Respectfully submitted,

Conservation Law Foundation

Appalachian Mountain Club

Responsible Energy Action LLC

**Society for the Protection of New
Hampshire Forests**

Ammonoosuc Conservation Trust

North Country Council

Select Board, Town of Easton

Board of Selectmen, Town of Franconia

Select Board, Town of Sugar Hill