



For a thriving New England

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March 21, 2018

VIA EMAIL AND HAND-DELIVERY

Ms. Pamela G. Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

**RE: New Hampshire Site Evaluation Committee Docket No. 2015-04
Application of Public Service Company of New Hampshire d/b/a
Eversource Energy for a Certificate of Site and Facility for Construction
of New Transmission Line (Madbury to Portsmouth)**

Dear Ms. Monroe:

Please find enclosed for filing in the above-referenced matter an original plus eight copies of the Partially Assented-To Motion Requesting Site Evaluation Committee to Address NHDES Recommendations as Part of Adjudicatory Process.

Copies of this filing have, this date, been forwarded via email to all parties on the Service List in this docket.

Please feel free to contact me should you have any questions or concerns.

Sincerely,

Thomas F. Irwin

TFI/dlh

Encls.

cc: Docket No. 2015-04 Service List

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-04

Application of Public Service Company of New Hampshire
d/b/a Eversource Energy for a Certificate of Site and Facility for Construction of New
Transmission Line (Madbury to Portsmouth)

**PARTIALLY ASSENTED-TO MOTION REQUESTING
SITE EVALUATION COMMITTEE TO
ADDRESS NHDES RECOMMENDATIONS AS PART OF ADJUDICATORY PROCESS**

Conservation Law Foundation (CLF), an intervenor in the above-captioned proceeding, respectfully submits this motion pursuant to N.H. Admin. Rule Site 202.14 requesting that the New Hampshire Site Evaluation Committee (“Committee”) address recent recommendations of the New Hampshire Department of Environmental Services (“NHDES”) as part of the adjudication of this docket to enable full and effective participation by all parties to this docket and a fully informed final decision by the Committee. In support of this motion, CLF states:

1. On February 28, 2018, following several months of assessment, NHDES submitted to the Committee its technical review of Eversource Energy’s application relative to the Seacoast Reliability Project. Based on concerns related to the potential ecological impacts of using jet plow technology in Little Bay, NHDES provided two important recommendations to the Committee. Specifically, it recommended that it “consider having the Applicant conduct 1) a more thorough evaluation of the Horizontal Directional Drilling (HDD) method for installing cable under Little Bay and 2) a trial jet plow run (without cable) in Little Bay.” *See* NHDES Corresp. to Committee (Feb. 28, 2018) at 1.

2. NHDES's recommendation with respect to further analysis of horizontal directional drilling contains detailed guidance, stating that further evaluation should, *inter alia*, assess HDD for both the entirety of the Little Bay crossing and for those portions where hand-jetting is proposed; be premised on information provided by contractors with HDD experience; address several enumerated factors and questions identified by NHDES; assess impacts on water quality; and include detailed cost estimates and cost comparisons with the jet plow method. *Id.* at 2.

3. NHDES's recommendation with respect to a jet plow trial run also provides guidance – namely, conducting a trial run of approximately 1,000 feet, without cable – and is supported by NHDES's determination that a trial run would provide substantial useful information by ground-truthing the accuracy of the sediment plume model; assessing the effectiveness of the water quality monitoring plan and identifying any necessary modifications to the plan; evaluating water quality within the mixing zone and the mixing zone boundary; determining how measures to reduce sediment suspension affect water quality; assessing whether the jet plow method is likely to comply with state water quality standards; and determining whether any additional efforts to reduce sediment suspension are needed to ensure compliance with water quality standards. *Id.* at 3.

4. NHDES recommends that an HDD evaluation, and the results of a NHDES-approved Jet Plow Trial Plan, be submitted to NHDES and the Committee at least 90 days prior to proposed installation of cable in Little Bay. *Id.* at 2, 3. NHDES explains that it would then review the submissions and provide its comments to the Applicant and the Committee. *Id.*

5. CLF strongly agrees with NHDES's recommendations relative to the value of an HDD evaluation, as it will provide essential information that could lead to the avoidance of

significant ecological and water quality impacts in Little Bay and potentially other portions of the Great Bay estuary. However, to the extent the recommendations suggest that the evaluation be conducted after issuance of a certificate (e.g., as a condition thereof) and without the ability of all parties to benefit from the information generated by such evaluation, CLF urges a different approach. Specifically, consistent with the purpose of RSA Chapter 162-H to provide “full and timely consideration of environmental consequences” and “full and complete disclosure” of project plans to the public,¹ CLF urges the Committee to address the need for further HDD evaluation during the adjudicatory process, to enable the development of needed information for the benefit of the Committee, and with the ability of parties to engage in discovery and cross-examination, prior to the Committee’s final decision relative to issuance of a certificate. CLF strongly supports the Town of Durham’s and University of New Hampshire’s request that the Committee engage an independent, qualified consultant to conduct the HDD evaluation, and to allow the parties to this proceeding to engage in discovery on the consultant’s report and/or testimony.

6. CLF also agrees with NHDES’s recommendation of a jet plow trial run, but urges such trial run to be conducted only after the completion of the HDD evaluation, and only if such evaluation demonstrates that HDD is technologically infeasible or would have greater environmental impact than the jet plow method is anticipated to have. CLF urges this sequenced approach to avoid unnecessary impacts associated with a jet plow trial run. CLF also requests that, if the HDD evaluation does not obviate the need to consider the jet plow method, the Committee require a jet plow trial run to be conducted in a manner that advances the purpose of RSA Chapter 162-H to provide “full and timely consideration of environmental consequences”

¹ See RSA 162-H:1.

and with “full and complete disclosure” to the public of project plans. *See* RSA 162-H:1. More specifically, it requests that, if the HDD evaluation does not obviate the need to consider the jet plow method, the Committee require a trial run to be conducted prior to a final determination by the Committee, with the methods and results presented to the Committee and all parties to this proceeding with the opportunity for discovery and cross-examination.

7. The following parties assent, oppose, or take no position on this filing. Any party not listed did not respond by the time of filing.

Assent:

- Durham Historic Association
- Durham/University of New Hampshire
- Helen Frink
- Donna Heald
- Jeffrey and Vivian Miller
- Newington, Town of
- Nick Smith

Oppose:

- Applicant

No Position:

- Counsel for the Public

WHEREFORE, CLF respectfully requests that the Committee:

A. Require the further evaluation of horizontal directional drilling as a part of this adjudicatory proceeding to allow a more informed final decision by the Committee, with the opportunity for discovery and cross-examination by the parties to this docket;

B. Require a jet plow trial run only if the jet plow method remains under consideration following an evaluation of horizontal directional drilling, and in a manner that allows a more informed final decision by the Committee, with the opportunity for discovery and cross-examination by the parties to this docket; and

C. Such other relief as the Committee deems appropriate.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

BY:  _____

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Date: March 21, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion has on this 21st day of March 2018 been sent by email to the service list in Docket No. 2015-04.

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Thomas F. Irwin, Esq.
Conservation Law Foundation