



**National Trust *for*
Historic Preservation**
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January 12, 2018

VIA EMAIL & U.S. MAIL

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

**Re: Application of Northern Pass Transmission, LLC and Public Service
Company of New Hampshire d/b/a/ Eversource Energy for a
Certificate of Site and Facility (SEC Docket No. 2015-6)**

Dear Ms. Monroe:

Included with this letter please find for filing in the above-referenced matter the Historic Preservation Intervenor Group's Post-Hearing Memorandum of Law.

A copy of this letter and Memorandum of Law have on this date been forwarded via email to all parties on the distribution list for this matter and a hard copy has been placed in the mail to your attention.

Sincerely,

A handwritten signature in black ink that reads "Sharee Williamson".

Sharee Williamson
Assoc. General Counsel
National Trust for Historic Preservation

cc: Distribution List

THE STATE OF NEW HAMPSHIRE

before the

SITE EVALUATION COMMITTEE

Docket No. 2015-6

Joint Application of Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a/ Eversource Energy for a Certificate of Site and Facility

**HISTORIC PRESERVATION INTERVENOR GROUP'S POST-HEARING
MEMORANDUM OF LAW**

January 12, 2018

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NOW COME the New Hampshire Preservation Alliance, the National Trust for Historic Preservation, the Sugar Hill Historical Museum, and the North Country Scenic Byways Council (collectively referred to herein as the Historic Preservation Intervenors) and respectfully offer this Post-Hearing Memorandum of Law, which identifies the unreasonable adverse effects that the Northern Pass Project (Project) would cause to New Hampshire's historic and aesthetic resources. For the reasons stated herein, the Historic Preservation Intervenors oppose the request of Eversource Energy (Applicant) for a Certificate of Site and Facility for the Project as follows:

I. INTRODUCTION.

A cultural landscape is defined as “a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.”¹ Cultural landscapes come in different sizes and can include human-designed landscapes or natural settings. Many cultural landscapes are well-known and appreciated by all Americans, like the National Mall or the Gettysburg Battlefield; while others are lesser known, but important parts of communities around the country. Cultural landscapes reflect the history of an area and its surrounding community. Preserving them provides scenic, environmental, recreational and educational benefits, as well as ensuring that a sense of place and history is retained for the benefit of all. If constructed, this Project would create a scar across the state of New Hampshire that would cause an unreasonable adverse effect on the state's cultural landscapes and other historic and scenic resources. For that reason, the Historic Preservation Intervenors respectfully request that the Site Evaluation

¹ National Park Service, *Preservation Brief 36 - Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes*, at p.1 (quoting National Park Service, NPS-28, *Cultural Resource Management Guideline*, Release #4, 1994), available at <https://www.nps.gov/tps/how-to-preserve/preservedocs/preservation-briefs/36Preserve-Brief-Landscapes.pdf>.

Committee (SEC) either deny the Applicant’s request for a Certificate of Site and Facility or require the Project to be entirely buried under existing roadways as a condition of approval.

II. STATEMENT OF INTERESTS.

The New Hampshire Preservation Alliance (Alliance), established in 1985, strengthens communities and stimulates local economies by encouraging the protection and revival of historic buildings and places. Throughout the organization’s 33-year history, the Alliance has worked to revive buildings, ensure healthy downtowns, and to protect vital landscapes throughout the state.

The National Trust for Historic Preservation (National Trust) is a privately-funded charitable, educational and nonprofit organization chartered by Congress in 1949 to “facilitate public participation in historic preservation” and to further the purposes of federal historic preservation laws.² The intent of Congress was for the National Trust “to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings.”³ With headquarters in Washington, D.C., field offices around the country, 27 historic sites open to the public, more than one million members and supporters and a national network of partners in states, territories, and the District of Columbia, the National Trust works to save America’s historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

In 2015, the National Trust named the Scenic Landscapes of New Hampshire as a National Treasure in direct response to the proposed Northern Pass transmission line. The

² 54 U.S.C. §§ 312102(a), 320101.

³ S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949).

National Treasures program is a collection of irreplaceable places of national significance that are under threat of harm.

The Sugar Hill Historical Museum (Sugar Hill Museum) was formed in 1976 to become an educational resource for the public through research, study, collection, preservation and exhibition of artifacts that illustrate the history of the community. Sugar Hill Museum is an important part of the town's culture and embodies the commitment of permanent residents and second-home owners to preserve and respect the area's history as embodied within its historical buildings, sites, and its historic and cultural landscapes.

The North Country Scenic Byways Commission is a volunteer body that was formed in 1994 and expanded in 2014 to develop and implement management plans to support preservation and tourism of scenic byways in Coos County and Grafton County. Its members include representatives of each of the towns that the byways pass through, as well as representatives of public and private agencies involved in transportation, recreation and tourism.

III. THE CERTIFICATE OF SITE AND FACILITY SHOULD BE DENIED BECAUSE THE PROJECT WOULD UNREASONABLY ADVERSELY AFFECT HISTORIC RESOURCES.

A. The Evidence Presented Shows that the Project will Cause Unreasonable Adverse Effects on Historic Resources.

On December 21, 2017, New Hampshire's Division of Historical Resources (DHR) submitted its preliminary conclusions about the adverse effects of the Project.⁴ DHR noted that during the federal permit review process under Section 106 of the National Historic Preservation

⁴ See DHR Findings of Effect Letter to SEC Subcommittee dated December 21, 2017 and submitted as a part of the docket for this proceeding (hereafter referred to as "DHR Letter").

Act,⁵ 114 above-ground historic resources were identified – meaning that they are eligible for listing or are listed on the National Register of Historic Places – along the route of the Project.⁶ The National Park Service has established standards that determine whether a historic resource is eligible for listing on the National Register. To be eligible, a historic resource must be at least 50 years old and have integrity of location, design, setting, materials, workmanship, feeling, and association.⁷ The historic resource must also be associated with significant historic events, significant historic persons, be a distinctive example of an architectural or artistic type, period, or style, or be an archaeological site that is likely to yield significant historic information.⁸ There are 114 above-ground historic resources along the route of the Project that have satisfied these National Register criteria. These 114 above-ground historic resources range in size from single structures to large cultural landscapes covering thousands of acres each.

DHR has determined that 37 historic resources, or approximately 32% of the total, will be adversely affected by the Project.⁹ This finding is in stark contrast with the Applicant’s testimony about the number of historic resources that would suffer adverse effects. The Applicant relied on expert testimony submitted by Cheryl Widell to present its assumptions about the extent of the Project’s adverse effects on historic resources. Widell testified that in her

⁵ 54 U.S.C. § 306108; 36 C.F.R. Part 800.

⁶ DHR Letter, *supra* note 4, at pg. 2.

⁷ *Bulletin 15: How to Apply the National Register Criteria for Evaluation*, National Park Service, at pg. 44, available at: <https://www.nps.gov/nr/publications/bulletins/nrb15/>.

⁸ *Id.* at pgs. 11-24.

⁹ DHR Letter, at pgs.1-2. DHR noted in its correspondence that these determinations of adverse effect are preliminary and may change as the Section 106 federal permit review process continues to completion. DHR also noted that 12 archaeological sites eligible for listing on the National Register of Historic Places were identified along the Project route, but due to efforts to redesign the Project and amend the right-of-way, only two sites would be adversely affected. This brief focuses on impacts to above-ground historic resources.

professional opinion, only 7 of the 114 above-ground historic resources, or approximately 6%, would be adversely affected by the project.¹⁰ This amounts to a difference of thirty individual historic sites or 26%. In other words, the DHR found five times more historic resources adversely affected, compared to the Applicant's expert. This very significant difference in opinion regarding adverse effects is a result of the Applicant using methodologies that DHR does not support, and that result in a severe under-representation of the Project's adverse effects.

DHR noted the difference in findings between itself and the Applicant and stated that "the DHR did not consistently agree with the applicant's recommendations of effect or the reasons provided to support effect recommendations."¹¹ DHR explained one example of its disagreement with the review approach used by the Applicant in relation to historic agricultural properties. DHR wrote that:

"The applicant has indicated in several effect assessments that farm fields and woodlots are not character defining, and therefore the project will result in a No Adverse Effect to that farm. However, the DHR assumes that all fields, woodlots and other agricultural landscapes contribute to a historic farm's significance, unless otherwise indicated that a loss of integrity has occurred at that location. Therefore, the ***DHR cannot agree with the applicant's methodology*** and in many cases the DHR made a finding of Adverse Effect."¹²

As discussed above, to be eligible for listing on the National Register, historic properties must retain integrity of location, setting, and feeling. A key part of the location, setting and feeling of historic agricultural properties are the fields, woodlots and landscapes that make up the

¹⁰ Widell stated that six historic resources would be adversely affected in her supplemental pre-filed testimony, but amended the number to seven during her in-person testimony before the SEC. *Compare* APP Exhibit 95 - Supplemental Pre-filed Testimony of Cherilyn Widell, at pg. 13, line 23; Transcript of Testimony of Cherilyn Widell, dated Sept. 26, 2017, at pg. 4, line 20.

¹¹ DHR Letter, *supra* note 4, at pg. 2.

¹² *Id.* at pg. 4 (emphasis added).

agricultural property. The Applicant ignored negative impacts to some of the key characteristics of these and other historic resource types, which drastically reduced the number of historic properties that they allege would suffer an adverse effect.

DHR outlined another example where there is a disagreement with the Applicant on whether the Project would cause an adverse effect on historic resources based upon the significance of particular historic resources, and the degree of public concern about those negative effects.¹³ DHR noted as an example of this type of disagreement that:

“the Weeks Estate is located on the summit of Mount Prospect within Weeks State Park and the Mount Prospect-Martin Meadow Pond Cultural Landscape. The Weeks Estate was the summer estate of John Wingate Weeks and has the potential to retain significance at the National Level for this association. The site is known for its 360 degree views of the Presidential Range and Pliny Range of the White Mountains, the Pilot Range, Percy Peaks, the Connecticut River Valley and the Green Mountains in Vermont. A historic stone tower on the property takes advantage of these views. The view from the observation tower is an important character defining features of the National Register listed property, and the project is visible from this feature.”¹⁴

For this reason, DHR disagreed with the Applicant’s recommendation that the Project would have no adverse effect on the Weeks Estate. This example, and the example of DHR disagreeing with the Applicant’s approach to considering impacts on resources like rural historic landscapes, clearly demonstrates that the Applicant’s opinion on whether the Project will cause an unreasonable adverse effect on historic resources should be treated with great skepticism.

Additionally, of the 37 historic resources that DHR determined would suffer an adverse effect as a result of this Project, the majority are large-scale resources including 8 cultural landscapes, 1 rural historic district, 5 historic districts, 4 farms, 1 agricultural district, 1

¹³ *Id.* at pg. 3.

¹⁴ *Id.*

campground, and 6 railroad corridors.¹⁵ Since the majority of the adversely affected historic resources are large landscapes, collectively the scale of the adverse effects across the state is very large, and constitutes an unreasonable adverse effect under state law.¹⁶ For example, the Project would pass directly through the North Road - Lost Nation Road Cultural Landscape for several miles. This cultural landscape has been determined eligible for the National Register, and the Project would construct rows of 21st-century industrial towers directly through it. This adverse effect is significant in extent and duration, and it is damaging to the fundamental character of the historic resource. In sum, it clearly satisfies the criteria for unreasonable adverse effect on historic sites.¹⁷

The Project is proposed to run through or adjacent to many miles of other cultural landscapes and historic districts that are listed or eligible for listing on the National Register. In sum, the Project would have an unreasonable adverse impact on landscapes and historic districts in the northernmost portions of the route, the middle portions, and the southern portions. The Project should not be approved.

B. The SEC Cannot Rely on the Federal Section 106 Permit Review Process to Satisfy its Obligations under New Hampshire State Law.

i. The Federal and State Laws Apply Different Standards and Processes.

New Hampshire state law establishes requirements for the SEC to follow when reviewing requests for certificates of site and facility.¹⁸ These requirements are substantially different than the requirements established under federal law to comply with the National Historic Preservation

¹⁵ *Id.* at Table 1, pgs. 2-4.

¹⁶ *See* Site 301.14(b).

¹⁷ *Id.*

¹⁸ *See generally*, Site 300-301.

Act (NHPA). Although the SEC is required to consider the “findings and determinations by the New Hampshire Division of Historical Resources” that are issued pursuant to Section 106 of the NHPA in reaching a decision on whether a project will cause unreasonable adverse effects on historic resources, this is but one of several factors that the SEC must consider.¹⁹ This is because the requirements of Section 106 compliance vary dramatically from the requirements under state law.

Section 106 of the NHPA requires all federal agencies to “take into account” the effects of their actions on historic properties “prior to” approving any funding or permitting for the project.²⁰ Section 106 relies on a unique process of “consultation,” which seeks to reach consensus with stakeholders regarding the assessment of the project’s adverse effects and how those effects will be resolved.²¹ The process includes the lead federal agency (here, the U.S. Department of Energy), the state historic preservation office (here, the DHR), the project applicant, interested consulting parties, and often, as in this case, the federal Advisory Council on Historic Preservation.

The Advisory Council on Historic Preservation has promulgated regulations that establish a sequential set of steps that agencies must follow to comply with Section 106. First, the agency must identify historic resources that may be impacted by the project.²² Next, the agency must determine whether the identified historic resources will suffer adverse effects.²³ Then, the agency must consider alternatives that would avoid, minimize or mitigate adverse effects of a project to

¹⁹ See Site 301.14(b) for the complete list of factors.

²⁰ 54 U.S.C. § 306108; 36 C.F.R. Part 800.

²¹ *Id.* § 800.16(f).

²² 36 C.F.R. § 800.4.

²³ *Id.* § 800.5.

historic resources.²⁴ For projects that will result in adverse effects, the outcome of the Section 106 process – most of the time - is a binding and enforceable agreement entered into between the federal agency, state historic preservation office, and the project applicant, which governs implementation of the project and explains how its adverse effects will be minimized and/or mitigated.²⁵

Notably, the Section 106 process does not require the federal agency or the state historic preservation office to determine whether the adverse effects caused by the project are “unreasonable.” Federal regulations simply require a determination as to whether an adverse effect will occur on identified historic properties, and if so, establishes project conditions that avoid, minimize or mitigate the adverse effects. Also, notably, in this case, DHR did not provide an opinion to the SEC on whether the Project’s adverse effects are unreasonable.

In contrast, New Hampshire state law establishes a process for the SEC to follow that includes public hearings, administrative proceedings, and participation of state agencies and counsel for the public prior to deciding on a site certificate.²⁶ The SEC must consider all evidence presented and make a series of findings before a certificate can be issued.²⁷ In particular, the SEC must find that “The site and facility will not have an *unreasonable* adverse effect on aesthetics, *historic sites*, air and water quality, the natural environment, and public health and safety.” (emphasis added).²⁸ New Hampshire state law clearly establishes a different process and a different standard of review than is required of federal agencies under Section 106.

²⁴ *Id.* §§ 800.1(a), 800.6(a).

²⁵ *Id.* §§ 800.6(c), 800.14(b).

²⁶ *See generally*, RSA 162-H.

²⁷ RSA 162-H:16(IV).

²⁸ RSA 162-H:16(IV)(c).

Thus, although the Section 106 findings should inform the SEC’s review, compliance with Section 106 cannot be used as a substitute for compliance with state law requirements.

The SEC must make an independent determination, based on the evidence in the record, about whether the Project would cause an *unreasonable* adverse effect on historic properties. Given the large number and size of the historic resources that will suffer adverse effects, as described in more detail above, the facts in the record clearly demonstrate that the Project *would* cause an unreasonable adverse effect on historic resources.

ii. The Federal and State Laws Use Different Definitions for Historic Resources.

The federal definition of “historic property” used for compliance with Section 106 only includes historic resources that are listed or eligible for listing on the National Register of Historic Places.²⁹ In contrast, New Hampshire state law does not limit its definition of historic sites to those that are eligible or listed on the National Register. New Hampshire defines “historic sites” as “any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this state, its communities, or the nation.”³⁰ The New Hampshire state law definition also includes properties listed or eligible for listing in the National Register, but does not exclude from consideration historic sites that may not meet the stringent federal criteria. Thus, relying upon compliance with Section 106 to satisfy state law requirements would impermissibly narrow the types of historic sites that New Hampshire has decided should be considered. Section 106 compliance simply cannot be a stand-in for the consideration of adverse effects that the SEC is required to perform under state law. This also directly calls into question the approach used by the Applicant’s expert witness. Ms. Widell

²⁹ 36 C.F.R. § 800.16(1)(1).

³⁰ See Site 012.23; RSA 227-C:1, VI.

relied exclusively upon the narrower federal criteria of National Register eligibility to identify historic resources that would be affected by the Project.³¹ As a result, her approach dramatically undercounts the number of affected historic properties that must be considered by the SEC.³²

iii. The Federal Section 106 Review Process is Not Substantially Complete and Cannot be Relied on to Satisfy Obligations Under New Hampshire State Law.

The U.S. Department of Energy is the lead federal agency conducting the Section 106 review process for the Northern Pass Project. The agency has developed a Programmatic Agreement that describes the steps that will be required to comply with Section 106 for this Project.³³ The Programmatic Agreement establishes a process and timeframes for completing the multi-step review process described above.³⁴ Currently, DOE has only completed the “identification of historic properties” step of the process. The second phase of the process – determination of adverse effects – has not been completed.

DHR has made preliminary determinations of adverse effect on historic properties, which were reported to the SEC.³⁵ However, these determinations are not final and have not been approved by DOE. As indicated by DHR’s correspondence, these adverse effect determinations may change because of the consultation process required under the National Historic

³¹ See Transcript of Testimony of Cherilyn Widell, dated Sept. 26, 2017, at pgs. 3-5 where Widell describes the methodology used to complete the historic resources assessment, which refers exclusively to compliance with federal Section 106 review standards.

³² See CFP Exhibit 140 – Pre-filed Testimony of Patricia O’Donnell, dated Nov. 26, 2016, at pg. 4, lines 17-21, stating that the review conducted by Applicant’s expert “limited consideration of resources to an unnecessarily narrow subset of National Register eligible properties. In particular, the Applicants used a definition of historic resources that is not consistent with the SEC’s rules and which eliminated many properties from even initial consideration.”

³³ See generally, APP Exhibit 204.

³⁴ See *infra* pgs. 7-9.

³⁵ DHR Letter, *supra* note 4.

Preservation Act.³⁶ Efforts to conclude the Section 106 process by resolving these adverse effects through avoidance, minimization or mitigation have not even begun. It is likely to take months to finish the steps included in the Programmatic Agreement and complete Section 106 compliance.

Thus, even assuming arguendo that the SEC could rely on the federal Section 106 process to satisfy its legal obligations under New Hampshire state law to determine whether a project has an unreasonable adverse effect on historic resources, it would be impossible to make such a decision for this Project, because no final determinations of adverse effect have been made. For the SEC to rely on preliminary determinations of adverse effects on historic properties that were made under a federal legal review process that has different review requirements, would be unlawful.

IV. THE CERTIFICATE OF SITE AND FACILITY SHOULD BE DENIED BECAUSE THE PROJECT WOULD UNREASONABLY ADVERSELY AFFECT AESTHETIC RESOURCES.

A. The Project Would Cause Unreasonable Adverse Effects on Scenic Byways and Would Harm New Hampshire's Tourism Economy and Orderly Development.

The North Country Byways Council believes that the proposed Northern Pass Project would have an unreasonable adverse impact on the scenic and cultural byways of Coos and northern Grafton Counties. The cumulative effect of multiple crossings, extensive views of towers while driving along the byways, and intensive views of towers from vantage points along and nearby the byways, would all detract from the experience of those using these roads to enjoy the scenic and cultural resources of northern New Hampshire. Repetitive views of industrial towers would diminish the scenic beauty, cultural integrity and historical interest of the entire region. The aesthetic approaches to the historic town centers of Bethlehem, Whitefield,

³⁶ *Id.* at pgs. 1-2.

Lancaster, and Groveton would be marred by transmission lines and towers. The unreasonably adverse aesthetic impacts would persist for the life of the project, thereby disrupting the tourism economy and the orderly development of the North Country for decades to come.

Moreover, permitting the Project would be contrary to the spirit and mission of New Hampshire's scenic byways. The Project would likely result in fewer people using the trails exposed to the towers, fewer people canoeing and fishing in lakes and waterways exposed to the towers, fewer visitors to the attractions and towns that will be hemmed in by towers, and fewer locations suitable for second homes and recreational development. Tourism is a major industry in the North Country precisely because of the rural character of the region, the pristine wildness of its back country, and the miles upon miles of scenic byways that wend throughout the region.³⁷ This Project would cause an unreasonable adverse effect on scenic resources that would result in harm to tourism and orderly development, which depends on these resources to survive and thrive.

B. The Extreme Visibility of the Project from Many of New Hampshire's Aesthetic Resources Would Cause an Unreasonable Adverse Effect.

The size and scale of this Project is immense. The Applicant's proposal requires cutting a swath through the entire state. The overall visual impact of the Project would be unreasonably adverse. This is clearly demonstrated by evidence presented to the SEC, which shows that the project would be visible from iconic locations within multiple state parks, including Coleman

³⁷ The North Country Council expressed concerns about tourism and orderly development in its opposition to Northern Pass, which they stated would be inconsistent with the strategy statement from their 2014 regional plan for the North Country, which set a goal to "Protect the region's iconic and popular viewsheds from undue adverse impacts associated with incompatible land uses such as large transmission lines like Northern Pass." Comment submitted to DOE on Draft EIS on behalf of North Country Council by Tara Bamford, Director of Planning, and Barbara Robinson, Executive Director, available in FEIS, Volume 3: Appendix L, Part I, Comment 0173.

State Park, Weeks State Park, and Forest Lake State Park in Coos County. The project would also be visible from many historic properties, which are scenic resources as well. These properties include the Rocks Estate in Bethlehem and the Weeks Estate at the summit of Prospect Mountain in Lancaster. The route would also be visible from open ledges along popular hiking routes in the White Mountains, including the Cohos Trail, Prospect Mountain, Signal Ridge, and the Percy Peaks. The Project's towers and conductors would be visible from approximately 45 miles of roads, including 9 miles of New Hampshire's Scenic & Cultural Byways. The transmission lines would cross roads in approximately 100 locations, and they would be visible from multiple scenic overlooks and pull-offs on New Hampshire's Scenic & Cultural byways. The lines will negatively impact hikers, fishermen, and campers who would view the Project's power lines as they move off the byways to places like Lost Nation Road, Forest Lake State Park, Coleman State Park, Little Dummer Pond, and the trails to the back country. The route would cut through regions noted for their scenery and history, including the Indian Stream Republic region of Pittsburg, the agricultural landscapes along North Side Road in Stark and along North Road and Lost Nation Road in Lancaster. Residents and visitors alike would be forced to pass by or under these transmission lines regularly, including when traveling to New Hampshire's recreational, scenic and historic resources.

C. The Methodology Used by the Applicant to Determine the Project's Visual Impacts is Flawed and Understates the Adverse Effect.

The Applicant has repeatedly emphasized that the "average scenic impact" of the project would be low or moderate. By focusing on averages, the Applicant masks the worst visual impacts of the Project. The appropriate measure to consider is the aggregate scenic impact, which was the approach used by the Department of Energy (DOE) in their permit review

process.³⁸ In the Final Environmental Impact Statement (FEIS), an included table demonstrated that the Project would increase the aggregate scenic impact for the entire viewshed along the Project route by 68%.³⁹ In the northern section of the route, the aggregate scenic impact would triple, due largely to the need to clear 38 miles of new right-of-way.⁴⁰ DOE's review clearly demonstrates that the adverse visual impact of the Project would be very significant, especially in the northern portion.

Notably, DOE does not even include information about the average scenic impact--the measure that the Applicant attempts to use that understates the Project's harm--in its summary of visual impacts. This is because that methodology misrepresents the Project's actual anticipated adverse effects. In some locations, it is true that views of the Project would not be adverse. Views of towers from a distance of one or two miles away may be somewhat weak, particularly if only the tops of the towers are visible over the tree-line. More distant views may be barely noticeable. Because *all* of these views are included in calculating average impact, the average impact calculation will likely be low or moderate. However, this overall rating of low or moderate obscures that fact that aesthetic impacts would be much worse from vantage points within cultural landscapes or other scenic resources that have closer views of the project. *Every* clear, close-up view of the proposed NP structures would be unreasonably adverse.

³⁸ See generally, pre-filed testimony of Carl D. Martland for a more detailed summary of the methodology used in the EIS and a discussion of how the assessment of photo simulations in the EIS can be used to evaluate the likely visual impacts of similar structures viewed under similar conditions from locations all along the proposed route for NP or any other transmission project.

³⁹ Final Northern Pass EIS, Summary, Table S.9.1, p. S-22.

⁴⁰ *Id.*, Vol. I: Impact Analysis, Table 4-74, p. 4-104.

D. Burial of the Route May Also Have Adverse Effects to Aesthetic Resources.

The buried portions of the route along state and local roads could require significant alteration of the landscape and therefore of the views from these roads. The Applicant has severely understated these adverse effects. The underground portion of the Project's route would follow New Hampshire Scenic & Cultural Byways almost the entire route from Bethlehem to Plymouth. If the lines are not buried under the roadway surface, clearing the necessary right-of-way along the byways would require digging that will disrupt aesthetic resources. Much of the proposed buried portion of the route would follow narrow local roads.⁴¹ Thus, removal of mature trees, moving boulders, and destruction of greenspace or gardens, would all be likely to occur.⁴² These actions would affect the scenic qualities that made these roads eligible for designation as NH Scenic & Cultural Byways and will unreasonably adversely affect aesthetic resources.

E. If the SEC Approves this Project, Additional Burial Should be Required as a Project Condition.

While, as described above, burial will not remove all negative impacts from the Project, if the SEC decides to issue a Certificate of Site and Facility for the Project, then additional burial should be required as a permit condition. Currently, the Applicant has agreed to bury a 52.3-mile section of the Project near the White Mountains to:

⁴¹ For example, a portion of the buried section of the project would cut through the Ham Branch River Cultural Landscape in Franconia and Easton. This section would follow along narrow local roads, some of which are New Hampshire Scenic and Cultural Byways, and would likely cause damaging effects to stone walls, mature trees and other landscape characteristics.

⁴² Applicant's expert on historic resources testified that she did not even consider potential visual effects of the Project on historic resources along the underground portion of the Project. *See* Transcript of Testimony of Cherilyn Widell, dated Sept. 26, 2017, pg. 11, lines 3-15.

“avoid some of the least developed portions of New Hampshire, where concerns about the visibility of the Project, particularly in and around the White Mountain National Forest, have been the greatest.”⁴³

This is an implicit acknowledgment from the Applicant that burial of the Project helps to avoid some of its negative visual effects. However, the overhead portions of the Project in northern New Hampshire would pass through a region that is also extraordinarily scenic, and even less developed than the region between Bethlehem and Bridgewater. The route north of Bethlehem is also close to the White Mountain Forest and other wild areas, and it is close to many sites and regions of historical and cultural importance. The same logic that the Applicant cited in its decision to bury a portion of the Project, should apply equally to burial of the lines north from Bethlehem to the Canadian Border.⁴⁴

V. CONCLUSION.

If permitted, this Project would cause unreasonable adverse effects to historic sites and aesthetic resources across the state of New Hampshire. The evidence presented to the SEC clearly demonstrates that the Project would provide few benefits to the state, while causing irreparable harm to New Hampshire residents, businesses, and municipalities. The overall effect of the project on historic and aesthetic resources would be unreasonably adverse. The proposed project is not in the public interest and would directly harm the resources that create the character

⁴³ Letter dated April 19, 2015 from Mr. Munz to Mr. Brian Mills in the Office of Electricity Delivery and Energy Reliability in the U.S. Department of Energy, cited in Martland pre-filed testimony.

⁴⁴ Notably, the North Country Council also emphasized that “... all of the costs to the public would be lessened with burial ... all of the public benefits would be higher.” (emphasis in original comment). See Comment submitted to DOE on Draft EIS on behalf of North Country Council by Tara Bamford, Director of Planning, and Barbara Robinson, Executive Director, available in FEIS, Volume 3: Appendix L, Part I, Comment 0173.

of New Hampshire and make it a special place where residents, tourists, and retirees want to stay. Given the foregoing, the Historic Preservation Intervenors respectfully request that the SEC deny the Applicant's request for Certificate of Site and Facility.

Respectfully Submitted,

HISTORIC PRESERVATION
INTERVENOR GROUP

By its Spokesperson,

A handwritten signature in cursive script, appearing to read "Sharee Williamson".

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