

**STATE OF NEW HAMPSHIRE SITE EVALUATION COMMITTEE**

**Docket No. 2015-06**

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

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**FINAL MEMORANDUM**

**of the**

**NON-ABUTTING PROPERTY OWNERS BETHLEHEM TO PLYMOUTH**

**Pro Se Intervenors**

Lee Sullivan and Stephen Buzzell

Timothy and Rebecca Burbank

Edward Cenerizio

Deborah Corey and Matthew Steele

James H. Page Jr.

Submitted by the Group Spokesperson:

Susan Schibanoff

January 12, 2018

## Table of Contents

Title page	1.
Contents	2.
Summary of the Argument	3.
The Argument	4.
A. The Applicants have not met their burden to show that the proposed underground project will not have an unreasonable adverse effect on aesthetics.	4.
B. The Applicants have not met their burden to show that the proposed underground project will not have an unreasonable adverse effect on real estate values in the affected communities (orderly development and economy of the region).	11.
Conclusion	17.
Index to the Dates of Adjudicative Hearing Transcripts Cited Parenthetically in the Text	19.
End Notes	19.

### **Summary of the argument**

The Northern Pass permitting process began on October 14, 2010, with the submission of an application for a Presidential Permit from the Department of Energy to cross the Quebec – New Hampshire border. The original application to the DOE was supplemented on February 15, 2011 and April 12, 2011 and formally amended on July 1, 2013. Five years into the permitting process, the Amended Presidential Permit application of 2013 was formally amended again, on August 31, 2015. In the Amended Amended application of 2015, project sponsors announced a final and dramatic change in their preferred route: they proposed to bury the transmission line under state highways between Bethlehem and Bridgewater rather than build a new overhead line on PSNH's ancient transmission easement between these towns.<sup>1</sup> In October, 2015, the Applicants submitted this proposed "amended amended" route to the New Hampshire Site Evaluation Committee (SEC).

Although the Northern Pass project has one of the longest permitting histories, if not the longest, of any application to come before the SEC, the Applicants' decision to propose burial of 52.5 miles of the transmission line in Grafton County between Bethlehem and Bridgewater was taken late in the process, pursuant to William Quinlan's "listening tour" that began in mid- 2014.<sup>2</sup> Whether or not it is a consequence of this eleventh-hour decision, the Application lacks required assessments of critical potential impacts on the Grafton County segment, which, combined with the underground segment in Coos County (7.5 miles), forms approximately one-third of the 192-mile route from Pittsburg to Deerfield. Focusing on Grafton County, this final memorandum of the Non-abutting Property Owners Bethlehem to Plymouth, a pro se intervenor group, argues that the Applicants have failed to meet the necessary burden of proof to demonstrate that the proposed underground alignment between Bethlehem and Bridgewater would not have unreasonable adverse effects on the interlinked areas of

aesthetics, real estate values of abutting private property, tourism, and the orderly development and economy of the region. It further argues that the responsibility for conducting the omitted but required impact analyses cannot now be delegated to state agencies or other state entities as a condition of a permit. State agencies may oversee administrative details regarding certain conditions imposed by a certificate, but no agency or department is able to conduct the specialized research to assess impacts concerning the findings listed above.

The Application fails to provide a full and fair assessment of the proposed project's impacts for the Subcommittee to deliberate; therefore, the Non-abutting Property Owners Bethlehem to Plymouth respectfully request that a certificate of site and facility be denied.

### **The Argument**

#### **A. The Applicants have not met their burden to show that the proposed underground project will not have an unreasonable adverse effects on aesthetics.**

*The Applicants bear the burden to show that the proposed project, including the underground alignment, "will not have an unreasonable adverse effect on aesthetics . . ." RSA 162-H: 16, IV, (c).*

Over the course of the SEC adjudicative hearings on Northern Pass in 2017, it was established beyond a doubt that the Applicants proceeded in a "reverse" manner to design the underground alignment. Rather than follow the requirement in the New Hampshire Department of Transportation (DOT) Utilities Accommodation Manual (UAM) to design the line outside the pavement as close to the margin of the ROW as possible, the Applicants for the most part positioned it under the pavement. As Subcommittee member William Oldenburg remarked on May 31, the Applicants "did the exact opposite of what the NH DOT's Utility Accommodation Manual (UAM) asks for," namely, to avoid placing the transmission line under the pavement (Tr. 2, AM, 143: 3-5). Mr. Oldenburg questioned why PAR Electric's 2016 permit drawings submitted to DOT on behalf of the Applicants position the transmission line "in the road" and

require the road to be “cut up” to effect most of the design. Did PAR know, Mr. Oldenburg continued, that when it does the final design, the DOT will require the line to be “outside of the pavement”(Tr. 10, PM, 129: 1, 4-6)?

Yes, senior project manager Samuel Johnson answered, DOT’s comments in 2016 and 2017 on the preliminary permit packages as well as DOT’s April 3, 2017 conditions letter “details out exactly that” (Tr. 10, PM, 129: 7-11). In the April 3<sup>rd</sup> letter, DOT Commissioner Victoria Sheehan indicated that DOT and Northern Pass project members had been meeting on a monthly basis for over a year to resolve “major design concerns” with the proposal. One of those major concerns was PAR’s 2016 permit drawings “in the road.” Sheehan spelled out the condition that, “in accordance with the UAM, underground facilities shall be located outside of the pavement area and as close to the ROW line as practicable,” although there may be “some discrete locations within the proposal where an exception to this provision may be permitted.”<sup>3</sup> DOT would approve any such locations through a process of reviewing individual exception requests submitted by the Applicants. When the Applicants’ construction team was recalled pursuant to the SEC Chair’s September 19, 2017 order, Counsel for the Public again asked the construction team, “when you designed it going down [i.e., under] the road, for the most part, you knew that was contrary to the UAM’s requirements; correct?” The underground design engineer, Nathan Scott, answered, “Correct” (Tr. 42 AM, 44: 6-9).

At the close of the record in the SEC adjudicative hearings, December 22, 2017, the Applicants were still in the process of “reversing” their underground design submission to comply with UAM requirements, that is, to assume as the base case that they would place the line outside the pavement and to file exception requests for the “discrete locations” where they sought permission to position it under the pavement. Before it would consider any further exception requests, however, DOT added an extra step: it required the Applicants to provide a certified boundary survey for the entire underground ROW, a major undertaking still in the early stages of submission as the record closed on December 22.<sup>4</sup>

The Applicants' conscious decision to design the underground alignment from Bethlehem to Bridgewater under the pavement, out of compliance with DOT procedures, may have appeased the public, or some portion of it, especially the many potential intervenors whose houses sit within 100 feet of the pavement on the proposed route,<sup>5</sup> but it also resulted in the failure of the Visual Impact Assessment (VIA) undertaken on the Applicants' behalf by Terrence J. DeWan & Associates to analyze the potential impacts of a compliant underground design, which the DOT would subsequently require, as evidenced in Commissioner Sheehan's April 3, 2017 letter discussed earlier.

Terrence DeWan and Jessica Kimball proceeded with preparation of the VIA based on the information they had at the time that the transmission line would be buried under the pavement; they commenced field work in April, 2014 (Tr. 31, PM, 117: 2-4). Their VIA was to include "an evaluation of the buried portions of the line" (Tr. 31, PM, 116: 14-15). In oral testimony, Mr. DeWan confirmed that "it was proposed at that time" that "much of the underground route would be under the road, . . . under the pavement," and DeWan and Kimball proceeded with their evaluation based on that "understanding" (Tr. 33, AM, 69: 1-4). Mr. DeWan explicitly reiterated that "at the time that we did our VIA, it was our understanding the objective was to locate it within the pavement of the road" (Tr. 34, PM, 134: 19-21).

Based on this information provided by the Applicants – that "the assumed route" was "underneath the paved section" (Tr. 34, PM, 135: 23-4) – DeWan and Kimball prepared their VIA of Subarea 3, the proposed 52.5 mile buried route from Bethlehem to Bridgewater. They "drove the entire route," and they "didn't see anything that immediately jumped out at us as being unusual, for the most part" (Tr. 34, PM, 136: 2-3). This perception of "nothing unusual" was formalized in DeWan and Kimball's impact summary of the Underground Transmission Line for Subarea 3 as the absence of any permanent visual impact on scenic resources: "The installation of the underground transmission line will have no permanent visual affect [sic] on the landscape of Subarea 3. There will be no long term clearing of vegetation required. Any vegetation disturbed during construction will be allowed to regenerate." The

VIA for Subarea 3 further states that “there will be little visual impact of the project following construction. The vast majority of the underground transmission line will be installed under state highways. The section of the road involved will be repaved.” In sum, DeWan and Kimball conclude, because it will be under the pavement, the proposed project will not have an unreasonable adverse effect on the aesthetics of the scenic resources of Subarea 3.<sup>6</sup>

When DeWan and Kimball submitted a supplement to the VIA on April 17, 2017, they did not revise their conclusion concerning Subarea 3. “No further discussion” had occurred between project engineers and the aesthetics team, DeWan later testified (Tr. 34, PM, 175: 23); Northern Pass had not told them “that additional widening, tree removal, and terrain changes” were necessary (Tr. 34, PM, 175: 12-14), even though DOT had formally notified the Applicants on April 3, 2017 that a wholesale under-pavement design was contrary to UAM guidelines and not acceptable.

Because the Applicants’ VIA is based on the now shelved under-pavement design submitted to DOT in 2016, it therefore does not, in fact cannot, evaluate adverse - and permanent - impacts on the public scenic resources of Subarea 3 that might occur if the transmission line, or part of it, is buried outside the pavement as close to the ROW line as possible, per UAM requirements. In that event, the main vulnerable public scenic resources would be the roads themselves, which DeWan and Kimball identify as scenic resources #1 and #45 of Subarea 3: components of The Presidential Range Trail and The River Heritage Trail Scenic Byway, Rtes. 302, 18, 116, 112 and 3 pass through Bethlehem, Sugar Hill, Franconia, Easton, Woodstock, Thornton, Campton, Plymouth (Subarea 3, 3-4 to 3-5).

How much adverse impact on these scenic resources might the buried transmission line cause if DOT requires some or all of it to be installed outside the pavement rather than under it? Mark Hodgdon, a consultant to the Applicants, addressed this question in an October 16, 2015 petition to DOT’s Commissioner Sheehan (Grafton Exhibit 36). In his eleven-page letter, Mr. Hodgdon catalogued features

that contribute to the scenic value of these Byways and that would be vulnerable to adverse impact if installation of the line took place at the ROW margin. On Route 18, he wrote, “dense mature woods and old stone walls line the roadway through most of Sugar Hill.” Further south on Route 18, Franconia’s main street, “signs, fences, walls, landscaping, walkways, and likely a few structures would be impacted by any attempt to use the margins of the right of way in this area.” Route 116 from Franconia to the Route 112 intersection, Hodgdon wrote, is a “narrow two-lane highway . . . Numerous wetlands, historic resources, water courses and ponds sporadically adorn the roadside. Mature trees crowd much of its length. Stone walls and existing utilities occupy the land just past the ditch lines and shoulder.” Route 112 through Kinsman Notch, already occupied by buried utilities, would be “impacted by further roadside construction.” “More importantly,” Hodgdon argued, “the road’s scenic quality would invariably be altered by the additional widening, tree removal and terrain changes necessary to place the NPT underground facility in the undisturbed areas.” From Woodstock south through Plymouth on Route 3, “innumerable signs, landscaping, trees, curbs, parking spaces, walls and fences lie just beyond the travelled surface. A variety of water courses and rivers weave across and under the highway.” “Attempting to construct a utility of this nature outside the disturbed area of the roadway” – as close as possible to the edge of the ROW, per the UAM – “is highly problematic,” Hodgdon concluded.

Intervenor Carl Martland, Chair of the North Country Scenic Byways Council, explains further the potential impacts of burial off the pavement on the Byways of Subarea 3. For him, too, off-pavement burial would be “highly problematic”:

“Burial of the lines [under the pavement] requires a trench that is only a few feet wide, and such a trench would easily fit under and eventually be covered by the new pavement when the project is completed. If the line is to be buried off the ROW, then it could require removal of trees and shrubs, destruction of stone walls, cuts into embankments or hillsides, and disturbance of wetlands. In many cases, the scenic value of a byway is based upon the rural character of a village or farm lands. Rows of



tall trees, carefully sculpted landscapes surrounding old homes, views across stone walls all add to the experience of being on a byway. When the byways wind through portions of the White Mountain National Forest, travelers enjoy views of forests, streams, wetlands, and mountains. If the trees are cut down, if the gardens and shrubs in front of old farm buildings are destroyed, and if the stone walls are eliminated, then there will be a long-lasting adverse visual impact for residents and visitors who travel along the byways” (Pre-filed testimony, November 15, 2016, p. 4).

The “Visual Impact Analysis Report” submitted as pre-filed testimony by Counsel for the Public’s aesthetics consultants, Michael Buscher, James Palmer, and Jeremy Owens (T. J. Boyle Associates LLC), on December 30, 2016, notes that “undergrounding” does not necessarily remove all of the potential adverse visual impacts of above ground facilities, such as the contrast that permanent clearing of vegetation for a buried line may create with the surrounding land cover (p. 51); such clearing would occur with an off-pavement design, not an under-pavement design. And the intervenor members of the Abutting Property Owners Bethlehem to Plymouth group testified to the difference it makes if the transmission line is buried under- or off-pavement. Off-pavement burial at the edge of the DOT ROW could inflict permanent adverse aesthetic impacts on the front yards of some of these abutters, threatening trees, landscaping, and other enhancements.<sup>7</sup>

For whatever reasons the Applicants tried to make an end-run around the UAM’s underground design process, it did not relieve them of the obligation to show, by means of a full SEC-prescribed VIA, what the impacts would be of a DOT-compliant off-pavement design on the scenic resources of the Byways. DeWan and Kimball’s VIA presents no photosimulations, per SEC Rules (Site 301.05(b)7), from representative key observation points illustrating “the potential change in the landscape that would result from construction of the proposed facility and associated infrastructure, including land clearing and grading” (Site 301.05(b)7, emphases added) where, and if, off-pavement installation of the transmission line is required by DOT. Nor does it provide a “description and map depicting . . . all areas

to be cleared and graded, that would be visible from any scenic resources . . .” (Site 301.05(a), emphases added).

Despite the Applicants’ optimistic estimate of necessary tree removal offered late in the adjudicative hearings (Applicants Exhibit 222), it is entirely credible that the DOT will not grant all of their exception requests, currently numbering 185 on the Northern Pass page of the DOT website, which include requests to position the line under the blacktop. The Applicants could have and should have anticipated this possible outcome and prepared a VIA that includes photosimulations and maps of off-pavement installations in key sensitive areas, such as those Mr. Hodgdon identified as “highly problematic” in his petition letter of October 16, 2015, discussed earlier. This is the price of proceeding in an additive or “iterative” fashion with DOT. With constantly changing plans, the Applicants’ VIA should have modeled variable outcomes in order for the SEC Subcommittee to have a full and fair basis on which to decide whether or not to grant a certificate. As the record stands now, and it is the only record that the Subcommittee may evaluate, the Applicants have not met their burden of proof to demonstrate that the underground project from Bethlehem to Bridgewater would not have unreasonable adverse impacts on the aesthetics of important public scenic resources to tourists and residents alike in Grafton County, the Byways.

As to any suggestion that the responsibility for assessing the aesthetic impact of the final underground design be delegated to a state agency or other entity as a condition of a permit, Mr. Oldenburg accurately observed to Mr. DeWan, in another context, that the aesthetics panel was one of the few that does not have an “outside agency reviewing your work. So, the construction panel, the DOT is reviewing their work; the environmental panel has DES and the EPA; and, you know, the cultural and history has SHPO and all these others. So, you have the SEC rules, correct?” (Tr. 35, AM, 100: 16-23).

In the state of New Hampshire, there is no “Department of Aesthetics” to assess impacts on public scenic resources, oversee their preservation, administer conditions imposed by the SEC in a certificate. Through its rules, the SEC delegates this responsibility to specialty firms, such as DeWan & Associates, which are contracted by an Applicant to assess and demonstrate in a VIA that a project before the SEC would not have an undue adverse effect on public scenic resources. The evaluative process of a VIA cannot be expanded indefinitely, kicked down the road, as the iterative process wends its way towards a final design. The VIA necessarily concludes at the close of the adjudicative hearings. Based as it is on a non-compliant underground design, the Applicants’ VIA fails to meet the burden of proof that a DOT-compliant design would not have an unreasonable adverse effect on aesthetics. To allow the Applicants another bite at the proverbial apple would disenfranchise opponent Intervenors.

**B. The Applicants have not met their burden to show that the proposed underground project will not have an unreasonable adverse effect on real estate values in the affected communities (orderly development and economy of the region).**

*The Applicants bear the burden to show that the proposed project, including the underground alignment, “will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.”*

*RSA 162-H: 16, IV, (b).. .*

*Site 301.09 Effects on Orderly Development of Region. Each application shall include information regarding the effects of the proposed energy facility on the orderly development of the region, including the views of municipal and regional planning commissions and municipal governing bodies regarding the proposed facility, if such views have been expressed in writing, and master plans of the affected communities and zoning ordinances of the proposed facility host municipalities and unincorporated places, and the applicant’s estimate of the effects of the construction and operation of the facility on . . . The*

*economy of the region, including an assessment of . . . The effect of the proposed facility on real estate values in the affected communities. . . . (emphases added).*

Concern about the devaluation of private property caused by the Northern Pass transmission line has been a hallmark of opposition to the project since it was first announced in 2010. The earliest public comments submitted to the SEC, five years before the docket officially opened, voice the ubiquitous fear among residents of affected communities that “individual property values in the vicinity of the power line will decrease” (Terri Parks, 12/10/10), quantified by another resident as “30 to 75% depending on location and loss of view” (Darlene King, 12/28/10). Prominent realtors in the affected communities from northern to southern New Hampshire have taken leadership roles in opposing the towers, including Peter Powell (Lancaster area), Andrew Smith (Franconia area), Darlene King (Waterville Valley area), Thomas Mullen (Campton area), and Jeanne Menard (Deerfield area). These licensed New Hampshire realtors have submitted multiple public comments to the SEC, testified in public hearings, intervened against the project, and served as professional consultant to intervenors.<sup>8</sup>

Based on 42 years of hands-on experience in the field, Mr. Powell’s opinion that “you cannot put ugly objects on a beautiful landscape without negatively impacting the marketability and value of all those properties which gaze upon it”<sup>9</sup> is widely shared, evidenced in the spontaneous audience “interruptions” that occurred when the Applicants’ real estate consultant, Dr. James Chalmers, stated in two different public hearings that his research study showed that the towers would have no widespread or consistent effect on property values.<sup>10</sup> The Applicants’ effort to dismiss such concern about property devaluation as a “visceral reaction”<sup>11</sup> unsupported by Chalmers’ research study lies at odds with Chalmers’ published statement that he would not want transmission lines strung in his own back yard, that they might reduce the value of one’s \$200,000 second home to \$75,000 - \$100,000.<sup>12</sup>

An early hallmark of opposition to Northern Pass, concern about property devaluation has continued to spark widespread objection to the project in the affected communities and their close neighbors. Of the record-breaking 154 individuals, groups, and municipalities that filed petitions to intervene against Northern Pass at the SEC in late 2015 and early 2016, two-thirds (100) listed property devaluation as a reason for filing (Exhibit NAPOBP 10). Of these 100, twenty are municipalities or their various boards: Dalton, Easton, Concord, Pembroke, Bethlehem, Ashland, Bristol, Franconia, Northumberland, Pittsburg, Sugar Hill, Whitefield, Clarksville, Stewartstown, Holderness, Littleton, Bridgewater, New Hampton, Woodstock, and Colebrook.

Notably, eight of the twenty municipalities that petitioned to intervene at the SEC because of concerns about property devaluation are towns in which an underground line is fully or partially proposed. Six of these towns are in Grafton County (Easton, Bethlehem, Franconia, Sugar Hill, Woodstock, Bridgewater) two in Coos County (Clarksville, Stewartstown). Pre-filed testimony submitted on behalf of the Town of Plymouth in November, 2016, raises the number of towns concerned about property devaluation due to the proposed underground transmission line to nine, with seven in Grafton County. The Grafton County Commissioners flagged this issue as well in pre-filed testimony submitted on their behalf by Commissioner Linda Lauer (12/29/16). Of the 30 individuals in proposed “burial” towns in Grafton County who petitioned to intervene, twenty listed concern about property devaluation (Exhibit NAPOBP 10).

Despite this widespread concern about property devaluation among affected municipalities and abutters in the proposed “burial” towns, the Applicants’ real estate consultant, Dr. Chalmers, did no analysis of potential adverse impacts of the underground line on abutting property values. His work was strictly focused on the possible effects of visible high voltage transmission lines and associated structures on property values. Leaving aside the question of whether Chalmers’ work on overhead lines

is pertinent or accurate, the simple fact is that he did not consider the 60 miles of the 192 mile project where the underground line is proposed other than in the respect that visible structures such as transition stations might have impacts. In oral testimony, Dr. Chalmers explained that he was only concerned with the potential impacts on property values of the visible aspects of the line. Asked specifically whether he had addressed “other possible impacts of a buried route, in a state road, on property values in the Northern Pass Project,” Chalmers said, no, “not beyond visibility.” Asked why he had thus limited his study, Chalmers explained, “because I don’t see that there are any property value implications” beyond visibility (Tr. 26, AM, 119: 15-16).

Abutting owners, affected towns, and Grafton County officials, however, do see property value implications of buried high voltage transmission lines other than the visibility of associated above ground structures and had in most cases expressed these concerns well before Dr. Chalmers submitted his final, pre-filed supplemental testimony on April 17, 2017. A sampling of these concerns is contained in the following remarks:

“The controversial subject of health issues caused by [underground] HVDC lines in such close proximity, whether valid or not, will forever and significantly deflate the value of our property.” – Robert Thibault (Easton).<sup>13</sup>

“Decrease in my property value due to the proximity of the [underground] HVDC cable, due to potential health and safety concerns, even if unproven.” – Virginia Jeffryes (Franconia).<sup>14</sup>

“Removal of this vegetation [along Route 116] would have a significant and adverse impact on the ‘nestled in the woods’ character of this community. Resultant secondary impacts would be a reduction in both property values and tourism.” -- Abutting Property Owners Bethlehem to Plymouth.<sup>15</sup>

“Impacts on Property Values and Character of the Neighborhood. The NHDOT Conditions state that the underground portion of NP should be installed at the outer limits of highway ROWs wherever practicable. This would require the removal of extensive vegetation including mature trees, and would dramatically change the character of the neighborhoods along the subject highways. This new requirement of the NHDOT Conditions would result in significant visual impact. We are concerned that alteration of the character of our neighborhoods and visual impacts will result in significant reduction in the property values for abutting landowners. In addition, the avoidance of high-voltage electrical transmission installations by prospective homebuyers would make our properties less desirable, resulting in reduced property values.” -Walter Palmer and Kathryn Ting (Franconia).<sup>16</sup>

“The [Grafton County] Commissioners recently received hundreds of pages of maps detailing the burial of the route. These maps are replete with references to the need to destroy natural resources, such as trees and shrubs, that will dramatically impact the character of the region, character that has an economic value. . . The permanent decrease in the value of properties could devastate the tax base into the future for all of Grafton County. It also would devastate many homeowners, who rely on their residence as their main asset.” - Grafton County Commissioners (Grafton County).<sup>17</sup>

“I feel it will decrease the value of my land as shown by the number of properties along the proposed route that are For Sale or have been sold at prices significantly less than the value before this project was proposed. It will also make developing the land much more difficult therefore decreasing its value. If they install the project on the west side of the Right of Way it will affect my barn that is within 8ft of the pavement.” - Bruce Ahern (Plymouth).<sup>18</sup>

“A neighboring property at the corner of NH Route 116 and Lafayette Road in Franconia, a 1.53 acre building lot located some 1000 yards from our property on NH Route 116, was advertised for sale a year ago with a listing a price of \$ 49,000. After price mark-downs, the property described above was sold in September, 2016 for \$ 25,000. An earlier prospective buyer, interested in acquiring this property, lost

interest in making the purchase because he was unsure about that the placement of the Proposed HVDC Line; that the Line could abut the property at locations where children might play.” – Peter Grote (Franconia).<sup>19</sup>

These concerns divide into three subsets: 1) concerns about health and safety, even if unproven, from living so close to a high voltage 320kV line a few feet under the ground; 2) concerns about a new encumbrance introduced at the edge of one’s property, or within it, and possible limitations on development; 3) concerns about aesthetic degradation of property if trees, fences, landscaping, stone walls and other such amenities are removed. They are all valid concerns. The first, a health and safety “stigma effect,” is a recognized phenomenon in professional real estate literature. Chalmers himself has published on the associated subjects of “contaminated” and “environmentally impaired” properties as well as on “stigmatized” real estate.<sup>20</sup> Second, it is generally accepted that properties that have, or are perceived to have, encumbrances – limitations – suffer in comparative value to similar properties free from them. And, third, it is also widely accepted that “curb appeal” – trees, landscaping, stone walls, and other amenities – enhance a property’s economic value. DOT’s “2017 Stone Wall Policy Guidelines,” for instance, states that “rural land in New England graced with stone walls has a higher intrinsic value than land without walls (or denuded of them) . . .” (Grafton Exhibit 61, p. 7). It follows that the removal of such amenities to install a buried transmission line, a possibility discussed earlier in this memo, could decrease a property’s economic value.

In oral testimony before the SEC, a certified New Hampshire appraiser and assessing supervisor, George Sansoucy, supported the validity of abutters’ concerns about stigma and encumbrance:

“ . . . when you have this 350,000 volt<sup>21</sup> line embedded in front of your building, the word is going to slowly get out as there are interferences and restrictions about working around this line. People are going to become more and more familiar and more and more anxious with owning property in front of



that line, especially commercial property where they're going to want to build and expand drainage systems, catch basins, if they have to put in underground drainage, septic systems, these type of things that are anywhere near this line or bring in utilities that are going to hit this line. . . .And I think there's going to be more and more talk as people realize the problems associated with this that's going to put a stigma on the properties. We have never in New Hampshire put 350,000 volts in the streets of a town like Franconia. Never. The unintended consequences that I think are going to occur are going to be severe on those abutters” (Tr. 62, PM, 41: 13 – 42: 24).

Dr. Chalmers ignored these concerns; he did not conduct even a rudimentary literature review on the possible implications of a “stigmatizing” buried high voltage transmission line on abutting property because he did not “see” that there are any implications. Unsupported by research and evidence, this casual statement is not a persuasive assessment. The Applicants have failed to meet their burden of proof to show that the proposed underground project would not have an unreasonable adverse effect on real estate values in the affected communities, hence on the orderly development and economy of the region. Here again, there is no appropriate state agency or department to step in and provide the missing research assessment that the Subcommittee requires in order to deliberate fully and fairly.

### **Conclusion**

The Applicants have stressed the novelty of their proposed undertaking to bury 60 miles of high voltage transmission line in New Hampshire state highways and certain municipal roads. In SEC information sessions in 2015 and 2016 and in oral adjudicative testimony before the SEC, Mr. Quinlan repeatedly stated that the Applicants propose to bury the longest segment of the new “state of the art” HVDC Light cable in North America (e.g., Tr. 2, AM, 143: 3-5). And Kenneth Bowes (Vice President of Transmission Performance, Eversource) remarked that there is no other buried transmission line of any type or voltage in New Hampshire (Tr. 42, AM, 59: 18-19). In this respect, the proposed underground project is

an experiment. Given the requested site for this facility, which Mr. Oldenburg and others have called “unbuilt roads,”<sup>22</sup> ancient, narrow routes closely hugged by numerous residences and passing through three business districts that cater to tourists,<sup>23</sup> it is at best a highly problematic experiment.

To have even a chance of succeeding, at a minimum, the Northern Pass underground project required compliance with DOT rules from the start, a transparent and forthright “outreach” approach to abutters, and the utmost respect and cooperation of the affected municipalities. Project sponsors did not engage in the former, and therefore they have failed to gain the latter, community trust. None of the towns on the proposed underground route in Coos or Grafton Counties has been willing to sign an MOU with the Applicants. Pressed to explain why Sugar Hill has declined to sign this agreement, Selectboard chair Margaret Connors said it honestly and directly: “. . . we don’t really trust Northern Pass . . .” (Tr. 69, PM, 44:21).<sup>24</sup> The affected towns do not have enough confidence in the Applicants to willingly gamble on this experiment with them. The long term consequences of failure are as severe as a blighted 52.5-mile route along what has historically been one of the most vibrant tourist corridors in New Hampshire.

This final memorandum has argued that one of the main factors leading to widespread community distrust of Northern Pass is that the Applicants have not met the burden of proof to demonstrate that their proposed underground project is compatible with the orderly development of the affected communities and with the aesthetics of the Byways that literally drives the scenery-centered local economy of tourism. It remains doubtful that this burden of proof could ever be met for the proposed site of the Northern Pass underground project in Grafton County, Routes 302, 18, 116, 112, and 3. The question is beyond the scope of this final memorandum, however. The Non-abutting Property Owners Bethlehem to Plymouth respectfully request the Subcommittee to deny a certificate of site and facility to the Northern Pass project.

Index to the Dates of Adjudicative Hearing Transcripts Cited Parenthetically in the Text

Tr. 1: 4/13/17  
 Tr. 2: 4/14/17  
 Tr. 10: 5/31/17  
 Tr. 12: 6/2/17  
 Tr. 26: 8/2/17  
 Tr. 31: 9/11/17  
 Tr. 33: 9/13/17  
 Tr. 34: 9/15/17  
 Tr. 35: 9/18/17  
 Tr. 42: 9/29/17  
 Tr. 62: 11/20/17  
 Tr. 64: 12/5/17

Endnotes

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<sup>1</sup> See Application, Vol. IX, App. 7, DOE Presidential Permit Application, p. 164: Mary Anne Sullivan, Letter, August 31, 2015.

<sup>2</sup> See Adjudicative Hearing Transcript, Day 1, PM, p. 139, ll. 19-20. All subsequent references to quotations from transcripts of the adjudicative hearings will be abbreviated parenthetically in the text as follows: Tr. 1, PM, 139: 19-20. An index to the dates of adjudicative hearing transcripts cited parenthetically in the text is provided above.

<sup>3</sup> Victoria Sheehan, "NHDOT Letter Regarding Permits," 04/03/17.

<sup>4</sup> On September 29, Samuel Johnson testified that it would be six to eight weeks before the Applicants submitted the new survey plus a month for DOT to review it; he estimated "sometime around February of next year [2018]" for a completed survey (Tr. 42, AM, 24: 12). However, in testimony on December 5, Plymouth intervenor Bruce Ahern pointed out inaccuracies in an exception request based on the new survey of the proposed underground route near his land, suggesting the process will take longer (Tr. 64, PM, 65: 15-24).

<sup>5</sup> See, at 11/07/17, Lara Saffo, "Motion for New Public Hearings and Motion to Require a New Application," for representations made in public hearings and meetings concerning the positioning of the cable under the pavement.

<sup>6</sup> See VIA Subarea 3, 3-9 in Application, Vol. XV, App. 17, NPT Line Visual Impact Assessment.

<sup>7</sup> In their pre-filed testimony of December 27, 2016, the members of the APOBP group detail their concerns about the project "migrating out from under the pavement and moving to the edge of the ROW," including "cutting back of trees and permanent loss of vegetation in our front yards" (p. 4). For the close proximity of residences and barns to Route 116 in Franconia and Easton, see the DOT permit package plans in NAPOBP Exhibits 19, 23, 25, and photos in NAPOBP Exhibits 22, 24, 26, 29, 30, 31, and 32.

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<sup>8</sup> Powell pre-filed testimony in support of intervenors from Dalton, Whitefield, and Bethlehem on December 30, 2016 and testified before the SEC in the adjudicatory hearings. Smith submitted a petition from over 80 business owners against Northern Pass in a comment letter to the SEC dated 04/12/17. Mullen petitioned to intervene (02/02/16), submitted a comment letter to the SEC (11/25/15), and testified in SEC public hearings. King submitted multiple comment letters to the SEC between 12/28/10 and 07/06/11. Menard was an active intervenor throughout the SEC adjudicatory hearings; she served as spokesperson for Deerfield abutters, cross examined numerous witnesses, and took the stand twice herself.

<sup>9</sup> See, at 03/04/16, Transcript of Public Hearing, Holderness, 226: 12-15.

<sup>10</sup> See, at 03/16/16, Transcript of Public Hearing, Deerfield, 52: 23; and, at 03/07/16, Transcript of Public Hearing, Colebrook, 49: 8-9.

<sup>11</sup> Application, Vol. III, Transcripts of Public Information Sessions, Belknap County, 35: 9-11.

<sup>12</sup> Quoted in Peter Powell, Pre-filed testimony, 12/30/16, p. 9.

<sup>13</sup> Petition to intervene, at 02/03/16.

<sup>14</sup> Petition to intervene, at 02/04/16.

<sup>15</sup> Pre-filed testimony of Eric and Barbara Meyer et al., 12/27/16, p. 5.

<sup>16</sup> Supplemental pre-filed testimony, 4/17/17, p. 2.

<sup>17</sup> Pre-filed testimony of Linda Lauer on behalf of the Grafton County Commissioners, 12/29/16, p. 7.

<sup>18</sup> Pre-filed testimony, 11/14/16, p. 2.

<sup>19</sup> Supplemental pre-filed testimony, with exhibits, 4/17/16.

<sup>20</sup> For examples, see Chalmers, Pre-filed testimony, Attachment A, Publications, p. 8, in Application, Vol. II, Pre-filed testimony.

<sup>21</sup> The proposed buried DC line is 320kV, but it is nevertheless a high voltage line. 230kV and above is considered high voltage.

<sup>22</sup> Oldenburg, Tr. 10, PM, 121: 24. See also Tr. 12, PM, 114:20.

<sup>23</sup> Franconia, Woodstock, and Plymouth. Upwards of 600 tax parcels abut the proposed underground route in Grafton County. Application, Vol. VIII, NHDES Alteration of Terrain Permit, Appendix 6a\_b, Alteration of Terrain Permit, App. K, Parcel Landowner List. Re-submitted tax cards and maps for abutting properties in each affected community (including the three towns south of Deerfield - Chester, Londonderry and Raymond) are in the Application at 07/11/16.

<sup>24</sup> On the critical role of trust in power project siting, see the Public Comment of Howard Moffett, 12/20/17.