

December 3, 2015

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

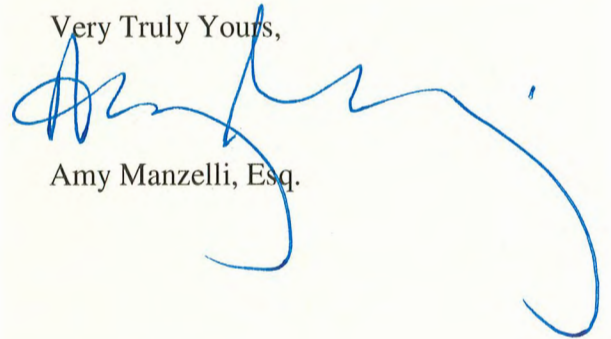
Re: Joint Application of Northern Pass Transmission, LLC and Public Service
Company of New Hampshire d/b/a Eversource Energy for a Certificate of Site
and Facility, Site Evaluation Committee Docket No. 2015-06

Dear Ms. Monroe,

Enclosed please find my letter submitted on behalf of the Society for the Protection of
New Hampshire Forests as well as the Appearance of Thomas N. Masland, Esq.

Please let me know if you have any questions or concerns.

Very Truly Yours,



Amy Manzelli, Esq.

cc: Distribution List (rev. as of 12-2-15) via email
Client



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

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Re: 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, Site Evaluation Committee Docket No. 2015-06

Dear Ms. Monroe,

I write on behalf of the Society for the Protection of New Hampshire Forests (“Forest Society”) to highlight that the above-referenced application remains incomplete.

First, since the Forest Society raised the issue, nothing submitted in connection with the above-referenced docket even mentions the Washburn Family Forest on the Connecticut River in Clarksville, which the Forest Society owns, and through which Northern Pass has proposed to install and operate a transmission line. The Forest Society firmly believes the proposed route would wrongfully use the Forest Society’s private property because the proposed use would unreasonably exceed the scope of existing highway rights-of-way in that area. Accordingly, as noted previously, the Forest Society has brought an action in Coos County Superior Court (Docket No. 214-2015-CV-0014) to protect its real property rights.

Second, in a November 20, 2015 letter from Dana Bisbee, Esq., Northern Pass simply contends it has “proved” it has a “right” to use all the land for 192 miles regardless of who owns it, and that this “right” is not subject to legal challenge. “By seeking to exercise a regulatory right by pursuing permission under RSA 231:160, *et seq.* for use of various public highways, Northern Pass has demonstrated its right (subject to approval by DOT) to use the State’s public highway easements.” While it is unclear what a “regulatory right” is, it is clear that simply filing an application that claims sufficient rights falls short of meeting the burden the legislature intended to create in passing RSA 162-H:7, IV, which sets forth specific application requirements.

Third, burying an elective, merchant underground transmission line 50 to 70 feet beneath the bed of the River and beneath the Washburn Family Forest to serve customers in southern New England is not the type of use that RSA 231:160, *et seq.*, authorizes DOT to license. Indeed, if DOT were to grant Northern Pass such rights, it would amount to an unconstitutional taking.

Northern Pass erroneously argues that RSA 231:160 *et seq.* authorizes (or even requires) DOT to “grant utilities the right to use public highways.” Leaving aside the important facts that Northern Pass is not a “utility;” DOT grants licenses rather than “rights;” and municipalities—not DOT—are responsible for licensing the use of roads other than state-maintained roads, DOT’s letter should not be construed as approving Northern Pass’s reliance on RSA 231:160, *et seq.* This conclusion is supported by a November 20, 2015 article in the Concord Monitor,



quoting a DOT representative that DOT is “still waiting for a legal interpretation on some contentions over public road access.”

Fourth, in its November 20 letter, Northern Pass avers that none of the Wetland, Alteration of Terrain, or Shoreland regulations require “that the owner of the fee interest in the underlying land must consent to or provide a signature for the application.” It is unclear how Northern Pass squares this assertion with the regulatory language. For example, Env-Wq 1406.08 states that “Except [with respect to maintenance permit applications], the property owner(s) and applicant, if other than the property owner, shall sign and date the application.”

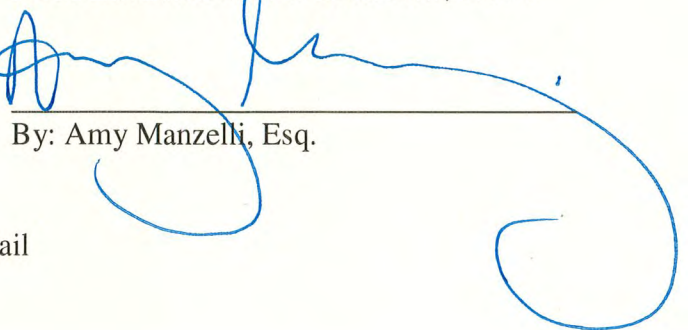
Only when the underlying fee owner has authorized an applicant to sign on behalf of the fee owner may only the applicant sign an application. This requirement intends to avoid situations precisely like this, where an applicant proposes to make use of a fee owner’s property without the approval of, and indeed over the objection of, the fee owner.

In conclusion, Northern Pass cannot make its application complete through asserting legal arguments about real property rights in this forum. The dispute is whether the scope of a private company’s right to use New Hampshire roads includes the novel use now proposed—a transmission line that is not designed to meet any supply or reliability needs within this state. The dispute cannot be resolved simply by insisting that it does not exist. Until the New Hampshire courts resolve the dispute, the Site Evaluation Committee can determine only that the application is incomplete.

Copies of this letter have this date been forwarded via email to all parties on the Distribution List.

If you have any questions or concerns, please do not hesitate to contact me.

Very Truly Yours,
BCM Environmental & Land Law, PLLC



By: Amy Manzelli, Esq.

cc: Distribution List (rev. as of 12-2-15) via email
Client



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

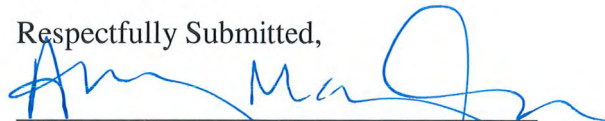
APPEARANCE

Pursuant to NH Admin. Rule Site 202.04, please enter the appearance of Thomas N. Masland as counsel for Society for the Protection of New Hampshire Forests (the "Forest Society") in the above-captioned matter. Attorney Masland is admitted to practice in the State of New Hampshire.

Thomas N. Masland (NHBA #1630)
Ransmeier & Spellman Professional Corporation
One Capitol Street
P.O. Box 600
Concord, NH 03302-0600
Tel. (603) 228-0477
tmasland@ranspell.com.

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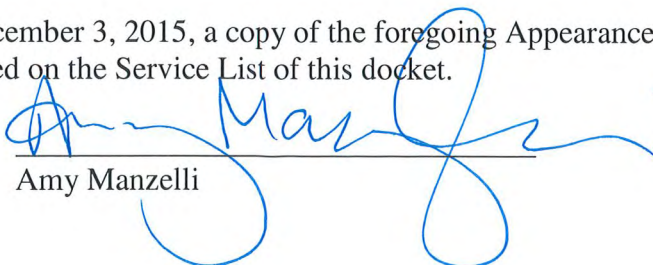
Respectfully Submitted,



Amy Manzelli, Esq. (NH Bar #17128)
BCM Environmental & Land Law, PLLC
3 Maple Street
Concord, NH 03301
(603) 225-2585
manzelli@nhlandlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this day, December 3, 2015, a copy of the foregoing Appearance was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli