



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

August 4, 2016

Via US Mail and Email

Cassandra Laleme
Chair, Bethlehem Board of Selectmen
Cheryl Jensen
Co-Chair, Bethlehem Conservation Commission
Michael Bruno,
Chair, Bethlehem Planning Board
2155 Main Street
P.O. Box 189
Bethlehem, New Hampshire 03574

Re: Northern Pass Project

Dear Chair Laleme, Vice-Chair Jensen, and Chair Bruno:

In response to your July 12, 2016 letter, the New Hampshire Department of Environmental Services (NHDES) thanks you for sharing your thoughts on the Northern Pass application, including your comments regarding permitting for investigatory geotechnical borings.

While the NHDES is not in a position to be able to meet one-on-one with officials from the Town of Bethlehem or other parties seeking to provide comments on this matter, I would like to take this opportunity to provide some information that may be helpful to your understanding of the process and general application of the applicable laws, as well as information regarding permits for investigatory geotechnical borings issued by NHDES in the Town of Bethlehem relating to this matter. Your letter and this reply will be made part of the public comment file in the Site Evaluation Committee's docket in the Northern Pass matter so that all parties will have an opportunity to see these communications.

First, the "progress report" submitted by an agency such as NHDES is for the purpose of "... outlining draft permit conditions and specifying additional data requirements necessary to make a final decision" See RSA 162-H:7, VI-b. In the case of NHDES review of wetland permit applications, such data requirements may include the need for an applicant to undertake further investigation, data collection, or analysis in order to provide sufficient information for NHDES to determine whether the applicant's proposal would meet all applicable requirements under state laws (see RSA 482-A) and associated regulations, including

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but not limited to the requirement to avoid, minimize or mitigate to the greatest extent practicable any impacts to wetlands. See NH Code of Admin. Rules Env-Wt 302.03 (“Avoidance,

Minimization and Mitigation”). In some instances an applicant may need to investigate (including with geotechnical borings) the potential to minimize impacts on the initially proposed site of wetlands impact while also determining whether alternative sites might be available for the proposed activity. Both sets of information or data may be necessary in order for the applicant to meet its burden and for NHDES to have sufficient information on which to make a final regulatory decision (including pursuant to RSA 162-H:7, VI-c, in the case of a matter falling under the jurisdiction of the Site Evaluation Committee).

Second, it is important to recognize that the coordinated permitting process under RSA Chapter 162-H, Energy Facility Evaluation, Siting, Construction and Operation, pertains to permits for the construction and the subsequent operation and maintenance of a regulated energy facility. See RSA 162-H:5, I. Permits for investigation of conditions that may lead to submittal of an application for construction of an energy facility are not covered by RSA 162-H. Nevertheless, when applications for investigatory work have been submitted to NHDES by an applicant in response to an “additional data requirement” pursuant to RSA 162-H:7, VI-b, NHDES has ensured that the SEC is notified of such matters. It should also be noted that permits would only be required for investigatory geotechnical borings that are made in jurisdictional areas (i.e., jurisdictional wetlands under RSA Chapter 482-A, or jurisdictional protected shoreland under RSA Chapter 483-B).

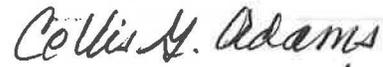
In the case of the Northern Pass matter, NHDES received on May 9, 2016, and subsequently granted, various applications pursuant to RSA Chapter 483-B, the Shoreland Water Quality Protection Act, for temporary geotechnical borings, all “in the road or shoulder of Routes 302, 18, 116, 12 and 3 in the towns of Bethlehem, Sugar Hill, Franconia, Woodstock, Campton and Thornton.” (See Shoreland Permit file # 2016-01302.) The sole location covered by such a permit in Bethlehem was a 2 square foot area on or in the shoulder of Route 302 near Baker Brook Pond (also known as Miller Pond). To date, NHDES has not received or processed any form of permit application for investigatory geotechnical borings at the proposed Transition Station #5 site.

I trust that this letter is responsive to your concerns. Please be assured that, as with the comments contained in your July 12, 2016 email letter, any and all comments submitted in writing by the Town of Bethlehem will be considered by NHDES as the review process continues.

As mentioned above, I am copying the SEC Administrator on this letter so that it will be placed in the SEC public comment file along with your email letter dated July 12, 2016. Again, thanks for sharing your comments and concerns about the Northern Pass application.

Cassandra Laleme
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Sincerely,

A handwritten signature in cursive script that reads "Collis G. Adams".

Collis G. Adams, CWS *by cog*
Wetlands Bureau Administrator

cc: Pamela G. Monroe, Administrator, SEC
Thomas S. Burack, Commissioner, NHDES
Ridgley Mauck, NHDES