

Max Stamp
Chairman, PRLAC
2110 Summer St.
Bristol, NH 03222

August 12, 2016

VIA FIRST CLASS MAIL AND EMAIL

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

Dear Ms. Monroe:

RE: 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 for Construction of
a New High Voltage Transmission Line in New Hampshire

Enclosed please find filing for a Motion to Compel Discovery submitted by the Pemigewasset River Local Advisory Committee.

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

Thank you. If you have any questions, please contact me at the above address or at hmstamp@metrocast.net.

Sincerely,

Max Stamp
Chairman
Pemigewasset River Local Advisory Committee

**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

**PEMIGEWASSET RIVER LOCAL ADVISORY COMMITTEE'S
MOTION TO COMPEL APPLICANTS TO RESPOND FURTHER TO DATA
REQUESTS AND DISCOVERY QUESTIONS - SET 1**

Pemigewasset River Local Advisory Committee (PRLAC) respectfully serves a Motion to Compel the Applicant to more fully Respond to the First Data Requests and Discovery Questions on Northern Pass Transmission, LLC and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicants") pursuant to N.H. Admin. R. Site 202.12 and the Order to Extend Deadlines for Filing of Motions to Compel, dated August 2, 2016.

Preliminary Statement in regards to Applicant Responses to PRLAC's First Data Requests

PRLAC and other river local advisory committees throughout the state of New Hampshire are charged to implement a River Management Plan that protects the outstanding qualities of a "designated river", such as the Pemigewasset, for *future generations* (NH Rivers Management and Protection Program 1988 and RSA 483).

PRLAC members comprise an all-volunteer group appointed by towns within the Pemigewasset River Corridor. When we evaluate permit applications we examine the project in terms of immediate, short-term and long-term impacts on the river and watershed. PRLAC members conduct on-site evaluations. Our work includes a four month schedule of water testing annually and "boots on the ground" permit application inspections as required. We also ask specific questions and meet with applicants for additional information and dialogue.

No matter the size or scope of a project, our members work with careful regard of the statutory rules and responsibilities. We look at projects as a whole and consider the standards and overall compliance with current laws as well as the "future generations" mandate. It is our practice to engage with all parties in "good faith" to solve problems before permitting, not after.

The Applicants' complaint that PRLAC's questions are "vague, overbroad and unduly burdensome" is not accepted by PRLAC. The information and answers we seek are directly related to the broad implications of this project on the people, the economy and the environment of the Pemigewasset River and Watershed.

We also object to the Applicants' opinion that the information requested is "irrelevant" to the SEC's work. We leave that decision to the SEC, not the Applicant. We apologize in advance for any lapses in our legal presentations or language. Please be assured we are a volunteer group of citizens who fully recognize the serious work of the SEC and our own part in this process.

REQUEST FOR ADDITIONAL CLARIFICATION AND RESPONSE

PRLAC 1-2

The Applicant states: “It is extremely unlikely that the Project, a linear transmission line, will have any effect on any water body that is over one-quarter mile from the edge of the ROW.” As this is generally refuted by today’s science, please provide evidence and documents to justify Your statement.

Applicant Response:

"The Applicants object to the premise of the question. Notwithstanding the objection, the Applicants answer as follows:

"NPT will adhere to all state and federal regulations regarding the protection of water quality during construction, including the use of Best Management Practices (BMPs) and project-specific plans which will be prepared and implemented prior to and during construction. In its May 16, 2016 Progress Report to the SEC, NHDES indicates that, in addition to other requirements, NPT will be required to prepare a number of plans at least 90 days prior to construction to protect water quality and assure the activities proposed by NPT shall not cause or contribute to a violation of New Hampshire surface water quality standards. These include plans for: (1) Monitoring and Operations for Installation of Underground Cable at Surface Water Crossings (2) Construction BMP Inspection and Maintenance (3) Turbidity Sampling and Sediment Deposition Inspection (4) Water Quality Monitoring to Assess Operations (5) Operation Spill Prevention, Control and Countermeasures and (6) Concrete Wash Water. NPT is confident that application of and adherence to these plans by the contractors will protect the water quality in and adjacent to the project corridor."

PRLAC:

No evidence was provided to support the Applicant’s assertion that it is “extremely unlikely” that the Project will have any effect on any water body that is over ¼ mile from the edge of the ROW. The Pemigewasset Watershed is 1000 square miles. Non-point source pollution can come from anyplace in the watershed – and is often fed by extensive tree cutting, disruptive construction site erosion and compacting – and is exacerbated by increasing high precipitation stormwater events. Runoff threats to clean and adequate waters are unrelenting.

PRLAC respectfully requests the Applicant answer the question as stated.

PRLAC 1-7

There is significant shoreland erosion damage at all five existing Pemigewasset River above ground crossovers (20 shorelines) starting at Ashland to Bridgewater and extending through Hill. The Project will add to the damage. Please specify, in detail, how you intend to bring all crossings up to SWQPA standards from reference line to 150'.

Applicant Response:

"The Applicants are not aware of, and do not accept the premise that there may be any such erosion damage. As stated in the Applicants' Response to PRLAC 1-3, if there are specific locations of concern to the PRLAC, the Applicants encourage the PRLAC to provide the Applicants information about them."

PRLAC:

The Applicant states they do annual inspections of all transmission lines and associated ROW's today (PRLAC 1-26), yet they are unaware of bank destabilization/erosion issues at existing Pemi ROW crossovers. PRLAC pictures (1-7P) attached show past/present erosion along the reference line at a sample of these sites.

In the spirit of SWQPA RSA-483B, PRLAC works with riparian landowners to provide buffers to manage and prevent destabilization. For example: Structures should be a minimum of 150' from the ROW reference line. All vegetation in the 150' buffer protected area should not be mowed but trimmed to maintain a height of ~ 60". There is no justification for mowing to ground level at these locations.

If there is a significant discrepancy between what is required of private landowners and projects such as NPT, that needs to be addressed as part of the SEC permitting process.

We repeat the original question PRLAC 1-7 and provide visual evidence of PRLAC's concerns.

PRLAC 1-7 PHOTOGRAPHS :



Bridgewater to Ashland ROW Crossing: Pemigewasset River

November 19, 2015



Bridgewater to Ashland ROW Crossing/ Pemigewasset River

November 2015



New Hampton to Hill ROW Crossing: Pemigewasset River

May 3, 2016

PRLAC 1-9 and 1-19 (combined)

Please define further the specific criteria used to determine what are “temporary” and “secondary” wetland impacts within the watershed, including site-specific examples, photographs and location.

1-19 During pre-construction and construction, what is the total square footage of specified tree-cutting (trees 20' or more in height) proposed by town over the length of the Project?

Applicant Response:

"The definition of temporary and secondary impacts used by NPT (as required by state and federal wetland agencies) is described in the wetland technical report (Page 4-1).

"4.1.2 Direct Temporary Impacts

Direct temporary impacts will result from the placement of temporary timber mats, or swamp mats for access during construction activities, temporary bridges for stream crossings, and temporary crane pads for installing the structures. Direct temporary impacts will also result where underground portions of the line are installed in trenches through jurisdictional natural resources. All access roads across wetlands and streams will be temporary and designed to minimize impacts and surface water disturbance.

"4.1.3 Secondary Impacts

Based on pre-application meetings with the federal regulatory agencies, the definition of secondary wetland, stream and vernal pool impacts for Northern Pass project includes the conversion of forested wetlands to scrub-shrub or emergent wetlands through tree clearing; temporary impacts to deep organic soils; clearing of upland forest within 100 feet of perennial streams, 50 feet of intermittent streams, 25 feet of ephemeral streams; and clearing of upland forest within the 100 foot “envelope” associated with vernal pools.

"These types of proposed impacts can be seen on the wetland application plans. For example, Sheet 491 shows temporary wetland impacts on several wetlands and streams where timber mats will be placed for access along the ROW, as well as secondary impacts associated with clearing in forested wetlands and within 100 feet of a perennial stream, which are depicted by the overlap of these features. The table on the sheet identifies the type and area of expected impact and the type of wetland resource to be impacted.

"Response to 1-19:

"For the overhead portion of the Project, the Application identifies vegetation clearing areas for the proposed route in Appendix 47 – NHDES Wetland Maps and Appendix 6c – Alteration of Terrain Plans. This information is for all vegetation clearing and does not identify the size or maturity of the trees. The total acreage of vegetation clearing associated with the Project is estimated to be approximately 730 acres.

"For the underground portion of the Project, the final design is not yet complete. Wherever possible, the underground design will attempt to minimize tree clearing."

PRLAC: Inadequate Data

The Applicant did not provide the requested site-specific examples, photographs, and locations of (for example) Secondary Impact tree clearing. The requested information should be sufficient to locate at the site where tree clearing will take place.

Please provide the following specific Sheet Maps – **marked-up** to show exact locations and impact (in square feet) of tree clearing summarized in Extent of Clearing Table.

Extent of Clearing (Sq ft)

| <u>Sheet</u> | <u>Town</u> | <u>Forested Wetlands</u> | <u>Uplands Near Streams</u> |
|--------------|-------------|--------------------------|-----------------------------|
| 487 | NH*/Bridge | - | 22,398 |
| 490 | Bridgewater | 26,331 | 69,690 |
| 491 | “ | 28,295 | 2,458 |
| 492 | Bristol | 29,026 | 13,615 |
| 514 | New Hampton | 3,622 | 17,221 |

*New Hampton

Note: We refer to Sheet Maps the Applicant provided in the Wetlands Application to NHDES.

PRLAC 1-12.

Given the number of multiple segments in progress at one time, who will provide the *independent* environmental oversight during construction and follow-up?

Applicant Response:

"The Project will use environmental monitors to comply with state and federal requirements as well as general and project-specific permit conditions. In its permit conditions (not yet issued), NHDES will typically specify that a Certified Wetland Scientist or appropriately credentialed individual will be designated by the permittee for the role of environmental monitor. In addition, the contractors will be required to retain appropriately credentialed individuals to conduct inspections of work areas. The use and role of monitors is identified in the Application (Pages 30, 66, 68 and 69). The Pre-filed Testimony of Jacob Tinus (Page 8) describes the environmental monitors in more detail. In addition, Pages 3, 4, 7 and 14 of John Kayser's Pre-Filed Testimony also note the responsibilities of environmental monitors and inspectors and their role in environmental compliance and requirements pertaining to construction activities. The Applicants will also comply with all terms and conditions of all permits and the Certificate of Site and Facility."

PRLAC:

We request clarification of the Applicant's response. While the Applicant proposes the use of environmental monitors, it appears that these would be monitors designated by and/or hired by the permittee and by its subcontractors.

Is it, in fact, true there will be *no independent*, credentialed and qualified environmental monitors or inspectors for this Project who report directly to NHDES or to other government or oversight agencies?

PRLAC 1-14:

Will the Applicant clearly and definitively state that NPT and any of its subcontractors and Eversource Energy and its subcontractors will not use herbicides from today forward?

Applicant Response:

"Herbicides or chemical treatments will not be used before or during construction of the Project. Future vegetation management controls will be similar to those used by PSNH in the ROW. These management measures currently consist primarily of periodic mowing, trimming and cutting of vegetation, by hand or mechanical means, to maintain clearance distances and to address safety considerations. Herbicides may be used selectively to control incompatible species; for example, where they have been requested for invasive species eradication or control by NHDES or a municipality."

PRLAC: Need for Clarification

We read the answer to this question as: "No, the Applicant *cannot* clearly and definitely state that NPT and any of its subcontractors and Eversource Energy and its subcontractors will not use herbicides from today forward."

Given the Applicant response, PRLAC requests clarification and answers to the following:

- Whose responsibility is it to decide if herbicides are necessary for the ROW?
- Who can request herbicide use in the ROW?
- What herbicides are currently cleared for use in ROW?
- What herbicides are cleared for use near water resources -- wetlands, streams, vernal pools, drainage ditches, etc.

- What are the existing regulations the Applicant must adhere to when using herbicides?
- Are there regulations that require the Applicant to alert landowners if herbicides will be used on the ROW?
- What are the landowners' legal rights in relation to the use of herbicides on the ROW?

PRLAC 1-26:

Please provide the guidelines and personnel that will be responsible for annual inspection and assessment of ROW degradation post-construction.

Applicant's Response:

"NPT will utilize qualified line workers for the annual visual inspections of the transmission lines and associated ROWs as is the case for inspections of all other Eversource lines today. Qualified arborists will make periodic inspections to assess the vegetation growth and overall condition of the ROWs. Annual aerial inspections of the ROWs and associated transmission lines will be conducted by supervision to review vegetation management, transmission line integrity and safety issues from encroachments within the ROW. Transmission line maintenance and inspections will be performed in accordance with NERC and ISO-NE guidelines."

PRLAC:

The Applicant states that they utilize qualified line workers for the annual visual inspections of transmission lines and associated ROWs "as is the case for inspections of all other Eversource lines today". In addition, qualified arborists will make periodic inspections to assess the vegetation growth and overall condition of the ROWs.

Given the destabilized condition of ROW crossovers (i.e. Ashland to Hill) on the Pemigewasset River today, PRLAC has concerns about the adequacy of these inspections. We again refer the Applicant to photographs included in this document (PRLAC 1-7).

We are, therefore, requesting hard copies of Eversource annual ROW maintenance reports for the years 2014, 2015, and YTD 2016. We believe these reports will help us better understand the procedures and practices used by Eversource for annual maintenance (and remediation).

Wherefore, PRLAC respectfully requests that the SEC issue an order compelling the Applicant to provide the clarification and information requested and granting such other and further relief as justice requires. We send this document via first class and electronic mail.

Respectfully Submitted,

**THE PEMIGEWASSET RIVER LOCAL
ADVISORY COMMITTEE**

Date: August 12, 2016

By: _____
Max Stamp, Chairman PRLAC

CERTIFICATE OF SERVICE

I hereby certify that on this day, August 12, 2016, a copy of the foregoing Motion to Compel of the The Pemigewasset River Local Advisory Committee was sent by electronic mail to persons named on the Service List of this docket.

Max Stamp, Chairman PRLAC
Barry Draper, New Hampton Representative
PRLAC