

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

**OBJECTION OF THE SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE
FORESTS TO APPLICANT'S MOTION TO AUTHORIZE PHASE I.B
ARCHEOLOGICAL SURVEY**

The Society for the Protection of New Hampshire Forests (the "Forest Society"), by and through its attorneys, BCM Environmental & Land Law, PLLC, respectfully objects and requests as follows in response to the January 19, 2018 motion filed by Northern Pass Transmission LLC's and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the "Applicant") to Authorize Phase I.B. Archeological Survey ("Motion"):

1. First, the record in this matter already closed on December 22, 2017 and pursuant to Site 202.26 "no other evidence, testimony, exhibits, or arguments shall be allowed into the record" (except in limited circumstances which do not apply here). Applicant should have already gathered and submitted this information as part of its identification of impacts. The Forest Society incorporates its arguments set forth in Section I(B), in particular subsection I(B)(1)(f), of its Post-Hearing Memorandum, January 12, 2018, regarding the consequence of the Applicant not undertaking this work. In sum, it is now too late for such evidence to be generated and then submitted into the record.

2. Second, the Applicant's request requires delegations that would be unlawful. Although the Motion is not entirely clear on this point, because the record is closed and deliberations will begin on January 30, 2018 (tomorrow), it must be that the Applicant intends

for the results of the proposed study to be considered only by other state agencies, such as the N.H. Department of Transportation and/or the N.H. Division of Historical Resources. The Forest Society incorporates its arguments set forth in Section V of its Post-Hearing Memorandum regarding the statutory limits to the Subcommittee's authority to delegate to other state agencies. In sum, no law authorizes the Subcommittee to delegate such review.

3. Third, as other parties have set forth in their post-hearing memoranda, it is not settled in New Hampshire law whether RSA 162-H preempts every aspect of municipal authority, including the authority for a municipality to control the use of municipally-maintained roads. In particular, Section V of the Post-Hearing Memorandum Filed by Municipal Groups 1 South, 2, 3 South and 3 North, January 12, 2018, addresses this issue. The Forest Society incorporates by reference the arguments set forth therein. In sum, the Subcommittee does not have legal authority to grant the Applicant's request.

4. Lastly, as a consequence of the arguments set forth in the preceding paragraphs, the Motion and any reference to it contained in the Applicant's two January 19, 2018 filings: (1) Executive Summary; and (2) Post-Hearing Memorandum, should be stricken from the record and accordingly receive no consideration as part of the Subcommittee's deliberations.

WHEREFORE, the Forest Society respectfully requests that the Presiding Officer:

- A. Deny Applicant's Motion to Authorize Phase I.B. Archeological Survey;
- B. Strike from the record any reference to the Applicant's Motion to Authorize Phase I.B. Archeological Survey contained in the Applicant's January 19, 2018 Executive Summary or Post-Hearing Memorandum; and
- C. Grant such further relief as deemed appropriate.

Respectfully Submitted,

**SOCIETY FOR THE PROTECTION OF
NEW HAMPSHIRE FORESTS**

By its Attorneys,
BCM Environmental & Land Law, PLLC

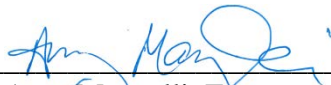
Date: January 29, 2018

By:  _____

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CERTIFICATE OF SERVICE

I hereby certify that on this day, January 29, 2018, a copy of the foregoing Objection was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli, Esq.