



*Preserving America's Heritage*

December 7, 2015

Brian Mills  
Senior Planning Advisor  
Office of Electricity Delivery and Energy Reliability (OE-20)  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington, DC 20585

Ref: *Proposed Northern Pass Transmission Line Project  
Pittsburg to Deerfield, New Hampshire*

Dear Mr. Mills:

Thank you for the opportunity to comment on the Department of Energy's (DOE's) compliance process for the Northern Pass Transmission project. The comments submitted by the Advisory Council on Historic Preservation (ACHP) will address Consulting Parties' concerns, the Draft Rules of Engagement, and the Draft Programmatic Agreement. We recommend that DOE give these comments full consideration as it moves forward with the Section 106 review for this undertaking.

We appreciate DOE's monthly consultation updates which were intended to keep Consulting Parties apprised of new developments. However, Consulting Parties have frequently contacted the ACHP to express concerns about the slow pace of Section 106 consultation, and the lack of transparency regarding DOE's consultation schedule. We, therefore, urge DOE to provide monthly updates that include more detail with regard to the consultation schedules for completing actions such as transmittal of Project Area Forms (PAF) to the New Hampshire State Historic Preservation Officer's (SHPO) review. DOE also is urged to communicate to all parties any proposed changes in its schedules, particularly revisions to dates targeted for the completion of project tasks.

On September 22<sup>nd</sup>, 2015, we provided comment on DOE's "Northern Pass Section 106 Consulting Party Information," which contained proposed "rules of engagement" for both Consulting Parties and the Public. At that time, we urged DOE to redraft the document to address what we perceived as a divisive tone as well as an overly complicated consultation process. We were particularly concerned with the direction to Consulting Parties not to share with the public anything received from DOE during the Section 106 consultation. We found this directive to be misleading and overly broad given that the Section 106 review facilitates discussions among

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diverse parties. Accordingly, we recommend that DOE consider how it can be more specific about how and when information will be shared with the public. Pursuant to the ACHP's guidance on consultation, the public is entitled to examine the results of DOE's compliance with Steps 2 to 3 of the 4-Step Section 106 review process: identification and evaluation of historic properties and assessment of effects on historic properties. Furthermore, should DOE and the New Hampshire SHPO concur that there may be adverse effects, DOE must make this information available to the public so that they can participate in the resolution of adverse effects, including the analysis of alternatives to avoid, minimize, or mitigate adverse effects. Only when DOE concludes that these materials should not be available to the public, because they address legitimate confidentiality concerns, as outlined in 36 CFR Section 800.11(c), can the federal agency withhold this information.

The ACHP provided comments on October 2, 2015, on the draft Programmatic Agreement (PA) that outlined DOE's proposed efforts to develop and amend the area of potential effects; to identify and evaluate historic properties; to assess effects to those properties; and to propose a process for resolving such effects. Our detailed comments suggested that DOE clarify how the transmission line route would be chosen. In addition, the Applicant's role in the PA should be clarified. We recommended that all work accomplished by, or on behalf of DOE, pursuant to the terms of the PA be accomplished by staff who meet the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61). In addition, we asked DOE to clarify the circumstances in which the APE would be changed, and to clarify whether historic property identification and evaluation efforts might be phased in conjunction with the segment notices for project activities to proceed. We recommended that DOE thoroughly review and re-write the Assessment and Resolution of Effects protocol and Attachment 5: "Applicant Proposed Measures for Cultural Resources and Historic Properties." As written, the draft PA is very complex and would benefit from a cold reader determining and identifying deficiencies.

In closing, we appreciate DOE thoroughly considering our comments. With the inclusion of these comments, DOE will be able to carefully manage this high profile Section 106 review. To ensure an expeditious conclusion to the Section 106 review process, DOE must develop appropriate documentation that is consistent with four-step Section 106 review process.

Thank you in advance for your prompt attention to the ACHP's comments. If you have any questions or require our further assistance, please contact Mr. Brian Lusher at 202-517-0221 or via e-mail at [blusher@achp.gov](mailto:blusher@achp.gov).

Sincerely,



Charlene Vaughn  
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