

From: **Kris pastoriza** <[krispastoriza@gmail.com](mailto:krispastoriza@gmail.com)>

Date: Wed, Aug 16, 2017 at 8:34 AM

Subject: Re: NPT requests for exemption

To: "Esterberg, Melodie" <[Melodie.Esterberg@dot.nh.gov](mailto:Melodie.Esterberg@dot.nh.gov)>, Bob Thibault <[bobtselectboard@gmail.com](mailto:bobtselectboard@gmail.com)>, Edward Cutler <[nedselectboard@gmail.com](mailto:nedselectboard@gmail.com)>, "Mei, Zak" <[zakmei.e@gmail.com](mailto:zakmei.e@gmail.com)>, Eric Meth <[ericlmeth@yahoo.com](mailto:ericlmeth@yahoo.com)>, Nancy West <[nancywestnews@gmail.com](mailto:nancywestnews@gmail.com)>, [rblechl@caledonian-record.com](mailto:rblechl@caledonian-record.com), Walter Palmer and Kathryn Ting <[waltpalmer1@gmail.com](mailto:waltpalmer1@gmail.com)>, Bruce Ahern <[bruceahern@roadrunner.com](mailto:bruceahern@roadrunner.com)>, Michael Conklin <[mikec@conklinreynolds.com](mailto:mikec@conklinreynolds.com)>, Nancy Martland <[nancy.martland@gmail.com](mailto:nancy.martland@gmail.com)>, "sueford06@gmail.com" <[sueford06@gmail.com](mailto:sueford06@gmail.com)>, Suzanne Smith <[zanne1@metrocast.net](mailto:zanne1@metrocast.net)>, "Bradley J. and Daryl D. Thompson" <[bjtddt@gmail.com](mailto:bjtddt@gmail.com)>, "Schibanoff, Susan" <[susan.schibanoff@unh.edu](mailto:susan.schibanoff@unh.edu)>, John Petrofsky <[jpetrofsky@googlemail.com](mailto:jpetrofsky@googlemail.com)>, [victoria.sheehan@dot.nh.gov](mailto:victoria.sheehan@dot.nh.gov), [brad.bailey@leg.state.nh.us](mailto:brad.bailey@leg.state.nh.us), James H Page Jr <[jpge@metrocast.net](mailto:jpge@metrocast.net)>, Bob Baker <[Abobbaker@aol.com](mailto:Abobbaker@aol.com)>, Campbell McLaren <[gpcmlaren@gmail.com](mailto:gpcmlaren@gmail.com)>, Cheryl Jensen <[CherylKJensen@aol.com](mailto:CherylKJensen@aol.com)>, Brenda Shannon Adam <[brendashannonadam@icloud.com](mailto:brendashannonadam@icloud.com)>, Melissa Birchard <[mbirchard@clf.org](mailto:mbirchard@clf.org)>, Will Abbott <[wabbott@forestsociety.org](mailto:wabbott@forestsociety.org)>, William Bolton <[bolton6@roadrunner.com](mailto:bolton6@roadrunner.com)>, John Vail <[eastonvail@gmail.com](mailto:eastonvail@gmail.com)>, John W Farrell <[johnwfarrell@gmail.com](mailto:johnwfarrell@gmail.com)>, John Randlett <[jrandlett43@gmail.com](mailto:jrandlett43@gmail.com)>, Lara Saffo <[lsaffo@co.grafton.nh.us](mailto:lsaffo@co.grafton.nh.us)>, Margaret Connors <[connorsmargo@gmail.com](mailto:connorsmargo@gmail.com)>, Peter and Mary Grote <[petergrote@mac.com](mailto:petergrote@mac.com)>, "Roth, Peter" <[Peter.Roth@doj.nh.gov](mailto:Peter.Roth@doj.nh.gov)>, Sandra Merrigan <[smerrigan@primmer.com](mailto:smerrigan@primmer.com)>, Sandy Dannis <[sandydannis@gmail.com](mailto:sandydannis@gmail.com)>, Eric and Barbara Meyer <[bnmeyer7@gmail.com](mailto:bnmeyer7@gmail.com)>, Beth Towle <[beth.towle.nh@gmail.com](mailto:beth.towle.nh@gmail.com)>

Dear Melodie,

thank you for your response which is wholly unexpected.

You have received fewer e-mails from me than exception requests from Northern Pass. I would guess that you, as much as I, would prefer to be engaged in other projects.

I am clogging your inbox because you are the person signing off on the exception requests.

I have directed many inquiries to the Public Information Office. Many were answered, but some quite important ones went unanswered. Some Conference Notes, for example, were 'under review' for weeks until I requested them under 91-A.

I am wondering how exceptions can be reviewed and permitted when the ROWs are not determined.

Encouraging though it is that DOT rejected NPT's 60 mile lines of uncertainty, a "survey" that contained none of the documentation DOT has been asking them for for a year, you accepted and conditionally permitted their application without a survey. Where is the evidence that this was anything other than a political decision for the benefit of Northern Pass at the expense of the towns and terrain along the route?

I am wondering why Commissioner Sheehan has not followed RSA **"228:35 Reestablishment of Highway Boundaries.** – Whenever in the opinion of the

commissioner the boundary lines, limits, or location of any class I or class II highway, or any part thereof, shall have become lost, uncertain, or doubtful, he may reestablish the same as, in his opinion, they were originally established. He shall give in hand to, or send by registered mail to the last known address of, all persons claiming ownership of or interest in the land adjoining such reestablished highway and to the owners of property within the limits thereof, and file with the town clerk of the town in which the highway is located, and with the secretary of state, maps showing the boundary lines, limits, or location of such reestablished highway and such lines, boundaries, limits and location as reestablished shall be the lines, boundaries, limits and location of such highway. Any person aggrieved by the reestablishment of such lines, boundaries, limits and location may petition for the assessment of damages to the superior court in the county where the reestablished highway is located within 60 days from the date of filing of such maps with the secretary of state, and not thereafter, and the court shall assess the damages, if any, by jury, provided such reestablished lines, boundaries, limits or location are not the same as originally established. The commissioner shall pay from the funds of his department all expenses incurred hereunder and the amount of final judgment and costs.”

I am wondering why Commissioner Sheehan has not responded to the three towns on the route that have requested that she follow this RSA. Franconia, Easton and Sugar Hill deserve a cogent and prompt response. All abutters have a right to know what is planned for their property. DOT has not done this and there is no excuse I can think of for this, except a desire to enable Northern Pass. Northern Pass's notification to abutters was vague in the extreme and did not mentioned weeks of noise, monumental traffic delays, slurry pits, 18" boreholes and 7' x 8' x 32' splice vaults..

I am wondering if the UAM is a set of rules any corporation can get around with money and influence.

I am wondering why the towns through which the roads travel have not been part of this process.

I am wondering why DOT has not communicated with us and worked with us.

I am wondering why DOT did not reject this proposal to site massive permanent infrastructure, on sufferance, which is clearly a violation of RSA 231:160. Northern Pass, as we speak, plans to move poles, wires and guardrails that get in its way. Northern Pass can not be moved. DOT does not know what people might wish to place in the ROWs in the future, so the ability to move what is there must be maintained to keep the uses of the road open for the public. Sufferance prevents one entity from taking other entities' rights to use the ROW.

I am wondering where DOTs discussion of the myriad environmental and land rights issues took place. These issues are not reflected in the Conference notes.

I am wondering who was involved in the decision to consider Northern Pass equivalent to a buried phone or distribution line.

I am wondering why DOT's response to NPT doing everything wrong was not to reject their permit, but to bend over backwards to make things work for them with 122 exceptions (so far. We know there will be more.)

I am wondering how much of this is hidden with lawyer/client confidentiality and off the record conversations.

I am wondering why exception #18 was rejected because the ROW appeared to be of the lowest quality, when this can be said of every exception map presented as well as all the Permit Packages.

<https://www.nh.gov/dot/media/northern-pass/documents/er-18.pdf>

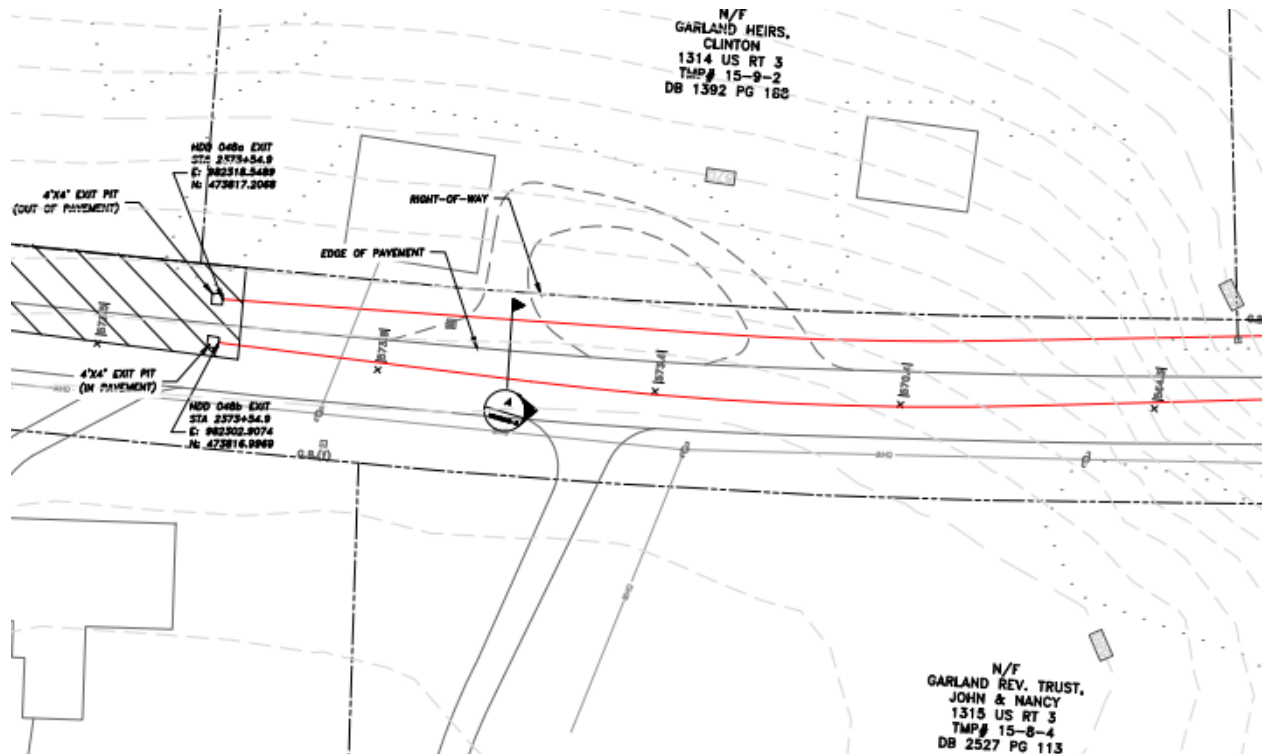
## NOTICE OF DECISION

The Department has reviewed the following Request for Exception to the NHDOT Utility Accommodation Manual (UAM):

Exception Request No:	18
Section:	WBR3
Town:	Campton
Highway:	US 3
Station:	2373+55 to 2384+52
Drawing No.:	WBR3048-01 TO WBR3048-3 and WBR3 C205 to C206
Exception Type:	HDD Pits with Pavement HDD Alignment Passing Under Pavement

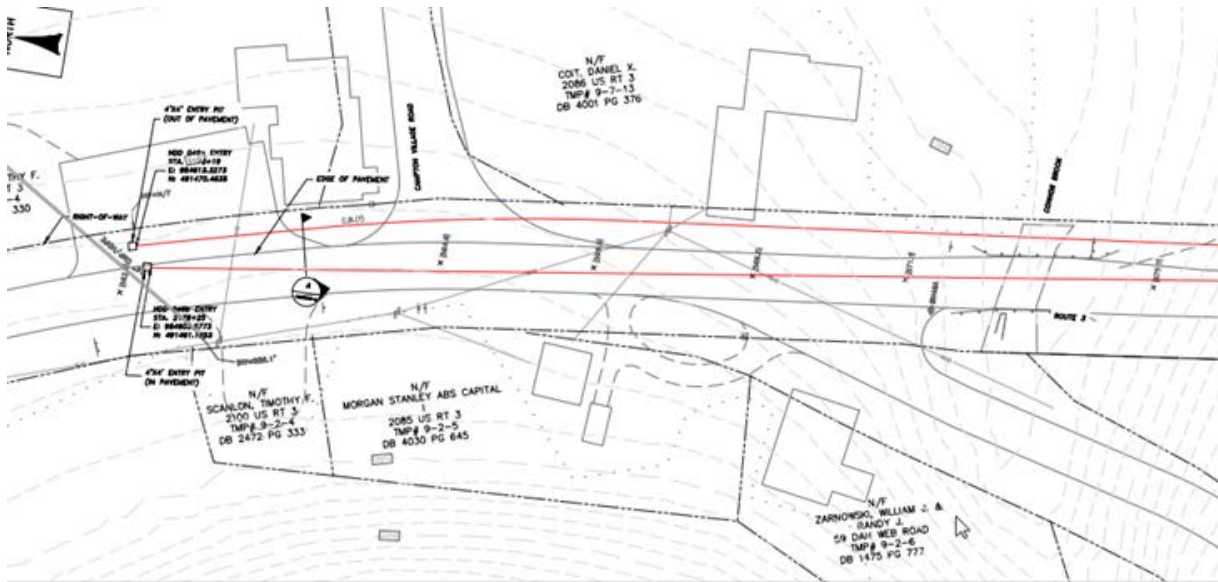
This exception to the UAM is hereby **rejected and must be resubmitted** to address the following concerns.

1. Existing NHDOT Right-of-Way (ROW) appears from the survey report to be the lowest level of accuracy – GIS/tax map quality.
2. Bridge structures including deck, abutments and piers should be shown on the plans in order to evaluate potential impact.



Above is the Permit Package map from Exception Request 18. I see no difference between this and the map for Exception Request 39, below, where people will not be eating at the restaurant, (I believe it is the Sunset Grill) for weeks if HDD is permitted, even outside the proposed parking lot location. This map raised no comment on the accuracy of the ROW though it passes through two structures and exceedingly close to the restaurant. I see no DOT concrete monuments referenced here.

[https://www.nh.gov/dot/media/northern-pass/documents/er-39\\_rev1.pdf](https://www.nh.gov/dot/media/northern-pass/documents/er-39_rev1.pdf)



These kind of questions are hardly likely to be answered by a 91-A, though I will send them on.

I am protesting how DOT has handled this.

Unlike the DES fiasco, the property rights issues on the proposed underground route can be drawn as a line in the sand, quite literally.

Kris

On Tue, Aug 15, 2017 at 6:09 PM, Esterberg, Melodie <[Melodie.Esterberg@dot.nh.gov](mailto:Melodie.Esterberg@dot.nh.gov)> wrote:

Dear Ms. Pastoriza,

I have received your many emails regarding NPT requests for exceptions (ERs) from the UAM. I would like to remind you that in order to be as efficient as possible in responding to the numerous requests for information, documents and clarifications that it is requested that all inquiries of this type should be submitted through the Public Information Office. This will ensure that inquiries are responded to as quickly as practicable and not buried in my inbox.

At this time we have received 118 ERs. ERs are required for any location that the proposed facility is located under the pavement. NHDOT staff is reviewing the ERs in the order that they have been received starting with the WBR3. These reviews are a time consuming process and requires field checking of the information submitted. The reviews ERs for WBR3 were only recently completed with NOD's only issued for the last group in WBR3 yesterday. We have not started our reviews of the ERs submitted for the SHEB segments.

We are aware of the concerns regarding the ROW as shown on the NPT plans and the Survey Report submitted. The report was reviewed by Bureau of Right of Way staff and has been determined to be not responsive to requirements of conditional approval provided to the SEC.

Again, thank you for relaying your concerns regarding the NPT project.

Regards,

Melodie

Melodie A. Esterberg, PE

Chief of Design Services

Highway Design Bureau

New Hampshire Department of Transportation

**From:** Kris pastoriza [mailto:[krispastoriza@gmail.com](mailto:krispastoriza@gmail.com)]

**Sent:** Sunday, July 30, 2017 7:34 PM

**To:** Esterberg, Melodie; Esterberg, Melodie; Bob Thibault; Edward Cutler; Mei, Zak; Eric Meth; Nancy West; [rblechl@caledonian-record.com](mailto:rblechl@caledonian-record.com); Walter Palmer and Kathryn Ting; Will Abbott; Bruce Ahern; Michael Conklin; Nancy Martland; Margaret Connors; [sueford06@gmail.com](mailto:sueford06@gmail.com); Suzanne Smith; Bradley J. and Daryl D. Thompson; Schibanoff, Susan; John Petrofsky; Sheehan, Victoria; [brad.bailey@leg.state.nh.us](mailto:brad.bailey@leg.state.nh.us); James H Page Jr; Bob Baker; Campbell McLaren; [cheryljensen448@gmail.com](mailto:cheryljensen448@gmail.com)

**Subject:** NPT requests for exemption

Melodie,

Below is a screen shot from one of NPT's many requests for an exemption, this one in Easton at the Darvid Property, SHEB # noted below. Even NPT knows this is within the 710 rod section of Route 116 in Easton that is of unknown width, so why are they still claiming the distance from the edge of the pavement to the ROW boundary is 20-25'? Given a general pavement width of

25', this means a 66' ROW, which is still shown on these exemption request sheets for Darvid's property and the Gibson Rd. corner, both clearly known to be undetermined by NPT, DOT, abutters, Easton Selectboard and Easton's lawyer representing us at the SEC adjudicatory hearings. Why are you permitting this?

Please clarify. Has DOT accepted Northern Pass's "survey?" Landowners/abutters and towns need to know so they can proceed to legal action, if you have.

The applicant only just uploaded these May requests and explanations to the ShareFile site accessible to intervenors. Why have they not been on the DOT/NPT site since May? Why are they not there now? Has DOT responded to these almost 100 requests for exemptions? I request under RSA 91:A any responses by DOT to these exemption requests.

The applicant appears to be making requests for exemptions for every HDD.

Can you explain the large variation between the HDD slurry pit dimensions in the EIS and NPT's 4' x 4'? description? Who guarantees the HDD does not go outside the ROW? With a 5' margin of error and 33'-49.5' width on many proposed roads here, this is not possible. Who guarantees no chemical trespass from the thousand of gallons of slurry that will end up in the ground(water)? Do you think this is not your responsibility? Will DOT permit activities within the ROW that will move outside the ROW? Has anyone at DOT considered this serious problem?

#### Technical Discussion of Justification of Exception

##### *HDD Alignment Passing Under Pavement*

From approximately Station 686+55 to 701+52, one or both of the bore paths is located beneath the pavement, as shown in drawings SHEB022-1 & 2 attached. The distance between the edge of pavement and the ROW (plan distance) varies between approximately 20 feet and 25 feet on either side of the road. With two (2) bores spaced at 20 feet, an offset of 5 feet from the ROW it is not possible to avoid drilling beneath the pavement at this location.

There is not sufficient clear space at the entry location to keep both pits off the paved roadway. The distance between the edge of pavement and edge of ROW is approximately 16 feet (less than the required 30 feet).

Above, screen shot from exemption request for HDD at Gibson Rd. exit. ROW here is undetermined or 40'. DOT set a prescriptive ROW here of 3 rods and specifically stated that this did not apply to Northern Pass. At the time this provisional prescriptive was set DOT was unaware that Easton used to be Lincoln and therefore unaware of the road layouts in Easton that are in the Lincoln records, specifically the 1804 layout of unspecified width, and the 1811 layout from Kendal Brook to Stephen Kinsman's saw mill (at the Ham Branch proposed HDD) that was laid out at 40'.

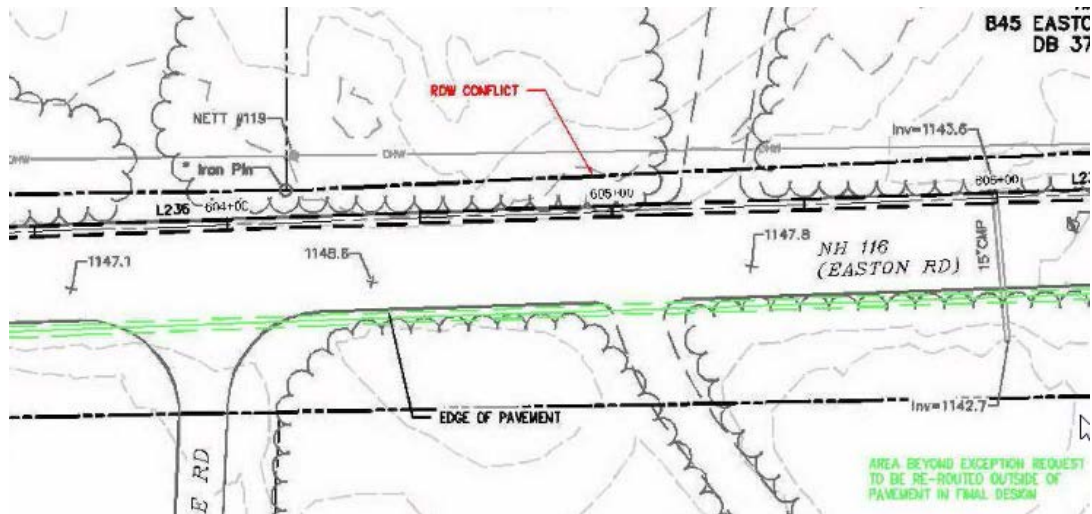
Another exception is to avoid Farrell's barn, just south of Gibson Rd. exit onto Route 116 in Easton. The ROW here is three rods but who has determined the center line and decided that the barn is an encroachment?

A bit north, NPT sets a road ROW boundary based on one property marker. No markers were found on the other side of the road, so the trench is proposed to be moved over there. Does DOT accept this? Are your ROW people kept out of the room where these decisions are made? And the supposed ROW set by this one pin then drifts on either side...

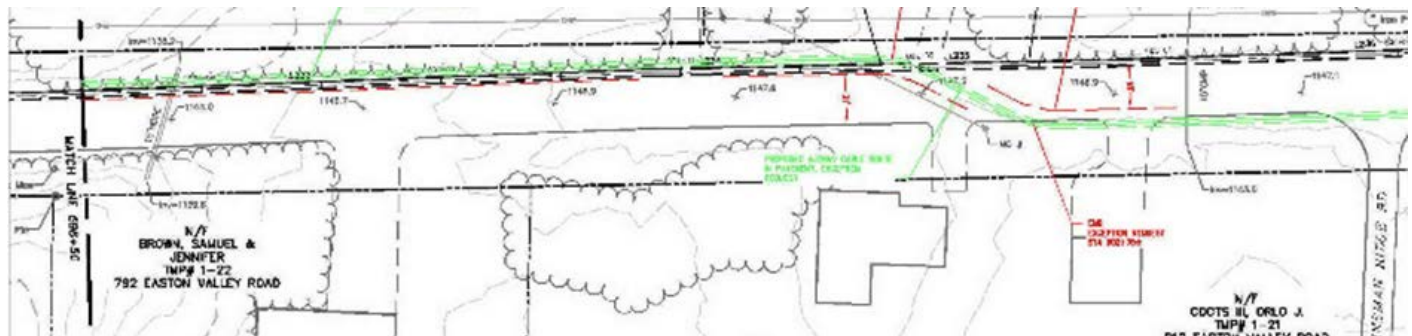
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There is also no documentation for why the pin was held below, on the west (lower) side of the road (far left) while the monument, closer to the road, was not...



Are these surveying standards DOT want to be associated with? Every DOT Permit Package is full of these shoddy practices, misrepresentations and crude attempts at taking private property that DOT appears only to willing to allow.

Anyone with an eye can see this.

The Permit Packages are public documents. The e-mails between DOT and Mark Hodgdon are public documents. Mark Hodgdon and NPT knew, from DOT, about the 710 rod section of undefined road in Easton in 2014, three years ago....

And that is not the only location on the proposed route that is not the four rods, NPT claims.

Kris

#### Traffic Information

NHS: No

ADT: 1300

Traffic Control Type: Alt 1-way

Traffic Control Duration: Traffic control duration is estimated to be 7 days for the proposed installation. If the requested exception for the alignment in pavement is not granted, NPT expects an additional 14 days of work requiring traffic control. If the requested exception to cross over the 60-inch drainage structure is not granted, NPT expects an additional 1-2 weeks of work requiring traffic control to install the ductbank below the 60-inch drainage structure. If the requested exception to cross over the 36-inch drainage structure is not granted, NPT expects an additional 3-6 weeks of work requiring traffic control to do an HDD bore at this location.

Above: NPT stick, still no carrot. As Mr. Oldenburg noted, NPT ignored the UAM. Will DOT do the same?