

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

~

Pre-Filed Testimony of Eric and Margaret Jones
Host Property Owners to the Project and Members
of the Dummer-Stark-Northumberland SEC Mandated Group

Submitted
11 November, 2016

- **What are your Names ?**

Eric and Margaret Jones of
1416 NH Route #25
Glencliff, NH 03238

- **What is your Standing in this Case ?**

We are Interveners in this Docket
The Right-of-Way is over our land
We own 750 Acres of extremely critical contiguous wetland in Northumberland and Stark
This Entire Wetland is under contract to the U.S. Government for a wetland easement
We are SEC Mandated Members of the Dummer-Stark-Northumberland Grouping

- **Why are you submitting this testimony ?**

Because the Northern Pass Project, overhead or buried on or under our land, will have an
UNREASONABLE EFFECT ON THE NATURAL ENVIRONMENT
and WATER QUALITY of this critical wetland

- **What is the precise location of the Eversource Right-of-Way on your land ?**

Northern Pass Map#13508 = Northumberland Tax Map #224 Lot #4.....129 Acres

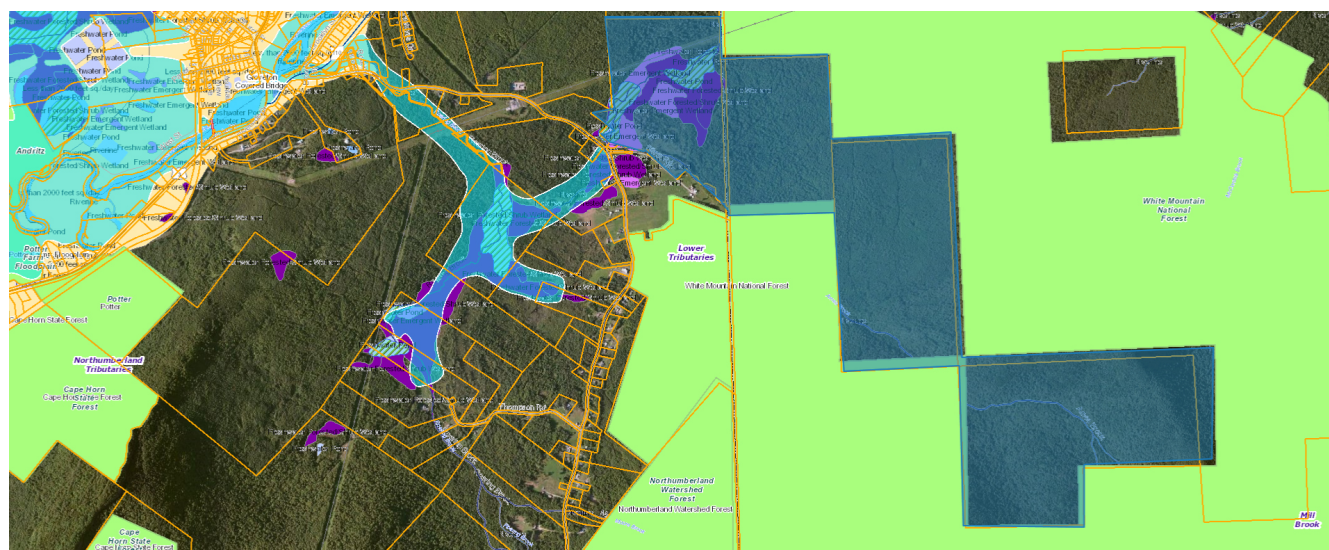
The balance of the total contiguous holding is described as follows:

Stark Tax Map #416 Lot #1.....120 Acres

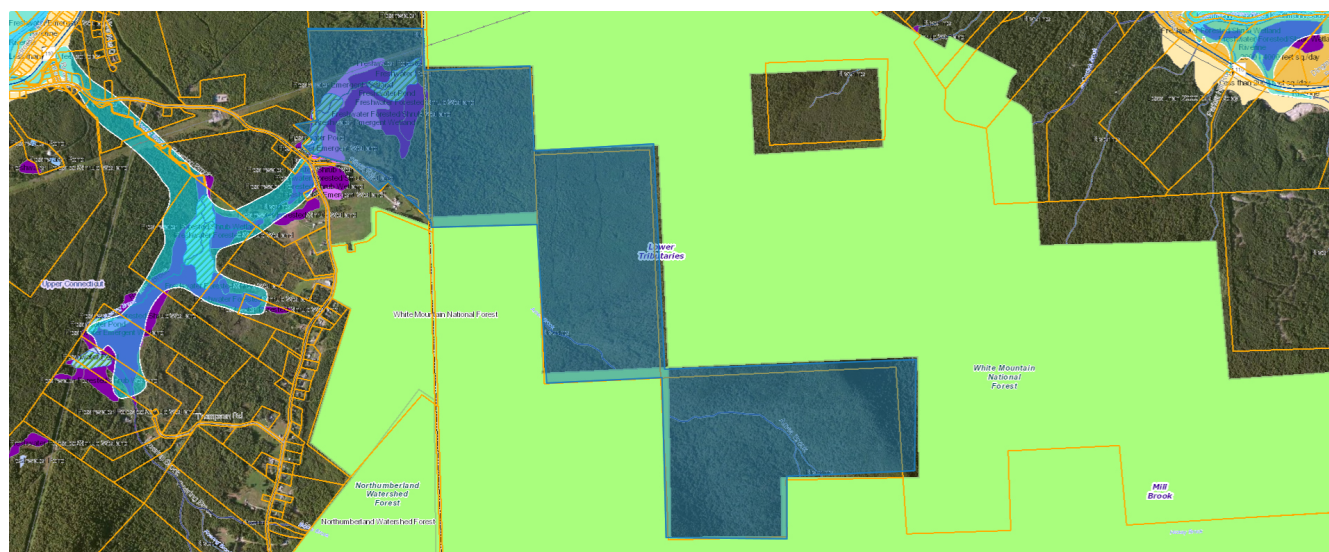
Stark Tax Map #416 Lot #2.....193 Acres

Stark Tax Map #416 Lot #3.....233 Acres

Federal Government (Natural Resources Conservation Service) estimates total acreage at 750



Contiguous Wetland effected by NPT crossing our land



National Forest effected by NPT crossing our land

- **How will the Northern Pass Project Effect Your Land ?**

The Hayes Brook, with its source in the adjacent National Forest, (a perennial stream) crosses the Right-of-Way from the north and is the main water source that creates and supports the wetland.

Part of the wetland itself is within the Right-of-Way. (see map above)

Whatever happens to the Hayes Brook and the wetland within the Right-of-Way effects the entire wetland system on our land, south of our land, and ultimately (within a mile or so) the Connecticut River.

The removal and movement of the existing AC power line to the southern portion of the Right-of-Way (toward the main body of the wetland) will cause permanent alteration to the existing wetland and water flow, both within the Right-of- Way and to the entire wetland system and the Connecticut River.

The installation of the new DC mono poles (on the northern portion of the Right-of-Way), with their requisite massive base, will cause unmitagatable disturbance and destruction of the existing wetlands and stream flow within the Right-of- Way, and to the entire wetland system and the Connecticut River.

The Installation of the DC power line by burial in The Right-of-Way would cause even greater destruction of this critical wetland system.

The flora and fauna dependent on this wetland system will cease to thrive.

The toxic materials released from the Mono pole bases and newly preserved wood stanchions supporting the AC power lines will pollute the wetland system.

We have signed a contract with the Natural Resources Conservation Service (NRCS) whereby they have agreed to purchase a Wetland Reserve Easement on the entire holding.

NRCS has determined that the entire holding (750 Acres) is part of the wetland and this characterization has been concurred in by NH Fish and Game and the U.S. Fish and Wildlife Service. (See letters below)

We are waiting for their funding from Congress for the new fiscal year.

The Northern pass Project over or under our land may obviate this contract.

- **How do these facts relate to the statutory findings the SEC is required to make ?**

SEC rules and criteria for findings

(http://www.gencourt.state.nh.us/rules/state_agencies/site100-300.htm)

Site 301.14 Criteria Relative to Findings of Unreasonable Adverse Effects

(d) In determining whether a proposed energy facility will have an unreasonable adverse effect on **water quality**, the committee shall consider the determinations of the New Hampshire department of environmental services, the United States Army Corps of Engineers, and other state or federal agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, with respect to applications and permits identified in Site 301.03(d), and other relevant evidence submitted pursuant to Site 202.24.

(e) In determining whether construction and operation of a proposed energy facility will have an unreasonable adverse effect on **the natural environment**, including wildlife species, rare plants, rare natural communities, and other exemplary natural communities, the committee shall consider:

- (1) The significance of the affected resident and migratory fish and wildlife species, rare plants, rare natural communities, and other exemplary natural communities, including the size, prevalence, dispersal, migration, and viability of the populations in or using the area;
- (2) The nature, extent, and duration of the potential effects on the affected resident and migratory fish and wildlife species, rare plants, rare natural communities, and other exemplary natural communities;
- (3) The nature, extent, and duration of the potential fragmentation or other alteration of terrestrial or aquatic significant habitat resources or migration corridors;
- (4) The analyses and recommendations, if any, of the department of fish and game, the natural

heritage bureau, the United States Fish and Wildlife Service, and other agencies authorized to identify and manage significant wildlife species, rare plants, rare natural communities, and other

exemplary natural communities;

(5) The effectiveness of measures undertaken or planned to avoid, minimize, or mitigate potential adverse effects on the affected wildlife species, rare plants, rare natural communities, and other exemplary natural communities, and the extent to which such measures represent best practical measures;

(6) The effectiveness of measures undertaken or planned to avoid, minimize, or mitigate potential adverse effects on terrestrial or aquatic significant habitat resources, and the extent to which such measures represent best practical measures; and

(7) Whether conditions should be included in the certificate for post-construction monitoring and reporting and for adaptive management to address potential adverse effects that cannot reliably be predicted at the time of application.

The Applicant chose to use an outdated and discredited method to evaluate the impact of their project on water resources and wetlands that **only addresses the impacts on the lands lying within the Right-of-Way.**

No science-based authority that we can find makes such an illogical conclusion. The New Hampshire Department of Environmental Services; the New Hampshire Fish and Game Department; the U.S. Department of the Interior Fish and Wildlife Service, and the United States Environmental Protection Agency (EPA) all believe that water flows down hill and that a wetland is an entire system that is no better than any of its parts.

I submit the following evidence:

The New Hampshire Department of Environmental Services (Wetlands Bureau)

The mission of the Wetlands Bureau is to protect and preserve submerged lands under tidal and freshwaters and its wetlands (both salt water and fresh-water) from unregulated alteration that would adversely affect the natural ability of wetlands to absorb flood waters, treat stormwater and recharge groundwater supplies, impact fish and wildlife of significant value and depreciate or obstruct the commerce, recreation and the aesthetic enjoyment of the public.

Land development and other human activities that require dredging, filling, and construction in wetland and surface water resources can result in significant impacts on the environment. These impacts affect the functions and values of wetlands and surface waters, such as wildlife habitat, water quality renovation, or flood storage and desynchronization, among others.

A functional assessment is an evaluation of a wetland to determine the functions and values it performs within the context of the broader landscape needs to be completed by a qualified professional.



Glenn Normandeau
Executive Director

New Hampshire Fish and Game Department

11 Hazen Drive, Concord, NH 03301-6500
Headquarters: (603) 271-3421
Web site: www.WildNH.com

TDD Access: Relay NH 1-800-735-2964
FAX (603) 271-1438
E-mail: info@wildlife.nh.gov

September 18, 2015

Rick Ellsmore, State Conservationist
Natural Resources Conservation Service
Federal Building
2 Madbury Road
Durham, NH 03824

RE: Wetlands Reserve Easement (WRE) Land Eligibility – Jones Property

Dear Rick,

I am writing to you to request a waiver to the 1:1 wetland to upland ratio for the Wetlands Reserve Easement (WRE) program as it relates to the Jones property in Northumberland and Stark, NH.

The distribution of wetlands and hydric soils in New Hampshire are very different than many other parts of the country. Due to the current rules, this difference significantly limits NH's ability to enroll critical wetlands and wildlife habitat into the WRE program. As written by my former colleague, Charlie Bridges in a letter to you a few years ago,

"Our landscape is heavily populated with wetlands. They are large and small; permanent and ephemeral (vernal pools); interconnected and apart. Whatever the configuration, wetlands and adjacent uplands are often functionally dependent on one another when you consider patterns of water flow (both surface and subsurface) and wildlife activity. Wetland associated wildlife view these areas as systems, traveling between them along both watercourses and overland through upland areas. Land use activities, often some distance from a wetland, can dramatically affect water quality and flow, as well as wetland wildlife habitat features."

Recognizing the important relationship between wetlands and uplands the WRE rules allow the State Conservationist to waive the 1:1 acreage requirement. I encourage you to employ that waiver for this particular property.

The Jones property provides critical wildlife habitat and an important link between parts of the White Mountain National Forest. Approximately half of the property is mapped as Tier 1 – highest ranked habitat in the state by the Wildlife Action Plan. It contains northern hardwood-conifer, spruce-fir, and aspen forest types as well as beaver flowage, wet meadow, and swamp. These habitats likely support a large assemblage of wildlife including several species of

conservation concern and perhaps some state-listed species as well. State listed species that would likely benefit from the permanent protection of this property include American marten (state threatened) and Canada lynx (state endangered) as well as northern long-eared bat (state threatened). Lynx and northern long-eared bats are also federally listed. Species of conservation concern that would likely benefit include American woodcock, Canada warbler, olive-sided flycatcher, ruffed grouse, rusty blackbird, wood turtle, and northern leopard frog, among many others.

Given consideration of the points raised above I encourage the use of a WRE waiver for the Jones property. Please do not hesitate to contact me if you would like to discuss the matter further.

Best Regards,

A handwritten signature in dark ink, appearing to read "James D. Oehler". The signature is fluid and cursive, with the first name "James" and last name "Oehler" being more prominent than the middle initial "D".

James D. Oehler
State Lands Habitat Biologist



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5087
<http://www.fws.gov/newengland>



RE: Wetlands Reserve Easement Land Eligibility Waiver Concurrence November 12, 2015
Jones Property, Northumberland and Stark, New Hampshire

Jade A. Nield, Acting State Conservationist
Natural Resources Conservation Service
273 Locust Street, Suite 2D
Dover, NH 03820

Dear Ms. Nield:

The U.S. Fish and Wildlife Service (USFWS) concurs that a waiver should be granted to increase the acreage of eligible lands for the Jones Wetlands Reserve Easement (WRE) project in Northumberland and Stark, New Hampshire. Partners for Fish and Wildlife Program (PFW) staff from the New England Field Office have reviewed the project materials and support the waiver request under the provisions that are described in Title 440 – Conservation Programs Manual, Part 528, Subpart K – ACEP-WRE Application Process and Eligibility Requirements. Our determination is as follows.

The Jones property contains approximately 750 acres of mixed northern hardwood-conifer, spruce-fir, and aspen forest types, as well as beaver flowage, wet meadow, and swamp (NRCS Jones WRE Land Eligibility Map, received October 6, 2014). According to a letter from the New Hampshire Fish and Game Department dated September 18, 2015, half of the property is mapped as Tier 1 – highest ranked habitat in the State by the Wildlife Action Plan. State listed species that would likely benefit from the permanent protection of this property include American marten (state threatened) and Canada lynx (state endangered), as well as the northern long-eared bat (state threatened). Lynx and northern long-eared bats are also federally listed. Species of conservation concern that would likely benefit include American woodcock, Canada warbler, olive-sided flycatcher, ruffed grouse, rusty blackbird, wood turtle, and northern leopard frog, among many others.

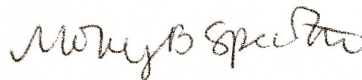
Based on the above information, PFW staff believe that the Natural Resources Conservation Service should consider waiving the one-to-one matching limitations because the project site appears to meet the qualifications under Part 528.105 I(2)(i), Enrollment of unique or critical wetland complexes.

Jade A. Nield, Acting State Conservationist
November 12, 2015

2

If you have any questions regarding the assessment of this project, please contact Mr. Eric Derleth of this office at (603) 223-2541. The USFWS looks forward to working with the Natural Resources Conservation Service and other interested parties on the review of future WRE projects.

Sincerely yours,



Acting
for:

Thomas R. Chapman
Supervisor
New England Field Office

As an additional test of the illogical nature of the Applicants choice of method to evaluate the wetland and water resource impact of their Project, we posed the following question to our seven year old grandson:

“If you poured poison in a lake would it kill fish in all parts of the lake or only where you poured it in ?”

His answer: “All over the lake”

Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence (Final Report) January, 2015

The U.S. Environmental Protection Agency's (USEPA) Office of Research and Development has finalized the report *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence*. The report reviews more than 1,200 peer-reviewed publications and summarizes current scientific understanding about the connectivity and mechanisms by which streams and wetlands, singly or in aggregate, affect the physical, chemical, and biological integrity of downstream waters. The focus of the report is on surface and shallow subsurface connections by which small or temporary streams, nontidal wetlands, and open waters affect larger waters such as rivers, lakes, reservoirs, and estuaries.

This report represents the state-of-the-science on the connectivity and isolation of waters in the United States. It makes five major conclusions, summarized below, that are drawn from a broad range of peer reviewed scientific literature.

- The scientific literature unequivocally demonstrates that streams, regardless of their size or frequency of flow, are connected to downstream waters and strongly influence their function.
- The scientific literature clearly shows that wetlands and open waters in riparian areas (transitional areas between terrestrial and aquatic ecosystems) and floodplains are physically,

chemically, and biologically integrated with rivers via functions that improve downstream water quality. These systems act as effective buffers to protect downstream waters from pollution and are essential components of river food webs.

- There is ample evidence that many wetlands and open waters located outside of riparian areas and floodplains, even when lacking surface water connections, provide physical, chemical, and biological functions that could affect the integrity of downstream waters. Some potential benefits of these wetlands are due to their isolation rather than their connectivity. Evaluations of the connectivity and effects of individual wetlands or groups of wetlands are possible through case-by-case analysis.
- Variations in the degree of connectivity are determined by the physical, chemical and biological environment, and by human activities. These variations support a range of stream and wetland functions that affect the integrity and sustainability of downstream waters.
- The literature strongly supports the conclusion that the incremental contributions of individual streams and wetlands are cumulative across entire watersheds, and their effects on downstream waters should be evaluated within the context of other streams and wetlands in that watershed.

This report was developed to inform rulemaking by the U.S. EPA and the U.S. Army Corps of Engineers on the definition of "waters of the United States" under the Clean Water Act (CWA).

The report summarizes current scientific understanding about the connectivity of streams and wetlands to downstream waters. EPA has conducted a thorough review of the literature – more than 1,200 peer-reviewed and published documents – on the scientific evidence regarding the effects that streams, nontidal wetlands, and open -waters have on larger downstream waters such as rivers, lakes, estuaries, and oceans. The focus of the report is on surface and shallow subsurface connections by which small or temporary streams, nontidal wetlands, and open waters affect larger waters such as rivers, lakes, reservoirs, and estuaries. EPA, along with other federal agencies and states, can use this scientific report to inform policy and regulatory decisions, including the Clean Water Rule being developed by EPA and the U.S. Army Corps of Engineers.

Conclusions:

- All science based literature regarding wetlands and the agencies charged with protecting them recognize that wetlands are a coordinated system of streams, vernal pools, marshes and rivers.
- Wetlands are vital to flood control, drinking and agricultural water recharge, and wildlife habitat.
- The Northern Pass Project will disturb, alter, damage and pollute thousands of wetland acres within the state and hundreds of wetland acres within our property.
- No effective mitigation can be applied, even if Northern Pass was proposing any, given the federal and state edicts of “No Net Loss of Wetland”.
- The evidence presented shows, pursuant to **SEC rules and criteria for findings**, that the Northern Pass Project **will have an unreasonable adverse effect on water quality**.
- The evidence presented shows, pursuant to **SEC rules and criteria for findings**, that the Northern Pass Project **will have an unreasonable adverse effect on the natural environment**.