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Electricity Delivery and
Energy Reliability

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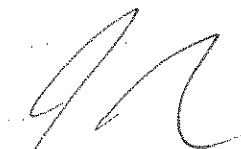
**Re: Northern Pass Transmission LLC, Presidential Permit Application OE Docket No. PP-371
Motion to Intervene By The Nature Conservancy**

Dear Mr. Lawrence:

Please find enclosed a motion to intervene in the above-referenced docket by The Nature Conservancy on the amended Presidential Permit Application of Northern Pass Transmission LLC.

Thank you for your attention to this matter.

Sincerely,



Jim O'Brien
Director of External Affairs
The Nature Conservancy
22 Bridge Street, 4th Floor
Concord, NH 03301

cc: Anne Bartosewicz, Northeast Utilities (via overnight mail)
Mary Anne Sullivan, Esq., Hogan Lovells LLP (via overnight mail)

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

Northern Pass Transmission, LLC
Application for Presidential Permit

Docket PP-371

**MOTION TO INTERVENE BY THE NATURE CONSERVANCY IN THE MATTER OF NORTHERN PASS
TRANSMISSION, LLC'S APPLICATION FOR A PRESIDENTIAL PERMIT**

Pursuant to Rule 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice (18 CFR 385.214), The Nature Conservancy moves to intervene in the above captioned proceeding.

1. Notices, correspondence and other communications

All notices, correspondence and other information concerning this proceeding should be directed to:

Jim O'Brien
Director of External Affairs
The Nature Conservancy
22 Bridge Street, 4th Floor
Concord, NH 03301
jim_obrien@tnc.org

2. Movant's Interest

The Nature Conservancy ("TNC") is an international nonprofit organization dedicated to conservation for the benefit of both people and nature. Our mission is to conserve the lands and waters on which all life depends. We address the most urgent conservation challenges at the largest scale by pursuing non-confrontational, pragmatic, market-based solutions. Our vision is to leave a sustainable world for future generations.

The Nature Conservancy's on-the-ground conservation work is carried out in all 50 states and in 35 countries with the support of approximately one million members. To date, we have helped conserve more than 119 million acres of land and 5,000 river miles around the world. Since 1961, The Nature

Conservancy has helped to protect over 280,000 acres of land in New Hampshire by utilizing sound conservation science and working with a wide variety of public and private partners.

The Nature Conservancy has long recognized climate change and society's response as a significant issue for biodiversity and humanity. We recognize that shifting our nation away from its reliance on fossil fuels for energy will require the siting of new energy facilities that will have local and regional impacts on the natural environment. We believe that each facility should be evaluated on a site-by-site basis, taking into consideration the cumulative impacts that a project will have on the natural landscape.

The Northern Appalachian Forest –stretching from Maine to the Adirondacks, and up into Quebec and the Maritime Provinces - represents the largest and most intact example of a Temperate Broad Leaf Forest in the Western Hemisphere. The Nature Conservancy, as a worldwide conservation organization, is directing our resources to help protect it. The Nature Conservancy is interested in ensuring that the proposed Northern Pass Transmission project does not unduly impact this sensitive and important ecological region, and that any project will serve the interests of both the people and nature that inhabit it.

Our comments on the proposed Application for Presidential Permit are strictly focused on ensuring that the process by which a public interest determination is made is in keeping with the best interests of the people and natural environment of New Hampshire. The Nature Conservancy is interested in ensuring that the process undertaken by the Department of Energy adequately addresses the environmental impacts of the proposal, proposes effective mitigation strategies, and studies practical and feasible alternatives in a public, transparent manner.

3. Statement of Position on Presidential Permit

The Nature Conservancy believes that the proposed project will result in significant impacts to the forests, wetlands, rivers, wildlife and other natural resources in New Hampshire along the 187 mile proposed transmission corridor.

Of specific concern are the negative environmental impacts the proposed project may have on federal and state designated conservation lands and areas of unfragmented Northern Appalachian Forest. The Nature Conservancy believes that the Application as submitted is insufficient and incomplete as it does

not identify any practical or legally feasible alternative routes for the transmission project, including any alternative routes that would avoid lands set aside in the public interest for their conservation and wildlife values. The Department of Energy regulations require the applicant to include a description of “all practical alternatives” to the proposed facilities (10 CFR 205.322(d)). This information is not included in the Northern Pass Application.

The Nature Conservancy’s current position on the project’s Application for a Presidential Permit is as follows:

a. The Applicant does not have the legal authority to complete its preferred alternative route in the north section. The Applicant’s identified preferred alternative route in the north section of the proposed corridor would have the transmission line cross under land owned by the Connecticut Lakes Realty Trust (CLRT) and subject to a conservation easement held by the New Hampshire Department of Resources and Economic Development (NHDRED). These lands are a part of what is known as the Connecticut Lakes Headwaters conservation project.

The Nature Conservancy was one of three non-governmental organizations who worked with state and federal partners to conserve the 171,000-acre Connecticut Lakes Headwaters property, which included raising the \$42 million needed to make the project a reality. The Nature Conservancy and our donors directly invested approximately \$5.5 million to conserve 25,000 acres in the Headwaters project for the purpose of establishing a natural area for wildlife. This area is now owned by the NH Fish & Game Department, and is contiguous with the CLRT lands.

Major funding for the Headwaters easement was made possible in part through a grant from the Forest Legacy Program (FLP), administered by the USDA Forest Service in partnership with the States. Additional funding was made possible by the New Hampshire Land and Community Heritage Investment Program (LCHIP) through a direct expenditure authorized by the state Legislature, as well as through substantial donations made by private foundations, businesses and individuals.

The Nature Conservancy believes that the Applicant’s proposed crossing of the Connecticut Lakes Headwaters is a major deficiency in the proposed application, and should be withdrawn as a viable alternative route for the Project. The clear language of the easement prohibits any commercial

development of the protected land, and the Applicant's proposal violates a number of easement provisions.

In response to the Amended Application and the proposed crossing of the Headwaters easement, on August 16, 2013 the four members of the New Hampshire Congressional delegation jointly signed and delivered a letter to Agriculture Secretary Vilsack, whose agency administers the Forest Legacy Program, regarding their thoughts on this matter. In their letter, the delegation clearly states their opinion that "we do not believe that such a use of this land is permitted under the easement."

The Applicant states that the preferred alternative route is not legally viable unless they receive the permission of the Easement Holder and the current land owner. The Applicant further argues that "because of the conservation Easement, overhead is not a viable option there, and CLRT and NHDRED would have to consent to the construction of an underground segment." The Nature Conservancy disagrees with these statements, and believes that NHDRED does not have the authority under the terms of the Conservation Easement to allow Northern Pass to cross over or under any portion of the land, or to make any amendments to the Easement to allow such a development to occur.

The language of the Easement would prohibit any amendment to allow development of transmission corridors as they are not consistent with the Purposes and Stewardship Goals as identified in Section 16 of the Easement entitled "Limitation on Amendment." This section reads as follows:

"If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Fee Owner and the Easement Holder may, by mutual written agreement, jointly amend this Easement provided that no amendment shall be made that will adversely affect the qualifications of this easement to the status of the easement Holder under any applicable laws including the Forest Legacy Program (16 USC Section 2103c) the Land and Community Heritage Investment Program (RSA 227-M), and RSA 477:45-47. Any Amendment shall be consistent with the Purposes and Stewardship Goals of this Easement and shall not affect its perpetual duration. Any amendment shall be recorded in the Coos

County Registry of Deeds after all approvals required by law have been obtained. Nothing in this Section shall require the Fee Owner or the Easement Holder to agree to any amendment or to consult or negotiate regarding any amendment.”

Development of a commercial transportation corridor is clearly contrary to the specified “Purposes” of the Easement which include:

- i. To conserve open spaces, natural resources and scenic values.
- ii. To sustain traditional forest uses including forest management activities and permitted recreational activities.
- iii. To conserve waterfront, streams, riparian areas and the quality of groundwater and surface water resources, and to conserve biological diversity, fish and wildlife habitats, rare plants and animals, rare and exemplary natural communities and cultural resources on the Property.
- iv. To conserve the unusual natural habitat known as the “high elevation mountain spruce-fir forest.”
- v. To guarantee the Easement Holder’s right to permit public access on the Property.
- vi. To retain the Property as an economically viable and sustainable tract of land, conducive to ownership by a private timberland owner or timberland investor, for the protection of timber, pulpwood, and other forest products.

Finally, industrial or commercial activities such as the Northern Pass Transmission project are expressly prohibited in Section 2 of the Easement, entitled “Use Limitations.” Section 2.A.i clearly states: “The Property shall be maintained in perpetuity as open space... without any residential, industrial or commercial activities being conducted thereon, except forest management activities.”

Further, both the funding from the state LCHIP program and from the federal Forest Legacy Program provides statutory restrictions on the use of the Easement property that would prohibit the development of the Northern Pass project.

The Headwaters Easement makes reference to specific New Hampshire statutory language (RSA 227-M:14) inserted which states:

“notwithstanding any other provision in this Easement... no deviation in the uses of any resource acquired under this Easement to uses of purposes that are inconsistent with the Purposes of this Easement shall be permitted. The sale, transfer, conveyance or release of any resource asset from the public trust is prohibited except as specifically permitted in this Easement.”

Section 18 identifies that the Easement was acquired with federal funds provided through the Forest Legacy Program. The Forest Legacy Statute states the Purposes of the program, and imposes additional restrictions on the conversion of land to other uses. 16 U.S.C. § 2103c (a) states that the program is established:

“for the purpose of ascertaining and protecting environmentally important forest areas that are threatened by conversion to nonforest uses and, through the use of conservation easements and other mechanisms, for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.”

16 U.S.C. § 2103c (i) requires that “the landowner shall be required to manage property in the manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program, and shall not convert such property to other uses.”

Because of the significant legal impediments to Northern Pass crossing the Connecticut Lakes Headwaters Conservation Easement, The Nature Conservancy believes that the Applicant’s preferred alternative route is not practical or legally feasible and should not be considered for analysis. Removing this preferred alternative route from consideration would mean that the Applicant has not provided any reasonable or feasible alternative routes as required – making the Application incomplete.

b. The Applicant fails to provide reasonable alternative routes and configurations to avoid federal and state designated conservation lands: The Applicant’s preferred route utilizes an existing right of way across two areas of federally designated conservation land – the Pondicherry Division of The Silvio O. Conte National Fish and Wildlife Refuge and the White

Mountain National Forest – and several state lands including the Cape Horn, Percy, and William H. Thomas State Forests.

These lands were set aside in the public interest for their conservation and societal value. The Nature Conservancy believes that the public benefit determination that led to the permanent conservation of these state and federally protected lands require the Applicant to identify practical alternative routes that would avoid impacting them.

The Applicant's preferred route proposes an expansion of the existing power line corridor and the construction of new, significantly larger and more physically and visually intrusive towers throughout these areas. The construction and continued maintenance of the corridor may significantly impact the wildlife, natural habitat and scenic values that these lands were permanently conserved to protect.

The Applicant does not propose any alternative routes to avoid crossing these protected lands, although practical alternative routes are available, including an alternative route around the White Mountain National Forest identified in Northern Pass' first Application for a Presidential Permit dated October 14, 2010.

In the amended Application, Northern Pass asserts that some alternative routes are "cost prohibitive" and "others present legal impediments" because of the New Hampshire Legislature's determination that the project cannot utilize eminent domain authority. The Applicant has withdrawn support for the alternatives previously submitted and has asked that they be eliminated from consideration.

The Nature Conservancy believes that the Applicant's assertion that any alternative route would be cost prohibitive is unsupported, particularly in light of the Applicant's apparent success at defining a new 40-mile route in the project's Northern sector.

In both the Applicant's preferred route and preferred alternative route, Northern Pass has shown a willingness and success at negotiating with landowners for the legal authority to construct overhead transmission lines across private lands. In areas where they were unable to

acquire rights to cross private lands, Northern Pass proposes burial of the lines along public rights of way (roadways) in order to develop a corridor with less visual and environmental impact. These efforts by the Applicant have not required the use of eminent domain authority, nor have they presented financial costs that have prohibited the development of the project.

Because of the Applicant's past success in securing the willing cooperation of landowners to cross their property, and their willingness to propose alternatives such as burial along public rights of way, the argument made by the Applicant that alternatives to overhead lines crossing these conserved lands are not available for study is simply not supported by the facts and their own actions.

c. Sufficiency and Completeness of the Application as submitted: The Nature Conservancy believes that Northern Pass' Application for a Presidential Permit is incomplete as it does not offer any "practical alternatives" to the proposed route as the only alternative identified in the Application is prohibited and not legally feasible. A description of all practical alternatives to a facility is a requirement of the application by the Department of Energy. The Applicant makes no attempt to consider practical alternative routes to sections of the project that would have meaningful impacts to federal and state protected land along the proposed route.

d. The Applicant does not adequately address the mitigation hierarchy on its impact to federally protected land: When a large infrastructure project triggers federal permitting or crosses federal lands (as the Applicant proposes), agencies must analyze the environmental impacts utilizing a mitigation hierarchy, with applicants expected to avoid or reduce potential impacts first, and for unavoidable impacts, provide compensation through mitigation projects. The Northern Pass application fails to meet both standards as the Applicant makes no attempt to avoid federal and state protected lands through an alternative route analysis, nor does it offer any substantive mitigation or mitigation plan for the project's impact on these lands, or on any of the impacted land and waters along the 187 mile proposed route.

e. Because of the broader environmental and natural resource impacts, the Application may not be in the public interest: The proposal would impact a vast section of the state covering 187 miles and would transform both the landscape and scenic viewpoints along the proposed corridor. The impacts of the proposed transmission line should be thoroughly analyzed before a

public determination can be made if the proposed route is in the public interest when compared to reasonable alternatives to the project. The Applicant dismisses proposed alternatives to the facility, including new route segments, alternative means to bring the power to market, and undergrounding the transmission line along a significant portion of the route to avoid potential visual and environmental impacts.

The Nature Conservancy believes that these alternatives need to be analyzed as part of the Presidential Permit process, and questions the public benefit for New Hampshire and the region in light of the anticipated adverse environmental impacts of the proposal and lack of clearly articulated alternatives by the Applicant.

4. Additional Comments

a. Any process for selecting alternatives to be studied in the Environmental Impact Statement (EIS) needs to be transparent and subject to public review and comment before being finalized.

As discussed, the Application does not put forward any practical or legally feasible alternatives for the proposed project. The Nature Conservancy believes that this fact makes the Application incomplete, and the process should not move forward until the Applicant submits an amended application that is complete and identifies practical alternatives.

The Nature Conservancy believes that it is in the best interests of the Applicant, federal agencies and interested parties that the decision of which reasonable and practical alternatives are to be studied should be transparent and open for public comment.

The selection of alternatives to be studied as part of the EIS is critical for the decision making of both the Department of Energy, as well as for the United States Forest Service which needs to determine if a Special Use Permit for the project is in keeping with the values and purposes for which The National Forest was established.

The Nature Conservancy believes that the amended application review and discussion of alternatives to be studied should provide for public review and comment of a preliminary report, following the public scoping hearings on the project, that articulates (i) the alternatives proposed to be studied, (ii) which alternatives will not be studied, and (iii) the basis for those decisions. Following public review and comment, a final list of alternatives for study in the EIS should be determined and made public by DOE. This process at a minimum would bring greater

transparency to the EIS process, and provide the public with an opportunity to comment on alternatives that are currently not included as part of the Northern Pass Application.

b. The Application relies on unsubstantiated statements regarding the clean-energy and carbon benefits of the project to the state and region. The Applicant repeatedly states throughout the Application that the project will deliver clean renewable energy into the region that will ensure a dramatic reduction in carbon emissions on an annual basis. Additionally, the Applicant contends that the project will assist the state in meeting specific policy objectives including the Regional Greenhouse Gas Initiative (RGGI) and the New Hampshire Climate Action Plan. The Nature Conservancy questions these claims insofar as insufficient facts have been presented to support them.

The Nature Conservancy agrees that if the project reduces carbon and other greenhouse gas emissions, it would be a relevant public benefit and should be reviewed and reported as part of the EIS process. The Application, however, makes claims about the carbon benefits of the project that are not specifically outlined, substantiated or useful in determining the net benefit of the project. The Nature Conservancy believes that the EIS should determine whether and to what extent the project would result in reduction of carbon and other greenhouse gas emissions, and use that information to inform its analysis.

There is also no information provided by the Applicant to reasonably support the claim that the project will help satisfy the requirements and goals of the Regional Greenhouse Gas Initiative as stated in the Application. The state and region are currently well equipped to satisfy the requirements of the RGGI program through state and regional investments in energy efficiency, as well as the ongoing transition to cleaner sources of electrical power generation including natural gas and the continued development of local renewable resources. There have been several state and regional studies of the RGGI program and its continued implementation, and none have suggested that Northern Pass is needed in order to meet the emissions standard.

Additionally, the Applicant has not substantiated its claim that the Northern Pass project outlined in this Application meets the requirements of the recommendation in the New Hampshire Climate Change Action Plan report. The recommendation in the report calling for the construction of high voltage transmission lines states that the energy “be substantially and verifiably renewable; replaces fossil fuel generation; and is competitively priced.” No

information is included in the Application that would make it possible to evaluate whether these criteria have been met.

The Applicant repeatedly states that the energy to be delivered from Northern Pass is clean and renewable, but provides no process or means to determine if in fact the source of all the power transmitted by the project is verified to be from renewable sources. Likewise, without additional information and study, it is impossible to determine if and when the project would replace fossil fuel generation in New Hampshire or in the region. The Applicant does not offer sufficient information in their Application to reach the conclusion that the project meets these conditions and would advance the recommendation of the New Hampshire Climate Change Action Plan.

4. Conclusion

The Nature Conservancy respectfully requests that the Department of Energy grant this motion to intervene, and the right to introduce additional concerns and information as the federal permitting process proceeds.

Respectfully submitted,



Mark Zankel
New Hampshire State Director
The Nature Conservancy
22 Bridge Street, 4th Floor
Concord, NH 03301