

Northern Pass and the WMNF

Barriers to Northern Pass's Proposed WMNF Crossing: WMNF Land and Resource Management Plan

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THIS IS A PRELIMINARY ANALYSIS OF SOME OF THE ISSUES THAT MAY ARISE IN CONNECTION WITH NORTHERN PASS'S APPLICATION FOR A SPECIAL USE PERMIT FOR ITS PROPOSED TRANSMISSION LINES TO CROSS THE WHITE MOUNTAIN NATIONAL FOREST.

THE FOCUS IS ON THE TERMS AND CONDITIONS OF THE WHITE MOUNTAIN NATIONAL FOREST "LAND AND RESOURCE MANAGEMENT PLAN". OTHER SOURCES SUCH AS FEDERAL LEGISLATION, REGULATIONS AND FOREST SERVICE DIRECTIVES (SUCH AS THE FOREST SERVICE MANUAL AND FOREST SERVICE HANDBOOK) MAY ALSO BE RELEVANT BUT ARE GENERALLY NOT ADDRESSED IN THIS ANALYSIS.

OUR RESEARCH AND ANALYSIS ARE NOT YET COMPLETE AND THE PRELIMINARY CONCLUSIONS SET FORTH BELOW ARE SUBJECT TO CHANGE.

SUMMARY

- In our view, Northern Pass’s currently-proposed WMNF crossing **does not** meet the **high hurdles** set for new utility lines in the WMNF Land and Resource Management Plan
- Unless NP’s proposal is substantially changed (for example, line burial), we believe the US Forest Service will likely **deny** NP’s application for a special use permit
- The US Forest Service has indicated it will not make its decision until **after** the final environmental impact statement for the project is available (likely **2-3 years** from now)

PROCESS

- Northern Pass (NP) needs a “**special use permit**” (SUP) from the US Forest Service to cross the WMNF on the proposed route
- NP’s proposed route crosses three WMNF “management areas” (MAs) – 2.1 (General Forest), 6.1 (Semi-Primitive Recreation) and 8.3 (Appalachian National Scenic Trail) – each with different requirements that must be met
- **Any SUP for NP must be consistent with the terms, conditions and requirements of the WMNF Management Plan (16 USC 1604(i))**

- In 2010, to start the process, NP made initial and second round screening filings with the US Forest Service (USFS)
- February 16, 2011: Tom Wagner, WMNF Forest Supervisor, issued a letter passing NP through the screening process (sort of – USFS left key determinations such as “public interest” until after final environmental impact statement). **Kudos to the USFS** for a careful, balanced, nuanced response to the screening submissions
- June 28, 2011: NP filed its formal application for an SUP for the WMNF crossing
- Informal dialog between NP and USFS continues
- USFS will not make its SUP decision until after the final environmental impact statement (EIS) is available – we believe this will be **at least 2-3 years from now**

NP AS CURRENTLY PROPOSED DOES NOT MEET THE HIGH HURDLES IN THE WMNF MANAGEMENT PLAN FOR NEW TRANSMISSION LINES. THREE CLEAR EXAMPLES...

#1: HIGH HURDLE FOR SUPs FOR PRIVATE LINES

- The WMNF rule: “Private uses of National Forest System land must not be authorized when such uses can be reasonably accommodated on other lands” – WMNF Management Plan, Forest-Wide Management Direction, S-1(a), p. 2-9 (emphasis added)
- We believe it is highly likely NP does not meet this standard
- A WMNF crossing by NP, as an optional, elective, ‘non-need’, ‘non-rate-base’, participant-funded transmission line, would represent a private use of WMNF land
 - Participant-funded lines like NP’s are wholly different from traditional ‘needed’, ‘regulated’, ‘rate-base’ transmission lines that are built to enhance the electric grid
 - NP’s lines do not respond to any regulatory requirement, identified need or request
 - The project is essentially unregulated
 - The purpose of the lines is private purpose of profit for project participants, not the public purpose of “keeping the lights on”

- Unlike a public project with open access to all users, NP's lines are intended for the exclusive use of a single entity, Hydro-Quebec
- NP's proposed line is, in substance, a "**lead line**" or "**connector line**" that would hook up generation capacity (in Quebec) to the New England electric grid. Lead lines and connector lines are for the benefit of the applicable generator and are understood as private, elective connections to the grid, not needed public infrastructure
- ***Ancillary public benefits (jobs, taxes, reduced wholesale electricity prices, fuel diversity, low carbon), assuming the claims are true, do not convert a private project to a public project***
 - Reality check: Would a Walmart in the WMNF (creating jobs, taxes, lower consumer prices, etc.) be private or public?
 - But beware of mandated federal energy policy: wind towers are an authorized use (subject to project-level permitting) in some WMNF MAs
- There are **reasonable alternative routes** for Northern Pass that **do not need to cross the WMNF or can cross with less adverse impact**
 - One clear alternative: burying the lines under highways, rail beds or other state-owned rights of way as currently being contemplated by the SB 361 commission

- Other HVDC lines in New England/New York area have adopted this approach – Champlain Hudson Power Express, Northeast Energy Link
 - Technically feasible
 - Cost-competitive
- Other alternatives potentially include the existing HVDC corridor through New Hampshire, as well as other routes, or regional solutions

#2: VERY HIGH HURDLE FOR SUPs FOR NEW UTILITY LINE CROSSINGS OF APPALACHIAN TRAIL

- The WMNF rule: “**New utility lines** or rights-of-way are **prohibited unless** they represent the **only feasible and prudent alternative** to meet an **overriding public need**” – WMNF Management Plan, MA 8.3 Appalachian Trail, S-3, p 3-48 (emphasis added)
- Parse the rule carefully – NP would be a “new utility line” subject to the “overriding public need” standard even though it proposes to co-locate on the existing PSNH corridor
- We believe it is **extremely likely** NP does not meet this standard

- There is **no “overriding public need”** for Northern Pass
 - NP is structured as an optional, elective, ‘non-need’ project
 - No federal, regional or state regulatory agency has found that Northern Pass is “needed”, let alone needed in some “overriding” way
 - The ancillary public benefits claimed by Northern Pass – jobs, taxes, reduced wholesale electricity costs, carbon displacement, reduced reliance on natural gas – are typical of many private electricity infrastructure investments and do not establish any public need for the project, let alone an “overriding” need

- There are **feasible and prudent alternatives** that are less invasive – for example, line burial on state rights of way, other less impactful routes, regional solutions

- More generally, there are **other energy alternatives** to NP that may achieve comparable results with fewer adverse impacts
 - For example, **demand reduction** through energy conservation could potentially be equivalent to NP’s electricity supply
 - Development of **decentralized wind, biomass, solar or natural gas power generation closer to the ultimate New England users** could also be a reasonable, less impactful alternative than NP

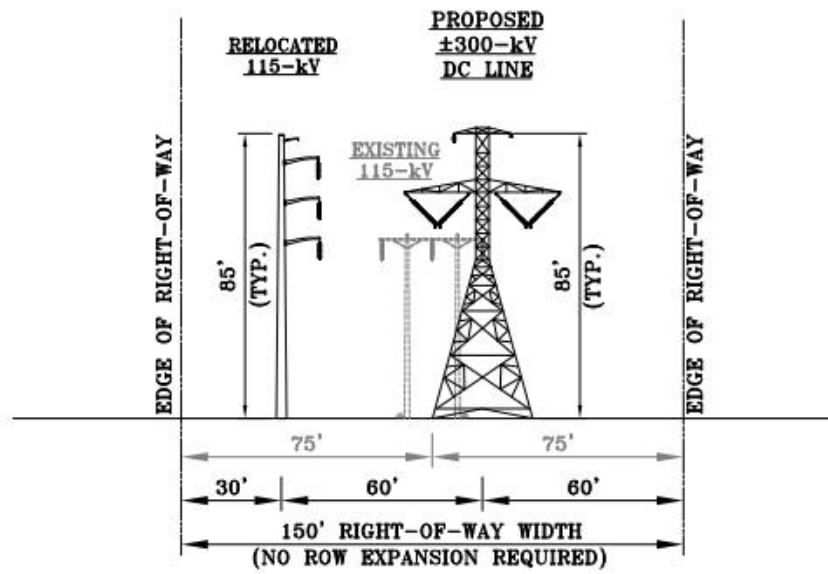
#3: ESSENTIALLY IMPOSSIBLE HURDLE FOR SCENIC IMPACTS FROM THE LINES

- The WMNF rule: The “**Scenic Integrity Objectives**” for MA 8.3 (Appalachian Trail) are stated as **mandatory standards** and are “**Very High**” or “**High**”. These levels of scenic protection require landscape character that (1) is **unaltered**, meaning the landscape “is intact with only minute if any deviations” (**Very High**) or (2) **appears unaltered**, meaning the landscape “appears intact” and any deviations “must repeat the form, line, color, texture and pattern common to the landscape character so completely and at such scale that they are not evident” (**High**) – WMNF Management Plan, MA 8.3 Appalachian Trail, S-1, S-2, p. 3-52; see also definitions
- There are also Scenic Integrity Objectives for the other MAs proposed to be crossed by NP, but we do not need to address them to demonstrate our point
- We believe it is **essentially certain** NP does not meet the scenic integrity standards

- NP’s project, as currently proposed, involves **material additional scenic impacts** along the existing PSNH corridor
 - Even at newly-proposed 85’ “typical” height (which almost certainly will involve some higher towers), NP’s towers would pierce the tree cover
 - The redesigned and relocated PSNH transmission lines would be substantially taller and more visually invasive
 - The cross-sectional area of the structures (including PSNH’s lines as redesigned and relocated) – that is, the total structure volume that is visible to an observer -- is substantially more massive and would be several multiples of the current PSNH lines. See NP’s visual on next page

- These **material additional scenic impacts** will, by definition, represent **deviations** from the current visual environment that **violate the extremely strict standards** of “**Very High**” and “**High**” **Scenic Integrity Objectives**

- The **co-location of NP’s lines on the existing PSNH corridor does not hide or minimize the visual intrusiveness of the proposed new NP/PSNH line combination**, particularly given the increased height and volume of the structures



**ROW CROSS SECTION
WHITE MOUNTAIN NATIONAL FOREST**

**PRELIMINARY
FOR DESIGN ONLY**



NP'S PROPOSAL HAS MANY OTHER INCONSISTENCIES WITH THE WMNF MANAGEMENT PLAN

- We highlighted three obvious inconsistencies above
- There are many others
- Fundamentally important to the ultimate USFS decision will be the general “public interest” standard for SUPs. To issue the SUP, the USFS would need to determine that NP’s proposed crossing of the WMNF is in the public interest. ***But how could it be in the public interest to damage the WMNF, a public asset, for an unneeded private development project such as NP?***
- Some other examples of WMNF Management Plan terms, conditions and processes that may raise barriers to NP:
 - Lines to be buried “if feasible”
 - Cumulative impact analysis – typical 10-year planning horizon includes potential of other transmission lines through WMNF (see, for example, transmission plan from New England Governors’ conference)
 - Consistency/equal treatment – for MAs such as 8.3 and 6.1 that don’t allow renewable energy facilities (wind towers), it would be inconsistent to allow a connector line (NP) for “large hydro” from Canada (not even a “renewable” in most New England states)

IF WE ARE RIGHT THAT NP'S PROPOSAL IS INCONSISTENT WITH THE TERMS AND CONDITIONS OF THE WMNF MANAGEMENT PLAN AND DOES NOT MEET MANDATORY PLAN STANDARDS, IS THAT THE END OF THE PROJECT?

- **Not necessarily**
- **The 2-3 year EIS process will continue.** Time and the randomness of events may work in NP's favor (for example, electricity demand increases, supply disruptions, weakening of the New England grid, adoption of Order 1000 rules by ISO-NE, etc.)
- **NP will likely continue to try to shape and "spin" the project, the EIS process, other regulatory processes and even national energy legislation** to bolster the argument that Northern Pass has essential public attributes, is in the public interest, satisfies a strong public need, and has manageable WMNF impacts. We cannot exclude the possibility that NP makes progress in these areas over the 2-3 year timeframe for the EIS process
- NP will likely continue to propose "**project-level mitigation**" (design changes, etc.) in an effort to satisfy the USFS and other stakeholders on specific WMNF impacts. When will we hear about another NP engineering epiphany that will allow for 40' towers?

- **Subject to these uncertainties, we believe that unless NP makes a radically different proposal that essentially involves no material incremental impact on the WMNF above and beyond the existing PSNH lines (for example, burial of the lines), the USFS is unlikely to grant the SUP under the current WMNF Management Plan. We believe the most likely outcome is denial of the SUP after the final EIS is issued**

- **BUT BEWARE: the WMNF rules can be changed as part of the “process”**. If the USFS were to come to the conclusion that Northern Pass should be allowed to proceed with a WMNF crossing, a process is in place for a **project-specific amendment to the WMNF Management Plan to eliminate any specific inconsistencies for the project only**
 - See “Forest Plan Amendment and Revision”, pp. v-vi, WMNF Management Plan
 - Such an amendment could be accompanied by “**offsite mitigation**” (for example, donation of lands to the WMNF) and/or **cash compensation**
 - See, for example, the recent approval for the Susquehanna-Rosemont transmission line through national parks in Pennsylvania and New Jersey, including a crossing of the Appalachian Trail. Note: Susquehanna-Rosemont is not a close factual analogy to NP

- There is a **precedent** -- a **project-specific amendment** was made to the forest management plan to allow the Sunrise Powerlink transmission line to proceed through the Cleveland National Forest in California in the face of violations of Scenic Integrity Objectives and other plan requirements. Note: Sunrise Powerlink is not a close factual analogy to NP
- We believe a project-specific amendment is only a **remote possibility** unless there is insurmountable political pressure brought to bear from Washington. Absent a forced decision, it seems unlikely the USFS/WMNF Forest Supervisor would make the judgment that Northern Pass is somehow more important than the principles and standards of the WMNF Management Plan

WHAT SHOULD ALL OF US DO?

- **Comment frequently and forcefully on WMNF issues.** Go to **ProtectWMNF.org**, click on the link to make a scoping comment. It is the only way that your voice will be heard in the formal process. Have you already entered a comment? Enter another that specifically mentions the White Mountain National Forest. Northern Pass keeps amending its SUP application; update your comment too
- **Support the efforts of the institutions** that will actively develop and engage on WMNF issues – **Appalachian Trail Conservancy**,

Appalachian Mountain Club, Society for Protection of New Hampshire Forests, Conservation Law Foundation and others

- **Do your part to make NP's proposed WMNF crossing into a key public and political issue.** We cannot allow Northern Pass, a private venture, to despoil the WMNF, a hugely important public resource. **Contact your US Senators and Representatives** to make your voice heard
- **Don't allow NP's "spin" about the proposed WMNF crossing to go unchallenged!**