

**COMMENTS OF NORTHERN PASS TRANSMISSION LLC
ON DRAFT ENVIRONMENTAL IMPACT STATEMENT
WATER RESOURCE IMPACTS ANALYSIS**

Northern Pass Transmission LLC (“Northern Pass” or the “Project”) submits this comment on the analysis contained in the Draft Environmental Impact Statement (“DEIS”) of the impacts the Project could have on water resources in the Project area. In most respects, Northern Pass does not challenge the analysis in the DEIS on this topic, but rather it wishes to explain why the results reported in the DEIS in this resource area are quite different than the results Northern Pass identified in its submission to the New Hampshire Site Evaluation Committee (“SEC”).¹

Briefly summarized, Northern Pass performed the kind of detailed analysis required to obtain the wetlands permits it seeks for the Project. Thus, its analysis is based on very specific siting information. By contrast, the DEIS takes a high-level, conservative approach both to measuring wetland impacts from the Project and to comparing the impacts among alternatives. The DEIS analysis provides a reasonable, high-level comparison among alternatives, but the resulting impact numbers are generally higher than the impact numbers that result from using state and federal agency-approved metrics for permit applications, as Northern Pass did.

The difference in approach appears in several areas. For example, the DEIS appears to include wetland conversion (the cutting of trees in forested wetlands) in the same permanent wetland impact calculations as permanent fill. While Northern Pass acknowledges that the loss of trees in otherwise un-impacted wetland locations is a permanent change in cover type, Northern Pass identifies this as a secondary impact, consistent with the guidance from the federal regulators in the region. Secondary impacts in the DEIS appear to include clearing of uplands within 100 feet of wetlands, while the Northern Pass permit application materials only address stream and vernal pool buffer clearing, not wetland buffer clearing, in accordance with regulatory guidance Northern Pass received from the Army Corps of Engineers (“USACE”). The DEIS also quantifies clearing within 100 feet of all streams as a secondary impact, while the permitting documents are required to include clearing within 100 feet from perennial streams, 50 feet from intermittent streams, and 25 feet from ephemeral streams, again based on guidance from the federal and state agencies of jurisdiction.

¹ <http://www.northernpass.us/assets/filings/Volume%20XXIX/Appendix%2031%20Wetlands%20Rivers%20Streams%20and%20Vernal%20Pools%20Resource%20Report%20and%20Impact%20Analysis.pdf>.

It is unclear whether the DEIS double counts wetland conversion within stream and vernal pool buffers as both a permanent and a secondary impact. If it does, however, that would appear to be an error that should be corrected in the Final EIS.

Similarly, the wetland boundaries identified in the DEIS differ from those delineated by Northern Pass in multiple locations, and this may contribute to differences in impact measurements between the DEIS and the Northern Pass SEC filing. All wetlands delineated by the Northern Pass team were either delineated or reviewed by a New Hampshire Certified Wetland Scientist in accordance with the 1987 Manual and appropriate Regional Supplement, and they were reviewed for accuracy by the USACE on a spot basis. There is no reference to the method used for delineating wetlands in the DEIS or to verification by the USACE, but Northern Pass does not understand that same level of precision to be required for an EIS.² Northern Pass assumes that less precise measurement led to the conclusion in the DEIS that there would be 17 acres of direct fill impacts, while Northern Pass calculates only 2.53 acres of permanent impact.³ Similarly, the DEIS assessed stream impacts in tenths of miles, while for permitting Northern Pass was required to measure in linear and square feet. This results in a significant overestimate of potential stream impacts in the DEIS.

Many of the listed lakes and ponds in the DEIS are identified as “Unnamed Swamp/Marsh.” Northern Pass believes that those should be categorized as wetlands, consistent with the USFWS Cowardin wetland classification system specified by the New Hampshire Department of Environmental Services and USACE. All of the ponds encountered along the Project route were too small to be considered Lacustrine and were typically classified as Palustrine (PUB) wetlands – and therefore included with all the other wetlands in the Northern Pass permit applications.

² 40 C.F.R. § 1502.1(b) requires NEPA documents to “concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.” *See Webster v. U.S. Dep’t of Agric.*, 685 F.3d 411, 425 (4th Cir. 2012) (“An EIS containing vast quantities of inconsequential information can actually defeat the NEPA’s goals of informed decision-making and public participation by drowning out truly significant information with that which is insignificant. Agencies therefore face a delicate balancing act: they must include enough details about a proposed action to allow for the requisite hard look at its environmental effects without providing so much information that the EIS becomes self-defeating.”).

³ <http://www.northernpass.us/assets/filings/Volume%20XXIX/Appendix%2031%20Wetlands%20Rivers%20Streams%20and%20Vernal%20Pools%20Resource%20Report%20and%20Impact%20Analysis.pdf> at 5-2. The relatively small area of direct permanent impacts reflects the extensive avoidance and minimization efforts employed by the Project team throughout the siting and engineering. *Compare* Environment & Ecology, Water Resources Technical Report for the Draft Environmental Impact Statement at 181.

The DEIS compares the Project impacts to the total acres of wetlands within Coos County, but the source of the county data is not identified. As far as Northern Pass is aware, there are no sources of county-wide data that are comparable to field-delineated wetland quantities. Thus, Northern Pass has questions about the accuracy of such a comparison.

It is the understanding of Northern Pass that the DEIS team did not have the benefit of surveying for vernal pools at the correct time of year. As a result, the number of vernal pools in the DEIS appears to be underestimated. On the other hand, it has not been demonstrated that most vernal pools in the Northern Pass project area contain protected or rare species, as the DEIS seems to suggest. Over a period of five years of seasonally appropriate studies, Northern Pass identified 271 vernal pools along the Project route, but only 23 (8 percent) were deemed high quality, where high quality is determined on the basis of the following criteria:

- Associated with state-listed or special concern species; or
- Contain two or more primary indicator species; and exhibit
 - high levels of amphibian breeding activity (25 or more egg masses) at the time of the survey;
 - adjacent habitat comprised of at least 75% undeveloped area within the first 100 feet from the vernal pool seasonal high water line (critical terrestrial habitat); and
 - adjacent habitat comprised of at least 50% undeveloped area within 750 feet of the critical terrestrial habitat.

The Northern Pass SEC and wetlands permit application material describes the species observed in field-verified vernal pools, and thus it is able to more accurately describe the limited impacts of the Project on those species.⁴

Northern Pass believes that there are some inaccuracies in the floodplain discussion that warrant correction in the Final EIS. The DEIS discussion of floodplains states that “Category X represents areas with moderate flood hazards and those between the limits of the base flood and the 0.2-percent annual-chance (or 500-year) flood.” This overstates the potential impact of the Project on floodplains. The FEMA website (<https://www.fema.gov/flood-zones>) notes: “The areas of minimal flood hazard, which are the areas outside the [Special Flood Hazard Area] and higher than the elevation of the 0.2-percent-annual-chance flood, are labeled Zone C or Zone X (unshaded).” This is the definition that should be used in New England, where most or all of the Zone X areas present minimal, not moderate, flood hazard.

³ <http://www.northernpass.us/assets/filings/Volume%20V/Appendix%20%20NHDES%20Wetland%20Permit%20Application.pdf> at 26 – 27 of the Project Description and Existing Conditions Narrative.

The DEIS also erroneously concludes that the Project will give rise to “decreased flood zone capacity due to construction of structures within floodplains (i.e., Deerfield Substation, Franklin converter station, proposed helipad, and proposed and relocated towers).”⁵ Although a few transmission structures are in floodplains, none of the stations or site developments is in a floodplain. There will be no helipad because the Project will be constructed underground in public roads in the White Mountain National Forest. Thus, at most, the Project will have a negligible impact on flood zone capacity.

Northern Pass agrees with the assessment in the DEIS that “impacts to wells along the route are not anticipated from water withdrawal, erosion, or hazardous waste or fuel spills.” Northern Pass also agrees with the statement that wetlands habitat loss due to construction would be short-term because Northern Pass has committed to revegetate the ROW to restore pre-construction conditions. Finally, the overall conclusion of the DEIS that impacts to water resources will be minimized by implementing avoidance and minimization measures, best management practices and compensatory mitigation measures is fully consistent with Northern Pass’s own findings. The avoidance, minimization and mitigation measures that Northern Pass has committed to undertake are described in detail in its SEC application.⁶ Of particular note is the commitment Northern Pass has made to preserve more than 1,500 acres to offset the unavoidable wetlands impacts and to make a compensatory payment of more than \$3 million to the New Hampshire Aquatic Resources Mitigation fund.⁷ The Northern Pass compensatory mitigation plan greatly exceeds the 15:1 federal compensatory mitigation ratio for all wetland impacts.⁸

⁵ Environment & Ecology, Water Resources Technical Report for the Draft Environmental Impact Statement at 98.

⁶ <http://www.northernpass.us/assets/filings/Volume%20XXIX/Appendix%2032%20Natural%20Resource%20Mitigation%20Plan.pdf>.

⁷ Id., Table 9, at 6-2.

⁸ Id. at 1-1.