

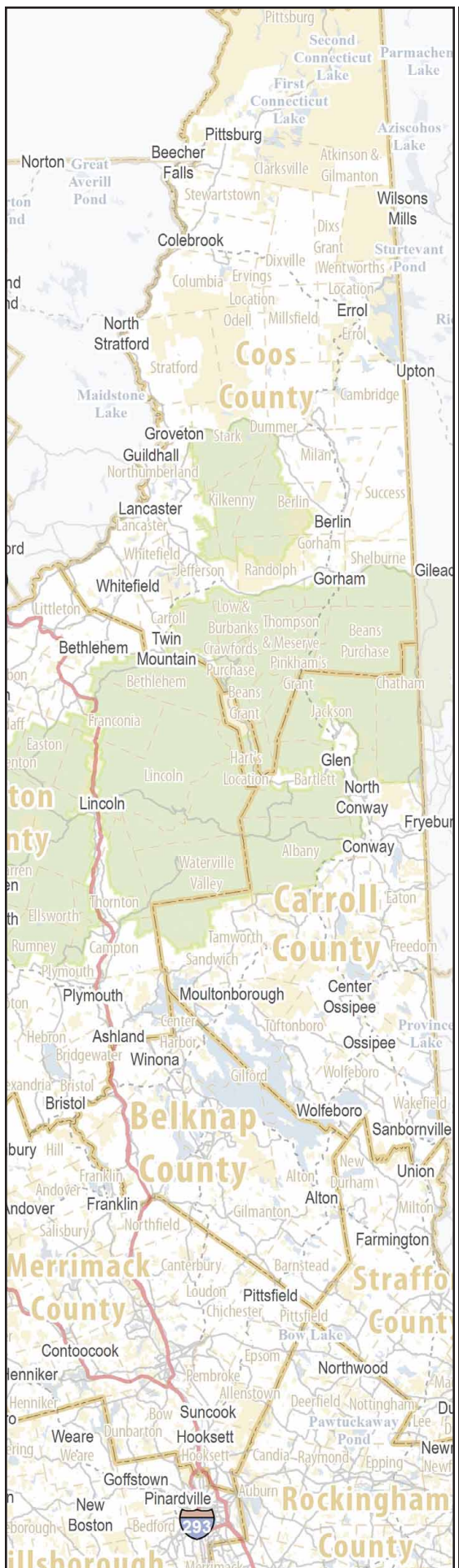


DOE/EIS-0463

***FINAL***  
**NORTHERN PASS  
TRANSMISSION LINE PROJECT  
ENVIRONMENTAL IMPACT  
STATEMENT  
VOLUME 2: APPENDICES A-K**

**U.S. DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY  
AND ENERGY RELIABILITY  
WASHINGTON, DC**

**AUGUST 2017**





**Department of Energy**  
**Washington, DC 20585**  
August 2017

Dear Sir/Madam:

Enclosed is the final *Northern Pass Transmission Line Project Environmental Impact Statement* (DOE/EIS-0463) prepared by the Department of Energy (DOE) pursuant to the National Environmental Policy Act of 1969 (NEPA) and its implementing regulations.

The United States Forest Service (USFS) – White Mountain National Forest, United States Environmental Protection Agency (EPA) – Region 1, United States Army Corps of Engineers (USACE) – New England District, and the New Hampshire Office of Energy and Planning (NHOEP) are cooperating agencies in the preparation of the EIS.

The proposed DOE action in the final EIS is to issue a Presidential permit to the Applicant, Northern Pass LLC, to construct, operate, maintain, and connect a new electric transmission line across the U.S./Canada border in northern New Hampshire (NH).

DOE has prepared this final EIS to evaluate the potential environmental impacts in the United States of the proposed action and the range of reasonable alternatives, including the No Action alternative. Under the No Action alternative, the Presidential permit would not be granted, and the proposed transmission line would not cross the U.S./Canada border.

In addition to its Presidential permit application to DOE, Northern Pass LLC applied to the USFS for a special use permit that would authorize Northern Pass LCC to construct, own, operate and maintain an electric transmission line to cross portions of the White Mountain National Forest under its jurisdiction. The final EIS will be used by the Forest Supervisor of the White Mountain National Forest to inform the Record of Decision in regard to this requested use.

DOE will use the EIS to ensure that it has the information it needs for informed decision-making.

The final EIS will also be posted on the project EIS website, <http://www.northernpasseis.us/> and DOE's NEPA website at <https://energy.gov/nepa/listings/environmental-impact-statements-eis>.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Mills".

Brian Mills  
Transmission Permitting and Technical Assistance,  
Office of Electricity Delivery and Energy Reliability  
U.S. Department of Energy

*FINAL*

**NORTHERN PASS TRANSMISSION LINE PROJECT  
ENVIRONMENTAL IMPACT STATEMENT  
DOE/EIS-0463**

**Volume 2: Appendices A-K**

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**U.S. DEPARTMENT OF ENERGY  
OFFICE OF ELECTRICITY DELIVERY  
AND ENERGY RELIABILITY**



*COOPERATING AGENCIES*

**United States Forest Service – White Mountain National Forest  
United States Environmental Protection Agency– Region 1  
United States Army Corps of Engineers – New England District  
New Hampshire Office of Energy and Planning**

**August 2017**

## COVER SHEET

**RESPONSIBLE FEDERAL AGENCY:** U.S. Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability

**COOPERATING AGENCIES:** United States Forest Service (USFS) – White Mountain National Forest (WMNF); United States Environmental Protection Agency (EPA) – Region 1; United States Army Corps of Engineers (USACE) – New England District; and New Hampshire Office of Energy and Planning (NHOEP)

**TITLE:** Northern Pass Transmission Line Project Environmental Impact Statement (DOE/EIS-0463)

**LOCATION:** Coös, Grafton, Belknap, Merrimack, and Rockingham counties in New Hampshire

**CONTACTS:** For additional information on this Environmental Impact Statement (EIS) contact:

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For general information on the DOE NEPA process, please write or call:

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U.S. Department of Energy  
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[askNEPA@hq.doe.gov](mailto:askNEPA@hq.doe.gov)  
Telephone: (202) 586-4600 or leave a message at (800) 472-2756

**ABSTRACT:** Northern Pass Transmission, LLC (Northern Pass) has applied to the DOE for a Presidential permit to construct, operate, maintain, and connect a 192-mile (309-km) electric transmission line across the United States (U.S.)/Canada border in northern New Hampshire (NH). This final EIS addresses the potential environmental impacts of the Project (Proposed Action), the No Action Alternative, and ten additional action alternatives (Alternatives 2 through 6, with variations). The NH portion of the Project would be a single circuit  $\pm$ 320 kilovolt (kV) high voltage direct current (HVDC) transmission line running approximately 158 miles (254 km) from the U.S. border crossing with Canada in Pittsburg, NH, to a new direct current-to-alternating current (DC-to-AC) converter station to be constructed in Franklin, NH. From Franklin, NH, to the Project terminus at the Public Service of New Hampshire's existing Deerfield Substation located in Deerfield, NH, the Project would consist of 34 miles (55 km) of 345 kV AC electric transmission line. The total length of the Project would be approximately 192 miles (309 km).

**PUBLIC COMMENTS:** In preparing this final EIS, DOE considered comments received during the scoping period, which extended from February 11, 2011 to June 14, 2011, and was reopened from June 15, 2011 to November 5, 2013 (DOE accepted and considered all comments during the scoping period from February 11, 2011 to November 5, 2013), and the public comment period on the draft EIS (July 31, 2015 through April 4, 2016). Comments on the draft EIS were accepted during the 45-day period

following publication of EPA's Notice of Availability (NOA) in the *Federal Register* on July 31, 2015; the public comment period was extended until April 4, 2016 following publication of EPA's NOA of the supplement in the *Federal Register* on November 20, 2015. DOE held four public meetings on the draft EIS in Colebrook, NH on March 7, 2016; Waterville Valley, NH on March 9, 2016; Concord, NH on March 10, 2016; and Whitefield, NH on March 11, 2016. All comments were considered during preparation of this final EIS. Appendix L in Volume 3 of this EIS contains the comments received on the draft EIS and DOE's responses to these comments. This final EIS contains revisions and new information based in part on comments received on the draft EIS. Vertical bars in the margins marking changed text indicate the locations of these revisions and new information. Deletions are not indicated. Appendices J and K in Volume 2 and Appendix L in Volume 3 are entirely new parts of this EIS; therefore, they do not contain bars indicating changes from the draft EIS.

The EIS analyzes the potential environmental impacts of DOE issuing a Presidential permit for the proposed Northern Pass Project, which is DOE's proposed federal action. DOE will use the EIS to inform its decision on whether to issue a Presidential permit. Additionally, Northern Pass has applied to the USFS for a special use permit (SUP) authorizing Northern Pass to construct, operate, and maintain an electric power transmission line crossing portions of the WMNF. The WMNF Forest Supervisor will use the EIS to inform its decision regarding: 1) whether to issue a SUP under the Federal Land Policy and Management Act; 2) the selection of an alternative; 3) any need to amend the Forest Plan; and 4) what specific terms and conditions should apply if a SUP is issued.

Copies of the final EIS are available for public review at 30 local libraries and town halls, or a copy can be requested from Mr. Brian Mills. The EIS is also available on the Northern Pass EIS website (<http://www.northernpasseis.us/>). DOE will announce its decision on the Proposed Action in a Record of Decision (ROD) in the *Federal Register* no sooner than 30 days after the EPA publishes the NOA of the final EIS. The USFS will announce its draft decision on the Proposed Action in a draft ROD in the *Federal Register* shortly after the EPA publishes the NOA of the final EIS.

**APPENDIX K**  
**SECTION 106 DOCUMENTATION**

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## **APPENDIX K. SECTION 106 DOCUMENTATION**

Documentation related to Section 106 consultation presented in this appendix includes:

- Draft Programmatic Agreement
- NH SHPO Response to Initiation
- NH SHPO Engagement on Amended Application
- ACHP Invitation to Consult
- ACHP Decision to Participate
- VT SHPO Initiation
- VT SHPO Response to Initiation

**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. DEPARTMENT OF ENERGY,  
THE NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER,  
THE VERMONT STATE HISTORIC PRESERVATION OFFICER, AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
FOR  
ISSUING A PRESIDENTIAL PERMIT FOR  
THE NORTHERN PASS TRANSMISSION LINE PROJECT’S  
INTERNATIONAL BORDER CROSSING**

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*Northern Pass Project – Section 106 Programmatic Agreement*  
**DRAFT PRE-DECISIONAL DOE DISCUSSION DOCUMENT | DO NOT CITE**

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**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. DEPARTMENT OF ENERGY,  
THE NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER,  
THE VERMONT STATE HISTORIC PRESERVATION OFFICER, AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
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THE NORTHERN PASS TRANSMISSION LINE PROJECT'S  
INTERNATIONAL BORDER CROSSING**

**PREAMBLE**

1. **WHEREAS**, pursuant to the authority delegated by the President of the United States (“U.S.”) under Executive Order 10485, as amended by Executive Order 12038, the U.S. Department of Energy (“DOE”) receives and considers applications for permits for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy across the borders of the U.S. (“Presidential permit”); and
2. **WHEREAS**, Executive Order 10485, as amended by Executive Order 12038, authorizes DOE to issue a Presidential permit if, *inter alia*, the issuance of the permit is found to be consistent with the public interest; and
3. **WHEREAS**, in deciding whether issuance of a Presidential permit is consistent with the public interest, DOE determines the proposed project’s impact on electric reliability as well as its potential environmental impacts, including potential impacts on historic properties and cultural resources; and
4. **WHEREAS**, the issuance of a Presidential permit by DOE for the international border crossing indicates that there is no federal objection to the proposed international border crossing and project, but does not mandate that the proposed project be undertaken; and
5. **WHEREAS**, Northern Pass Transmission LLC (“NPT”) has applied to DOE’s Office of Electricity Delivery and Energy Reliability for a Presidential permit for the proposed Northern Pass Transmission Line Project (“the proposed Project,” “Project,” or “Northern Pass project”) in accordance with DOE’s applicable administrative procedures at 10 C.F.R. § 205.320 *et seq.* (see “Notice of Amended Application,” 78 Fed. Reg. 50,405 (Aug. 19, 2013), and “Notice of Intent To Prepare a Supplement to the Draft Northern Pass Transmission Line Project Environmental Impact Statement and Announcing the Extension of the Public Comment Period and Postponement of Public Hearings To Receive Comments on the Draft Environmental Impact Statement,” 80 Fed. Reg. 58,725 (Sep. 30, 2015)); and
6. **WHEREAS**, NPT’s July 2013 proposed Project (78 Fed. Reg. 50,405) would be capable of transmitting up to 1,200 megawatts (“MW”) of power across a single circuit 300 kilovolt (“kV”) high-voltage direct current (“HVDC”) transmission system extending

1 approximately 153 miles from the U.S. border crossing with Canada near the community  
2 of Pittsburg, New Hampshire (“NH”), to a new HVDC-to-Alternating Current (“AC”)  
3 converter facility to be constructed in Franklin, NH; and, from a new HVDC-to-AC  
4 converter facility in Franklin, NH, to the proposed Project terminus at the Public Service  
5 of New Hampshire’s (“PSNH”) existing Deerfield Substation located in Deerfield, NH,  
6 by means of a 345 kV AC electric transmission line extending 34 miles; and the total  
7 length of the proposed Project would be approximately 187 miles; and  
8

- 9
- 10 7. **WHEREAS**, NPT’s August 2015 application amendment (80 Fed. Reg. 58,725) changed  
11 the proposed transmission line route by adding three miles of buried transmission line  
12 adjacent to a road not previously analyzed, adding two new transition stations (one in  
13 Bridgewater and one in Bethlehem; both would transition the transmission line between  
14 aboveground and buried) of approximately one acre each, and increasing the amount of  
15 proposed buried transmission line from approximately eight miles to approximately 60  
16 miles with a total proposed Project length of approximately 192 miles; in addition, the  
17 amendment proposed a minor shift (less than 100 feet) in the international border  
18 crossing location, changed the project size from 1,200 MW to 1,000 MW with a potential  
19 transfer capability of 1,090 MW, and included other design changes (e.g., change in  
20 converter technology and type of cable); and
- 21
- 22 8. **WHEREAS**, construction of the proposed Project will entail installation of new overhead  
23 and buried transmission cables along and within new electric transmission line right-of  
24 way (“ROW”) on unoccupied lands located within the State of NH and along and within  
25 ROWs of existing utility and transportation infrastructure, including existing overhead  
26 electric transmission line ROW and existing roadways and roadway ROW, and certain  
27 AC upgrades as required by the Independent System Operator of New England (“ISO-  
28 NE”) between Deerfield Substation and Scobie Pond Substation (see Attachment 2); and
- 29
- 30 9. **WHEREAS**, the proposed Project will be constructed within a combination of new  
31 ROW in unoccupied lands that is generally 120 feet wide, in areas along existing  
32 roadways and roadway ROW that are generally eight to 10 feet wide and six feet deep, in  
33 existing electric transmission system ROW owned by PSNH<sup>1</sup> that is generally 200 feet  
34 wide with variations, and within the footprints of access roads, laydown areas, a new  
35 converter station, and new transition stations; and
- 36
- 37 10. **WHEREAS**, Section 106 of the National Historic Preservation Act of 1966 (“NHPA”),  
38 as amended (54 U.S.C. § 306108) (“Section 106”), directs federal agencies to take into  
39 account the effects of their undertakings on historic properties listed in or eligible for  
listing in the National Register of Historic Places (“NRHP”) within the jurisdiction of the

---

<sup>1</sup> Public Service of New Hampshire (“PSNH”) is a wholly-owned subsidiary of Eversource Energy (formerly Northeast Utilities), a publicly-held public utility holding company, and PSNH does business as Eversource Energy. Northern Pass Transmission, LLC is owned by Eversource Energy Transmission Ventures, Inc. (“Eversource Energy”) (formerly NU Transmission Ventures, Inc.), which is also a wholly-owned subsidiary of Eversource Energy.

1 U.S. (54 U.S.C. § 300317) and to afford the Advisory Council on Historic Preservation  
2 (“ACHP”) a reasonable opportunity to comment; and  
3

4 **11. WHEREAS**, the procedures set forth in 36 C.F.R. Part 800 - Protection of Historic  
5 Properties define how federal agencies meet their statutory responsibilities pursuant to  
6 Section 106; and  
7

8 **12. WHEREAS**, “historic property” means any prehistoric or historic district, site, building,  
9 structure, or object included in or eligible for inclusion in the NRHP maintained by the  
10 Secretary of the Interior (National Park Service [“NPS”]); this term includes artifacts,  
11 records, and material remains that are related to and located within such properties;  
12 properties of traditional religious and cultural importance to a federally-recognized Indian  
13 tribe may be determined eligible for inclusion in the NRHP (36 C.F.R. § 800.16(l)(1));  
14 historic properties include eligible or NRHP-listed landscapes, such as Rural Historic  
15 Districts (“RHDs”) and cultural landscapes; additionally, the term “cultural resources”  
16 covers a wider range of resources than “historic properties,” such as sacred sites,  
17 archaeological sites not eligible for the NRHP, and archaeological collections;<sup>2</sup> this  
18 agreement incorporates by reference all Section 106 definitions in 36 C.F.R. § 800.16;  
19 and  
20

21 **13. WHEREAS**, in considering whether the issuance of a Presidential permit to NPT would  
22 be consistent with the public interest, DOE has determined that the issuance of a  
23 Presidential permit for the proposed Project’s international border crossing is an  
24 undertaking, as defined in 36 C.F.R. § 800.16(y); and  
25

26 **14. WHEREAS**, portions of the proposed Project will also require federal authorization by  
27 the U.S. Forest Service – White Mountain National Forest (“USFS”), for a special use  
28 permit within the White Mountain National Forest (“WMNF”) that addresses  
29 construction, operations and maintenance within the WMNF, and by the U.S. Army  
30 Corps of Engineers – New England District (“USACE”) pursuant to Section 10 of the  
31 Rivers and Harbors Act of 1899 (work and structures that are located in, or that affect,  
32 navigable waters of the U.S. (33 C.F.R. § 328.4(c))) and Section 404 of the Clean Water  
33 Act (33 U.S.C. § 1344) (“Section 404 Permit”); and USFS, USACE, and DOE have  
34 agreed that DOE is the lead federal agency for purposes of implementing Section 106, in  
35 accordance with 36 C.F.R. § 800.2(a)(2); and  
36

37 **15. WHEREAS**, portions (the majority) of the proposed Project will also require state siting  
38 authorization from the New Hampshire Site Evaluation Committee (“NH SEC”), in  
39 accordance with NH RSA 162-H; NH SEC’s review of NPT’s October 19, 2015  
40 application filing is pending (NH SEC Docket No. 2015-06); the NH SEC review is  
41 conducted as a separate, independent process from the federal review under Section 106  
42 and is governed by NH state law; and, as part of the NH SEC review, the NH Division of  
43 Historical Resources (“NH DHR”) executed a Memorandum of Understanding with NPT

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<sup>2</sup> See “Definitions and Translations”, Attachment A, in ACHP’s *NEPA and NHPA A Handbook for Integrating NEPA and Section 106*, March 2013.

1 on December 4, 2016 (available at <http://www.northernpass.us/assets/permits-and-approvals/MOU%20from%20Northern%20Pass%20and%20DHR%20to%20the%20SEC%20-%2012.04.15.pdf>); and

- 2  
3  
4
- 5 **16. WHEREAS**, DOE has determined that the undertaking has the potential to adversely  
6 affect historic properties listed in or eligible for listing in the NRHP; and  
7
- 8 **17. WHEREAS**, DOE has determined that the effects of the proposed Project are complex,  
9 involve large land areas, and cannot be fully determined prior to issuing a Presidential  
10 permit for the proposed Project, and DOE has elected to execute this Programmatic  
11 Agreement (“PA”) pursuant to 36 C.F.R. § 800.14(b), such that completion of the  
12 identification and evaluation of historic properties, assessment of the potential for adverse  
13 effects on historic properties, and consultation concerning measures (e.g., avoid,  
14 minimize, or mitigate) to resolve any adverse effects on historic properties, will be  
15 carried out using a phased approach in accordance with 36 C.F.R. § 800.4(b)(2), 36  
16 C.F.R. § 800.5(a)(3), and as set forth in this PA; and  
17
- 18 **18. WHEREAS**, this PA addresses the planning and construction activities of the proposed  
19 Project; this PA also addresses operations and maintenance activities of the proposed  
20 Project as reasonably foreseeable effects; this scope is limited because operation and  
21 maintenance activities are outside DOE’s jurisdiction; and  
22
- 23 **19. WHEREAS**, for the purposes of this PA, Consulting Parties are parties that have  
24 consultative roles in the Section 106 consultation under 36 C.F.R. § 800.2; Signatories  
25 are parties with sole authority to execute, amend, or terminate this PA under 36 C.F.R.  
26 § 800.6(c)(1); Invited Signatories are parties that sign this PA at the invitation of DOE  
27 under § 800.6(c)(2) and, by signing, have the same rights with regard to seeking  
28 amendment or termination of this PA as Signatories except that refusal of any party  
29 invited to become an Invited Signatory to this PA does not invalidate this PA, as set forth  
30 in §§ 800.6(c)(2)(i)-(iv); and a Concurring Party is a Consulting Party invited to concur  
31 in the PA at the lead federal agency’s discretion, in accordance with 36 C.F.R.  
32 § 800.6(c)(3), but who does not have the authority to amend or terminate this PA and,  
33 like an Invited Signatory, a Concurring Party’s signature is not required to execute the  
34 PA, but instead is an endorsement of the terms of the PA; and  
35
- 36 **20. WHEREAS**, DOE has consulted with the NH State Historic Preservation Officer (“NH  
37 SHPO”), NH DHR, on the undertaking, the proposed Project, and the development of the  
38 PA, pursuant to 36 C.F.R. § 800.2(c)(1); NH SHPO is a Signatory to this PA; and  
39
- 40 **21. WHEREAS**, DOE has consulted with the Vermont State Historic Preservation Officer  
41 (“VT SHPO”), the VT Division of Historic Preservation (“VT DHP”), on the  
42 undertaking, the proposed Project, and the development of the PA, pursuant to 36 C.F.R.  
43 § 800.2(c)(1); VT SHPO is a Signatory to this PA; and  
44

- 1       **22. WHEREAS**, DOE has consulted with USFS and USACE on the undertaking, the  
2       proposed Project, and the development of the PA, pursuant to 36 C.F.R. § 800.2(a);  
3       USFS and USACE are Invited Signatories to this PA; and  
4
- 5       **23. WHEREAS**, DOE has consulted with NPS on the undertaking, the proposed Project, and  
6       the development of the PA, pursuant to 36 C.F.R. § 800.2(a); NPS is a Concurring Party  
7       to this PA; and  
8
- 9       **24. WHEREAS**, DOE has determined that the proposed Project will cross the Appalachian  
10       National Scenic Trail (“ANST”), which is co-administered by USFS and NPS and is  
11       currently being evaluated for NRHP eligibility; DOE has determined that the proposed  
12       Project may have the potential to cause adverse effects on this trail; NPS has indicated  
13       that the NH segment of the ANST will be evaluated for NRHP eligibility during 2017;  
14       DOE will coordinate with NPS and NH SHPO regarding the timing of any  
15       determinations of eligibility for the ANST in NH; and  
16
- 17       **25. WHEREAS**, DOE has notified ACHP of the undertaking and the proposed Project;  
18       ACHP has chosen to participate in consultation in accordance with 36 C.F.R.  
19       § 800.2(b)(1) and in accordance with Appendix A to 36 C.F.R. Part 800 – Criteria for  
20       Council Involvement in Reviewing Individual Section 106 Cases; ACHP is a Signatory to  
21       this PA; and  
22
- 23       **26. WHEREAS**, NPT, as the Applicant for the Presidential permit, is a Consulting Party in  
24       accordance with 36 C.F.R. § 800.2(c)(4); NPT has participated in consultation for the  
25       undertaking and the development of the PA; and, through signature to this PA, NPT  
26       agrees to carry out the stipulations herein under the oversight of DOE, USFS, USACE,  
27       NH SHPO, and VT SHPO; NPT is an Invited Signatory to this PA; and  
28
- 29       **27. WHEREAS**, DOE has identified and contacted several representatives of local  
30       governments<sup>3</sup> with jurisdiction over the area in which the effects of the undertaking may  
31       occur (36 C.F.R. § 800.2(c)(3)) to participate in the Section 106 review as Consulting  
32       Parties; and  
33
- 34       **28. WHEREAS**, DOE has identified and contacted historic and cultural resources  
35       organizations, Native American Organizations with Geographical/Cultural Interests in  
36       NH<sup>4</sup> and State Recognized Tribes in VT, and other parties<sup>5</sup> that might have a  
37       demonstrated interest (36 C.F.R. § 800.2(c)(5)) to participate in the Section 106 review as  
38       Consulting Parties; and

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<sup>3</sup> DOE invited 54 local governments and 15 are participating as Consulting Parties. See Attachment 4 for participating Consulting Parties.

<sup>4</sup> “Native American Organizations with Geographical/Cultural Interests in NH” is a NH DHR term of art (see [https://www.nh.gov/nhdhr/review/tribal\\_list.htm](https://www.nh.gov/nhdhr/review/tribal_list.htm)).

<sup>5</sup> DOE invited 68 historic and cultural resources organizations and 18 are participating as Consulting Parties; DOE invited 13 Native American Organizations with Geographical/Cultural Interests in NH and State Recognized Tribes in VT and two are participating as Consulting Parties; and, 21 individuals are also participating as Consulting Parties. See Attachment 4 for participating Consulting Parties.

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- 29. WHEREAS**, DOE has determined that the proposed Project may affect historic properties to which federally-recognized Indian tribes may attach religious and cultural significance; DOE notified seven federally-recognized Indian tribes<sup>6</sup> of the undertaking and the proposed Project and invited these federally-recognized Indian tribes to engage in consultation on a government-to-government basis in accordance with Executive Order 13175, 36 C.F.R. § 800.2(c)(2)(ii) and DOE’s *American Indian and Alaska Native Tribal Government Policy* (DOE 2006); and, no federally-recognized Indian tribes have expressed interest in consulting on the proposed Project; and
- 30. WHEREAS**, the list of Consulting Parties is presented in Attachment 4; Consulting Parties have participated in consultation for the undertaking, including the development of this PA;
- 31. WHEREAS**, DOE and USFS have determined that the portions of the proposed Project that are located on land included in the WMNF would require, as appropriate, compliance with the American Indian Religious Freedom Act (), Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 *et seq.*, “NAGPRA”), and Executive Orders 13007 and 13175, and, if any federally-recognized Indian tribe expresses an interest in consulting, DOE and USFS will consult with the federally-recognized Indian tribes participating in consultation regarding any of their concerns under these acts and executive orders for those portions of the proposed Project that are located on land included in the WMNF and for which these federally-recognized Indian tribes attach religious and cultural significance to historic properties that may be affected by the proposed Project; and
- 32. WHEREAS**, DOE intends to coordinate its compliance with Section 106 with the applicable requirements of the National Environmental Policy Act of 1969 (“NEPA”) (42 U.S.C. §§ 4321-4347) pursuant to 40 C.F.R. §§ 1500-1508; and
- 33. WHEREAS**, DOE has considered the views of the public on the effects of the undertaking and the proposed Project on historic properties through its procedures for public involvement under NEPA and in accordance with 36 C.F.R. § 800.2(d)(3), including comments received during seven scoping meetings held in March 2011 and four additional scoping meetings held in September 2013, publication of a scoping summary document in March 2014, public comments received during the public review and comment period for the Draft Environmental Impact Statement (“EIS”) that was published in July 2015, and public hearings on the Draft EIS that DOE held in March 2016; DOE will continue to facilitate public involvement in the Section 106 process by providing information about continued public involvement in the Section 106 process for the proposed Project and by making documentation for identification and evaluation of

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<sup>6</sup> DOE invited the following federally-recognized Indian tribes: Mashantucket Pequot Indian Tribe; Mashantucket Pequot Tribal Nation, Eastern Area Office; Mohegan Tribal Council, Eastern Area Office; Narragansett Indian Tribe Passamaquoddy Tribe; Penobscot Nation, Cultural and Historic Preservation Program; and Wampanoag Tribe of Gay Head-Aquinnah.

1 historic properties, the assessment of effects on historic properties in the area of potential  
2 effects (“APE”), and the resolution of any adverse effects on historic properties available  
3 to the public through the public Section 106 Consultation Page (see WHEREAS 39); and  
4

5 **34. WHEREAS**, adverse effects may be direct or indirect and may include reasonably  
6 foreseeable effects caused by the undertaking that may occur later in time, be farther  
7 removed in distance, or be cumulative (36 C.F.R. § 800.5(a)(1)); reasonably foreseeable  
8 effects includes effects arising from operations and maintenance; the cumulative effects  
9 within the APE will be informed by DOE’s environmental review in accordance with  
10 NEPA; and  
11

12 **35. WHEREAS**, consistent with 36 C.F.R. §§ 800.4(a) and 800.16(d), DOE has determined  
13 through consultation, including consultation with NH SHPO and VT SHPO, that the APE  
14 for the proposed Project is generally defined as described in Attachment 1 and includes  
15 the geographic area depicted on the maps in Attachment 2, and may be further refined in  
16 accordance with Stipulation VIII; and  
17

18 **36. WHEREAS**, the direct APE was defined as the entire width of new ROW (generally 120  
19 feet wide), the legally defined PSNH ROW (generally 200 feet wide with variations), a  
20 20 foot wide area extending away from the edge of pavement on both sides of existing  
21 roads, within which portions of the proposed Project may be buried (generally roadway  
22 burial of the transmission line will occur in an area eight to 10 feet wide and six feet  
23 deep), and the footprints of access roads, laydown areas, and the new converter station  
24 and transition stations; the indirect APE was defined differently for aboveground and  
25 buried project components; for new aboveground components of the proposed Project,  
26 the indirect APE was defined as a one mile wide area on either side of the centerline of  
27 clearing for new ROW and the centerline of the legally defined PSNH ROW and a one  
28 mile radius around new aboveground facilities; and, for new buried components of the  
29 proposed Project, generally associated with burial along roads or highways, the indirect  
30 APE was defined as an approximately 200 foot wide area extending away from the edge  
31 of pavement on both sides of existing roads, within which architectural or built resources  
32 are visible from the roadways (see Attachment 1 for additional details); and  
33

34 **37. WHEREAS**, Consulting Parties have expressed concerns about the indirect APE and  
35 how the potential effects of the proposed Project associated with the undertaking would  
36 encompass cultural landscapes; the PA addresses those concerns by ensuring that  
37 potential effects on cultural landscapes eligible for the NRHP are considered and  
38 resolved, as appropriate, during implementation of this PA; and  
39

40 **38. WHEREAS**, DOE has completed identification investigations in the APE and prepared  
41 and submitted documentation to NH SHPO as described in Attachment 3; and DOE has  
42 prepared and submitted preliminary documentation to VT SHPO as described in  
43 Attachment 3; and  
44

45 **39. WHEREAS**, DOE, in coordination with NPT, maintains the Consulting Party Website at  
46 [www.northernpasseis.us/consultations/section-106-private](http://www.northernpasseis.us/consultations/section-106-private) and a public Section 106



1 Consultation Page at [www.northernpasseis.us/consultations/section106/](http://www.northernpasseis.us/consultations/section106/) through which  
2 official Section 106 information and communications will be made available to  
3 Consulting Parties and the public, respectively, for at least as long as this PA’s duration.  
4

5 **NOW, THEREFORE**, DOE, NH SHPO, VT SHPO, and ACHP (the “Signatories”) and USFS,  
6 USACE, and NPT (the “Invited Signatories”) agree that the undertaking and the proposed  
7 Project shall be administered and implemented in accordance with the following stipulations to  
8 take into account the effect of the proposed Project on historic properties and to satisfy all the  
9 responsibilities of DOE, USFS, and USACE under Section 106 for all aspects of the undertaking  
10 and the proposed Project.  
11

12 **THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**

DRAFT

1  
2  
3 **STIPULATIONS**

4 DOE, in coordination with USFS and USACE, will ensure that the following stipulations are  
5 implemented upon execution of this PA, including stipulations to be implemented by NPT.

6 NPT will implement this PA in accordance with its terms. NPT’s actions under this PA include  
7 developing and implementing a workplan to conduct additional identification investigations;  
8 preparing identification and evaluation documentation; preparing assessment of effects  
9 documentation; preparing and implementing a Historic Properties Treatment Plan (“HPTP”),  
10 including related plans as identified in this PA; providing monitoring and progress reports;  
11 maintaining confidentiality and established practices for sensitive information in this  
12 consultation; developing and implementing curation and repatriation plans; and distributing  
13 documents as directed by DOE and in accordance with this PA.  
14

15 Signatories, Invited Signatories, and Concurring Parties will participate in the implementation of  
16 this PA in accordance with the roles identified in the preamble to this PA and as specified in the  
17 stipulations to this PA. Invited Signatories are parties that sign this PA at the invitation of DOE  
18 under § 800.6(c)(2) and by signing have the same rights with regard to seeking amendment or  
19 termination of this PA as other Signatories except that refusal of any party invited to become a  
20 signatory to this PA does not invalidate this PA, as set forth in § 800.6(c)(2)(i)-(iv); and  
21 Concurring Parties are parties invited to concur in the PA under 36 CFR § 800.6(c)(3). Any  
22 Invited Signatory or Concurring Party that does not execute this PA shall be considered a  
23 Consulting Party in accordance with the terms of this PA and shall no longer be considered an  
24 Invited Signatory or Concurring Party.  
25

26 Consulting Parties, in accordance with the terms of this PA, will be provided opportunities to  
27 continue engaging in consultation, including consultation on further identification and evaluation  
28 work, assessment of effects on historic properties within the APE, the development of the HPTP,  
29 and any supplements to identification and evaluation, assessment of effects, or the HPTP.  
30

31 **I. APPLICABILITY**

- 32
- 33 A. DOE, USFS, and USACE, in consultation with NH SHPO and VT SHPO, as appropriate,  
34 will ensure that implementation of this PA is conducted in a manner that satisfies the  
35 federal agencies’ obligations, under their respective authorities, for their respective  
36 undertakings associated with the proposed Project under Section 106. For those portions  
37 of the proposed Project that are located on land included in the WMNF, the terms of this  
38 PA shall be implemented in a manner that ensures that historic properties on land  
39 managed by USFS are also considered in accordance with the standards and guidelines in  
40 the WMNF Land and Resource Management Plan.<sup>1</sup>

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<sup>1</sup> Historic properties are considered heritage resources by USFS. USFS manages WMNF heritage resources, including historic properties, as specified in the 2005 *White Mountain National Forest Land and Resource Management Plan* and in accordance with Forest Service Manual 2300 – Recreation, Wilderness, and Related Resource Management, Chapter 2360 – Heritage Program Management (Amendment No.: 2300-2008-1; Effective Date: July 25, 2008).

- 1  
2 B. This PA will be in effect for 10 years from the date of its execution and in accordance  
3 with Stipulations XV-XVII.  
4  
5 C. DOE, USFS, and USACE, in consultation with NH SHPO and VT SHPO, as appropriate,  
6 shall ensure that NPT implements the requirements of Stipulations III-V prior to  
7 commencement of Project construction activities.<sup>2</sup>  
8  
9 D. Because the proposed Project may be developed in segments, generally based on  
10 geographic areas, NPT may propose to DOE, USFS, USACE, ACHP, NH SHPO, and VT  
11 SHPO, for the agencies' approval, an approach by which Stipulations III-V may be  
12 implemented in geographically-based segments prior to commencement of Project  
13 construction activities within such geographic areas. DOE, in consultation with USFS,  
14 USACE, ACHP, NH SHPO, and VT SHPO, will inform NPT of the agencies' approval  
15 to implement Stipulations III-V in geographically-based segments.  
16

## 17 II. STANDARDS AND CONDITIONS 18

- 19 A. The identification, evaluation, and treatment required under the terms of this PA will be  
20 carried out by professionals who meet, at minimum, the professional qualification  
21 standards for Archaeologists and Architectural Historians defined in *The Secretary of the*  
22 *Interior's Professional Qualifications Standards*, 48 Fed. Reg. 44,716 (Sept. 29, 1983) in  
23 the appropriate field, and who meet the NH DHR qualification policies for archaeological  
24 or architectural consultants and/or who meet the VT DHP qualification policies for  
25 architectural consultants, as appropriate.  
26  
27 B. Federally-recognized Indian tribes possess special expertise in assessing the NRHP  
28 eligibility of properties with religious and cultural significance to them.  
29  
30 1. Whether a federally-recognized Indian tribal expert is qualified to assess the  
31 significance of a property to that federally-recognized Indian tribe shall be  
32 determined by the federally-recognized Indian tribe invited to participate in the  
33 identification and evaluation activities as set forth in Stipulation III.  
34  
35 2. Whether a federally-recognized Indian tribal monitor is qualified to perform  
36 monitoring activities in accordance with this PA shall be determined by the federally-  
37 recognized Indian tribe invited to participate in monitoring activities as set forth in  
38 Stipulation XI.  
39

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<sup>2</sup> "Project construction activities" does not include NPT or Eversource activities conducted in accordance with the terms of any existing easements or other applicable property rights or conducted to satisfy the terms or conditions of any other applicable pre-existing (before execution of this PA) authorization, standard, regulation, or law or any activities required of NPT or Eversource in conjunction with pending reviews of applications for authorization related to the Northern Pass project.

- 1 C. In order to ensure that the terms of this PA are carried out, NPT will establish and  
2 facilitate open communication between NPT’s engineering, environmental, and cultural  
3 resources staff and contractors (in accordance with Stipulation II.A) and the points of  
4 contact (“POCs”) for DOE, USFS, USACE, ACHP, NH SHPO, and VT SHPO (see  
5 Stipulation XII) throughout implementation of this PA.  
6
- 7 D. DOE, USFS, and USACE shall consult with NH SHPO and VT SHPO to ensure that the  
8 level of effort for the identification investigations meets the reasonable and good faith  
9 regulatory standard (36 C.F.R. § 800.4(b)(1)), that identification is in accordance with  
10 *The Secretary of the Interior’s Standards and Guidelines for Identification*, and that the  
11 evaluation investigations meet the regulatory standard for evaluating historic significance  
12 (36 C.F.R. § 800.4(c)).  
13
- 14 E. In computing any period of time prescribed or allowed by this PA in calendar days, the  
15 day of the act, event, or default from which the designated period of time begins to run is  
16 not to be included. The last day of the period so computed is to be included unless it is a  
17 Saturday, Sunday, or federal legal holiday in which event the period runs until the end of  
18 the next day that is neither a Saturday, Sunday, nor a federal legal holiday. For purposes  
19 of this PA, including Stipulation XI, calendar quarters are January-March (Q1), April-  
20 June (Q2), July-September (Q3), and October-December (Q4). Reports due on a six-  
21 month basis are due at the end of Q2 and Q4, unless otherwise directed by DOE.  
22
- 23 F. Submission or distribution of any documents and reports prepared in accordance with this  
24 PA shall be submitted to NH SHPO via hard copy and to DOE, USFS, USACE, NPS,  
25 ACHP, VT SHPO, and NPT electronically, in a file format identified by DOE, unless  
26 otherwise requested. DOE may direct NPT to distribute hard copies to NH SHPO on  
27 behalf of DOE. Official communications, including any notifications in accordance with  
28 this PA, to DOE, USFS, USACE, NPS, ACHP, NPT, NH SHPO, and VT SHPO will be  
29 facilitated via email, consistent with Stipulation XII.  
30
- 31 G. Distribution of documents, reports, and official communications, including any  
32 notifications in accordance with this PA, to Consulting Parties, other than those  
33 Consulting Parties identified in paragraph F, will be facilitated via email, consistent with  
34 Stipulation XII. Documents and reports will be made available through the Consulting  
35 Party Website, unless otherwise indicated by DOE (see Stipulation VI for confidentiality  
36 requirements), and DOE will notify Consulting Parties of their availability via email,  
37 consistent with Stipulation XII.  
38

### 39 **III. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES**

40

#### 41 **A. Identification of Historic Properties within the APE**

42

- 43 1. DOE shall direct NPT to carry out additional identification investigations within the  
44 APE, as described in Attachment 1 or as revised in accordance with Stipulation VIII,  
45 to identify historic properties that may be affected by the proposed Project. NPT  
46 shall develop additional identification documentation as directed by DOE and in

1 accordance with Stipulation III.D. Collectively, for purposes of this PA, the  
2 identification investigations listed in the following paragraphs (a-c) are the  
3 “identification investigations.”  
4

- 5 a. Additional identification investigations in NH may include Phase IA  
6 archaeological or architectural investigations to supplement documentation  
7 prepared and submitted to NH DHR by DOE and DOE’s contractors.  
8
- 9 b. Additional identification investigations in NH shall include, at a minimum:  
10
- 11 i. **Phase IA and Phase IB Archaeological Investigations** to identify  
12 previously unrecorded archaeological resources; NPT shall complete the  
13 investigations prior to commencement of Project construction activities.  
14
  - 15 ii. **Architectural Inventory**, e.g., project area form (“PAF”) and  
16 individual/historic district forms, of those previously and newly identified  
17 architectural, built, and aboveground resources, including any previously  
18 identified resources that were previously determined NRHP-eligible that are  
19 recommended for inventory; NPT shall complete the inventory prior to  
20 commencement of Project construction activities.  
21
  - 22 iii. **Cultural Landscape Inventory** identifying, describing, delineating, and  
23 assessing cultural landscapes or other geographically extensive, discrete  
24 resources within the APE, including landscapes and resources identified  
25 through consultation, within the contexts of historic properties, including  
26 traditional cultural properties (“TCPs”) or rural historic districts (“RHDs”);  
27 NPT shall complete the inventory prior to commencement of Project  
28 construction activities. The Cultural Landscape Inventory shall be  
29 comprised of the report(s) produced from the NH DHR *Scope of Work for*  
30 *Cultural Landscape Studies for the Northern Pass Transmission Project* in  
31 NH, which are subject to the review process in this stipulation (see  
32 Stipulation III.D).  
33
  - 34 iv. **Phase II Archaeological Investigations** of archaeological sites identified  
35 during Phase I (A/B) archaeological investigations within the Direct APE;  
36 NPT shall complete the inventory prior to commencement of Project  
37 construction activities.  
38
- 39 c. Additional identification investigations in VT may include architectural  
40 investigations to supplement documentation prepared and submitted to VT DHP  
41 by DOE and DOE’s contractors.  
42
- 43 d. For the underground portions of the project, which are only proposed in NH, DOE  
44 shall direct NPT to prepare a summary of the potential implications of the  
45 construction methods that NPT proposes to use and provide the summary to DOE,

1 USFS, USACE, and NH SHPO to help identify any additional identification  
2 investigations.

- 3
- 4 i. To develop the summary, NPT shall conduct appropriate subsurface  
5 geotechnical investigations, including consideration of the type of ground to  
6 be disturbed (e.g., soil, gravel, rock) and analyze the potential construction  
7 impacts associated with the construction methods planned for such areas.  
8
- 9 ii. NPT shall submit the summary to DOE, USFS, USACE, and NH SHPO for  
10 a 30-day review, with comments submitted to DOE. After DOE has  
11 determined that NPT has sufficiently addressed any DOE, USFS, USACE,  
12 or NH SHPO comments on the summary, DOE shall submit the summary to  
13 NH SHPO with a cover memo identifying it as new information with the  
14 relevant NH DHR Requests for Project Review (RPR) number identified.  
15 DOE shall distribute copies of the summary in accordance with Stipulations  
16 II.F and II.G.  
17
- 18 iii. Based on the summary, DOE shall direct NPT to perform additional  
19 identification investigations as determined by DOE, USFS, USACE, and  
20 NH SHPO. DOE will direct NPT to amend the workplan, developed in  
21 accordance with Stipulation III.A.2, to reflect these additional identification  
22 investigations and any warranted amendments to the APE, as appropriate.  
23
- 24 e. For the AC upgrades, which are only proposed in NH, DOE shall direct NPT to  
25 prepare a summary of the AC upgrades and the construction methods to be  
26 employed by NPT to achieve the AC upgrades required by ISO-NE between  
27 Deerfield Substation and Scobie Pond Substation and provide the summary to  
28 DOE, USFS, USACE, and NH SHPO to help identify any additional  
29 identification investigations.  
30
- 31 i. The summary shall include, at a minimum, an overview of the AC upgrades  
32 required, changes in tower heights by location, a visual impact assessment,  
33 approximate areas of ground disturbance identified, context about the  
34 geographic area and vicinity of the AC upgrades (approximate to the defined  
35 APE for the non-AC upgrade portion of the proposed Northern Pass  
36 project).  
37
- 38 ii. NPT shall submit the summary to DOE, USFS, USACE, and NH SHPO for  
39 a 30-day review, with comments submitted to DOE. After DOE has  
40 determined that NPT has sufficiently addressed any DOE, USFS, USACE,  
41 or NH SHPO comments on the summary, DOE shall submit the summary to  
42 NH SHPO with a cover memo identifying it as new information with the  
43 relevant NH DHR Requests for Project Review (RPR) number identified.  
44 DOE shall distribute copies of the summary in accordance with Stipulations  
45 II.F and II.G  
46

1           iii. Based on the summary, DOE shall direct NPT to perform additional  
2 identification investigations as determined by DOE, USFS, USACE, and  
3 NH SHPO. DOE will direct NPT to amend the workplan, developed in  
4 accordance with Stipulation III.A.2, to reflect these additional identification  
5 investigations and any warranted amendments to the APE, as appropriate.  
6

7           2. DOE shall direct NPT to prepare a workplan, prior to carrying out the identification  
8 investigations in NH, consistent with Stipulation III.A, in compliance with all state  
9 and federal laws, regulations, and policies, and submit it to DOE for approval; DOE  
10 will review the workplan in consultation with USFS, USACE, and NH SHPO. Based  
11 on consultation with USFS, USACE, and NH SHPO, DOE may require NPT to revise  
12 the workplan. If the parties cannot reach agreement regarding the workplan, the  
13 matter will be resolved in accordance with Stipulation XII. Upon determining that  
14 NPT has revised the workplan, as appropriate, and the workplan is complete, DOE  
15 will distribute the workplan to Consulting Parties, in accordance with Stipulations  
16 II.F and II.G. DOE shall direct NPT to implement the workplan for the identification  
17 investigations.  
18

19           3. At the direction of DOE, NPT shall prepare documentation as directed by the  
20 workplan developed in accordance with paragraph 2. Review of the identification  
21 documentation shall be conducted in accordance with Stipulation III.D.  
22

#### 23           4. Consultation on Additional Identification Investigations 24

25           a. At the direction of DOE, NPT shall consult with the Consulting Parties as part of  
26 the further identification investigations, including seeking feedback on draft  
27 documents prepared in accordance with Stipulation III.D, and as required by 36  
28 C.F.R. § 800.4.  
29

30           b. At the direction of DOE, NPT shall prepare redacted versions of documentation in  
31 accordance with Stipulation VI for distribution to Consulting Parties and the  
32 public, as appropriate.  
33

34           5. DOE will consider the required identification investigations complete when NH  
35 SHPO or VT SHPO, as appropriate, provides to DOE written indication of acceptance  
36 of or concurrence on, as appropriate, the final documentation presenting the results,  
37 conclusions, and recommendations for the required identification investigations.  
38 DOE will notify Consulting Parties that the identification investigations are complete  
39 in accordance with Stipulations II.F and II.G.  
40

#### 41           B. Parameters for Identification Investigations 42

43           1. In implementing Stipulation III, DOE, USFS, and USACE shall acknowledge the  
44 special expertise of federally-recognized Indian tribes in identifying and evaluating  
45 the NRHP eligibility of properties that may possess traditional religious and cultural  
46 importance to them (36 C.F.R. § 800.4(c)(1)).

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2. DOE, USFS, and USACE shall continue to consult with NH SHPO and VT SHPO, as appropriate, to define the parameters of the identification investigations, including scope, methods, procedures, and reporting requirements needed to identify and evaluate historic properties.
  3. To define the parameters for carrying out the identification investigations listed in Stipulation III.A.1, DOE, USFS, and USACE, in consultation with NH SHPO and VT SHPO, as appropriate, shall take into account the influence of the existing topography, vegetation, and land use, with the recognition that, pursuant to 36 C.F.R. § 800.5(a), an adverse effect occurs when the integrity of one or more of the qualifying characteristics of a historic property is diminished.
  4. DOE, USFS, and USACE shall consult with NH SHPO and VT SHPO, as appropriate, to ensure that all work to identify and evaluate historic properties under Stipulation III complies with the applicable guidance prepared by NH SHPO or VT SHPO, as appropriate, USFS, USACE, ACHP, DOE, and NPS at the time of identification or evaluation, including the following, incorporated by reference:
    - a. NH DHR's archaeological standards, guidelines and policies, including:
      - i. *Archaeological Standards and Guidelines* (September 2003, revised May 2004).
      - ii. *Curation Guidelines* (undated).
      - iii. *Updating Archaeological Inventory Forms* (March 27, 2014).
      - iv. *Archaeological Report Submittals* (June 12, 2013).
      - v. *File Reviews Required for Project Review* (November 6, 2012).
      - vi. *Electronic Filing of Project Reports, Review for Project Review Forms using Compact Disks (CD), or Email* (November 7, 2012).
      - vii. *Standard Intervals for Shovel Test Pit Reconnaissance Survey* (November 30, 2012).
      - viii. *Access to Archaeological and Historic Inventory Files* (November 26, 2007).
      - ix. *Wintertime Archaeological Fieldwork* (January 10, 2003).
      - x. *Reconnaissance for Deeply Buried Deposits* (April 10, 2003).
    - b. NH DHR's architectural manuals, guidance and policies, including:



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- i. *NH Individual Inventory Form/Architectural Survey Manual I* (June 22, 2015).
  - ii. *Introduction to Architectural Survey in New Hampshire* (April 2013).
  - iii. *Architectural Survey Policy* (April 2013).
  - iv. *How to Complete the NH Division of Historical Resources Area Form* (June 20, 2015).
  - v. *Appendix A: Photograph Policy for Architectural Survey* (updated April 2013).
  - vi. *Appendix B: Instructions on How to Access Geographical Coordinates and USGS Topographic Maps from GRANITView II* (updated November 2014).
  - vii. *Appendix C: Historic Contexts* (planned update late Spring 2013 [sic]).
  - viii. *Appendix D: Research Sources for New Hampshire Historic Sites* (last updated 2011).
  - ix. *Appendix E: Glossary of New Hampshire House Types* (undated).
- c. VT DHP’s guidance and policies, including:<sup>3</sup>
- i. *Historic Sites and Structures Survey* guidance, available at <http://accd.vermont.gov/historic-preservation/identifying-resources/hsss>.
  - ii. *Preservation Laws and Regulations* guidance, available at <http://accd.vermont.gov/historic-preservation/resources-rules>.
  - iii. *Checklist for Historic Preservation Review*, available at <http://accd.vermont.gov/historic-preservation/review-compliance/checklist>.
- d. USFS’s standards and guidance for those portions of the proposed Project located on Forest land within the WMNF, including:
- i. *White Mountain National Forest Land and Resource Management Plan* (September 2005).
  - ii. Forest Service Manual (“FSM”) Chapter 2360 – Heritage Program Management (FSM 2300 – Recreation, Wilderness, and Related Resource

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<sup>3</sup> No ground disturbance is proposed within VT, therefore there is no potential for effects on historic properties that are archaeological resources.

1 Management, Chapter 2360 – Heritage Program Management, Amendment  
2 2300-2008-1, effective July 25, 2008).

- 3
- 4 e. *The Secretary of the Interior’s Standards for the Treatment of Historic Properties*,  
5 60 Fed. Reg. 35,842-35,844 (July 12, 1995), as amended and revised.<sup>4</sup>
- 6
- 7 f. ACHP’s *Guidance on Conducting Archaeology under Section 106* (2009).
- 8
- 9 g. NPS’s guidelines for the identification and evaluation of historic properties,  
10 including, but not necessarily limited to:
- 11
- 12 i. *Defining Boundaries for National Register Properties* (with Appendix,  
13 Definition of National Register Boundaries for Archeological Properties)  
14 (Bulletins 21 and 12).
- 15
- 16 ii. *How to Apply the National Register Criteria for Evaluation* (Bulletin 15).
- 17
- 18 iii. *Guidelines for Evaluating and Registering Archaeological Properties*  
19 (Bulletin 36).
- 20
- 21 iv. *Guidelines for Evaluating and Documenting Rural Historic Landscapes*  
22 (Bulletin 30).
- 23
- 24 v. *Guidelines for Evaluating and Documenting Traditional Cultural Properties*  
25 (Bulletin 38).
- 26
- 27 vi. *Protecting Cultural Landscapes: Planning, Treatment and Management of*  
28 *Historic Landscapes* (Preservation Brief 36).
- 29

30 C. Evaluation of Historic Properties within the APE

- 31
- 32 1. DOE, USFS, and USACE shall consult with NH SHPO and VT SHPO, as  
33 appropriate, to determine the NRHP eligibility pursuant to 36 C.F.R. § 800.4(c) for  
34 each resource that is identified in the identification investigations completed for the  
35 proposed Project.
- 36
- 37 2. After the required identification investigations to identify and evaluate historic  
38 properties within the APE are completed, in accordance with the requirements of  
39 Stipulation III.A.5, DOE, USFS, and USACE shall initiate the process for evaluating  
40 identified properties, in consultation with NH SHPO and VT SHPO, as appropriate,  
41 to confirm or determine their NRHP eligibility.
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<sup>4</sup> The *Standards*, revised in 1992, were codified as 36 C.F.R. Part 68 in 1995. The revision replaces the 1978 and 1983 versions of 36 C.F.R. 68 entitled *The Secretary of the Interior's Standards for Historic Preservation Projects*.

- 1 3. At the direction of DOE, NPT shall prepare documentation as directed by the  
2 workplan developed in accordance with Stipulation III.A.2. Review of the evaluation  
3 documentation shall be conducted in accordance with Stipulation III.D.  
4
- 5 4. DOE, in consultation with NH SHPO and VT SHPO, as appropriate, shall apply the  
6 NRHP eligibility criteria to identified resources included in NPT's documentation of  
7 NRHP eligibility, developed in accordance with Stipulation III.A.3.  
8
- 9 a. DOE shall consult with NH SHPO and VT SHPO, as appropriate, and, if such  
10 resources are located on Forest land within the WMNF, with USFS, when  
11 applying the NRHP eligibility criteria to identified architectural resources and  
12 archeological resources within the APE.  
13
- 14 b. DOE, shall consult with NH SHPO and VT SHPO, as appropriate, federally-  
15 recognized Indian tribe(s), if any, and, if such resources are located on Forest land  
16 within the WMNF, USFS when applying the NRHP eligibility criteria to  
17 identified traditional cultural properties or properties that may be of traditional  
18 religious and cultural importance to a federally-recognized Indian tribe.  
19
- 20 c. When applying the NRHP eligibility criteria to cultural landscapes or other  
21 geographically extensive resources that are determined to comprise TCPs or  
22 RHDs, DOE acknowledges that, while contributing resources to TCPs or RHDs  
23 may be located within the APE for the proposed Project, the remainder of the  
24 TCP or RHD may extend beyond the APE. DOE, in consultation with NH SHPO  
25 and VT SHPO, as appropriate, and, if such resources are located on Forest land  
26 within the WMNF, in consultation with USFS, will evaluate these resources in a  
27 manner that considers their potential to contribute to the TCP or RHD.  
28
- 29 5. If NH SHPO or VT SHPO, as appropriate, USFS, or USACE disagrees with DOE's  
30 determinations of eligibility for the NRHP, DOE shall consult with NH SHPO or VT  
31 SHPO, as appropriate, USFS, and USACE, to resolve the objection. If a resolution  
32 cannot be agreed upon, DOE will proceed in accordance with Stipulation XIII.F.  
33
- 34 6. At the direction of DOE, NPT shall prepare revised documentation incorporating  
35 DOE's NRHP eligibility determinations, or the Keeper's determination, if appropriate  
36 (36 C.F.R. § 800.4(c)(2)).  
37

38 D. Documentation for Identification and Evaluation  
39

- 40 1. DOE will ensure that specific documentation requirements are identified in the  
41 workplan NPT will develop in accordance with Stipulation III.A.2.  
42
- 43 2. DOE will distribute copies of documentation, drafts for review and consultation, as  
44 appropriate (see Stipulation III.D.3), and final versions, in accordance with  
45 Stipulation II.F to DOE, USFS, USACE, ACHP, NPS, NH SHPO and VT SHPO.  
46 DOE will post copies of the documentation, as appropriate, on the Consulting Party

1 Website in accordance with Stipulation II.G, and DOE will notify Consulting Parties  
2 of their availability.  
3

4 3. Review of Documentation  
5

- 6 a. Documentation prepared in accordance with Stipulation III and reviewed in  
7 accordance with the process in paragraphs b-g may occur in segments in  
8 accordance with Stipulation I.D.  
9
- 10 b. DOE will direct NPT to prepare drafts of all documentation and submit the drafts  
11 to DOE. DOE will distribute the drafts to USFS, USACE, NH SHPO, and VT  
12 SHPO, as appropriate, (“agency reviewers”) for review, in accordance with  
13 Stipulation II.F.  
14
- 15 c. The agency reviewer(s) will have 30 days from receipt of the draft documentation  
16 to provide comments to DOE on the draft documentation. Based on the  
17 comments received, DOE, after consultation with the agency reviewer(s), may  
18 require NPT to revise the documentation. NPT shall submit revised  
19 documentation (clean and tracked changes versions) to DOE. If NPT’s revisions  
20 are sufficiently substantive, DOE may request a second 15-day review from the  
21 agency reviewer(s) to confirm that comments have been appropriately addressed.  
22
- 23 d. Upon determining that NPT has considered all comments from the agency  
24 reviewer(s), and revised as appropriate, DOE will distribute the draft  
25 documentation, in accordance with Stipulation II.F and II.G, to Consulting Parties  
26 for a 30-day review and afford Consulting Party reviewer(s) the opportunity to  
27 provide comments to DOE on the adequacy of the documentation and the  
28 recommendations for the NRHP eligibility of properties identified (36 C.F.R.  
29 § 800.4(c)). Based on the comments received, DOE may require NPT to revise  
30 the documentation. NPT shall submit revised documentation (clean and tracked  
31 changes versions) to DOE. If NPT’s revisions are sufficiently substantive, DOE  
32 may request a second 15-day review from Consulting Party reviewer(s) to  
33 confirm that comments have been appropriately addressed.  
34
- 35 e. Any agency or Consulting Party reviewer may request an extension from DOE in  
36 writing concisely explaining the reason the extension is needed. At DOE’s  
37 discretion, the review period may be extended.  
38
- 39 f. If the review period passes with no request for extension and no agency or  
40 Consulting Party reviewer(s) submit comments, DOE shall document this, where  
41 appropriate, and proceed with the review of recommendations of eligibility.  
42
- 43 g. DOE will consider the process for reviewing identification investigations  
44 documentation complete when DOE, in consultation with NH SHPO and VT  
45 SHPO, as appropriate, USFS, and USACE, determines that NPT has considered  
46 all comments, and revised as appropriate, and when NH SHPO and VT SHPO, as

1 appropriate, provide to DOE written indication of concurrence or acceptance on  
2 the results, conclusions, or recommendations, as appropriate, included in the  
3 identification investigations documentation. DOE will notify Consulting Parties  
4 that the process for reviewing identification investigations documentation is  
5 complete in accordance with Stipulation II.F and II.G.  
6

#### 7 **IV. ASSESSMENT OF EFFECTS ON HISTORIC PROPERTIES WITHIN THE APE** 8

- 9 A. DOE will consider the effects on individual historic properties in terms of whether the  
10 undertaking will result in a finding of “no historic properties affected,” “no adverse  
11 effect” on historic properties, or “adverse effect” on historic properties within the APE.  
12 DOE will determine whether the undertaking will have an adverse effect on historic  
13 properties consistent with 36 C.F.R. § 800.5(a)(1).  
14
- 15 B. For the purposes of this PA, DOE considers the assessment of effects on historic  
16 properties to include cumulative effects on historic properties and reasonably foreseeable  
17 effects arising from operations and maintenance. DOE will direct NPT to analyze  
18 cumulative effects and these reasonably foreseeable effects from the proposed Project as  
19 part of the assessment of effects on historic properties under this stipulation. DOE will  
20 ensure that NPT's cumulative effects assessment is implemented in a manner consistent  
21 with WHEREAS 34.  
22
- 23 C. Because the proposed Project may be developed and constructed in segments (see  
24 Stipulation I.D), the assessment of effects on individual historic properties contemplated  
25 by this stipulation may be undertaken by DOE based on the defined segments, consistent  
26 with 36 C.F.R. § 800.5(a)(3), but prior to commencement of Project construction  
27 activities within the defined segment.  
28
- 29 D. DOE will direct NPT to gather and provide the information necessary for the agencies to  
30 assess the potential effects of the proposed project on historic properties within the APE.  
31
- 32 E. Consultation on Assessing Effects on Individual Historic Properties  
33
- 34 1. DOE shall consult with Consulting Parties to assess the effects of the undertaking, in  
35 accordance with 36 C.F.R. §§ 800.4(d)(1) and (2), to determine whether or not the  
36 undertaking will affect historic properties in the APE and, if affected, will apply the  
37 criteria of adverse effect, in accordance with 36 C.F.R. § 800.5(a).  
38
- 39 a. DOE will direct NPT to prepare a summary table of all historic properties  
40 identified through Stipulation III, applying the criteria of adverse effect, to  
41 facilitate the discussion under paragraph b.  
42
- 43 b. DOE will direct NPT to host two in-person Consulting Party meetings (one in the  
44 Whitefield, NH area and one in the Laconia/Concord, NH area), consistent with  
45 DOE’s established practice for this consultation, to discuss the effects of the  
46 proposed Project on the identified historic properties.

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2. For each identified historic property in the APE, DOE shall direct NPT to complete the appropriate Effects Documentation:
    - a. For each historic property in NH for which a finding of “no historic properties affected” is recommended, NPT shall complete the NH DHR “No Historic Properties Affected Table;”
    - b. For each historic property in NH for which a finding of “historic properties affected” is recommended, NPT shall complete the NH DHR “Historic Property/Properties Affected Table” and the related “Application of the Criteria of Adverse Effect Form” (hereafter “NH DHR Affected Properties Documentation”);
    - c. For historic properties in VT, NPT shall develop a single report with a summary table noting the findings for each historic property identified (hereafter “VT DHP Effects Finding Documentation”).
  3. Consulting Party Review of Effects Documentation
    - a. DOE will distribute draft Effects Documentation to Consulting Parties, in accordance with Stipulations II.F and II.G, for 30 days to review and provide comments to DOE on the proposed finding(s) of effect.
    - b. Any disputes regarding finding(s) of effect shall be resolved in accordance with Stipulation XIII.
    - c. As appropriate, DOE, in consultation with USFS, USACE, NH SHPO, and VT SHPO, will direct NPT to consider comments and revise the draft Effects Documentation. NPT shall submit revised Effects Documentation (clean and tracked changes versions) to DOE. If NPT’s revisions are sufficiently substantive, DOE may request a second 15-day review from Consulting Party reviewer(s) to confirm that comments have been appropriately addressed.
    - d. Upon determining that NPT has considered all comments and revised the Effects Documentation, as appropriate, DOE will make the Effects Documentation available to the public for review.
  4. Public Involvement in Review of Effects Documentation
    - a. DOE will make draft Effects Documentation available to the public through the public Section 106 Consultation Page for 30 days to review and provide comments to DOE on the proposed finding(s) of effect in accordance with Stipulations VI.

- 1 b. Any disputes regarding finding(s) of effect shall be resolved in accordance with  
2 Stipulation XIII.  
3
- 4 c. As appropriate, DOE, in consultation with USFS, USACE, NH SHPO, and VT  
5 SHPO, will direct NPT to consider comments and revise the draft Effects  
6 Documentation. NPT shall submit revised Effects Documentation (clean and  
7 tracked changes versions) to DOE.  
8
- 9 d. Upon determining that NPT has considered all comments and revised the Effects  
10 Documentation, as appropriate, DOE will submit the Effects Documentation to  
11 NH SHPO and VT SHPO, as appropriate, in accordance with Stipulation II.F.  
12
- 13 5. SHPO Review of Recommended Finding(s) of Effect  
14
- 15 a. DOE, USFS, and USACE shall consult with NH SHPO to review NPT's  
16 completed NH DHR Affected Properties Documentation to apply the criteria of  
17 adverse effect in accordance with 36 C.F.R. § 800.5(a).  
18
- 19 b. DOE, USFS, and USACE shall consult with VT SHPO to review NPT's  
20 completed VT DHP Effects Finding Documentation to apply the criteria of  
21 adverse effect in accordance with 36 C.F.R. § 800.5(a).  
22
- 23 c. DOE will direct NPT to revise the Effects Documentation based on NH SHPO  
24 and VT SHPO review, as appropriate. NPT shall submit the revised Effects  
25 Documentation (clean and tracked changes versions) to DOE.  
26
- 27 d. Upon determining that NPT has revised the Effects Documentation, as  
28 appropriate, DOE will submit the Effects Documentation to NH SHPO and VT  
29 SHPO, as appropriate, in accordance with Stipulation II.F.  
30
- 31 e. DOE will consider the Effects Documentation complete when NH SHPO or VT  
32 SHPO, as appropriate, provides to DOE written indication of concurrence or  
33 acceptance on the finding(s) of effect. DOE will notify Consulting Parties that the  
34 Effects Documentation is complete in accordance with Stipulations II.F and II.G.  
35
- 36 F. Finding(s) of "no historic properties affected" or "no adverse effect" on individual  
37 historic properties within the APE  
38
- 39 1. If the undertaking will have "no historic properties affected" or "no adverse effect"  
40 on historic properties, DOE, in coordination with NPT, shall prepare a summary of its  
41 finding(s) of "no historic properties affected" or "no adverse effect" in accordance  
42 with the documentation requirements in 36 C.F.R. §§ 800.11(d)-(e). DOE shall  
43 submit the summary of finding(s) and the appropriate Effects Documentation (see  
44 Stipulation IV.E) to NH SHPO and VT SHPO, as appropriate, in accordance with  
45 Stipulation II.F.  
46

- 1 a. NH SHPO and VT SHPO, as appropriate, shall have 30 days from receipt of such  
2 finding(s) of effect to review and submit written comments to DOE in accordance  
3 with 36 C.F.R. § 800.5(c).  
4
- 5 b. If the review period passes and NH SHPO and/or VT SHPO, as appropriate, do  
6 not submit comments, DOE shall document this result.  
7
- 8 2. DOE shall maintain a record of the summary of its finding(s) of “no historic  
9 properties affected” or “no adverse effect” on historic properties finding(s) and  
10 provide this documentation to Consulting Parties and the public on request, consistent  
11 with the documentation and confidentiality provisions of 36 C.F.R. § 800.11 and in  
12 accordance with Stipulations II.F, II.G, and VI.  
13
- 14 3. DOE shall notify all Consulting Parties and the public of its finding(s) of “no historic  
15 properties affected” or “no adverse effect” on historic properties in accordance with  
16 Stipulations II.F and II.G. Any disputes regarding finding(s) of effect shall be  
17 resolved in accordance with Stipulation XIII.  
18
- 19 G. Finding(s) of “adverse effect” on individual historic properties within the APE  
20
- 21 1. If historic properties will be adversely affected by the proposed undertaking, DOE, in  
22 coordination with NPT, shall prepare a summary of the finding(s) of “adverse effect”  
23 in accordance with the documentation requirements with 36 C.F.R. § 800.11(e).  
24 DOE shall submit the summary of finding(s) and the appropriate Effects  
25 Documentation (see Stipulation IV.E) to NH SHPO and VT SHPO, as appropriate, in  
26 accordance with Stipulations II.F.  
27
- 28 a. NH SHPO and VT SHPO, as appropriate, shall have 30 days from receipt of such  
29 finding(s) of effect to review and submit written comments to DOE in accordance  
30 with 36 C.F.R. § 800.5(c).  
31
- 32 b. If the review period passes and NH SHPO and VT SHPO, as appropriate, do not  
33 submit comments, DOE shall document this result.  
34
- 35 2. DOE shall maintain a record of the summary of its “adverse effect” on historic  
36 properties finding(s) and provide this documentation to Consulting Parties and the  
37 public on request, consistent with the documentation and confidentiality provisions of  
38 36 C.F.R. § 800.11 and in accordance with Stipulations II.F-II.G and VI.  
39
- 40 3. DOE shall notify all Consulting Parties and the public of its finding(s) of “adverse  
41 effect” on historic properties in accordance with Stipulations II.F and II.G. Any  
42 disputes regarding finding(s) of effect shall be resolved in accordance with  
43 Stipulation XIII.  
44
- 45 H. Following concurrence by NH SHPO or VT SHPO, as appropriate, of DOE’s finding(s)  
46 of effect for individual historic properties, and after DOE has assessed the effects for the



1 entire geographic scope of the proposed Project (i.e., all segments have been assessed) on  
2 individual historic properties, DOE will make a finding of effect for the undertaking.  
3

4 I. DOE shall notify Consulting Parties and the public of its finding of effect for the  
5 undertaking. Any disputes regarding the finding of effect for the undertaking shall be  
6 resolved in accordance with Stipulation XIII.  
7

8 J. DOE shall consult with NH SHPO and VT SHPO, as appropriate, and other Consulting  
9 Parties in an effort to resolve adverse effects, in accordance with 36 C.F.R. § 800.6(a)  
10 and Stipulation V.  
11

## 12 **V. RESOLUTION OF ADVERSE EFFECTS**

13

14 A. Resolution of adverse effects on historic properties from the undertaking will be  
15 considered in the preferred order of avoidance, minimization, and mitigation. The plan  
16 for resolution of adverse effects will be documented in the Historic Properties Treatment  
17 Plan (HPTP). DOE shall encourage NPT to make every effort to avoid adverse effects  
18 when implementing the Northern Pass project.  
19

20 B. If Native American archaeological sites where human remains and associated funerary  
21 objects are reasonably expected to be located are identified during Phase I archaeological  
22 investigations in the direct APE on National Forest System lands, and such sites cannot  
23 be avoided, then USFS, in consultation with DOE and federally-recognized Indian tribes,  
24 will develop a NAGPRA Plan of Action (“POA”) consistent with 43 C.F.R. § 10.3 prior  
25 to any further archaeological investigation or disturbance.<sup>5</sup> The POA will be a stand-  
26 alone appendix to the HPTP. The inclusion of this POA in the HPTP will not require an  
27 amendment to the HPTP.  
28

29 C. If historic properties will be adversely affected by the proposed Project, DOE will direct  
30 NPT to prepare and implement a HPTP that addresses the direct, indirect, cumulative,  
31 and reasonably foreseeable adverse effects, including reasonably foreseeable effects  
32 arising from operations and maintenance, of the proposed Project on historic properties in  
33 the APE by describing the measures to be carried out, the manner in which they will be  
34 carried out, and a schedule for their implementation. If Stipulation IV is implemented  
35 using segments, in accordance with Stipulation IV.C, resolution of adverse effects  
36 (Stipulation V) for a segment may proceed, at DOE’s direction, after assessment of  
37 effects on historic properties has concluded for the segment.  
38

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<sup>5</sup> Pursuant to 43 C.F.R. Part 10, the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. § 3001 *et. seq.*, applies to human remains, sacred objects, and items of cultural patrimony (described as “cultural items” in the statute) located on federal or tribal lands or in the possession and control of federal agencies or certain museums. Portions of the proposed Project are located on federal lands: land included in the WMNF. The proposed Project will not occur on or affect historic properties on tribal lands. Notwithstanding the limits of NAGPRA’s applicability, the principles described in NAGPRA and its implementing regulations will serve as additional guidance for NPT’s actions should human remains or associated artifacts be identified as Native American, and to the extent such principles and procedures are consistent with any other applicable requirements.

1 D. Because the proposed Project may be developed and constructed in segments (see  
2 Stipulation I.D), the resolution of adverse effects contemplated by this stipulation may be  
3 undertaken by DOE based on the defined segments, but prior to commencement of  
4 Project construction activities within the defined segment. As such, references to the  
5 “HPTP” below may represent separate HPTPs for each of the defined segments.  
6 Accordingly, the determination(s) and finding(s) made by DOE may also be completed  
7 and submitted for review and comment in segments, but prior to commencement of  
8 Project construction activities within the defined segments.  
9

10 E. NPT shall prepare the HPTP and the HPTP shall. :

- 11 1. Identify report(s) that NPT will prepare to document the results of the implementation  
12 of the HPTP and include sample forms and/or report outlines in an appendix to the  
13 HPTP (or as a stand-alone appendix to the set of separate HPTPs for the defined  
14 segments);  
15  
16
  - 17 2. Provide the process by which NPT will document and report on the treatment for each  
18 historic property, including a proposed schedule for reporting, in accordance with  
19 Stipulation XI. Treatment should address reasonably foreseeable adverse effects,  
20 including those arising from operations and maintenance.  
21
  - 22 3. Include plans for monitoring, unanticipated discoveries, and training of NPT  
23 personnel, which will be stand-alone appendices to the HPTP. If NPT prepares the  
24 HPTP using segments in accordance with Stipulation V.D, the plan appendices shall  
25 be provided as a separate document and not incorporated into each HPTP.  
26
- 27 a. Monitoring Plan
- 28 i. NPT will develop a Monitoring Plan, consistent with Stipulation XI and in  
29 consultation with DOE, USFS, USACE, NH SHPO, and VT SHPO, which  
30 NPT will implement during implementation of the terms of this PA and  
31 during construction of the proposed Project.  
32  
33
  - 34 ii. NPT’s Monitoring Plan will:  
35  
36 (A) Clearly state the objectives of monitoring, which will be to ensure  
37 construction of the proposed Project is implemented consistent with  
38 this PA, and the methodologies for achieving those objectives;  
39  
40 (B) Provide the opportunity for one or more Tribal Monitors if DOE, in  
41 consultation with NH SHPO, VT SHPO, USFS, USACE, and  
42 participating federally-recognized Indian tribes, determines that a  
43 Tribal Monitor is appropriate; if DOE determines that one or more  
44 Tribal Monitors are appropriate, NPT shall work with the participating  
45 federally-recognized Indian tribes to establish the financial terms of  
46 each Tribal Monitor’s engagement;

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- (C) Identify the construction monitors, including archaeological and architectural consultants, tribal representatives and/or Tribal Monitors of federally-recognized Indian tribes who are participating, and any other individuals or organizations participating in monitoring the progress of construction for the proposed Project for purposes of implementing this PA, and demonstrate that the construction monitors will be under the direct supervision of a professional who meets *The Secretary of the Interior's Professional Qualifications Standards* and any applicable state qualification standards;
  - (D) Include a schedule covering the period of time leading up to and during construction of the proposed Project that incorporates the schedule for the submission of Progress Reports (see Stipulation XI); and
  - (E) Incorporate by reference the appropriate monitoring and reporting, unanticipated discovery, and confidentiality provisions of this PA as well as the Unanticipated Discovery Plan and Training Plan developed in accordance with Stipulations V.E.3.b and V.E.3.c.

22 b. An Unanticipated Discovery Plan

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- i. NPT will develop an Unanticipated Discovery Plan, consistent with Stipulation IX and in consultation with DOE, USFS, USACE, NH SHPO, and VT SHPO, that includes provisions:
    - (A) For notification of unanticipated discoveries, in accordance with all applicable federal and state laws, including identification of persons to be notified; and
    - (B) That incorporate by reference the appropriate monitoring and reporting, unanticipated discovery, and confidentiality provisions of this PA as well as the Monitoring Plan and Training Plan developed in accordance with Stipulations V.E.3.a and V.E.3.c.
  - ii. NPT shall implement the Unanticipated Discovery Plan as necessary and in accordance with Stipulations V and IX.

40 c. A Training Plan

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46
- i. NPT will develop and implement a Training Plan for the protection of cultural resources and historic properties, consistent with other provisions of this PA and in consultation with DOE, USFS, USACE, NH SHPO, and VT SHPO, which NPT will implement prior to and throughout implementation of this PA and construction of the proposed Project.

1  
2 ii. NPT's Training Plan will:

- 3  
4 (A) Describe NPT's Training Program for all Project personnel (including  
5 new, added, or replaced personnel) and contractors involved in  
6 implementation of the terms of this PA and construction of the  
7 proposed Project, including, but not limited to, environmental  
8 inspectors and construction monitors, including archaeological and  
9 architectural consultants, tribal representatives and/or Tribal Monitors  
10 who are participating, and any other individuals responsible for  
11 monitoring the progress of construction for the proposed Project for  
12 purposes of implementing this PA.  
13  
14 (B) Provide training and instruction for the protection of cultural resources  
15 and historic properties that is appropriate to the level of involvement  
16 of Project personnel and contractors involved in the proposed Project.  
17  
18 (C) Include information on:  
19  
20 (1) The statutes protecting cultural resources and historic properties  
21 in the APE for the proposed Project; and  
22  
23 (2) The types of resources that are, or are reasonably expected to be,  
24 present in the APE for the proposed Project; and  
25  
26 (3) The requirement to avoid, minimize, and mitigate adverse effects  
27 on historic properties in accordance with the HPTP; and  
28  
29 (4) The requirements and procedures for reporting discoveries of  
30 cultural resources in accordance with the HPTP and the  
31 Unanticipated Discovery Plan.  
32  
33 (D) Incorporate by reference the appropriate monitoring and reporting,  
34 unanticipated discovery, and confidentiality provisions of this PA as  
35 well as the Monitoring Plan and the Unanticipated Discovery Plan  
36 developed in accordance with Stipulations V.E.3.a and V.E.3.b.  
37  
38 (E) Engage participating federally-recognized Indian tribes in accordance  
39 with Stipulation X and other relevant cultural resources experts in the  
40 development of the training plan and the design and implementation of  
41 the training program.  
42

43 F. Consultation on the Development of the HPTP

- 44  
45 1. DOE will direct NPT to prepare a draft HPTP and submit the draft HPTP to DOE.  
46 DOE will distribute the draft HPTP to USFS, USACE, NH SHPO and VT SHPO

1 (agency reviewers) for review, in accordance with Stipulation II.F. If NPT prepares  
2 the HPTP using segments in accordance with Stipulation V.D, then NPT shall also  
3 prepare and submit a summary of the resolution of effects planned for historic  
4 properties in the vicinity of the segment boundary within adjacent segments such that  
5 resolution of effects can be considered holistically across segment boundaries during  
6 review of the HPTP.  
7

- 8 2. The agency reviewer(s) will have 30 days from receipt of the draft HPTP to review  
9 and provide comments on the measures and terms of the draft HPTP to DOE. Based  
10 on the comments received, DOE, after consultation with the agency reviewer(s), may  
11 require NPT to revise the draft HPTP. NPT shall submit the revised draft HPTP  
12 (clean and tracked changes versions) to DOE. If NPT's revisions are sufficiently  
13 substantive, DOE may request a second 15-day review from the agency reviewer(s) to  
14 confirm that comments have been appropriately addressed.  
15
- 16 3. Upon determining that NPT has considered all comments from the agency  
17 reviewer(s), and revised as appropriate, DOE will distribute the draft HPTP, in  
18 accordance with Stipulations II.F and II.G, to Consulting Parties for a 30-day review  
19 and afford Consulting Party reviewer(s) the opportunity to provide comment on the  
20 measures and terms of the HPTP. Based on the comments received, DOE may  
21 require NPT to revise the draft HPTP. NPT shall submit the revised draft HPTP  
22 (clean and tracked changes versions) to DOE. If NPT's revisions are sufficiently  
23 substantive, DOE may request a second 15-day review from Consulting Party  
24 reviewer(s) to confirm that comments have been appropriately addressed.  
25
- 26 4. Concurrent with the Consulting Parties' review, DOE will post a copy of the draft  
27 HPTP to the public Section 106 Consultation Page, in accordance with Stipulation VI,  
28 for public review, affording the public the opportunity to provide comments to DOE.  
29 DOE will notify the public of the draft HPTP's availability and provide instructions  
30 for submitting comments. DOE will ensure that all timely comments from the public  
31 are considered in conjunction with comments received from Consulting Parties when  
32 finalizing the HPTP.  
33
- 34 5. Any agency or Consulting Party reviewer may request an extension from DOE in  
35 writing concisely explaining the reason the extension is needed. At DOE's discretion,  
36 the review period may be extended.  
37
- 38 6. If the review period passes with no request for extension and no agency or Consulting  
39 Party reviewer(s) submit comments, DOE shall document this, where appropriate,  
40 and proceed with the draft HPTP.  
41
- 42 7. If the parties to this PA cannot agree on measures to resolve adverse effects, the  
43 dispute shall be resolved in accordance with Stipulation XIII.  
44
- 45 8. DOE will consider the process for reviewing the HPTP complete when DOE, in  
46 consultation with NH SHPO, VT SHPO, USFS, and USACE, determines that NPT

1 has considered all comments, and revised as appropriate, and DOE has received  
2 written concurrence with the HPTP, or other similarly effective notification, from  
3 USFS, USACE, NH SHPO and VT SHPO.  
4

- 5 9. At the conclusion of the consultation on the HPTP, DOE will distribute the final  
6 HPTP, in accordance with Stipulation II.F, to USFS, USACE, NPS, ACHP, NH  
7 SHPO, and VT SHPO. In accordance with Stipulations II.F, II.G, and VI, DOE will  
8 notify Consulting Parties that the HPTP is finalized, will make a copy of the final  
9 HPTP available through the public Section 106 Consultation Page, and will notify  
10 Consulting Parties of its availability.  
11

12 G. Following DOE, USFS, USACE, NH SHPO, and VT SHPO approval of the HPTP, DOE  
13 shall, in coordination with NPT, ensure that the HPTP is implemented prior to  
14 commencement of Project construction activities in the geographic area covered in the  
15 HPTP.  
16

17 H. Deviations from the Approved HPTP  
18

- 19 1. During implementation of the HPTP, if NH SHPO, VT SHPO, DOE, USFS, USACE,  
20 or NPT determines that deviation(s) from the final approved HPTP may be warranted,  
21 then, prior to implementation of the deviation(s), DOE will direct NPT to prepare  
22 documentation explaining the reason for and justifying the proposed deviation(s)  
23 from the HPTP and submit the documentation to DOE. DOE will distribute the  
24 documentation to USFS, USACE, NH SHPO, and VT SHPO for a 15-day review (see  
25 Stipulation VI for confidentiality requirements) in accordance with Stipulation II.F.  
26 Documentation will include the location of the proposed deviation(s) (including  
27 mapping), the historic property(ies) that would be affected by the proposed deviation,  
28 the nature of the effects on each historic property, and the new treatment measures  
29 that would be implemented for each historic property affected by the proposed  
30 deviation.  
31
- 32 2. DOE will consider comments received within the review period and, in consultation  
33 with NH SHPO and/or VT SHPO, as appropriate, and USFS for deviations proposed  
34 on land included in the WMNF, will determine the adequacy of the proposed  
35 deviation. DOE, after consultation with NH SHPO and/or VT SHPO, as appropriate,  
36 and USFS for deviations proposed on land included in the WMNF, will notify NPT  
37 if/when the deviation has been approved.  
38
- 39 3. If the deviation is approved, NPT shall prepare an amendment to the HPTP, and that  
40 amendment shall be reviewed and distributed in accordance with Stipulation V.F.  
41

## 42 **VI. CONFIDENTIALITY AND WITHHOLDING OF SENSITIVE INFORMATION**

43

- 44 A. All Consulting Parties should abide by Stipulation VI and other guidance provided to  
45 Consulting Parties for purposes of DOE's consultation on the proposed Project (see the  
46 Consulting Party Website for more information).

1  
2 B. DOE, other Signatories, Invited Signatories, and Concurring Parties to this PA agree to  
3 maintain the confidentiality of the locations of all archaeological and reburial sites, of  
4 other information pertaining to historic properties, e.g., locational information, such as  
5 street addresses for private residences and photo-documentation (which might  
6 inadvertently display street addresses, license plates, or other personal or locational  
7 information), and of contact information for participating Consulting Parties  
8 (collectively, sensitive information) to the extent permissible under applicable state<sup>6</sup> and  
9 federal law and in accordance with the terms of this PA.

10  
11 C. During this Section 106 consultation and under the terms of this PA, sensitive  
12 information was and will continue to be generated, submitted, and/or included in  
13 documentation to be generated for and/or submitted to federal and state agencies that sign  
14 this PA and for consultation with Consulting Parties. For sensitive information and any  
15 documentation containing sensitive information generated by a federal agency that signs  
16 this PA, to the extent permissible under applicable state<sup>7</sup> and federal law, the permission  
17 of that agency is required before dissemination of any such information by any Signatory,  
18 Invited Signatory, or Concurring Party to this PA.

19  
20 D. DOE will require NPT to continue the practice of creating redacted versions of reports for  
21 public review to protect sensitive information, at DOE's direction.

22  
23 E. For sensitive information and documentation containing sensitive information generated  
24 or held by a federal agency that signs this PA, should any Consulting Party indicate to  
25 DOE a concern(s) about the releasability of the sensitive information or of the  
26 documentation containing the sensitive information that is not addressed by existing  
27 DOE, USFS, USACE, NH SHPO, or VT SHPO policies, regulations, or practices, as  
28 appropriate, DOE, in consultation with the other Signatories, Invited Signatories, and  
29 Concurring Parties, will contact the Secretary of the Interior to implement the provisions  
30 set forth in Section 304 of the NHPA (54 U.S.C. § 307103) ("Section 304") and 36  
31 C.F.R. § 800.11(c). Pending implementation of the Section 304 provisions, the  
32 confidentiality of the information must be preserved by all Signatories, Invited  
33 Signatories, and Concurring Parties. For NH SHPO, confidentiality of the information  
34 pending implementation of the Section 304 provisions will be subject to NH state law  
35 (RSA 91-A).

36  
37 **VII. CURATION AND REPATRIATION**

38  
39 A. Federal jurisdiction is limited with respect to curation and repatriation: (1) federal laws  
40 related to curation and repatriation apply to artifacts found on federal and tribal  
41 (federally-recognized) lands and (2) state laws on curation and repatriation apply to  
42 artifacts found on private land.

---

<sup>6</sup> In NH, see NH's Right-to-Know law, RSA 91-A (access to governmental records and meetings); in VT, see VT DHP's Confidentiality Policy.

<sup>7</sup> See footnote 6.

1  
2 B. Curation in NH  
3

- 4 1. Curation will be carried out by NPT with oversight by DOE, in consultation with NH  
5 SHPO, USFS, and USACE, in accordance with federal curation standards (36 C.F.R.  
6 Part 79) and state curation guidelines,<sup>8</sup> as appropriate.  
7  
8 2. DOE shall direct NPT to develop a curation plan in consultation with DOE, USFS,  
9 USACE, NH SHPO, and other Consulting Parties, as appropriate, that identifies the  
10 process by which repositories will be selected, documentation will be prepared and  
11 reviewed, and status of curation will be conveyed, with applicable fees.  
12

13 C. Repatriation in NH  
14

- 15 1. Repatriation will be carried out by NPT with oversight by DOE, in consultation with  
16 NH SHPO, USFS, and USACE, in accordance with federal repatriation standards  
17 (e.g., NAGPRA) and state repatriation standards identified in consultation with NH  
18 SHPO, as appropriate.  
19  
20 2. DOE shall direct NPT to develop a repatriation plan in consultation with DOE, USFS,  
21 USACE, NH SHPO, and other Consulting Parties, as appropriate, that identifies the  
22 process by which decisions about repatriation will be made and the process(es) by  
23 which repatriation will be implemented, including preparation and review of  
24 documentation and associated fees.  
25

26 **VIII. PROJECT CHANGES AND/OR NEW INFORMATION**  
27

- 28 A. During the remainder of NPT's project planning, NPT shall notify DOE, USFS, USACE,  
29 NH SHPO, and VT SHPO of all changes in project design and planned construction  
30 activities as they occur. After the project design and construction plan are finalized, NPT  
31 shall keep DOE, USFS, USACE, NH SHPO, and VT SHPO apprised, in a timely manner,  
32 of all changes to the final project design and of all changes to planned construction  
33 activities in the final construction plan. NPT shall not proceed with any changes until the  
34 Section 106 implications of the changes have been fully considered by DOE, USFS,  
35 USACE, NH SHPO, and VT SHPO in accordance with the terms of this PA, including  
36 implementation of paragraphs C-F, as appropriate.  
37  
38 B. If DOE receives new information related to the proposed Project, including changes to or  
39 further refinement of project design and changes to planned construction activities, DOE,  
40 in consultation with USFS, USACE, NH SHPO, and VT SHPO, will determine whether  
41 the new information warrants implementation of paragraphs C-F, as appropriate.  
42  
43 C. Amending the APE  
44

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<sup>8</sup> See <https://www.nh.gov/nhdhr/review/archaeology.htm>.



- 1 1. If DOE determines said changes or new information may require amendment of the  
2 APE (e.g., outside the APE, alters the viewshed differently than analyzed), DOE will  
3 consult with USFS, USACE, NH SHPO, and VT SHPO to determine whether the  
4 APE should be amended within 15 days of NPT's notification or receipt of new  
5 information. DOE will notify NPT of the resulting determination.  
6
- 7 2. DOE shall amend the APE through consultation in accordance with 36 C.F.R.  
8 §§ 800.4(a) and 800.16(d) if:  
9
  - 10 a. DOE determines that the APE should be amended based on notification of  
11 changes in construction activities or project design from NPT pursuant to  
12 Stipulation VIII.A; or  
13
  - 14 b. DOE determines that consultation with Consulting Parties, additional field  
15 research or literature review, tribal consultation, or other factors require  
16 reconsideration of the currently defined APE; or  
17
  - 18 c. DOE determines that currently unforeseen changes to the proposed Project may  
19 cause direct, indirect, or cumulative effects on historic properties beyond the  
20 extent of the APE, as defined in Attachment 1.  
21
- 22 3. Amending the APE will not require an amendment to this PA, but will require written  
23 concurrence of NH SHPO or VT SHPO.  
24
- 25 4. To document the amended APE, DOE will develop an Amended APE Attachment for  
26 this PA with the revised description and maps, as appropriate. The Amended APE  
27 Attachment will be appended to the PA as a new attachment and become effective  
28 upon notification by DOE to Consulting Parties. DOE will notify Consulting Parties  
29 that the APE has been amended, make copies of the Amended APE Attachment  
30 available through the public Section 106 Consultation Page, and will notify  
31 Consulting Parties of its availability in accordance with Stipulations II.F and II.G.  
32

#### 33 D. Supplemental Identification and Evaluation of Historic Properties 34

- 35 1. DOE shall consult with USFS, USACE, NH SHPO, and VT SHPO to determine  
36 whether additional identification investigations are needed as a result of the changes  
37 or new information within 15 days of NPT's notification of changes or receipt of the  
38 new information. DOE will notify NPT of the resulting determinations.  
39
- 40 2. NPT will conduct any additional identification investigations identified in accordance  
41 with Stipulation III. If the workplan, developed in accordance with Stipulation  
42 III.A.2, requires amendment, DOE will direct NPT to revise the workplan.  
43
- 44 3. Any previously finalized documentation (see Stipulations III and IV, and Attachment  
45 3), including those for which NH SHPO or VT SHPO concurrence or acceptance has  
46 been received, for the proposed Project may be supplemented with newly collected

1 information in lieu of submitting revised documentation (e.g., Phase IA Reports,  
2 PAFs, HSSS Forms).

- 3  
4 4. Consultation and review of any supplemental documentation and/or reports will be in  
5 accordance with Stipulation III.D and any additional direction provided in the  
6 approved workplan, revised as directed by DOE (see paragraph 2).  
7

8 E. Supplemental Assessment of Effects  
9

- 10 1. If additional historic properties are identified in NPT's additional identification  
11 investigations (see Stipulation VIII.D), DOE will conduct a supplemental assessment  
12 of effects in accordance with Stipulation IV.  
13  
14 2. DOE will direct NPT to update the Effects Documentation, as appropriate and in a  
15 manner consistent with Stipulation IV. DOE will notify Consulting Parties and the  
16 public of any supplemental findings of effect on historic properties in accordance  
17 with Stipulation IV.  
18

19 F. Supplement to the Historic Properties Treatment Plan  
20

- 21 1. If the additional historic properties will be adversely affected, DOE, in consultation  
22 with USFS, USACE, NH SHPO, and VT SHPO, will direct NPT to revise any drafts  
23 of the HPTP or to supplement the final HPTP, as appropriate and in accordance with  
24 Stipulation V.<sup>9</sup>  
25  
26 2. Any HPTP revisions or supplemental HPTP documentation shall be developed and  
27 made available to Consulting Parties and the public, in accordance with the  
28 consultation provisions in Stipulation V.  
29

30 **IX. UNANTICIPATED DISCOVERIES**  
31

32 A. Unanticipated Discoveries during Identification  
33

- 34 1. If previously unidentified historic properties or cultural resources are discovered  
35 during identification, NPT shall notify DOE, USFS, USACE, and NH SHPO and the  
36 historic properties or cultural resources shall be properly documented and evaluated  
37 for NRHP eligibility in accordance with Stipulation III. If a discovered cultural  
38 resource is subsequently identified by a federally-recognized Indian tribe as a  
39 property of traditional religious and cultural importance, consultation on a  
40 government-to-government basis with the appropriate federally-recognized Indian  
41 tribe(s) will occur in accordance with Stipulation X.  
42

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<sup>9</sup> Per Stipulations I.D and V, references to the "HPTP" may represent separate HPTPs for each of the phases corresponding to geographically-defined segments.

- 1 2. If human remains are discovered during identification, then the field crew shall  
2 follow the treatment provisions of Stipulation IX.C.  
3

4 B. Post-Review Unanticipated Discoveries  
5

- 6 1. If previously unidentified historic properties or unanticipated effects on historic  
7 properties are discovered during construction activities for the proposed Project, NPT  
8 shall immediately halt all activity within a 100 foot radius of the discovery, notify NH  
9 SHPO, DOE, USFS, USACE, and ACHP of the discovery within 24 hours, and  
10 implement interim measures to protect the discovery, including measures to protect  
11 any discoveries from looting and vandalism and weather-caused damage.  
12
- 13 2. NPT shall have a professional who meets *The Secretary of the Interior's Professional*  
14 *Qualifications Standards* as specified under 48 Fed. Reg. 44,716 inspect the  
15 construction site to determine the extent of the discovery and ensure that construction  
16 activities have halted, the area of the discovery has been clearly marked, and  
17 additional measures, as appropriate, have been implemented to protect the discovery  
18 from looting and vandalism and weather-caused damage. NPT shall notify DOE, NH  
19 SHPO, USFS, USACE, ACHP, and the appropriate federally-recognized Indian tribe,  
20 of the results of the inspection.  
21
- 22 3. Upon receipt of notification, DOE, as appropriate, shall consider the discovery in  
23 accordance with Stipulations III, IV and V.  
24
- 25 4. If a discovered cultural resource is subsequently identified by a federally-recognized  
26 Indian tribe as a historic property of traditional religious and cultural importance,  
27 consultation on a government-to-government basis with the appropriate federally-  
28 recognized Indian tribe(s) will occur in accordance with Stipulation X.  
29

30 C. Treatment of Human Remains.  
31

- 32 1. If a discovery contains human remains, funerary objects, or objects of cultural  
33 patrimony, NPT shall notify the county medical examiner as well as NH SHPO,  
34 DOE, USFS, USACE, and any appropriate federally-recognized Indian tribes.  
35
- 36 a. If the discovery occurs on land included in the WMNF, any activity in the area  
37 will cease under 43 C.F.R. § 10.4. NPT must provide immediate telephone  
38 notification of the inadvertent discovery, with written confirmation, to the WMNF  
39 Forest Supervisor, DOE, USFS, USACE, ACHP and NH SHPO. The Forest  
40 Supervisor will consult with federally-recognized Indian tribes and a NAGPRA  
41 POA will be developed before any Native American human remains, funerary  
42 objects, or objects of cultural patrimony are removed.  
43
- 44 b. If the discovery does not occur on federal land, NPT shall comply with  
45 Stipulation IX.B and applicable NH state and local laws.  
46

- 1 2. At all times, human remains must be treated with the utmost dignity and respect.  
2 Suspected human remains shall not be further disturbed or removed until disposition  
3 has been determined by the appropriate authority and NPT has notified NH SHPO,  
4 DOE, USFS, USACE, and any appropriate federally-recognized Indian tribes about  
5 the disposition determination.  
6
- 7 3. NPT shall follow the additional guidance and the provisions of applicable federal,  
8 state, and local laws as listed below, and the NAGPRA POA for those portions of the  
9 proposed Project on land included in the WMNF, which will be included as a stand-  
10 alone appendix to the HPTP (see Stipulation V.B). Applicable guidance and federal,  
11 state, and local laws include:  
12
- 13 a. ACHP’s February 23, 2007 *Policy Statement Regarding the Treatment of Burial*  
14 *Sites, Human Remains, and Funerary Objects*;
  - 15
  - 16 b. NH DHR’s January 2008 guidance entitled *What to Do Upon Encountering*  
17 *Human Remains*;
  - 18
  - 19 c. Section 106 regulations for addressing post-review discoveries at 36 C.F.R.  
20 § 800.13;
  - 21
  - 22 d. NAGPRA; and
  - 23
  - 24 e. New Hampshire’s Revised Statutes Annotated (“RSA”), including:  
25
    - 26 i. RSA 227-C:8 a-g, (assigning oversight and management responsibilities for  
27 unmarked burials to the State Archaeologist);
    - 28
    - 29 ii. RSA 289 (addressing cemeteries);
    - 30
    - 31 iii. RSA 290 (addressing burials and reinterments); and
    - 32
    - 33 iv. RSA 635 (addressing the alteration or removal of cemetery items).
    - 34

35 D. NPT shall ensure that the requirements of Stipulation IX are incorporated into all  
36 construction contracts.  
37

## 38 X. TRIBAL CONSULTATION

39

- 40 A. If federally-recognized Indian tribes are participating in consultation or are Invited  
41 Signatories to this PA, the following process for tribal consultation shall apply under this  
42 PA.  
43
- 44 1. Through government-to-government consultation with federally-recognized Indian  
45 tribes, pursuant to 36 C.F.R. § 800.2(c)(2), DOE, USFS, and USACE will make a  
46 reasonable and good faith effort to identify properties of traditional religious and

1 cultural importance to which one or more federally-recognized Indian tribes attach  
2 religious and cultural significance and which are within the APE for the proposed  
3 Project, and to determine whether these properties are historic properties pursuant to  
4 36 C.F.R. Part 60. Discussion of these properties may be integrated, as applicable, as  
5 a separate chapter or appendix of reports submitted for the project in accordance with  
6 Stipulations III, IV, V and IX, or submitted as a separate report. Confidentiality  
7 concerns expressed by a federally-recognized Indian tribe for properties that have  
8 traditional religious and cultural importance will be respected and will be protected to  
9 the extent allowed by law and in accordance with Stipulation VI.

- 10
- 11 2. Through government-to-government consultation with federally-recognized Indian  
12 tribes, pursuant to 36 C.F.R. § 800.2(c)(2), DOE, USFS, and USACE will make a  
13 reasonable and good faith effort to engage the federally-recognized Indian tribes in  
14 the Training Plan that is developed as a component of the HPTP (see Stipulation  
15 V.E.3).
- 16
- 17 3. Where National Forest System lands are involved, USFS will serve as the lead federal  
18 agency for government-to-government consultation with federally-recognized Indian  
19 tribes for the purposes of developing a NAGPRA POA as necessary for the proposed  
20 Project (see Stipulation V.B). Government-to-government consultation for the  
21 NAGPRA POA will be conducted in accordance with 43 C.F.R. Part 10 and  
22 consistent with the ACHP's February 23, 2007 *Policy Statement Regarding the*  
23 *Treatment of Burial Sites, Human Remains, and Funerary Objects* and NH DHR's  
24 January 2008 guidance entitled *What to Do Upon Encountering Human Remains*.
- 25
- 26 B. If a federally-recognized Indian tribe elects to participate, any new information provided  
27 by or of concern to that federally-recognized Indian tribe will be incorporated consistent  
28 with Stipulations VIII and IX, as appropriate.
- 29
- 30 C. If no federally-recognized Indian tribes are participating in consultation or are Invited  
31 Signatories to this PA, consultation shall occur through engagement with NH SHPO, VT  
32 SHPO, and other Consulting Parties, as appropriate, under this stipulation, and through  
33 opportunities for public involvement as identified in this PA.
- 34

## 35 **XI. MONITORING AND REPORTING**

- 36
- 37 A. Quarterly following the execution of this PA until construction is complete and every six  
38 months thereafter until the terms of this PA are fulfilled, unless otherwise directed by  
39 DOE, NPT shall submit a written Progress Report, describing progress on  
40 implementation of the terms of this PA and construction of the proposed Project.
- 41
- 42 B. NPT shall submit quarterly (or bi-annual) Progress Reports, in accordance with  
43 Stipulation II.E, to DOE. DOE will distribute the Progress Reports to USFS, USACE,  
44 ACHP, NH SHPO, and VT SHPO in accordance with Stipulation II.F.
- 45
- 46 C. At a minimum, the Progress Reports submitted shall contain:

- 1
- 2 1. A summary of construction completed and underway during the reporting period and
- 3 a description of the location of this work, including appropriate maps and figures, and
- 4 any updates or revisions to the proposed construction schedules;
- 5
- 6 2. An update and summary of cultural resources work completed during the reporting
- 7 period and proposed for the next reporting period;
- 8
- 9 3. If treatment measures are implemented during the reporting period as part of
- 10 implementing the HPTP, a description of the treatment measures that NPT has
- 11 implemented, the schedule for completion of treatment measures, and any issues
- 12 affecting treatment that have occurred during the reporting period or are anticipated
- 13 during the upcoming reporting period;
- 14
- 15 4. A summary of the treatment of any post-review discoveries pursuant to Stipulation
- 16 IX;
- 17
- 18 5. A summary of any non-treatment related issues encountered affecting implementation
- 19 of this PA; and
- 20
- 21 6. A summary of any disputes addressed pursuant to Stipulation XIII.
- 22
- 23 D. DOE, USFS, USACE, NH SHPO, and VT SHPO will have 15 days from receipt of
- 24 NPT's Progress Report to provide any comments on or questions about the Progress
- 25 Report to DOE. Based on the comments/questions received, DOE, in consultation with
- 26 NH SHPO, VT SHPO, USFS, and USACE, may require NPT to revise the Progress
- 27 Report, or otherwise address the comments and/or questions. NPT shall submit the
- 28 revised Progress Report (clean and tracked changes versions) to DOE. If NPT's revisions
- 29 are sufficiently substantive, DOE may request a second 10-day review from USFS,
- 30 USACE, NH SHPO, and VT SHPO to confirm that comments have been appropriately
- 31 addressed. DOE will consider the Progress Report complete when DOE, in consultation
- 32 with NH SHPO, VT SHPO, USFS, and USACE, determines that NPT has considered all
- 33 comments and revised as appropriate.
- 34
- 35 E. Upon determining that NPT has considered all comments/questions and revised the
- 36 Progress Report as appropriate, DOE will distribute the final Progress Report, in
- 37 accordance with Stipulation II.F, to USFS, USACE, NPS, ACHP, NH SHPO, and VT
- 38 SHPO. NPT will also provide DOE with a copy of the final Progress Report prepared in
- 39 accordance with Stipulation VI. In accordance with Stipulations II.F, II.G, and VI, DOE
- 40 will notify Consulting Parties of the Progress Report, will make the copy of the Progress
- 41 Report prepared in accordance with Stipulation VI available through the Consulting Party
- 42 Website, and will notify Consulting Parties of its availability.
- 43
- 44 F. NPT shall notify DOE, NH SHPO, VT SHPO, USFS, USACE, NPS, and ACHP in
- 45 writing when construction activities for the proposed Project are complete. DOE will

1 notify Consulting Parties that construction activities for the proposed Project have been  
2 completed in accordance with Stipulations II.F and II.G.  
3

## 4 **XII. COMMUNICATION**

- 5
- 6 A. All Signatories, Invited Signatories, and Concurring Parties to this PA will name a  
7 primary point of contact (“POC”) and an alternate POC for the duration of this PA. All  
8 Consulting Parties participating in Section 106 consultation for the proposed Northern  
9 Pass project will name a primary POC and an alternate POC, if representing an  
10 organization or government agency,<sup>10</sup> for the duration of this PA.  
11
- 12 B. DOE will maintain the list of POCs, which will comprise the Official Email Distribution  
13 List (“Official EDL”) in accordance with paragraph C.  
14
- 15 1. It is the responsibility of each Signatory, Invited Signatory, and Concurring Party to  
16 this PA and of each Consulting Party participating in this Section 106 consultation to  
17 immediately inform DOE of any change in contact information (e.g., email address,  
18 POC). POC contact information may be updated as needed without an amendment to  
19 this PA.  
20
- 21 2. The Consulting Party List will identify the Consulting Parties by primary POC for  
22 those representing a government agency or organization and will be aggregated by  
23 town for individuals not representing a government agency or organization (without  
24 contact information). DOE will continue to make the Consulting Party List available  
25 to Consulting Parties through the Consulting Party Website and DOE will update the  
26 Consulting Party List as appropriate.  
27
- 28 C. Section 106 Consultation Communications and Notifications  
29
- 30 1. Electronic mail (email) will serve as the distribution method for all written official  
31 communications and notifications from DOE, including notifications, regarding this  
32 PA and its provisions, unless otherwise stated in this PA.  
33
- 34 2. Official communication will be through the Official EDL.  
35
- 36 a. For the duration of this PA, all official communication to Consulting Parties  
37 participating in this Section 106 consultation will be through each Consulting  
38 Party’s primary POC identified on the Consulting Party List.  
39
- 40 b. The Official EDL is how DOE will communicate with Consulting Parties and will  
41 be the way in which all Consulting Parties will continue to receive official Section

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<sup>10</sup> If any federally-recognized Indian tribes later participate in this consultation, the federally-recognized Indian tribe shall also identify a primary and alternate POC. The federally-recognized Indian tribe and its primary POC will be included in the Consulting Party List (see paragraph 2).

1 106 consultation process-related information and notices from DOE; Consulting  
2 Party contact information, including email addresses, will not be disclosed.  
3

4 c. The Official EDL will be maintained by DOE in accordance with Stipulation  
5 XII.B.  
6

7 3. Written communications and notifications from other parties to this PA, Consulting  
8 Parties, or the public regarding this PA and its provisions may be through email  
9 (preferred) or hard copy sent via common carrier (e.g., USPS, FedEx, UPS), unless  
10 otherwise specified in this PA.  
11

12 4. Other non-official communication among and between Consulting Parties under the  
13 terms of this PA may be in person, in writing, and/or by phone.  
14

### 15 **XIII. DISPUTE RESOLUTION** 16

17 For all disputes regarding this PA, the following will apply:  
18

19 A. **Objections:** If any Signatory, Invited Signatory, or Concurring Party to this PA objects  
20 in writing to DOE regarding any action carried out or proposed with respect to this PA or  
21 to implementation of this PA, DOE shall determine whether the objection warrants  
22 suspension of related activities until the objection is resolved. To resolve the objection,  
23 DOE will first consult with the objecting Signatory, Invited Signatory, or Concurring  
24 Party within 7 days; DOE will concurrently notify the other Signatories, Invited  
25 Signatories, and Concurring Parties, thereby initiating consultation on the objection.  
26 Within 7 days of receiving notice of the objection from DOE, any other Signatory,  
27 Invited Signatory, or Concurring Party may respond in writing to the objection, with a  
28 copy to all Signatories, Invited Signatories, and Concurring Parties; this response should  
29 indicate whether the Signatory, Invited Signatory, or Concurring Party will participate in  
30 objection resolution.  
31

32 B. **Objection Resolution:** After initiating consultation on the objection and reviewing any  
33 responses to the objection, DOE shall determine within 30 days whether the objection can  
34 be resolved through consultation.  
35

36 1. If DOE determines that the objection can be resolved through consultation, DOE will  
37 establish the process and a schedule for resolution of the objection through  
38 consultation.  
39

40 2. If DOE determines that the objection cannot be resolved through consultation, it shall  
41 take the following steps:  
42

43 a. DOE shall forward all documentation relevant to the dispute, including DOE's  
44 proposed resolution, to ACHP. ACHP will have the opportunity to provide DOE  
45 with its advice on the resolution of the objection within 30 days of receiving the  
46 documentation.



1  
2 b. DOE shall make a decision on the dispute within 30 days after receiving advice  
3 from ACHP. If ACHP does not provide its advice regarding the dispute within 30  
4 days, DOE may make a final decision on the dispute and proceed accordingly.  
5

6 3. DOE's final decision on the dispute will be in writing and will include a written  
7 response that takes into account any timely advice or comments regarding the dispute  
8 from Signatories, Invited Signatories, and Concurring Parties. DOE shall provide a  
9 copy of this written response to Signatories, Invited Signatories, and Concurring  
10 Parties.  
11

12 4. Implementation of this PA will then proceed according to DOE's final decision.  
13

14 C. **Consulting Party or Public Objections:** If an objection pertaining to this PA is raised  
15 by a Consulting Party that is not a party to this PA or a member of the public at any time  
16 during implementation of the stipulations contained in this PA, DOE shall determine  
17 whether the objection warrants suspension of related activities until the objection is  
18 resolved. DOE shall notify the Signatories, Invited Signatories, and Concurring Parties  
19 and take the objection into account, and consult with the Signatories, Invited Signatories,  
20 and Concurring Parties to resolve the objection if DOE decides that such consultation is  
21 appropriate. DOE shall resolve the objection in accordance with paragraph B.  
22

23 D. **Responsibilities:** The responsibilities of each Signatory, Invited Signatory, or  
24 Concurring Party to carry out all other actions according to the terms of this PA that are  
25 not the subject of the dispute remain unchanged.  
26

27 E. **Objection Resolution Requiring Amendment:** Any resolution of an objection  
28 requiring changes to this PA will follow the amendment procedure at Stipulation XVI.  
29

30 F. **Objections Concerning Eligibility for the NRHP:** Notwithstanding the above, any  
31 objections or disputes concerning eligibility of properties for the NRHP will be resolved  
32 by the Keeper of the NRHP in accordance with 36 C.F.R. § 800.4(c)(2) and the  
33 procedures in 36 C.F.R. Part 63.  
34

#### 35 **XIV. ANTI-DEFICIENCY ACT** 36

37 DOE's obligations under this PA are subject to the availability of appropriated funds, and the  
38 stipulations of this PA are subject to the provisions of the Anti-Deficiency Act (31 U.S.C. § 1341  
39 *et seq.*). DOE shall implement the stipulations set forth in this PA through a separate funding  
40 agreement as appropriate. DOE shall make reasonable and good faith efforts to secure the  
41 necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act  
42 alters or impairs DOE's ability to implement the stipulations of this PA, DOE shall consult in  
43 accordance with the amendment and termination procedures found at Stipulation XVI and XVII.  
44

#### 45 **XV. DURATION OF THIS AGREEMENT** 46

- 1 A. This PA shall take effect on the date it has been fully executed by the Signatories and will  
2 remain in effect pursuant to this stipulation or until it expires or terminates pursuant to  
3 paragraph C or Stipulation XVII or until DOE, in consultation with the other Signatories  
4 and Invited Signatories, determines that activities associated with implementation of the  
5 proposed Project have been completed and that all terms of this PA have been fulfilled in  
6 a satisfactory manner, not to exceed 10 years, pursuant to paragraph D.  
7
- 8 B. Upon execution of this PA, DOE shall notify the Signatories, Invited Signatories, and  
9 Concurring Parties to this PA of its execution and DOE shall, in coordination with USFS,  
10 USACE, NH SHPO, and VT SHPO, ensure that NPT implements the stipulations of this  
11 PA in lieu of the procedures set forth in 36 C.F.R. §§ 800.4 through 800.6. In accordance  
12 with Stipulations II.F and II.G, DOE will notify Consulting Parties that the PA has been  
13 executed, will make the executed PA available through the public Section 106  
14 Consultation Page, and will notify Consulting Parties of its availability.  
15
- 16 C. **Duration:** This PA will expire if construction for the proposed Project has not been  
17 initiated or the stipulations of this PA have not been initiated within 3 years from the date  
18 of its execution. Upon such expiration, and prior to work continuing on the proposed  
19 Project, DOE must either (a) execute a new agreement pursuant to 36 C.F.R.  
20 § 800.14(b)(3), (b) revert to and proceed at the appropriate point of the phased process  
21 for identification and evaluation directly under 36 C.F.R. §§ 800.4, 800.5, and 800.6, or  
22 (c) if identification and evaluation are complete, request, take into account, and respond  
23 to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to the expiration date,  
24 DOE may consult with the other Signatories, Invited Signatories, and Concurring Parties  
25 to reconsider the terms of this PA and amend this PA in accordance with Stipulation XVI.  
26 DOE shall notify the Signatories, Invited Signatories, and Concurring Parties within 30  
27 days as to the course of action DOE will pursue.  
28
- 29 D. **Duration/PA Fulfilled:** Upon a determination by DOE, in consultation with NH SHPO,  
30 VT SHPO, USFS, USACE, and ACHP, that all terms of this PA and any subsequent  
31 agreements have been fulfilled in a satisfactory manner, DOE will notify the Signatories,  
32 Invited Signatories, and Concurring Parties in writing of DOE's determination and this  
33 PA will terminate and have no further force or effect on the day that DOE so notifies the  
34 Signatories, Invited Signatories, and Concurring Parties. DOE, in coordination with  
35 ACHP, will notify Consulting Parties that the terms of the PA have been fulfilled.  
36

## 37 XVI. AMENDMENTS TO THIS AGREEMENT

- 38
- 39 A. Only Signatories and Invited Signatories who sign the PA may amend this PA. Requests  
40 from Signatories or Invited Signatories to amend the PA shall be in writing to the other  
41 Signatories and Invited Signatories.  
42
- 43 B. This PA may be amended after a 30-day review and consultation among the Signatories  
44 and Invited Signatories to this PA, if the amendment is agreed to in writing by all  
45 Signatories and Invited Signatories who have signed this PA.  
46

- 1 C. Any amendments to this PA shall take effect on the date that a copy of the amended PA  
2 signed by all of the Signatories and Invited Signatories that have signed this PA is filed  
3 by DOE with ACHP. DOE will notify Consulting Parties of amendments to the PA, in  
4 accordance with Stipulations II.F and II.G, will make the executed amended PA available  
5 through the public Section 106 Consultation Page, and will notify Consulting Parties of  
6 its availability.  
7
- 8 D. **Addition of Federal Agencies:** At any time after the effective date of this PA, additional  
9 federal agencies with a consultative role in accordance with 36 C.F.R. § 800.2(a) or 36  
10 C.F.R. § 800.2(c) that did not participate in DOE’s Section 106 consultation that resulted  
11 in this PA may request of DOE to be considered a Consulting Party for purposes of this  
12 PA. Such federal agencies that have an undertaking related to the proposed Project may  
13 become Signatories, Invited Signatories, or Concurring Parties to this PA, as appropriate,  
14 through the amendment process set forth in paragraphs A-C.  
15
- 16 E. **Addition of Federally-Recognized Indian Tribes:** Any federally-recognized Indian  
17 Tribe, that attaches religious and/or cultural significance to historic properties that may  
18 be affected by the undertaking and that did not participate in consultation to develop this  
19 PA, may request of DOE to join this PA through the amendment process set forth in  
20 paragraphs A-C.  
21
- 22 F. **Withdrawal of Federal Agencies:** Any federal agency, whether Signatory, Invited  
23 Signatory, or Concurring Party, may withdraw from this PA by sending, through an  
24 official authorized to act in this matter, written notice to all current Signatories, Invited  
25 Signatories, and Concurring Parties at least 30 days in advance of the effective date of  
26 withdrawal. The requirements contained in this PA will remain in full force and effect  
27 with respect to remaining Signatories, Invited Signatories, and Concurring Parties. If the  
28 lead federal agency withdraws from this PA, the remaining federal agencies with an  
29 undertaking shall identify a new lead federal agency to fulfill the role of the lead federal  
30 agency envisioned in the PA. This PA may be consequently amended in accordance with  
31 this stipulation and any new information related to the withdrawal shall be treated in  
32 accordance with Stipulation VIII. A federal agency with an undertaking that withdraws  
33 from this PA must separately satisfy its Section 106 responsibilities.  
34

## 35 **XVII. TERMINATION OF THIS AGREEMENT**

36

- 37 A. If any Signatory or Invited Signatory who signs this PA determines that the terms of this  
38 Agreement will not or cannot be carried out, that party shall immediately consult with the  
39 other Signatories, Invited Signatories, and Concurring Parties and make a good faith  
40 effort to develop an amendment per Stipulation XVI.  
41
- 42 B. If within 30 days an amendment cannot be reached (or such longer period as is agreed to  
43 by the Signatories and Invited Signatories who sign this PA), any Signatory or Invited  
44 Signatory who signed this PA may terminate the PA upon written notification to the other  
45 Signatories and Invited Signatories, with a copy to the Concurring Parties.  
46

1 C. In the event this PA is terminated, and to the extent feasible prior to continuing to  
2 implement the undertaking, DOE must either (a) execute a new agreement pursuant to 36  
3 C.F.R. § 800.14(b)(3), (b) revert to and proceed at the appropriate point of the phased  
4 process for identification and evaluation directly under 36 C.F.R. §§ 800.4, 800.5, and  
5 800.6, or (c) if identification and evaluation are complete, request, take into account, and  
6 respond to the comments of the ACHP under 36 C.F.R. § 800.7. DOE will notify  
7 Consulting Parties that the PA has been terminated and indicate how DOE intends to  
8 proceed with the Section 106 process.  
9

## 10 XVIII. GENERAL PROVISIONS AND SCOPE OF THIS AGREEMENT

11 A. This PA is neither intended nor shall be construed to diminish or affect in any way the  
12 right of any federally-recognized Indian tribe to take any lawful action to protect Native  
13 American graves from disturbance or desecration, to protect archaeological sites from  
14 damage, or to protect the federally-recognized Indian tribe's rights under cemetery and  
15 Native American graves protection laws or other applicable laws.  
16

17 B. This PA in no way restricts any Signatory or Invited Signatory from participating in any  
18 activity with other public or private agencies, organizations, or individuals, except as  
19 provided for in Stipulation VI. This PA will be subject to, and will be carried out in  
20 compliance with, all applicable laws, regulations, and other legal requirements.  
21

22 C. **Sovereign Immunity:** No federal, state, or tribal government waives sovereign or  
23 governmental immunity by entering into this PA, and all retain immunities and defenses  
24 provided by law with respect to any action based on or occurring as a result of the PA.  
25

26 D. **Severability:** Should any portion of this PA be judicially determined by a court  
27 established by Article III of the U.S. Constitution to be illegal or unenforceable, the  
28 remainder of the PA shall continue in full force and effect, and any Signatory or Invited  
29 Signatory may initiate consultation to consider the renegotiation of the term(s) affected  
30 by the severance in accordance with Stipulation XVI.  
31

32 E. **Assumption of Risk of Liability:** Each Signatory and Invited Signatory to this PA  
33 assumes the risk of any liability arising from its own conduct. Each Signatory and  
34 Invited Signatory agrees they are not obligated to insure, defend, or indemnify any other  
35 Signatory or Invited Signatory to this PA. Nothing in this stipulation modifies any  
36 person's ability under the Administrative Procedure Act (5 U.S.C. §§ 551-559) or the  
37 NHPA to bring an action or suit related to this undertaking or this PA.  
38  
39

40 **EXECUTION** of this PA by the Signatories and subsequent implementation of the stipulations  
41 provided herein evidences that DOE, USFS and USACE have taken into account the effects of  
42 this undertaking and the proposed Project on historic properties and afforded ACHP an  
43 opportunity to comment on those effects in compliance with Section 106.  
44

45 Each of the undersigned certifies that he or she has full authority to bind the party that he or she  
46 represents for purposes of entering into this PA.

**SIGNATORY PARTIES**

**U.S. Department of Energy**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**New Hampshire State Historic Preservation Officer**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**Vermont State Historic Preservation Officer**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**Advisory Council on Historic Preservation**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**INVITED SIGNATORY PARTIES**

**United States Forest Service – White Mountain National Forest**

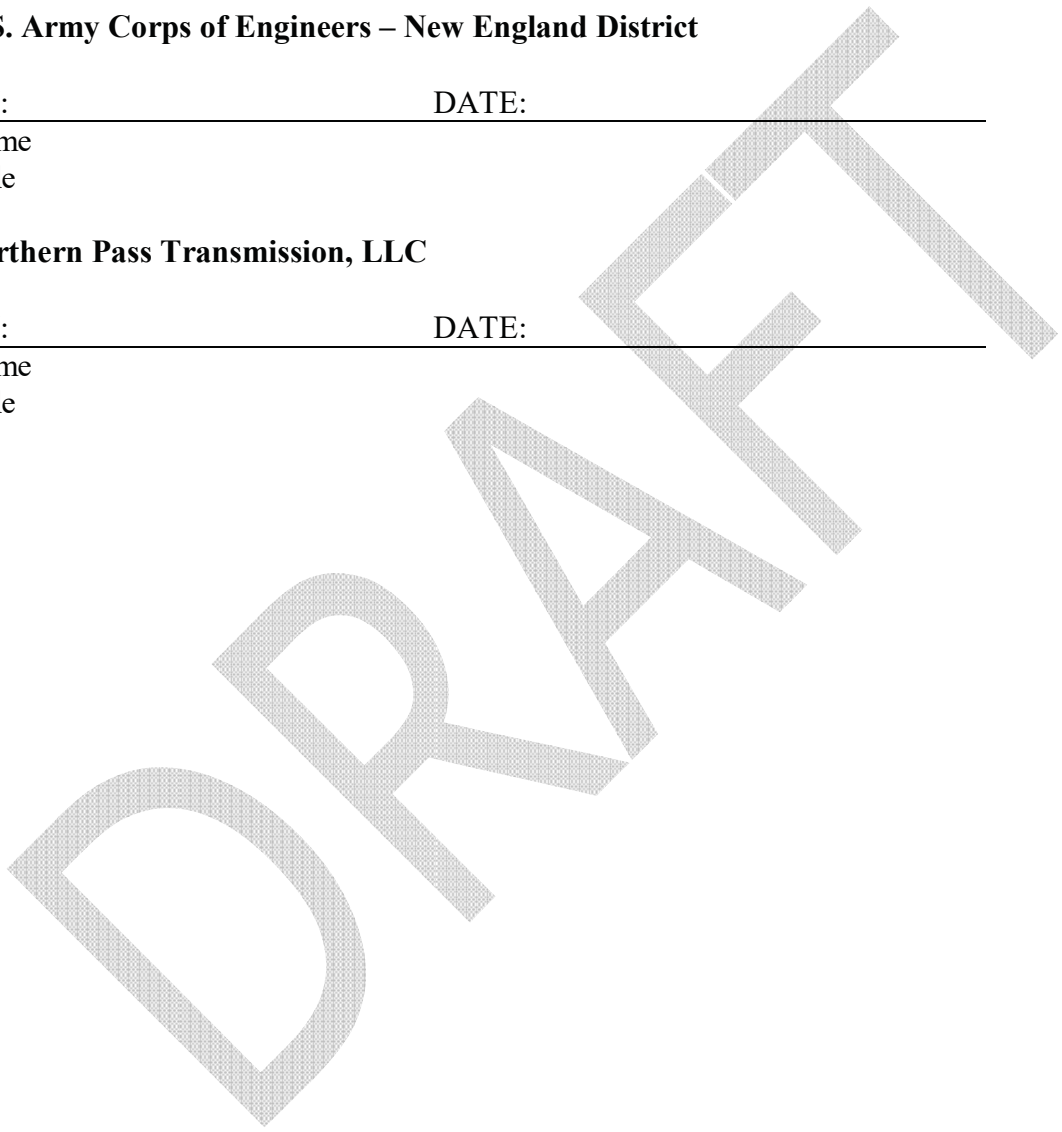
BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**U.S. Army Corps of Engineers – New England District**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**Northern Pass Transmission, LLC**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title



**CONCURRING PARTIES**

**U.S. Department of the Interior – National Park Service**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**[Concurring Party]**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

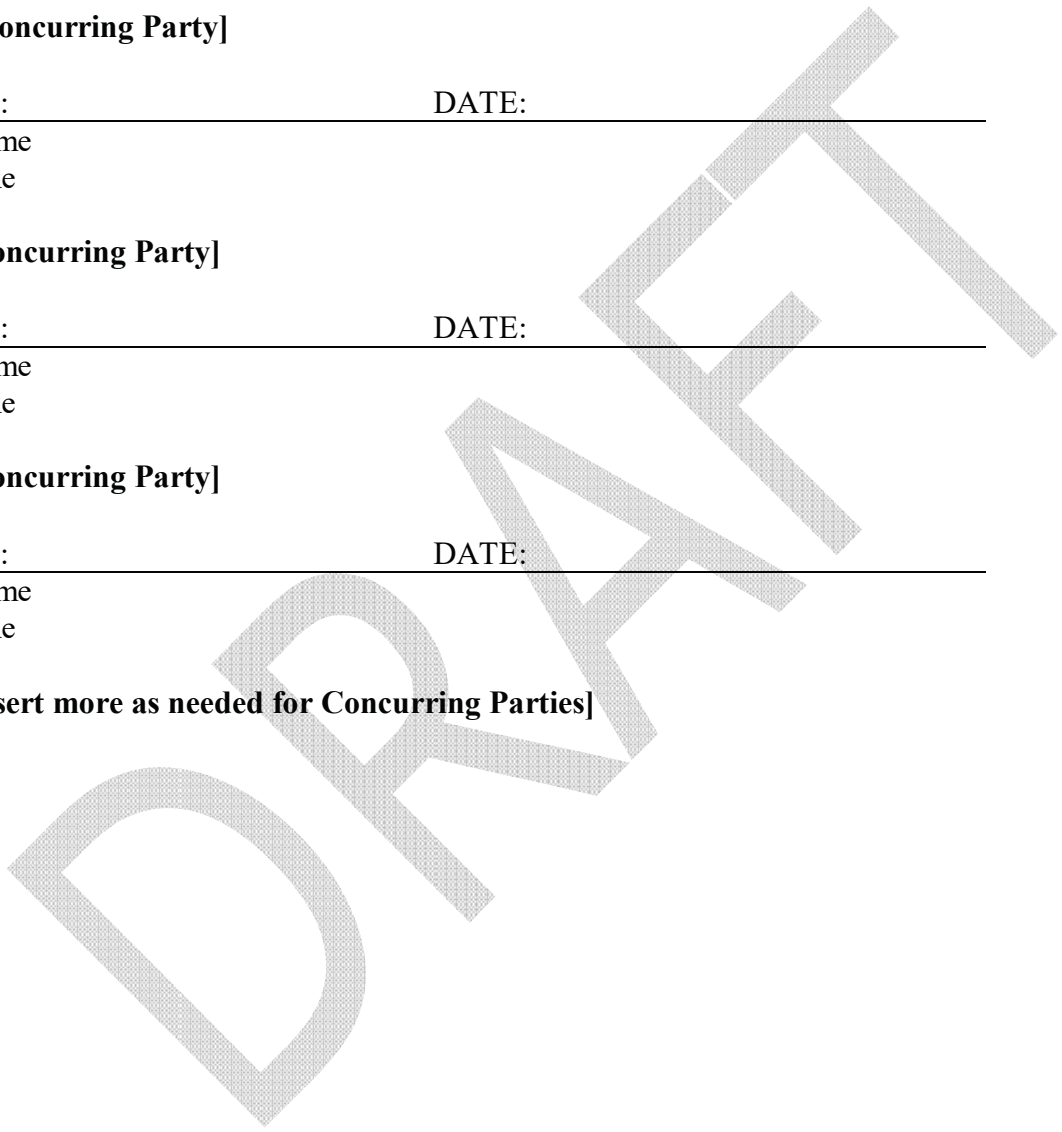
**[Concurring Party]**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**[Concurring Party]**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Name  
Title

**[insert more as needed for Concurring Parties]**



**ATTACHMENTS**

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**Attachment 1** Description of the Area of Potential Effects for the Proposed Northern Pass Project

**Attachment 2** Maps of the Area of Potential Effects for the Proposed Northern Pass Project

**Attachment 3** Completed Identification Investigations for Historic Properties in New Hampshire and Vermont

**Attachment 4** List of Consulting Parties for the Proposed Northern Pass Transmission Project

DRAFT



**Attachment 1**

Description of the Area of Potential Effects for the Proposed Northern Pass Project

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**METHODOLOGY**

DOE’s methodology for defining the area of potential effects (APE) is based on the implementing regulations for Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA): 36 C.F.R. Part 800 – Protection of Historic Properties; available at <http://www.achp.gov/regs-rev04.pdf>. Specifically, DOE’s methodology is consistent with 36 C.F.R. §§ 800.4(a)(1) and 800.4(b)(2).

36 C.F.R. § 800.4(a)(1) requires DOE, in consultation with the State Historic Preservation Officer (SHPO), to determine and document the APE, which, as defined in 36 C.F.R. § 800.16(d), is:

“...the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The [APE] is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”

The direct APE for identifying terrestrial historic properties and below grade archaeological resources was based on the width of the existing PSNH overhead electric transmission ROW and the width of the new ROW identified in the proposed Project 2015 Amended Application, the area extending away from the edge of pavement on both sides of existing roads, within which portions of the proposed Project may be buried, and the footprints of access roads, laydown areas, and the new converter station. The direct APE also includes those areas outside of the ROW that may be impacted by construction or improvement of access roads, material and equipment storage areas, or any other physical disturbance necessary during construction of the proposed Project.

The indirect APE was determined based on NH DHR guidance. During consultation with NH DHR early in DOE’s planning process for Section 106, NH DHR directed DOE to *Cultural & Historic Resources Survey Requirements for Wind Farm Development Projects* (<http://www.nh.gov/nhdhr/review/windfarm.htm>) for guidance in establishing an indirect APE. The information for establishing an indirect APE in this guidance, along with an example of a project area form (PAF) prepared for a wind farm in the Town of Antrim, was evaluated by DOE.

- NH DHR guidance for wind farm projects requires an indirect APE for wind farms that is defined as a three-mile radius around wind farms for architectural surveys and the further identification of all properties previously listed, or determined eligible for listing, in the NRHP within a five-mile radius of a wind farm project.
- The example PAF for the wind farm was for a project with wind turbines that were as much as 500 feet high, such that the required three-mile radius could reasonably be considered an Indirect APE that extends approximately one mile away from a project, such as a wind farm or transmission line, for every 166 feet of height for a project’s components (a wind turbine or transmission line/tower, respectively).

1  
2 Following this analytical basis, the rationale for a one-mile indirect APE is appropriate because  
3 the tower heights proposed for the Northern Pass project are expected to be less than 166 feet  
4 high.

5  
6 Consistent with 36 C.F.R. §§ 800.4(a)(1) and 800.4(b)(2) and guidance recommended by NH  
7 DHR, DOE developed an APE to conduct initial identification investigations to identify cultural  
8 resources for the proposed Project, given:

- 9 (a) the size of the proposed Project (the approximately 192 mile length of the project and the  
10 typical height of transmission line towers, which were defined as no more than 155 feet  
11 in height);  
12 (b) the restricted access for the proposed Project; and  
13 (c) the NH state siting process, which is separate from DOE's Section 106 process.  
14

### **APE MILESTONES**

15  
16  
March 21, 2013 DOE, in consultation with NH SHPO, USFS, and USACE determined the direct and indirect APEs for the legally defined PSNH ROW

- Direct APE: approximately 200 feet wide (or width of PSNH ROW, which varies)
- Indirect APE: approximately one mile either side of the centerline (varies with topography) of the PSNH ROW

March 28, 2013 NH SHPO concurred with definition of the direct and indirect APEs for the PSNH ROW, noting that:

- the direct APE also includes those areas outside of the PSNH ROW that may be impacted by construction or improvement of access roads, material and equipment storage areas, or any other physical disturbance necessary during construction of the proposed Project; and
- the indirect APE for assessing visual effects on historic properties is approximate because there may be some situation where the visual effects may extend somewhat beyond the one-mile limit due to local topographic and historical factors, and that visual effects shall include not only effects associated with the structures to be constructed as part of the transmission line, but also physical disturbances of current conditions, such as areas that are currently forested or otherwise vegetated that may be cleared in order to construct the transmission line.

June 2014 In-Person Consulting Party Meetings

- Consulting Parties were presented with an overview of the proposed Project, including the definition of the APE, as part of DOE's request for Consulting Party input to inform DOE's work to identify historic properties.
- Maps of the proposed Project and APE (direct/indirect) were

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available at the meeting and DOE indicated it would follow up with Consulting Parties to seek input on the definition of the APE, including review of APEs defined for the NEPA alternatives identified (at that time).<sup>1</sup>

- August 1, 2014      DOE solicited Consulting Party input/review of the APE
- DOE shared Comment Response Summaries addressing Consulting Party Comments on the APE with Consulting Parties in November 2014.
- March 19, 2015      DOE, in consultation with NH SHPO, USFS, and USACE, updated its definitions of the direct and indirect APEs for the proposed Project (see Table 1).
- April 10, 2015      NH SHPO concurred with the updated definitions of the direct and indirect APEs for the proposed Project, noting that:
- the direct APE would include those areas outside the identified ROWs that may be impacted by access roads, storage areas or other physical disturbances necessary for construction; and
  - the indirect APE would include physical disturbances of current conditions, such as areas that are currently forested or otherwise vegetated that may be cleared in order to construct the transmission line.
- September 8, 2016      VT SHPO concurred with the definition of the APE.<sup>2</sup>

**DEFINITION OF THE APE**

The direct APE was defined as the entire width of new ROW (generally 120 feet wide),<sup>3</sup> the legally defined PSNH ROW (generally 200 feet wide with variations), a 20-foot wide area extending away from the edge of pavement on both sides of existing roads, within which portions of the proposed Project may be buried (generally roadway burial of the transmission line will occur in an area eight-10 feet wide and six feet deep), and the footprints of access roads,

<sup>1</sup> DOE’s Section 106 review is a separate process from DOE’s NEPA review. As noted in WHEREAS 32, DOE is coordinating these reviews; information about historic properties and cultural resources is shared between the two processes. DOE’s Section 106 review considers the potential impacts on historic properties from NPT’s proposed Project whereas the NEPA review considers a broader range of reasonable alternatives identified through the NEPA process. For more information about the NEPA alternatives, see <http://northernpasseis.us>.

<sup>2</sup> The proposed Project’s U.S. international border crossing in Pittsburg, NH is in close proximity to the New Hampshire-Vermont border in the vicinity of Beecher’s Falls, VT. Northern Pass has not proposed any construction within the State of Vermont. A portion of the indirect APE for the proposed Project extends into the Town of Canaan in Essex County, VT. The portion of the indirect APE that crosses into Vermont is approximately 1.25 square miles (see map in Attachment 2).

<sup>3</sup> On April 24, 2017, NPT notified DOE that the width of the new ROW is 120 feet; previously the APE considered a 110 foot-ROW.

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1 laydown areas, and the new converter station. These are the areas within which direct impacts  
 2 and effects of the new underground and aboveground components on cultural resources and/or  
 3 historic properties would be considered.

4  
 5 The indirect APE was defined differently for aboveground and buried project components. For  
 6 new aboveground components of the proposed Project, the indirect APE was defined as a one-  
 7 mile wide area on either side of the centerline of clearing for new ROW and the centerline of the  
 8 legally defined PSNH ROW and a one-mile radius around new aboveground facilities. For new  
 9 buried components of the proposed Project, generally associated with burial along roads or  
 10 highways, the indirect APE was defined as an approximately 200-foot wide area extending away  
 11 from the edge of pavement on both sides of existing roads, within which architectural or built  
 12 resources are visible from the roadways. These are the areas within which indirect impacts and  
 13 effects of new ROW and new aboveground and buried project components on cultural resources  
 14 and/or historic properties would be considered.  
 15

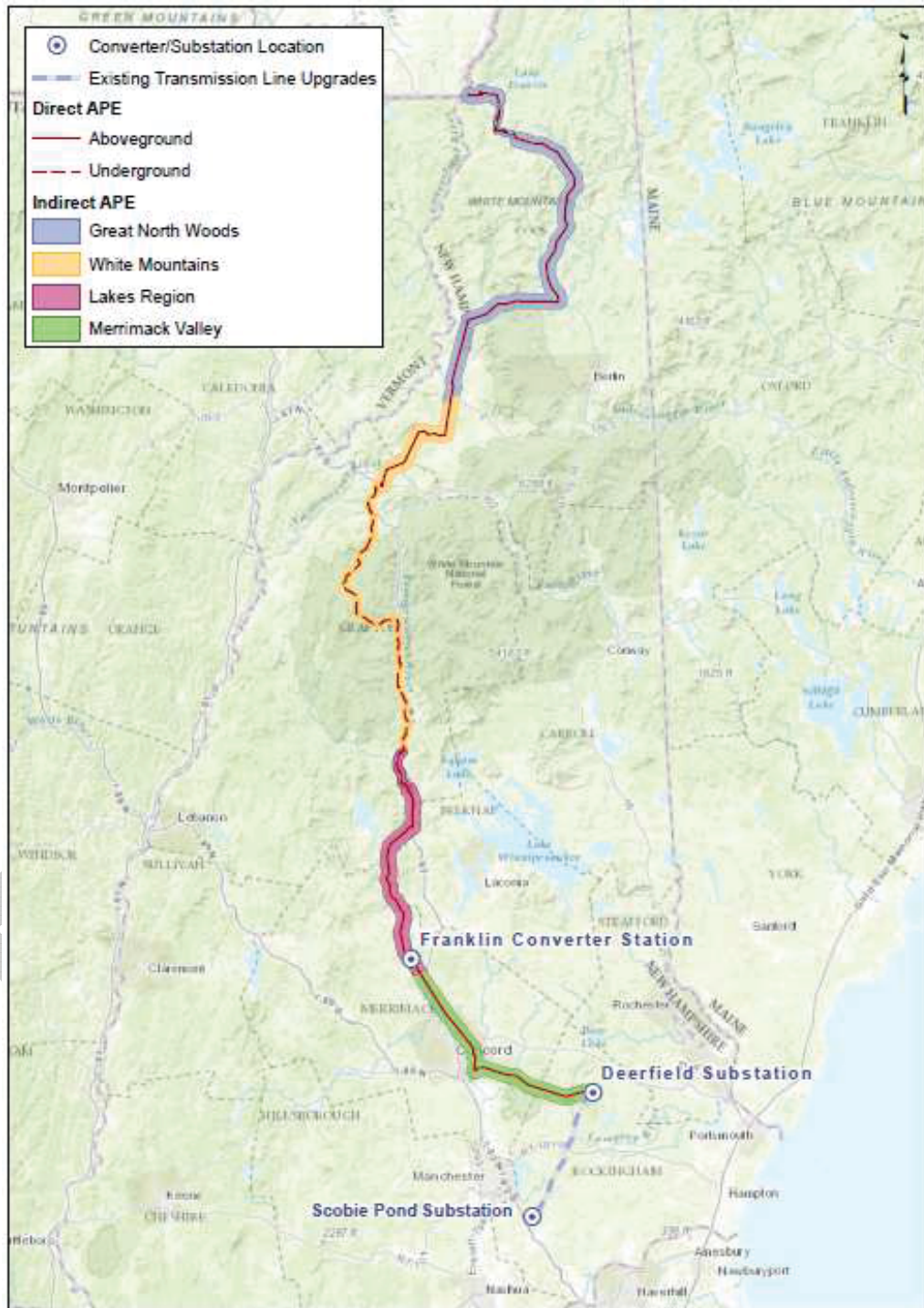
<b>Table 1</b>		
<b>Descriptions of Direct and Indirect Areas of Potential Effects for the Proposed Action<sup>1</sup></b>		
	<b>Direct APE</b>	<b>Indirect APE</b>
<b>Aboveground Components</b>	<ul style="list-style-type: none"> <li>• new clearing for new ROW (generally 120 feet wide)</li> <li>• legally defined ROW for existing PSNH transmission line (generally 200 feet wide with variations)</li> <li>• footprint of access roads and laydown areas</li> <li>• footprint of new converter and transition stations</li> </ul>	<ul style="list-style-type: none"> <li>• one mile on either side of the centerline of new clearing for new ROW and centerline of legally defined ROW</li> <li>• one mile radius around new converter and new transition stations</li> </ul>
<b>Buried Components</b>	<ul style="list-style-type: none"> <li>• 20-foot wide area extending away from the edge of pavement on both sides of existing roads in which portions of the project may be buried; roadway burial disturbance areas (generally eight-10 feet wide and six feet deep)</li> </ul>	<ul style="list-style-type: none"> <li>• 200 feet from edge of pavement on both sides of existing roads</li> </ul>
<sup>1</sup> The direct and indirect APEs for the proposed Project were initially determined by DOE in consultation with NH SHPO, and subsequently amended for the new transmission corridor required in the northern section of the proposed Project.		

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Attachment 2

Maps of the Area of Potential Effects for the Proposed<sup>1</sup> Northern Pass Project

(a) overview map

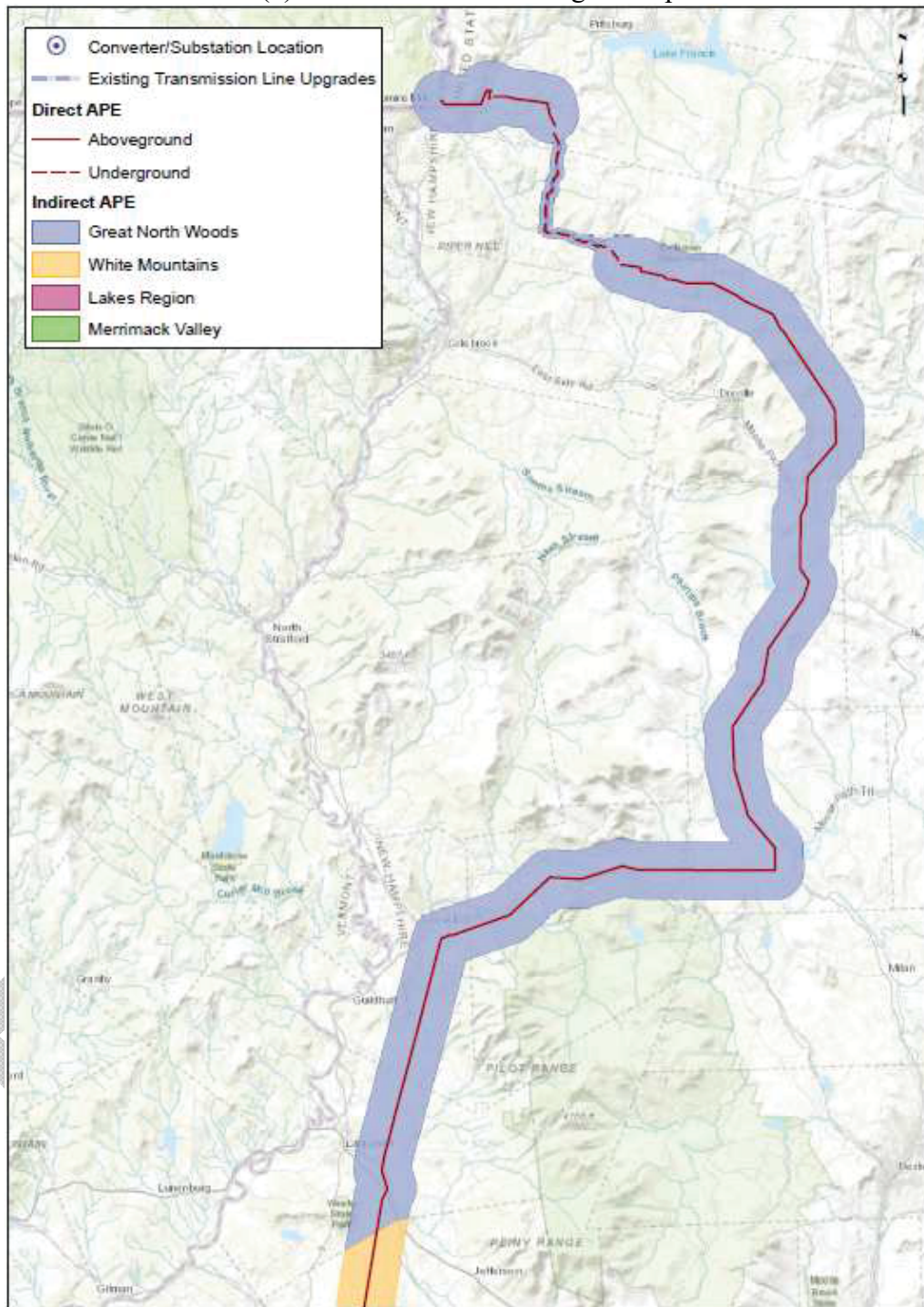


5

<sup>1</sup> These maps depict the proposed Project and APE as described in 80 Fed. Reg. 58,725.

1

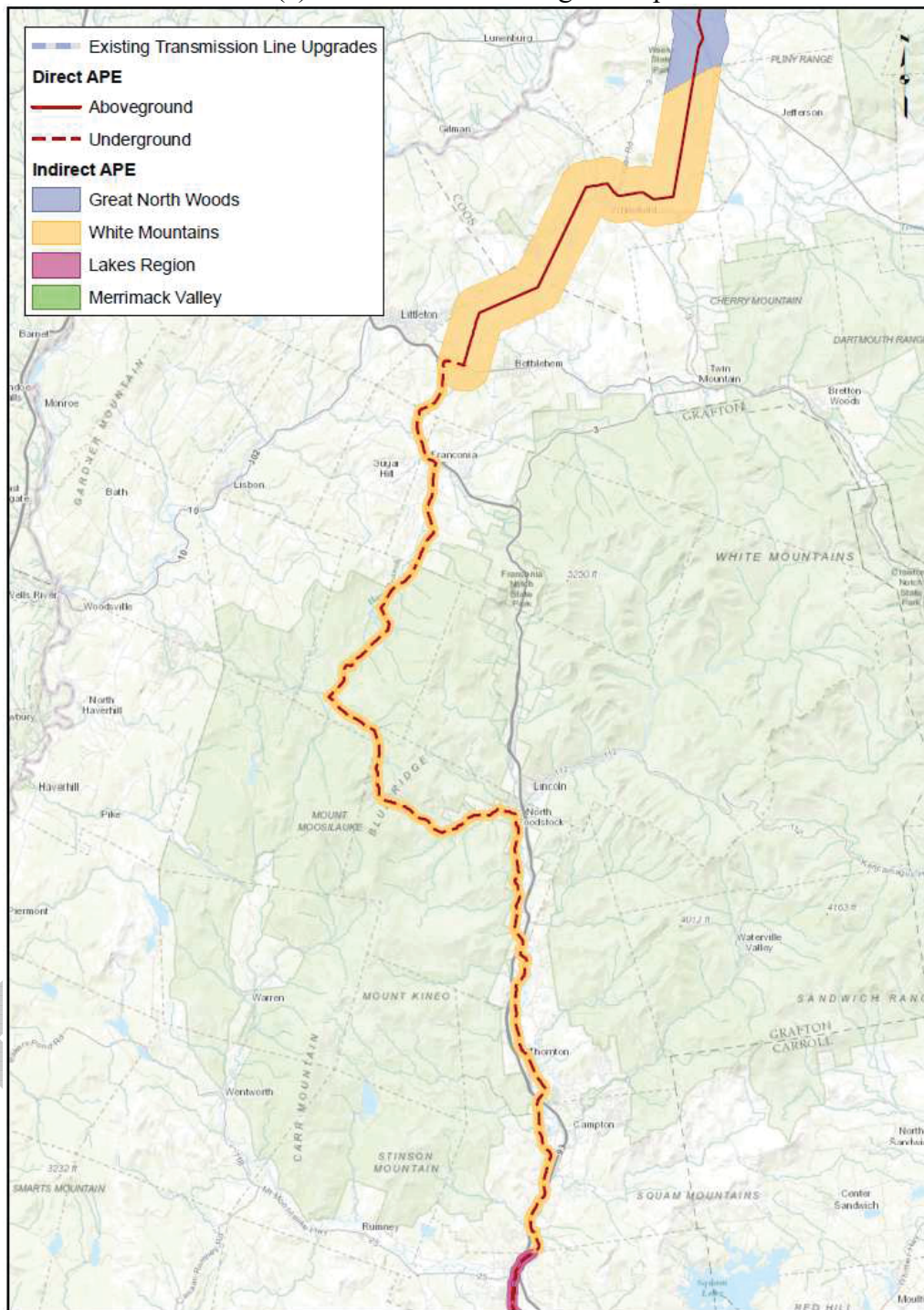
(b) Great North Woods Region map



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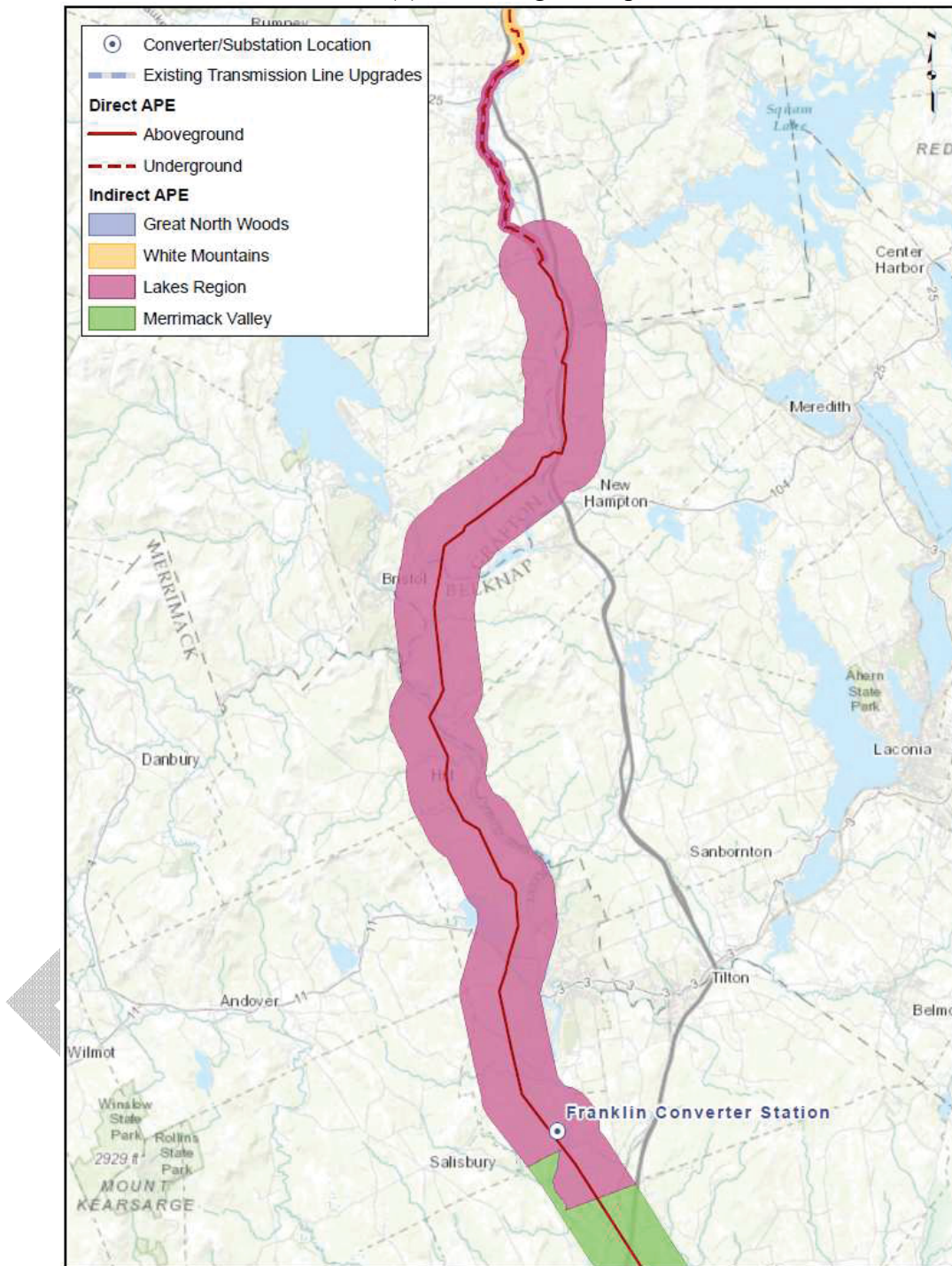
(c) White Mountains Region map



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(d) Lakes Region map

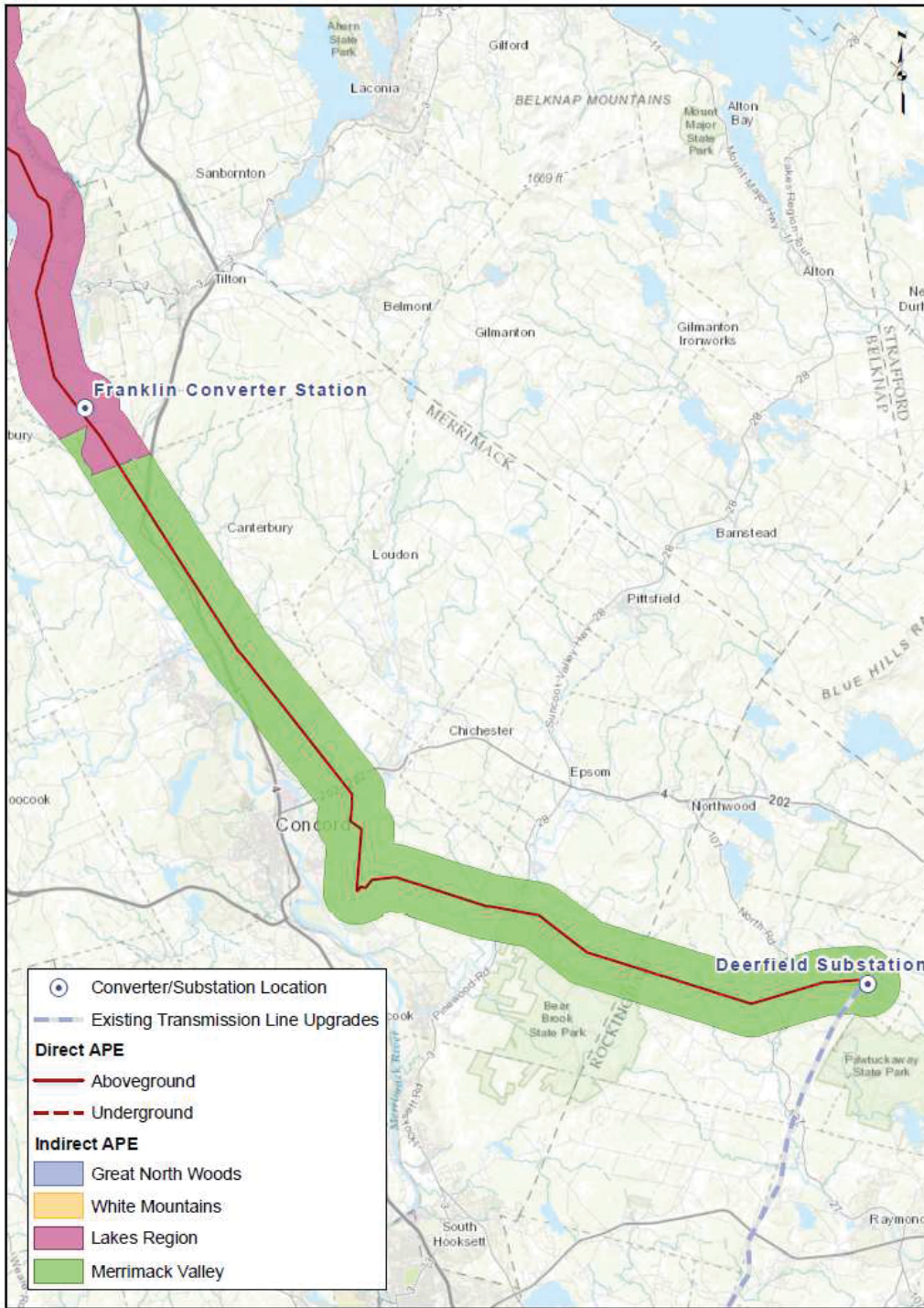


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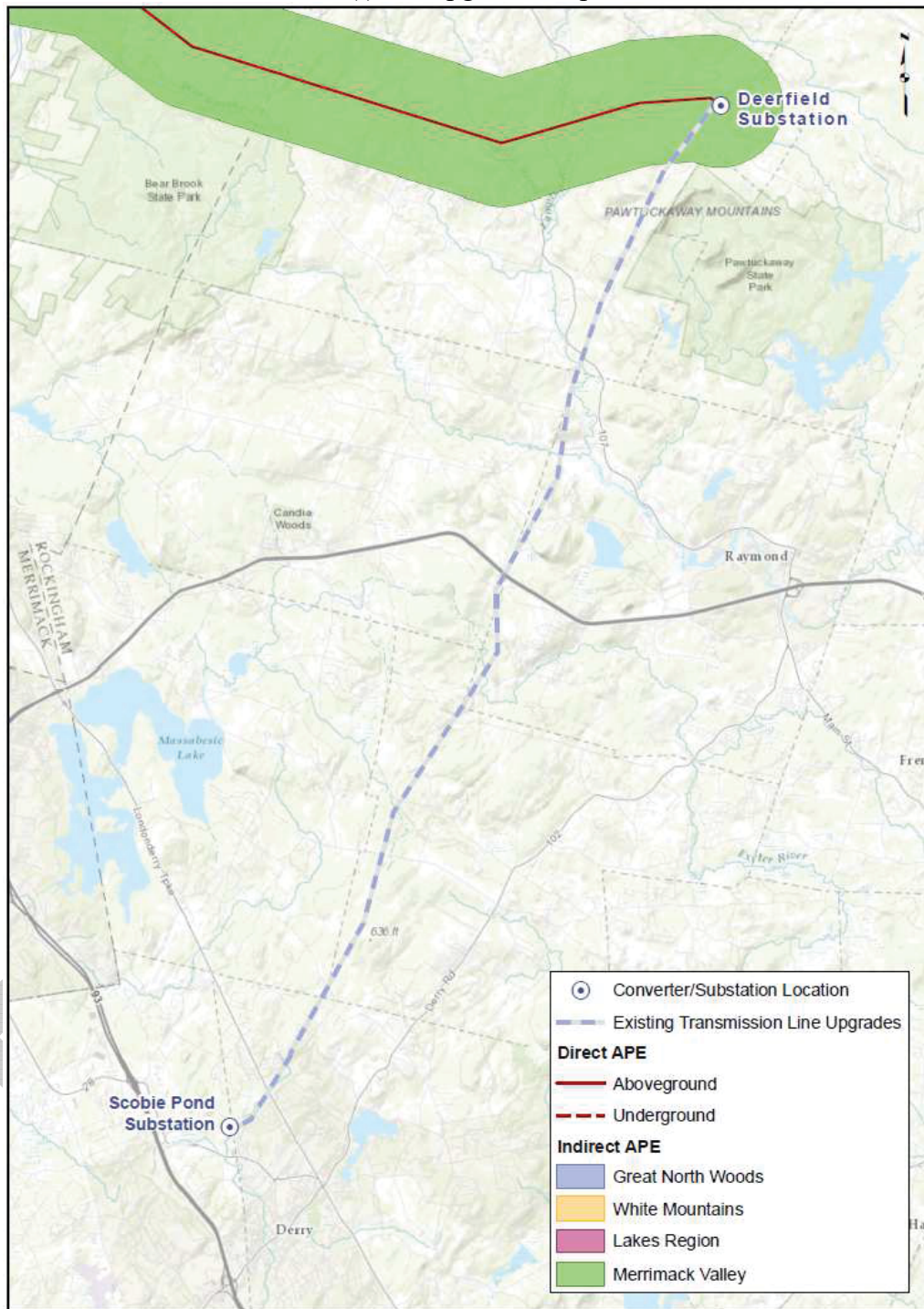
(e) Merrimack Valley Region map



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3

1

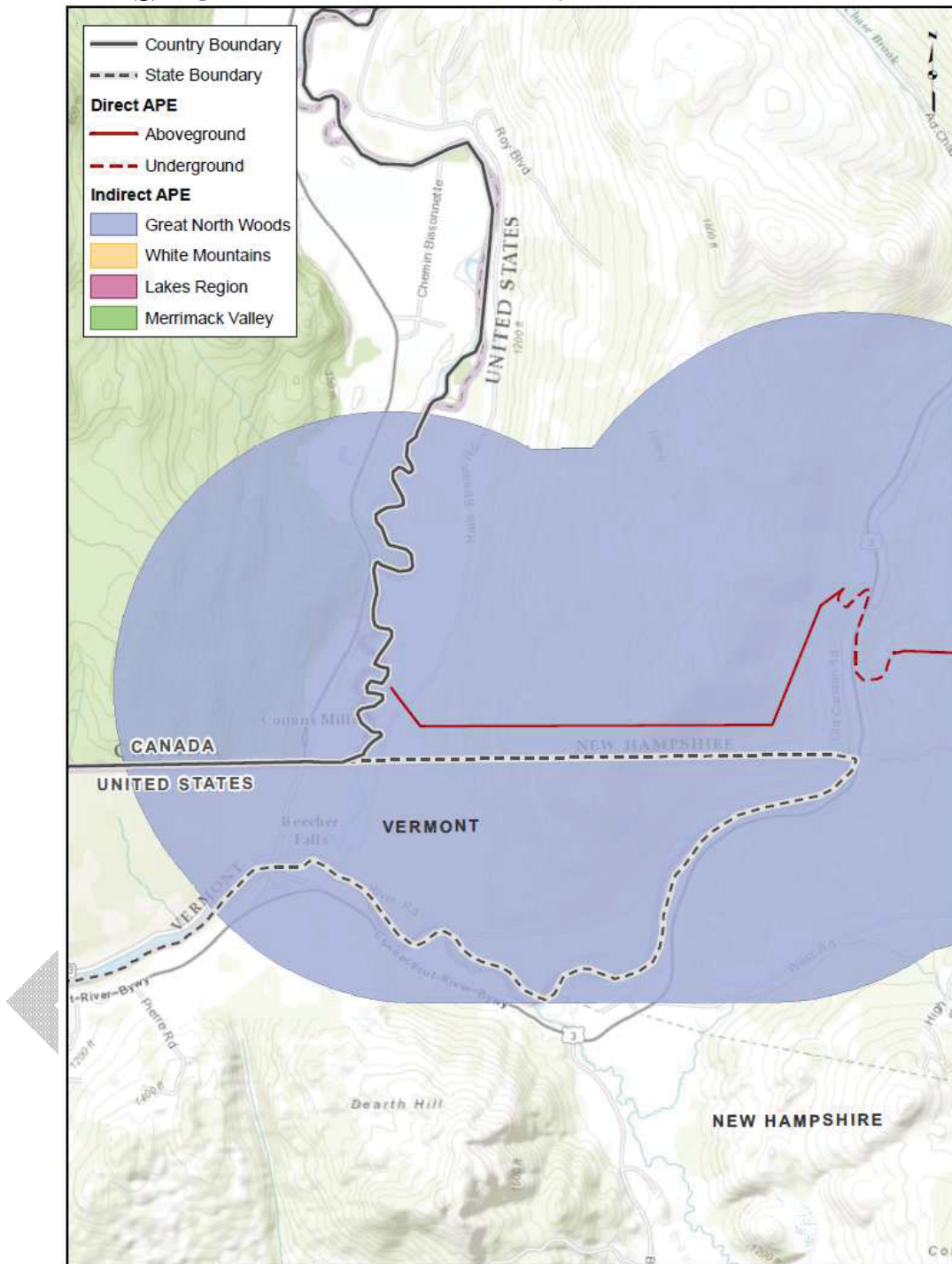
(f) AC upgrades map



2  
3

1

(g) map of the indirect APE in the vicinity of Beecher's Falls/Canaan, VT



2

**Attachment 3**  
Completed Identification Investigations  
For Historic Properties in New Hampshire and Vermont

---

**SUMMARY OF DOE IDENTIFICATION WORK**

- Conducted Phase IA archaeological investigations in NH for the proposed Project, which noted previously and newly identified archaeological sites in the direct APE and made recommendations regarding the need for additional Phase IB archaeological investigations in specific locations of the direct APE to complete the identification of archaeological resources in the direct APE. NH DHR reviewed DOE’s Phase IA archaeological investigation reporting and concurred with the results, conclusions, and recommendations of the Phase IA archaeological investigations for the proposed Project.
- Developed project area forms (PAFs) for the portions of the proposed Project’s indirect APE in NH, which noted previously and newly identified architectural or other aboveground/built resources in the indirect APE in NH and made recommendations regarding the need for additional inventory of specific resources on NH DHR’s Historic Area or Individual Inventory Forms in order to complete the identification and evaluation of architectural resources that are historic properties in NH. NH DHR reviewed DOE’s PAFs and identified specific architectural or other aboveground/built resources for further inventory on NH DHR’s Historic Area or Individual Inventory Forms and identified specific areas for study as cultural landscapes according to NH DHR’s *Cultural Landscape Study Scope of Work* for the proposed Project.
- Conducted an architectural survey of the portion of the proposed Project’s indirect APE in VT, which noted previously and newly identified architectural resources in the indirect APE in VT and made recommendations regarding the need for additional architectural investigations to complete the evaluation of architectural resources in VT for NRHP eligibility. VT SHPO completed its review, concurred with findings, and requested that the properties recommended eligible for the NRHP be fully documented on Historic Sites and Structures Survey (HSSS) forms.

Per Stipulation III of the PA, the Applicant is responsible for conducting any additional identification investigations that may be necessary in accordance with Stipulation III.<sup>2</sup>

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<sup>2</sup> DOE’s identification work does not reflect the updated information provided by NPT regarding the width of the new ROW (see footnote 3). Any additional cultural resources investigations needed as result of this change shall be conducted in accordance with the terms of this PA.

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**STATUS OF DOE IDENTIFICATION WORK**

State	Type of Investigation	Project Component	Year Completed	Report Citation	SHPO Concurrence with Results of Investigation
<b>ARCHAEOLOGICAL INVESTIGATIONS</b>					
NH	Phase IA Archaeological Investigation	Applicant's 2013 Proposed Route	2013	<i>Final Phase IA Archaeological Investigations for the Proposed Northern Pass Transmission Project, Coos, Grafton, Belknap, Merrimack, and Rockingham Counties, New Hampshire, NHDHR Project Review Number RPR-4680, September 2014.</i> Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Stefan Claesson, PhD., Jacob Freedman, and Christopher Clement of SEARCH Inc., Portsmouth, New Hampshire	September 30, 2014
NH	Phase IA Archaeological Investigation	Alternatives to the Applicant's 2013 Proposed Route <sup>3</sup>	2014	<i>Final Phase IA Archaeological Investigations for Proposed Northern Pass Transmission Project Alternatives 3, 4, 5, and 6, Coos, Grafton, Belknap, Merrimack, and Rockingham Counties, New Hampshire, NHDHR Project Review Number RPR-4680, May 2015.</i> Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jacob Freedman, Stefan Claesson, PhD., and Jessica Fish of SEARCH Inc., Portsmouth, New Hampshire	July 9, 2015
NH	Supplemental Phase IA Archaeological Investigation	Applicant's August 2015 Proposed Route <sup>4</sup>	2015	<i>Supplemental Phase IA Archaeological Investigations for the Proposed Northern Pass Transmission Project 2015 Amended Route, Grafton County, New Hampshire, NHDHR Project Review Number RPR-4680, September 2016.</i> Prepared for United States Department of Energy, Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Stefan Claesson, PhD, and Tricia Peone, PhD of SEARCH	September 22, 2016

<sup>3</sup> This work supplements DOE's work to review the Applicant's 2013 proposed route and considers the range of reasonable alternatives identified through the NEPA process. See [www.northernpasseis.us](http://www.northernpasseis.us) for more information about the NEPA alternatives.

<sup>4</sup> This work supplements DOE's work to review the Applicant's 2013 proposed route and considers only those portions of the Applicant's August 2015 Proposed Route that were not previously surveyed as part of DOE's identification work, but does not reflect updated information about the width of the new ROW (see footnote 2).

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State	Type of Investigation	Project Component	Year Completed	Report Citation	SHPO Concurrence with Results of Investigation
				Inc, Portsmouth, New Hampshire	
<b>ARCHITECTURAL INVESTIGATIONS</b>					
NH	Project Area Form	Great North Woods Region <sup>5</sup>	2013-2015	<i>Final Northern Pass Transmission Project - Great North Woods Region.</i> March 2016. Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, Tricia Peone, Jacob Freedman, Jessica Fish, and Edward Gonzales-Tennant of SEARCH, Inc., Portsmouth, New Hampshire	May 20, 2016
NH	Project Area Form	White Mountains Region	2013-2015	<i>Final Northern Pass Transmission Project – White Mountains Region.</i> March 2016. Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, Tricia Peone, Jacob Freedman, Jessica Fish, and Edward Gonzales-Tennant of SEARCH, Inc., Portsmouth, New Hampshire	April 5, 2016
NH	Project Area Form	Lakes Region	2013-2015	<i>Final Northern Pass Transmission Project – Lakes Region.</i> February 2016. Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, Tricia Peone, Jacob Freedman, Jessica Fish, and Edward Gonzales-Tennant of SEARCH, Inc., Portsmouth, New Hampshire	March 17, 2016
NH	Project Area Form	Merrimack Valley Region	2013-2015	<i>Final Northern Pass Transmission Project – Merrimack Valley Region.</i> January 2016. Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, Tricia Peone, Jacob Freedman, Jessica Fish, and Edward Gonzales-Tennant of SEARCH, Inc., Portsmouth, New Hampshire	February 19, 2016
NH	Supplemental Project Area Form	White Mountains Region <sup>6</sup>	2015	<i>Northern Pass – White Mountains (Supplement).</i> July 2016. Prepared for United States Department of	September 30, 2016

<sup>5</sup> The Great North Woods PAF does not reflect updated information about the width of the new ROW (see footnote 2).

<sup>6</sup> This work addresses only the portion of the Applicant’s August 2015 Proposed Route that was not addressed in the March 2016 Final White Mountains Region Project Area Form.

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State	Type of Investigation	Project Component	Year Completed	Report Citation	SHPO Concurrence with Results of Investigation
				Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, and Tricia Peone of SEARCH, Inc., Portsmouth, New Hampshire	
NH	Supplemental Project Area Form	Lakes Region <sup>7</sup>	2015	<i>Northern Pass – White Mountains (Supplement)</i> . July 2016. Prepared for United States Department of Energy Office of Electricity Delivery and Energy Reliability, Washington, DC. Prepared by Jenna Higgins, Stefan Claesson, and Tricia Peone of SEARCH, Inc., Portsmouth, New Hampshire	September 30, 2016
VT	Architectural Resources Survey	Canaan, VT vicinity	2016	<i>Technical Memorandum: Survey of Architectural Resources in Canaan, Essex County, Vermont</i> . February 2017. Prepared for SE Group, Frisco, Colorado. Prepared by Jenna Dunham, Tricia Peone, and Jacob Freedman of SEARCH, Inc., Portsmouth, New Hampshire	April 3, 2017

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<sup>7</sup> This work addresses only the portion of the Applicant’s August 2015 Proposed Route that was not addressed in the February 2016 Final Lakes Region Project Area Form.

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**Attachment 4**  
List of Consulting Parties  
for the Proposed Northern Pass Transmission Project

**Participating Consulting Parties**

Consulting Party Name	POC	City	State
36 C.F.R. 800.2(a)(2)			
U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, National Electricity Delivery Division	Mr. Brian Mills	Washington	DC
U.S. Army Corps of Engineers, New England District, Regulatory Division	Mr. David Keddell	Concord	MA
U.S. Department of Agriculture, U.S. Forest Service, White Mountain National Forest	Mr. Tom Wagner	Campton	NH
U.S. Department of Interior, National Park Service, Appalachian National Scenic Trail	Ms. Denise Nelson	Harpers Ferry	WV
U.S. Environmental Protection Agency, Region 1 - New England	Mr. Tim Timmerman	Boston	MA
36 C.F.R. 800.2(b)			
Advisory Council on Historic Preservation, Office of Federal Agency Programs	Ms. Charlene Dwin Vaughn	Washington	DC
36 C.F.R. 800.2(c)(1)			
NH Division of Historical Resources	Mr. Richard Boisvert	Concord	NH
VT Division for Historic Preservation	Ms. Laura Trieschmann	Montpelier	VT
36 C.F.R. 800.2(c)(3)			
NH Office of the Attorney General	Mr. Peter Roth	Concord	NH
NH House of Representatives, Committee on Science, Technology, and Energy	Mr. Larry Rappaport		
NH Commission on Native American Affairs	Mr. Robert Goodby (formerly)		
Campton Board of Selectman	Ms. Sharon Davis	Campton	NH
City of Concord, NH	Ms. Denise Pacik	Concord	NH
City of Franklin, NH	Mr. Richard Lewis	Franklin	NH
Easton Selectboard	Ms. Deborah Stever	Easton	NH
Sugar Hill Board of Selectmen	Ms. Margaret Connors	Sugar Hill	NH
Town of Bristol, NH	Mr. Michael Capone	Bristol	NH
Town of Colebrook, NH	Ms. Becky Merrow	Colebrook	NH
Town of Deerfield, NH	Mr. Michael Wright	Deerfield	NH
Town of Holderness, NH	Mr. Walter Johnson	Holderness	NH
Town of Littleton, NH	Mr. Fred Moody	Littleton	NH
Town of New Hampton, NH	Ms. Barbara Lucas	New Hampton	NH
Town of Plymouth, NH	Mr. Peter E. Martin	Plymouth	NH
Town of Thornton, NH	Ms. Nancy Decoteau	Thornton	NH
Town of Woodstock	Mr. Richard Rand	Woodstock	NH



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Consulting Party Name	POC	City	State
Township of Dixville, NH	Ms. Deborah Tillotson	Dixville	NH
36 C.F.R. 800.2(c)(4)			
Northern Pass	Mr. Mark Doperalski	Hookset	NH
36 C.F.R. 800.2(c)(5) – organizations			
Allenstown Historical Society	Mr. Armand Verville	Allenstown	NH
Ammonoosuc Conservation Trust	Mr. Douglas Evelyn	Sugar Hill	NH
Appalachian Mountain Club	Ms. Susan Arnold	Strafford	NH
Appalachian Trail Conservancy	Mr. Hawk Metheny	White River Junction	VT
Campton Conservation Commission	Mr. George Wright	Campton	NH
Campton Historical Society	Mr. George Wright	Campton	NH
Concord Heritage Commission	Mr. Robert V Johnson, II	Concord	NH
Conservation Law Foundation	Ms. Melissa Birchard	Concord	NH
Deerfield Heritage Commission	Mr. Jim Deely	Deerfield	NH
Franklin Historical Society	Ms. Annette Andreozzi	Franklin	NH
National Trust for Historic Preservation (HQ)	Ms. Elizabeth Merritt	Washington	DC
National Trust for Historic Preservation	Ms. Rebecca Harris	Boston	MA
New Hampshire Archeological Society	Mr. Karl Roenke	Laconia	NH
New Hampshire Association of Conservation Districts	Ms. Linda Brownson	Wentworth	NH
New Hampshire Preservation Alliance	Ms. Jennifer Goodman	Concord	NH
Society for the Protection of New Hampshire Forests	Mr. Will Abbott	Concord	NH
Stone Chimney, LLC	Ms. Jean Goehlem		
Sugar Hill Historical Museum	Ms. Nancy Martland	Sugar Hill	NH
Weeks Lancaster Trust of Lancaster, NH	Ms. Rebecca W. S. More	Lancaster	NH
36 C.F.R. 800.2(c)(5) – Native American groups			
Cowasuck Band of the Pennacook - Abenaki People, COWASS North America, Inc.	President Paul Pouliot Ms. Denise Pouliot	Alton	NH
Nulhegan Band of the Coosuk - Abenaki Nation	Chief Don Stevens	Shelburne	VT
36 C.F.R. 800.2(c)(5) – individuals <sup>1</sup>			
21 individuals are participating as Consulting Parties from the following communities			
1 individual		Washington	DC
1 individual		Atlanta	GA
1 individual		Westport	MA
1 individual		Mount Rainier	MD
2 individuals		Canterbury	NH
1 individual		Columbia	NH

<sup>1</sup> Participating individuals are identified by town to protect their privacy.

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<b>Consulting Party Name</b>	<b>POC</b>	<b>City</b>	<b>State</b>
1 individual		Concord	NH
2 individuals		Dalton	NH
3 individuals		Holderness	NH
1 individual		Lancaster	NH
1 individual		Littleton	NH
2 individuals		Plymouth	NH
1 individual		Stewartstown	NH
1 individual		Sugar Hill	NH
2 individuals		Easton	NH

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