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conservation law foundation

US Department of Energy

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Electricity Delivery and Energy Reliability

For a thriving New England

CLF Vermont
15 East State Street, Suite 4
Montpelier, VT 05602
P: 802.223.5992
F: 802.223.0060
www.clf.org

August 7, 2014

Via Electronic Mail (Christopher.Lawrence@hq.doe.gov)

Christopher Lawrence
Office of Electricity Delivery and Energy Reliability (OE–20)
U.S. Department of Energy
1000 Independence Avenue SW.
Washington, DC 20585

Re: TDI-New England (TDI-NE) Application for Presidential Permit for the New England Clean Power Link Project (OE Docket No. PP-400)

Dear Mr. Lawrence:

Enclosed for filing, please find two copies of Conservation Law Foundation's Comments and Motion to Intervene regarding the above-referenced matter. An electronic copy of this filing, as well as a hard copy sent via U.S. Mail, has been sent this day to Mr. Donald Jessome, General Manager of TDI-New England.

If you have any further questions, please do not hesitate to contact me.

Respectfully submitted,

Sandra Levine

Sandra Levine, Senior Attorney
Conservation Law Foundation, Inc.
15 East State Street, Suite 4
Montpelier, VT 05602
(802) 223-5992
(802) 223-0060 (fax)
slevine@clf.org

cc: Mr. Donald Jessome, General Manager, TDI-New England, P.O. Box 155, Charlotte, VT 05445, Donald.Jessome@chvtllc.com

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY,
DEPARTMENT OF ENERGY

TDI-New England
Application for Presidential Permit

OE Docket No. PP – 400

COMMENTS AND MOTION TO INTERVENE OF CONSERVATION LAW FOUNDATION REGARDING APPLICATION FOR PRESIDENTIAL PERMIT

Conservation Law Foundation ("CLF") provides the following comments and Motion to Intervene regarding the application (the "Application") by TDI-New England for a Presidential Permit for a proposed transmission project known as the Clean Power Link project (the "Project"). As described, the Project is worthy of consideration as a potential means for helping meet New England's energy needs as older, less efficient, more polluting energy sources retire. The Project provides a potential option for comparison to other transmission proposals and other energy alternatives; in particular, it would utilize underground and underwater transmission technology that helps address legitimate community concerns with new transmission towers and corridors.

Our comments below focus on several shortcomings in the Application that should be addressed as part of the U.S. Department of Energy (the "Department") review of the Application under Executive Order ("EO") 10,485, as amended by EO 12,038, and the National Environmental Policy Act ("NEPA").

I. The Application's Analysis of the Project's Impacts on the Aquatic Environment Relies on Unsupported and Conclusory Statements.

As a major infrastructure project under Lake Champlain, CLF urges the Department to take a hard look at the potential aquatic impacts of the proposed Project. Lake Champlain is a

valuable drinking water, recreation, and navigation source for the region. Aquatic impacts should be carefully evaluated, avoided, and minimized prior to awarding any permit for the Project.

The Application repeatedly states that the Project will not cause significant impacts on the aquatic environment. CLF agrees that whether and to what degree the Project will affect the aquatic environment is essential to the public interest review to be conducted by the Department in determining whether to grant a Presidential Permit. However, the Application's analysis relies on several unsupported and conclusory statements and, therefore, contains insufficient information to adequately assess the Project's impact on the aquatic environment. It is incumbent on the Department to develop this information during its review of the Project.

First, the Application inadequately addresses the impact of sediment disruption and redeposition on aquatic species. The Application states that construction activities will displace sediment along the lake floor but then concludes that the "displaced sediment will settle out, and the trench will naturally refill following the installation of the transmission cables." Application at 3-13. Not only does the Application provide no support for this assertion, it later states that redeposition could in fact change the sediment composition and that these changes "will affect the species composition of the benthic community" and will likely cause immobile species to die off if they cannot adapt to the new conditions. Application at 3-19. The Application addresses these concerns with only the unsubstantiated statement that these impacts "will neither result in population level impacts nor result in the inability of the species to survive." *Id.*

Second, the Application does not support its assertion that the estimated temperature increase at the sediment surface during Project operation will be "negligible." The Application estimates a rise in sediment temperature of 1.8 degrees Fahrenheit at the sediment surface directly above the buried cables. Application at 3-13. The Application then states that "[a]

slightly greater impact, but still negligible, will be expected in a few places where the transmission line is not buried . . ." *Id.* The Application provides no support for its statement that a temperature increase of 1.8 degrees Fahrenheit and greater will be negligible. Plants and animals rely on the existing sediment temperature, and the Applicant should investigate the temperature change's effect on species instead of relying only on the unsupported and conclusory statement that "any heat generated will still be quickly dissipated." *Id.*

Third, the Application states that there is the potential for hazardous spills during construction because each of the construction vessels contains fuel, hydraulic fluid, and other potentially hazardous materials, but downplays the risks by saying that fish will likely avoid water contaminated with hydrocarbons. Application at 3-21. This response does not address the potential impact of hydrocarbons on immobile species, drinking water quality, or recreational uses of the lake. The Application does state that the applicant has "committed to developing an emergency response plan to address these accidental spills"; however, such vague language does not instill confidence that the applicant will adequately address the impact of hazardous spills on the aquatic environment. *Id.*

Fourth, the proposed cofferdam would disrupt the sediment on which shoreland plants and animals rely, and the Application contains no assurance that these vital conditions will be restored after construction. The Application states that a 16x30 foot temporary cofferdam will be built at the offshore exit-hole location, causing approximately 119 to 179 cubic yards of sediment to be excavated from within the cofferdam. Application at 2-12. After construction the application states the area will be filled with clean sand and "restored and revegetated as appropriate to reconstruction grades and conditions to the extent practicable." *Id.* This vague

language suggests that the applicant is aware of negative impacts to the shoreland environment but is declining to commit to restoring the environment to its pre-construction condition.

The Application's inadequate analysis makes it difficult to determine the Project's true effect on the aquatic environment. All of the foregoing considerations must be addressed in the Department's NEPA and public interest analyses to determine whether and to what extent the Project will impact the aquatic environment.

II. The Application Lacks Analysis of the Environmental and Energy Implications of the Project.

According to the Application, the purpose of the Project is "[t]he delivery of clean, renewable power from the Canadian province of Québec into Vermont," in order "[t]o further the New England States' energy and environmental policy goals, diversify fuel supply in ISO-NE, lower energy prices for consumers, reduce carbon emissions in New England, improve the economic competitiveness of the New England States, and to provide economic benefits to Vermont and other New England States." Application at 2-1. However, the Application lacks support for these statements and fails to identify specific power sources, the economic terms of power delivery, or the environmental characteristics of the power sources. Moreover, the Application does not mention the significant greenhouse gas emissions associated with large-scale Canadian hydropower, which appears to be the Project's likely power source. *See, e.g.*, Conservation Law Foundation, Third Supplemental Scoping Submission, Presidential Permit Application of Northern Pass Transmission LLC (OE Docket No. PP-371), dated Feb. 14, 2012, at http://northernpasseis.us/comments/1655/. Nor does the Application address the potential economic impacts of the competition of the energy delivered by the Project with Vermont and New England energy resources.

These omissions should be corrected during the Department's review of the Project. During the Department's public interest and NEPA analyses, it will be critical for the Department to conduct a comprehensive evaluation of the environmental and economic impacts of the Project, and reasonable alternatives, on both sides of the border, including the greenhouse gas emissions associated with the power sources and the potential effects on New England-based energy resources. The Department's studies of these issues should be appropriately broad, encompassing related Project activities in Canada, the net greenhouse gas emissions impacts of the Project, the aquatic impacts discussed above, and the terrestrial impacts of the development of the underground transmission line along Vermont roads.

III. The Department Should Consider Coordinating Its Review of the Project with Its Ongoing NEPA Review of the Northern Pass Project, Through a Comprehensive EIS Addressing Common Issues.

The Application is the second pending Presidential Permit application seeking approval of an international transmission project that would deliver power from Québec to New England, together with Northeast Utilities' Northern Pass project (OE Docket No. PP-371). CLF urges the Department to study the two projects together in the first instance, consistent with its proposal to the Department for the Northern Pass permitting process. *See, e.g.*, Motion to Stay Proceedings and for Preparation of Comprehensive Assessment of Need for Imports of Canadian Energy into Northeastern United States, Presidential Permit Application of Northern Pass Transmission LLC (OE Docket No. PP-371), dated April 28, 2011, *at* http://www.northernpasseis.us/comments/1714/ ; Response to Scoping Report Alternatives Addendum, Presidential Permit Application of Northern Pass Transmission LLC (OE Docket No. PP-371), dated June 27, 2014, *at* http://www.northernpasseis.us/comments/8172/. This approach would help the Department address common issues in both proposals, such as their respective net greenhouse gas emissions

impacts, their implications for New England's energy resources, the full range of transmission and other energy alternatives to new energy imports, and the projects' potential cumulative impacts. A comprehensive Environmental Impact Statement ("EIS") consistent with CLF's proposal would allow for a study framework that could efficiently and expeditiously incorporate additional Presidential Permit applications for similar projects that may be forthcoming.

MOTION TO INTERVENE

Conservation Law Foundation ("CLF") hereby incorporates into this Motion to Intervene, as if fully set forth herein, the substance of the foregoing comments.

CLF is a non-profit, member-supported advocacy organization that works to solve the problems facing New England's environment and communities. With offices in Vermont, New Hampshire, Massachusetts, Maine, and Rhode Island, CLF has a long history of advocacy in the areas of energy and natural resources protection. CLF and its members share a concern about the impacts of this proposed Project, including but not limited to its impacts on Lake Champlain, and on climate change and energy resources in Vermont and the region.

No other party can adequately represent the interests of CLF in this proceeding. Unless permitted to intervene and participate fully in this proceeding, CLF's and its members' interests may be adversely affected by the actions and outcomes of this proceeding. It is critical, therefore, that CLF have an opportunity for its interests and concerns to be heard and considered by the Department of Energy. CLF's intervention and participation in this proceeding is in the public interest.

CLF respectfully requests it be granted intervention as a party in this proceeding.

CORRESPONDENCE & COMMUNICATIONS

Conservation Law Foundation, Inc., is a Massachusetts non-profit corporation with offices in Vermont, New Hampshire, Maine, Massachusetts, and Rhode Island. The name and principal business address of CLF is:

Conservation Law Foundation, Inc.
62 Summer St.
Boston, MA 02110-1016

All notices and other communications with respect to this proceeding should be addressed to the following:

Christopher Kilian, Esq.
V.P. and Director, CLF Vermont and Clean Water Healthy Forests
Conservation Law Foundation, Inc.
15 East State Street, Suite 4
Montpelier, VT 05602
(802) 223-5992
(802) 223-0060 (fax)
ckilian@clf.org

Dated: August 7, 2014

Respectfully submitted,

Sandra Levine

Sandra Levine, Senior Attorney
Conservation Law Foundation
15 East State Street, Suite 4
Montpelier, VT 05602
(802) 223-5992
(802) 223-0060 (fax)
slevine@clf.org

cc: Mr. Donald Jessome, General Manager, TDI-New England, P.O. Box 155, Charlotte, VT 05445, Donald.Jessome@chvtllc.com