



Department of Energy
Washington, DC 20585

February 24, 2016

John M. Fowler, executive director
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

**SUBJECT: Programmatic Agreement between the U. S. Department of Energy
and the State of Vermont for the Proposed New England Clean Power
Link Project**

Dear Mr. Fowler:

This letter responds to the January 13, 2016 letter (Attachment 1) transmitted to DOE by Ms. Charlene Dwin Vaughn, Assistant Director, Office of Federal Agency Programs, Federal Permitting, Licensing, and Assistance Section, Advisory Council on Historic Preservation (ACHP). The January 13 letter was in response to our December 01, 2015 letter (attachment 2), which was in response to the November 17, 2015 ACHP letter (attachment 3) regarding the executed Programmatic Agreement ("PA") (attachment 4) between the Vermont State Historic Preservation Officer ("VTSHPO") and the U.S. Department of Energy ("DOE") for the subject project. The January 13 letter raises four questions, which we address below.

DOE published a Final Environmental Impact Statement (EIS) for the proposed New England Clean Power Link (NECPL) project in the state of Vermont in October 2015. DOE prepared its EIS in accordance with the National Environmental Policy Act (NEPA) to evaluate environmental impacts of providing a Presidential permit to TDI-New England (TDI-NE) and to evaluate environmental impacts of the connected action of the construction, operation, maintenance, and connection of the portion of the transmission line within the United States.

As stated in the DOE February 2015 Section 106 initiation letter (attachment 5) to the VTSHPO and ACHP, "The proposed DOE action is the potential grant of a Presidential permit for the international border crossing requested by TDI-NE as part of its proposal. The Presidential Permit would not authorize construction of the 154 mile transmission line in the State of Vermont. DOE also stated in the February 2015 letter that DOE would produce a PA to comply with Section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C. 306108) and its implementing regulations, Protection of Historic Properties (36 CFR Part 800).

DOE Response to ACHP Questions:

1. How did the DOE identify and consult with other consulting parties, such as statewide preservation organizations and representatives of local governments?

DOE and its consultant contacted the BIA for tribal information concerning the State of Vermont. BIA maps indicate that there are no current tribal lands in the State of Vermont. DOE also consulted the Native American Graves Repatriation Act data base maintained by the National Park Service. The data base indicates that no tribes are affiliated with the project area. The staff at Vermont Division for Historic Preservation provided the contacts for the Stockbridge-Munsee Mohican Tribe.

On February 5, 2015, DOE's consultant provided DOE staff with a comprehensive list of contacts for Section 106 activities in Vermont and New England (attachment 6). These individuals and groups were added to the mailing list for DOE documents (draft and final EIS).

DOE sent the Section 106 initiation letter on February 6, 2015 to the VTSHPO and ACHP.

2. How did the DOE consult with federally recognized tribes which may have properties of religious and cultural significance affected by the undertaking?

DOE initiated contacts via telephone and email with the Delaware Indian Nation, the St. Regis Mohawk Tribe, the Shinnecock Indian Nation, and the Stockbridge-Munsee Community Band of Mohican Indians, all of whom were consulting parties on the earlier Chaplain Hudson Power Express Section 106 process in the State of New York. Bonney Hartley, the Tribal Historic Preservation Officer (THPO) of the Stockbridge-Munsee Community Band of Mohican Indians indicated a desire to participate in the NECPL section 106 effort.

DOE sent a letter to the Stockbridge Munsee tribe inviting the Tribe to be a consulting party, providing information about the project as well as a CD of archeological studies conducted to date.

On June 30, 2015, the Stockbridge-Munsee tribe provided a letter to DOE confirming that the project is within their cultural area of interest and that their tribe wanted to serve as a consulting party for areas that fall within Addison, Rutland, and Windsor Counties of Vermont.

The Stockbridge-Munsee Band of the Mohicans was invited to be a concurring party to the PA. The Tribe did not provide any comments on the draft PA.

3. How did the DOE inform the public of the section 106 review and the undertaking's potential effects to historic properties?

The DOE established a website that contained all public documents issued by

DOE, including the Scoping Notice, Draft EIS, public hearing notice for the Draft EIS, and the Final EIS.

DOE conducted scoping meetings on September 16 and 17, 2014 following DOE's August 26, 2014 Federal Register Notice of Intent (NOI) To Prepare an Environmental Impact Statement and To Conduct Public Scoping Meetings, and Notice of Floodplains and Wetlands Involvement; New England Clean Power Link Project.

The NOI was intended to inform agencies and the public of the proposed project, and to solicit comments and suggestions for consideration in the preparation of the EIS.

The NOI specifically solicited comments and suggestions on "Cultural or historic resources: The EIS will consider the potential effects of the construction and operation of the project on archeological, architectural, and Traditional Cultural Properties (i.e., properties of religious and cultural importance), National Historic Landmarks, historic properties currently listed and potentially eligible for listing on the National Register of Historic Places, prehistoric sites, and cultural landscape."

DOE also conducted public hearings on July 15 and 16, 2015, following DOE's Federal Register notice on June 25, 2015. The applicant, TDI-NE also conducted extensive public outreach.

4. How did the DOE incorporate comments and concerns expressed by the Vermont State Historic Preservation Officer (SHPO) into the final PA?

DOE met with the Mike Adams (USACE) and Scott Dillon (VTSHPO) on July 16, 2015 to review a preliminary draft of the Programmatic Agreement (PA). The Vermont Division for Historic Resources provided comments on the Draft EIS and the Draft PA in August 2015. The DOE and its consultant reviewed the comments and provided edits to both the Draft EIS and the Final PA.

The FEIS EIS included a compilation of the Vermont Division for Historic Preservation's comments and how the DOE responded to those comments. The edits to the PA were minimal and were addressed by DOE. The VTSHPO signed the PA on October 27, 2015.

As indicated in the PA, the cultural and historic resources in the State of Vermont have been carefully considered throughout the EIS process. All the information necessary for the VTSHPO as well as the consulting parties (the Stockbridge-Munsee community band of Mohican Indians, the U.S. Army Corp of Engineers and TDI New England) to have meaningful participation in the Section 106 process, including dialog, review and expression of their views, was and is available on the EIS website <http://necplinkeis.com>.

We are concerned that the attached letters from ACHP (which are posted on the

aforementioned website) will give the reader the impression that ACHP has an adversarial relationship with the DOE. The letters are not only threatening in tone, but convey misrepresentations of the role DOE has in the issuance of a Presidential permit.

We are also concerned that the letters from ACHP undermine and question the capabilities and veracity of the VTSHPO as well as the DOE.

Moving forward, I suggest that we arrange a meeting in the near future to discuss DOE's section 106 compliance for this and other projects. We will be following up to schedule such a meeting, but in the meantime please do not hesitate to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meghan Conklin', written in a cursive style.

Meghan Conklin
Deputy Assistant Secretary
National Electricity Delivery
Office of Electricity Delivery
and Energy Reliability

CC: VTSHPO

Attachments (6)



Preserving America's Heritage

January 13, 2016

Mr. Brian Mills
Senior Planning Advisor
U.S. Department of Energy
Office of Electricity Delivery and Energy Reliability
National Electricity Delivery Division
1000 Independence Ave SW (OE-20)
Washington, DC 20585

Ref: *Proposed New England Clean Power Link Project
State of Vermont*

Dear Mr. Mills:

On December 1, 2015, the Advisory Council on Historic Preservation (ACHP) received a response from the U.S. Department of Energy (DOE) to our inquiry regarding the executed Programmatic Agreement (PA) for the referenced undertaking. It is regrettable that the DOE did not receive our previous correspondence in March 2015 requesting additional information about the project. In this letter, we had concerns about the DOE's procedural compliance with Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

The DOE's recent correspondence advancing the Section 106 review fails to provide the background information we previously requested, which is consistent with 36 CFR Section 800.11(e), the ACHP's regulations implementing Section 106 of the NHPA. Therefore, we again request that the DOE provide us the following background information to ensure that the requirements of Section 106 are met:

- How did the DOE identify and consult with other consulting parties, such as statewide preservation organizations and representatives of local governments?
- How did the DOE consult with federally recognized tribes which may have properties of religious and cultural significance affected by the undertaking?
- How did the DOE inform the public of the Section 106 review and the undertaking's potential effects to historic properties?
- How did the DOE incorporate comments and concerns expressed by the Vermont State Historic Preservation Officer (SHPO) into the final PA?

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Until this information is received and clarifies the DOE's measures to comply with Section 106, we cannot consider the PA as having been filed with us. Accordingly, we look forward to your timely response to that we may determine whether or not consultation for this PA should be re-opened.

If you have any questions about our comments, please contact Ms. Jaime Loichinger at (202) 517-0219 or via email at jloichinger@achp.gov.

Sincerely,

A handwritten signature in cursive script, reading "Charlene Dwin Vaughn". The signature is written in dark ink and is positioned above the printed name and title.

Charlene Dwin Vaughn, AICP

Assistant Director

Office of Federal Agency Programs

Federal Permitting, Licensing and Assistance Section



Department of Energy
Washington, DC 20585

December 01, 2015

Ms. Charlene Dwin Vaughn,
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

**SUBJECT: Proposed New England Clean Power Link Project
State of Vermont**

Dear Ms. Vaughn:

This letter responds to the November 17, 2015 letter ("November 2015 letter") transmitted to DOE regarding the executed Programmatic Agreement ("PA") between the Vermont State Historic Preservation Officer ("VTSHPO") and the U.S. Department of Energy ("DOE") for the subject project.

As indicated in the November 2015 letter, DOE notified the Advisory Council on Historic Preservation ("ACHP") on February 6, 2015 ("February 2015 notification") of its intention to produce a PA to comply with Section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C. 306108) and its implementing regulations, Protection of Historic Properties (36 CFR Part 800).

Specifically, DOE's February 2015 notification to the ACHP explained, "The Department is coordinating its compliance with Section 106 of the NHPA with its review under the National Environmental Policy Act (NEPA) according to the process set out in 36 CFR §800.3(b). Per standing policy, DOE will explicitly solicit information from the public (via the NEPA process) regarding cultural and historic resources through its Notice of Availability of its draft Environmental Impact Statement (EIS) when published in the *Federal Register*. DOE will also make cultural resources reports and information publicly available, as appropriate, on the NECPL project EIS website at <http://necplinkeis.com>"

The November 2015 letter also makes reference to a March 2015 request for additional information. DOE, regrettably, has no record of the receipt of such request. As is our practice, had such a request been received, DOE would have diligently provided the ACHP with a timely and thorough response.

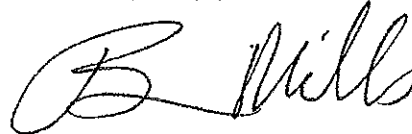
DOE further understands from the November 2015 letter the ACHP is concerned with the overall comprehensiveness of DOE's Section 106 consultation process and the Administrative Record (AR). We would like to point out, however, that all correspondence and supporting information, including these letters and attachments, are or will be posted to the EIS website for public review as well as included in the AR for the EIS. Moreover, DOE believes that the executed PA between the DOE and the VTSHPO evidences that the Section 106 consultation proved productive.

All information necessary for the VTSHPO as well as the consulting parties (the Stockbridge-Munsee community band of Mohican Indians, the U.S. Army Corp of Engineers and TDI New England) to have meaningful participation in the Section 106 process, including dialog, review and expression of their views.

As is clear from the AR and PA, the cultural and historic resources in the State of Vermont have been carefully considered throughout the EIS process.

Having ACHP support and concurrence on our PA would be appreciated,

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Mills", written in a cursive style.

Brian Mills
NEPA Compliance Officer
Office of Electricity Delivery and
Energy Reliability

CC: VTSHPO

Attachment



ATTACHMENT

Attachment 2

Department of Energy
Washington, DC 20585

February 6, 2015

Ms. Laura Trieschmann
State Historic Preservation Officer
Vermont Division of Historic Preservation
1 National Life Drive
Davis Building, 6th Floor
Montpelier, VT 05620-0501

SUBJECT: Initiation Request for Section 106 Consultation under the National Historic Preservation Act (NHPA) for the proposed *New England Clean Power Link* (DOE/EIS-0503)

Dear Ms. Trieschmann:

The U.S. Department of Energy (DOE or the Department) is in the process of preparing its draft Environmental Impact Statement (EIS) for the proposed New England Clean Power Link (NECPL) project in the state of Vermont. DOE is preparing its draft EIS pursuant to its obligations under the National Environmental Policy Act (NEPA) to evaluate environmental impacts of providing a Presidential permit to TDI-New England (TDI-NE) for the construction, operation, maintenance, and connection of the portion of the transmission line within the United States. The proposed DOE federal action is the potential grant of a Presidential permit for the international border crossing requested by TDI-NE as part of its proposal. This action has been determined by DOE to be an undertaking that has potential to cause adverse effects on historic properties per the Advisory Council on Historic Preservation's (ACHP's) NHPA implementing regulations at 36 CFR §800.3(a).

The Department is coordinating its compliance with Section 106 of the NHPA with its review under NEPA according to the process set out in 36 CFR §800.3(b). Per standing policy, DOE will explicitly solicit information from the public (via the NEPA process) regarding cultural and historic resources through its Notice of Availability of its draft EIS when published in the *Federal Register*. DOE will also make cultural resources reports and information publicly available, as appropriate, on the NECPL project EIS website at <http://necplinkeis.com>.

In this letter DOE provides you with a summary of the actions that the Department is taking to comply with Section 106 of the NHPA, including project background, efforts to identify historic properties potentially affected by the proposed NECPL project to date, a preliminary list of potentially affected historic properties listed or eligible for listing on the National Register of Historic Properties (NRHP), and a list of potential Section 106 consulting parties for the proposed NECPL project. This letter also discusses DOE's initial proposal for direct Areas of Potential Effect to be used in the Department's proposed phased approach to identification and evaluation of historic resources under Section 106. Furthermore, DOE is

sending this letter as its official request for initiation of Section 106 consultation under NHPA with the Vermont State Historic Preservation Office (SHPO) located within the Vermont Division of Historic Preservation, and would appreciate your written reply within 30-days from the date of this letter or as soon as possible.

Background

On May 20, 2014, Champlain VT, LLC, d/b/a Transmission Developers Inc., New England (TDI-NE) applied to DOE for a Presidential permit¹ for a new approximately 154.1 mile-long, high voltage direct current (HVDC) electric transmission line that would cross the international border between the United States and the Canadian Province of Quebec, near the village of Alburgh, Vermont, and terminate at the existing Coolidge Substation in the towns of Ludlow and Cavendish, Vermont. The project would have an operating voltage of +/- 300 to 320 kilovolts (kV) with an expected power transfer rating of 1000 megawatts (MW). The transmission line would be a bipole line that consists of two solid (no fluids) dielectric, cross-linked polyethylene transmission cables, one positively charges and the other negatively charges.

The proposed NECPL project would be constructed in both aquatic (underwater) and terrestrial (underground) environments. From the Canadian border, the proposed transmission line would be located underground in Alburgh, Vermont, for approximately 0.5 miles and would enter Lake Champlain via a horizontal directional drill (HDD). The cables would then be buried in the bed of Lake Champlain to a target depth of 3-4 feet except at depths of greater than 150 feet where cables would be laid on the lake bottom. Installation of the cables in Lake Champlain would occur within the jurisdictional waters of Vermont for 97.6 miles. The cables would emerge from Lake Champlain in the town of Benson, Vermont and would be buried along town roads and state highway rights-of-way for approximately 55.7 miles until terminating at a proposed converter station in Ludlow, Vermont. The total direct current portion of the project is approximately 153.8 miles. From the converter station, the proposed NECPL project would involve underground installation of a single circuit 345-kV high voltage alternating current (HVAC) transmission system (i.e., two underground HVAC lines) which would run approximately 0.3 miles to the existing Coolidge Substation in Cavendish, Vermont owned by the Vermont Electric Power Company (VELCO) (*see enclosed NECPL Project Overview map*).

DOE is the lead federal agency in the preparation of the subject EIS. The U.S. Army Corps of Engineers, New England District (USACE), U.S. Coast Guard (USCG), and the U.S. Environmental Protection Agency, Region 1, will be cooperating agencies to DOE in the preparation of this EIS. DOE is also the lead federal agency for purposes of compliance with Section 106, in accordance with 36 CFR § 800.2(a)(2), and will address the potential effects of the NEPA cooperating agencies' proposed actions on historic and archaeological resources.

DOE documented a Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on August 26, 2014 (79 FR 50901), with an open public scoping period which ended on October 10, 2014 (*see enclosed NECPL NOI*). The NOI specifically indicated that cultural and

¹ In accordance with Executive Order (EO) 10485, as amended by EO 12038, and the regulations at 10 Code of Federal Regulations (CFR) 205.320 et seq. (2000), "Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries."

historic resources are being analyzed as part of the federal environmental review. While the proposed federal action (and undertaking) is the potential grant of a Presidential permit by DOE for the international border crossing, the proposed construction, operation, maintenance, and connection of the portion of the transmission line within the United States is a connected action to DOE's proposed action under NEPA. DOE is therefore analyzing the potential environmental impacts from the proposed federal action and the connected action in the EIS. For the purposes of compliance with Section 106 of the NHPA, DOE is considering the potential for adverse effects to cultural and historic properties for the proposed border crossing and entire length of the proposed transmission line.

Consulting Parties

In accordance with 36 CFR §800.2, DOE has identified potential consulting parties, including ACHP, SHPO, THPOs, the Applicant, local government representatives, other Native American entities, local historical societies, heritage preservation commissions, state agencies, sites and museums, state-wide groups, national groups, and private individuals with a for the purposes of Section 106 consultation under NHPA. A list of consulting parties identified by DOE is enclosed with this letter for your review and input (*see enclosed Draft List of NECPL Section 106 Consulting Parties*). DOE requests that you and your staff provide the Department with feedback regarding any other potential Section 106 consulting parties for the NECPL project that may not have yet been identified or that should be included in this list of potential consulting parties. Any assistance your office may provide in this matter at this time is greatly appreciated.

As proposed, the NECPL project does not directly involve tribal reservation lands or require a right-of-way grant or special use grant from tribes, however, the proposal is located in an area that was inhabited by numerous American Indians before Euro-American settlement. As a result the proposal has the potential to impact tribes with current or historic interest in the project area.

In accordance with its responsibilities under Section 106, NEPA, the American Indian Religious Freedom Act (16 U.S.C. 1996), the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa-mm), the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001, et. seq.), Executive Order 13175 *Consultation and Coordination with Indian Tribal Governments*, (November 6, 2000), and DOE's "American Indian and Alaska Native Tribal Government Policy," as set forth in DOE Order 1230.2 (October 2000), DOE is initiating government-to-government consultation with the Tribal Historic Preservation Officer (THPO) for the Stockbridge-Munsee Community, Band of Mohican Indians. DOE understands that this Federally-recognized Tribe has an historic interest in resources of traditional or cultural importance in wetlands areas potentially affected by the proposed NECPL project, and will initiate its government-to-government consultation effort directly with this THPO and Tribe.

Identification Efforts to Date

The proposed undertaking has the potential to affect historic properties either listed in, or eligible for, inclusion in the National Register of Historic Places. An initial cultural resources survey (i.e., desktop literature review) was performed by TDI-NE as part of the NECPL project Presidential permit application to DOE. This survey considered a geographic area within which the Project may directly or indirectly cause alterations in the character or use of historic properties, and includes all areas along the proposed transmission line construction corridor where ground-disturbing activities would be conducted. It also included those areas outside the

proposed transmission corridor, including the Ludlow HVDC Converter Station site, laydown areas, access roads, and other locations that may be affected by the Project construction and operations.

An initial study of the NHRP listed or eligible properties by TDI-NE found the following list within proximity to the proposed NECPL project, as provided in Appendix D to TDI-NE's Presidential permit application:

Site Name	Distance from Proposed Project Route
Benson Village	0.25 miles
Cold River Bridge	0.25 miles
East Clarendon Railroad Station	50'
Laurel Glen Mausoleum--Laurel Hall	0.25 miles
Mountain View Stock Farm	50'
Smith, Simeon, House	0.25 miles

The NECPL Presidential permit application, including associated maps, drawings, and initial cultural resources study, can also be viewed or downloaded in its entirety from the DOE Office of Electricity Delivery and Energy Reliability (OE) program Web site at: <http://energy.gov/oe/downloads/application-presidential-permit-oe-docket-no-pp-400-tdi-new-england-new-england-clean>.

As a part of this effort, TDI-NE met with representatives from Vermont Historic Preservation Office to provide NECPL project briefings on December 9, 2013, and January 14, 2014. TDI-NE also met with your staff to discuss archaeological, cultural and historic resources specific to the Lake Champlain segment of the proposed NECPL project on February 13, 2014, which also included Lake Champlain Maritime Museum (LCMM) staff. Staff from your office also responded to requests by TDI-NE for periodic discussions about proposed Phase 1A assessment work plans for the proposed NECPL project during April 2014 – November 2014.

In addition to efforts by TDI-NE to identify historic resources potentially affected by the proposed NECPL project, DOE held two NEPA public scoping meetings in Burlington, Vermont, on September 16, 2014 and in Rutland, Vermont, on September 17, 2014, during a 45-day public scoping comment period. The meetings held in the towns of Burlington and Rutland, Vermont. DOE received two comments related to the overall consideration of potential effects to historic and archaeological resources and traditional cultural properties. No specific historic, archaeological or cultural resources were identified during the scoping period for the proposed NECPL project. DOE's *New England Clean Power Link Project Scoping Summary Report* (November 2014) is attached to this letter for your information and review.

Cultural Resource Studies

At this time, DOE understands that Vermont Office of Historic Preservation has been provided with the following cultural resource reports completed by TDI-NE for the proposed NECPL project:

- *Phase IA Archaeological Reconnaissance Survey, New England Clean Power Line Project – Overland Portion: Windsor, Rutland, and Grand Isle Counties in Vermont* (November 2014);
- *Historical Reconnaissance Survey, New England Clean Power Line Project – Overland Portion: Windsor, Rutland, and Grand Isle Counties in Vermont* (November 2014); and
- *Phase IA Archaeological Assessment in Support of the New England Clean Power Link Project- Lake Portion: Grand Isle County, Chittenden County, Addison County and Rutland County, Vermont* (November 2014).

DOE is also aware that NE-TDI filed for a Vermont Certificate of Public Good with the Vermont Public Service Board (PSB) on 12/8/2014, with information relevant to historic and archaeological sites in the “Environmental Considerations” section of that filing (per 30 VSA §248(b)(5)). At this time, DOE is not including hardcopies of the above mentioned three reports or historic and archaeological evidentiary information from the Vermont PSB filing with this Section 106 initiation request unless otherwise requested by your office. Please let DOE know as soon as possible if your office needs copies of these resources.

Scope of Future Identification Efforts under Section 106

In order to begin your consideration of DOE’s scope of future identification and evaluation efforts, the Department typically defines an Area of Potential Effect (APE) for this type of undertaking that includes the geographic area or areas within which the Project may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE includes all areas along the transmission cable corridor where ground-disturbing activities will be conducted. The APE would also include areas outside the transmission cable corridor, including the converter station site, the HVAC cable alignment, transmission interconnection sites, laydown areas, access roads, and other locations that may be affected by Project construction and operations. Additionally, the APE would take into account standing historic properties (i.e., buildings, structures, individual objects, and districts) that may be indirectly affected by the use of heavy equipment, particularly along the overland sections of the Project’s proposed route.

The width of the construction corridor varies based on installation techniques and environment. The excavation of the cable trench, installation of erosion and sediment control measures, installation of the cables, and stockpiling of excavated materials are expected to occur within a 50-foot-wide corridor, or 25 feet on either side of the Project’s centerline. To accommodate additional areas beyond the footprint of the trench that may be necessary for laydown/staging areas, and to accommodate indirect effects of Project construction activities, the APE for this undertaking has been defined to include an area encompassing 25 feet on either side of the Project’s centerline. DOE looks forward to future discussions with you and other consulting parties about the APE for the NECPL project, and understands that no final APE determinations may be made at this time.

Finally, the Department wants to take this opportunity to inform you early on of its intent to develop a PA pursuant to 36 CFR § 800.14(b) to resolve the proposed Project’s potential effects on historic properties at this time. The PA would be developed in consultation with SHPO, THPO, Consulting Parties, the public, and other interested parties, as appropriate. The PA would

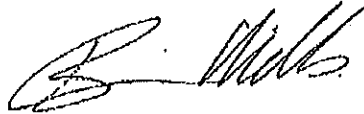
require TDI-NE to develop a Cultural Resources Management Plan (CRMP) for the proposed NECPL project in consultation with your office and the Consulting Parties prior to initiation of construction activities.

In close, DOE currently seeks your concurrence on initiating its Section 106 consultation process for the proposed New England Clean Power Link project. DOE also seeks any information or suggestions that your office may have with regard to potential consulting parties or tribes that are included in the attached consulting parties list, or if you have additional information that should be considered at this time. Please provide your Section 106 initiation concurrence and any material information that you may have in writing so that it may be added to the administrative record to evidence DOE's compliance with Section 106 consultation responsibilities.

At this time, we also wish to clarify the name and contact information for the Department's representative for purposes of consultation pursuant to Section 106. In accordance with 36 CFR Part 800.2(a)(3), the DOE has authorized Kleinschmidt Group to prepare DOE's subject EIS, which will include an analysis of the proposed NECPL Project's potential for adverse effects on cultural resources, including historic properties as defined by Section 106 of the NHPA and its implementing regulations at 36 CFR Part 800. Coordination of consultation activities under the Section 106 process will be completed by Ms. Kelly Schaeffer, Senior Regulatory Advisor at Kleinschmidt Group. Ms. Schaeffer can be contacted at (703) 753-9772 or by e-mail at Kelly.Schaeffer@KleinschmidtGroup.com. DOE remains legally responsible for findings and determinations and for the DOE's government-to-government relationships with Indian tribes.

DOE very much looks forward to working with you and your staff in the near future and appreciates your assistance in this effort. If you have any questions or comments regarding the proposed NECPL project, please contact me directly at any time at Brian.Mills@hq.doe.gov or (202) 586-8267.

Yours very truly,



Brian Mills
National Electricity Delivery Division (OE-20)
Office of Electricity Delivery and
Energy Reliability
U.S. Department of Energy

Enclosed:

- NECPL Project Overview Map
- DOE's NECPL Notice of Intent (NOI) (August 2014)
- Draft List NECPL Section 106 Consulting Parties
- NECPL Scoping Summary report (November 2014)

Cc: Charlene Dwin Vaughn, Advisory Council on Historic Preservation



Preserving America's Heritage

Attachment 3

November 17, 2015

Mr. Brian Mills
Senior Planning Advisor
U.S. Department of Energy
Office of Electricity Delivery and Energy Reliability
National Electricity Delivery Division
1000 Independence Ave SW (OE-20)
Washington, DC 20585

Ref: *Proposed New England Clean Power Link Project
State of Vermont*

Dear Mr. Mills:

On November 2, 2015, the Advisory Council on Historic Preservation (ACHP) received an executed Programmatic Agreement (PA) for the referenced undertaking. DOE previously notified the ACHP of its intent to prepare such a document in February 2015 to comply with Section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C. 306108) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800). However, the information provided by DOE at that time was insufficient for the ACHP to determine whether or not Appendix A of our regulations applied to the undertaking. The ACHP requested additional information in March 2015 to determine if our participation in consultation was needed to resolve adverse effects (see attached). Regrettably, DOE failed to respond to this request or communicate further with us.

In sending the executed PA without providing additional information, we believe that we were precluded from participating in the Section 106 consultation. DOE's failure to follow this procedural requirement may render the outcome of the consultation process subject to challenge by parties with an interest in the undertaking as well as fail to verify that it has created a comprehensive administrative record.

In order for us to properly complete our review, we again request that DOE provide the information requested in March 2015 so that we may determine whether to consider the filed PA sufficient or to request further consultation. Specifically, we need DOE to provide:

- the views of Vermont State Historic Preservation Officer and consulting parties, and clarification of how those views were considered and addressed in the PA;
- the views of federally recognized tribes, and clarification of how those views were considered and addressed in the PA;
- a summary of how DOE's public participation plan for the undertaking was completed; and
- a summary of DOE's efforts to develop this PA and how it comports with the four-step Section 106 review process.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

We look forward to DOE's prompt response to this matter. If you have any questions about our comments, please contact Ms. Jaime Loichinger at (202) 517-0219 or via email at jloichinger@achp.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlene Dwin Vaughn", with a long horizontal flourish extending to the right.

Charlene Dwin Vaughn, AICP

Assistant Director

Office of Federal Agency Programs

Federal Permitting, Licensing and Assistance Section

Enclosure

**PROGRAMMATIC AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF ENERGY
AND
THE VERMONT STATE HISTORIC PRESERVATION OFFICER
FOR
MANAGING HISTORIC PROPERTIES THAT MAY BE AFFECTED
BY
AUTHORIZING THE CONSTRUCTION, OPERATION, CONNECTION AND
MAINTENANCE OF THE
NEW ENGLAND CLEAN POWER LINK HVDC TRANSMISSION LINE PROJECT**

WHEREAS, pursuant to the authority delegated by the President of the United States 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 at the borders of the United States ("Presidential Permit"); and

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;

WHEREAS, in deciding whether issuance of a Presidential permit is in the public interest, DOE determines the proposed project's impact on electric reliability as well as its potential environmental impacts, including potential impacts to cultural and historic resources; and

WHEREAS, Champlain VT, LLC, doing business as TDI-New England (TDI-NE) has applied to the DOE's Office of Electricity Delivery and Energy Reliability for a Presidential Permit for the New England Clean Power Link HVDC Transmission Line Project ("Project") in accordance with the DOE's applicable administrative procedures at 10 CFR § 205.320 *et. seq.*; and

WHEREAS, the proposed Project would consist of a 1,000-megawatt high-voltage direct current ("HVDC") transmission system extending approximately 154 miles from the United States' border with Canada to a new converter station to be constructed in Ludlow, Vermont; a .6-mile long high-voltage alternating current transmission system extending from the new proposed converter station to an existing substation in Cavendish, Vermont; and ancillary facilities (such as temporary work areas, contractor yards, laydown areas, and access roads); and

WHEREAS, construction of the Project will entail installation of buried transmission cables along waterways and within the rights-of-way of existing transportation infrastructure, including railroads and roadways located within the State of Vermont; and

WHEREAS, Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f) ("Section 106"), directs federal agencies to take into account the effects of their undertakings on historic properties listed in or eligible for inclusion in the National Register of Historic Places ("National Register") and to afford the Advisory Council on Historic Preservation ("ACHP") a reasonable opportunity to comment; and

WHEREAS, the procedures set forth in 36 CFR Part 800 - Protection of Historic Properties define how federal agencies meet their statutory responsibilities pursuant to Section 106; and

WHEREAS, in considering whether issuance of a Presidential Permit to TDI-NE would be consistent with the public interest, the DOE has determined to treat the issuance of a Presidential Permit for the proposed Project as an undertaking ("Undertaking"), as defined in 36 CFR § 800.16(y); and

WHEREAS, construction of portions of the Project will also require authorization by the U.S. Army Corps of Engineers ("USACE") pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the Clean Water Act (33 U.S.C. § 1344), and the USACE and the DOE have agreed that the DOE is the lead federal agency for purposes of compliance with Section 106, in accordance with 36 CFR § 800.2(a)(2); and

WHEREAS, consistent with 36 CFR § § 800.4(a) and 800.16(d), the area of potential effects ("APE") for this undertaking has been defined to include all areas that could be directly or indirectly affected by construction and/or operation of the Project, including ground-disturbing activities associated with installation of the transmission line, construction of the converter station, and ancillary facilities (such as temporary work areas, contractor yards, laydown areas, and access roads); and

WHEREAS, the Project's APE generally includes the geographic area defined in the attached maps and may be further refined through additional engineering assessments; and

WHEREAS, the Project is located within the identified area of interest of one federally recognized Indian tribe, and the DOE has consulted with the Stockbridge-Munsee Community Band of Mohican Indians on a government-to-government basis in accordance with 36 CFR § 800.2(c)(2)(ii); and

WHEREAS, the DOE has determined that its undertaking associated with the Project has the potential to adversely affect historic properties listed in or eligible for the National Register and has consulted with the ACHP, the USACE, the Vermont State Historic Preservation Officer (VTSHPO), and federally recognized Indian tribes pursuant to 36 CFR § 800.14 of the regulations implementing Section 106; and

WHEREAS, pursuant to 36 CFR § 800.14(b), the DOE has elected to execute this Programmatic Agreement ("PA"); and

WHEREAS, pursuant to 30 CFR §§ 800.2(c)(2), 800.6(c)(3), and 800.2(c)(4), the Stockbridge-Munsee Community Band of Mohican Indians, TDI-NE, and USACE (collectively, the "Concurring Parties") have been invited to concur in this PA; and

WHEREAS, TDI-NE and the VTSHPO have agreed to various Stipulations in Docket No. 8400 for cultural resources affected by the project.

NOW, THEREFORE, the DOE and the VTSHPO (the "Signatory Parties") agree that the Project shall be administered and implemented in accordance with the following stipulations to satisfy the responsibilities of the DOE under Section 106 for all aspects of the Project.

STIPULATIONS

I. APPLICABILITY

DOE, TDI-NE, and the VTSHPO shall ensure that the following stipulations are carried out:

- A. DOE, TDI-NE and VTSHPO will review Undertakings in accordance with the terms of this agreement.
- B. This Programmatic Agreement will be in effect for a period of five years from the date of its execution.
- C. DOE will send a copy of this Programmatic Agreement to the ACHP upon execution.

II. CULTURAL RESOURCES MANAGEMENT PLAN

- A. Within one year following the issuance of the Presidential Permit for the Project, TDI-NE shall develop a Cultural Resources Management Plan ("CRMP") specifying how historic properties within the Project's APE will be considered and managed and submit the CRMP to the Signatory and Concurring parties.
- B. The CRMP will be prepared by or under the supervision of an individual who meets, or individuals who meet, at minimum, the professional qualification standards for archaeology defined in the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738-44739, September 19, 1983).
- C. The CRMP will be prepared with reference to:
 - 1. The ACHP's guidance on conducting archaeology under Section 106 (2009);
 - 2. The ACHP's February 23, 2007 *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects*;
 - 3. *The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44742, September 29, 1983), as amended and revised;
 - 4. The DOE's *American Indian and Alaska Native Tribal Government Policy* (DOE 2006); and
 - 5. DOE Policy 141.1: *Management of Cultural Resources*.
 - 6. The Vermont Department of Historic Preservation's (VDHP) *Guidelines for Conducting Archaeological Studies in Vermont* (Revised)
- D. The CRMP will, at minimum, include the following:

1. An introduction explaining the scope and purpose of the CRMP, the regulatory context and basis under which the CRMP is developed, and the organization of the CRMP.
2. A description of the Project, including the Project's setting, principal Project facilities, and proposed methods of construction.
3. A description of the APE for this undertaking, including potential causes and types of Project effects.
4. Maps of the Project's APE.
5. An overview synthesizing and summarizing data on the history and prehistory of the Project area to provide information regarding the nature and character of historic properties within or potentially within the Project's APE and to provide a context in which to evaluate and consider alternative treatment strategies for historic properties.
6. A summary of cultural resources investigations previously conducted within the APE, including those conducted to identify historic properties that may be affected by the Project.
7. An inventory of known or recorded historic and archaeological resources within the APE, including the following information:
 - a) Location and description of known or reported resources based on available information, including the nature and type of resource (i.e., historic, prehistoric, or multi-component archaeological site, district, historic building, structure, or object);
 - b) Whether cultural resources investigations conducted to identify and/or evaluate historic properties that may be affected by the Project have confirmed the presence or absence of a previously reported archaeological or historic resource; and
 - c) Whether a known or reported historic or archaeological resource is listed in or has been previously determined eligible for inclusion in the National Register.
8. The procedures for completing the identification and, if necessary, the evaluation of historic properties (including properties of traditional religious or cultural significance) within the Project's APE that may be affected (directly and/or indirectly) by the Project.
9. The procedures for assessing the Project's effects (if any) on identified historic properties.
10. Procedures and specific management and/or control measures for resolving any adverse effects on identified archaeological sites and/or historic resources within the APE through the consideration of prudent and feasible Project alternatives, modifications, or treatment measures that would avoid, minimize, reduce, or mitigate adverse effects on historic properties listed in or eligible for inclusion in the National Register.

11. The process for identifying, developing, and implementing additional management and treatment measures for historic properties within the APE, as necessary.
12. Procedures for the unanticipated discovery of archaeological resources.
13. Procedures for the unanticipated discovery of human remains, taking into account applicable state and local laws including 18 V.S.A. § 5212b (f) and
 - a) The Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001 *et seq.*) (NAGPRA) and its implementing regulations at 43 CFR Part 10;¹ and
 - b) The ACHP's 2007 *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects*.
14. Procedures for training TDI-NE staff, contractors, and other appropriate personnel in the requirements of the CRMP and their responsibility to protect historic properties.
15. Measures to prevent looting and vandalism of historic properties within the APE during Project construction.
16. Requirements for any post-construction management or monitoring of identified historic properties.
17. Measures for public interpretation of historic properties and cultural values, to the extent prudent and reasonable.
18. Procedures for implementing the CRMP, including the following:
 - a) The specific individuals responsible for coordinating activities conducted under the CRMP, including coordinating consultation and maintenance of relevant records;
 - b) A dispute resolution process that is consistent with the process described in Section V of this PA;
 - c) The use of qualified cultural resources professionals to conduct certain activities under the CRMP (see Stipulation II.B, above);
 - d) Appropriate standards for cultural resources investigations and reporting;

¹ Pursuant to 43 CFR Part 10, NAGPRA 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. The Project will not occupy federal or tribal lands. Notwithstanding the limits of NAGPRA's applicability, the principles described in NAGPRA and its implementing regulations will serve as guidance for TDI-NE's actions should remains or associated artifacts be identified as Native American, and to the extent such principles and procedures are consistent with any other applicable requirements.

- e) A consultation protocol to coordinate with the Signatory and Concurring parties during implementation of the CRMP, including provisions for periodic reporting, and meetings; and
- f) Procedures for review of and amendment to the CRMP.

III. CRMP REVIEW AND APPROVAL

- A. TDI-NE will provide a draft CRMP to the following parties (collectively, the "Consulting Parties"):
 - 1. The Signatory Parties;
 - 2. The Concurring Parties;
 - 3. The National Park Service; and
 - 4. The State of Vermont Public Service Department.
- B. The Consulting Parties will be afforded a 30-day review period to provide comments on the draft CRMP.
- C. At the conclusion of the 30 day review period, TDI-NE will provide the DOE with a revised draft CRMP that includes:
 - 1. Documentation of the views of the Consulting Parties;
 - 2. Revisions adopted by TDI-NE;
 - 3. An explanation of any revisions proposed by the Consulting Parties not adopted by TDI-NE.
- D. Within 30 days of receipt of the revised draft CRMP described in Stipulation III.C of this CRMP, the DOE shall direct TDI-NE to make any necessary or appropriate revisions to finalize the CRMP.
- E. Following DOE's acceptance of the final CRMP, TDI-NE shall submit the final CRMP along with documentation of the views of the Consulting Parties to the Signatory and Concurring Parties.
- F. If any of the Signatory or Concurring Parties object to the final CRMP, the objecting party will notify the DOE in writing within 30 days of their receipt of the final CRMP. The DOE will consult with the objecting party, TDI-NE, and with other Signatory and/or Concurring Parties, as appropriate, to seek agreement on the CRMP. If consensus is not reached within 30 days, the DOE will notify the ACHP of the objection, provide all pertinent information and request that the ACHP provide its advisory comments within 30 days of receipt of notification in accordance with Stipulation V of this Programmatic Agreement.

IV. INTERIM MEASURES FOR COMPLIANCE

- A. Until the CRMP is accepted by the DOE, the DOE will continue to apply 36 CFR §§ 800.4 through 800.6 for all actions taken with regard to the Project.
- B. Upon acceptance of the final CRMP, the DOE shall notify the Signatory and Concurring Parties to this agreement of its acceptance, and TDI-NE shall implement the CRMP in lieu of the procedures set forth in 36 CFR §§ 800.4 through 800.6.

V. DISPUTE RESOLUTION

- A. Except as provided for in Section III.F of this PA, if at any time during implementation of this PA, the Signatory or Concurring Parties object to any action or any failure to act pursuant to this PA, they may file written objections with the DOE.
 - 1. The DOE will consult with the objecting party, and with other Signatory and/or Concurring Parties as appropriate, to resolve the objection. The DOE may initiate on its own such consultation to resolve any of the DOE's objections to actions taken or products produced by any party pursuant to this agreement.
 - 2. If the DOE determines that the objection cannot be resolved through consultation alone, the DOE will forward all documentation relevant to the dispute to the ACHP and request that the ACHP comment. After receiving all pertinent documentation, the ACHP will either:
 - a) Provide the DOE with recommendations, which the DOE will take into account in reaching a final decision regarding the dispute; or
 - b) Notify the DOE that it will comment pursuant to 36 CFR §§ 800.7(c)(1) through (c)(3) and Section 110(l) of the National Historic Preservation Act of 1966, as amended, and proceed to comment.
 - 3. The DOE will take into account any ACHP comments provided in response to such a request, with reference to the subject of the dispute, and will issue a decision on the matter. The DOE's responsibility to carry out all actions under this PA and the CRMP that are not the subject of dispute will remain unaffected.

VI. DURATION, AMENDMENT, AND TERMINATION OF THIS PROGRAMMATIC AGREEMENT

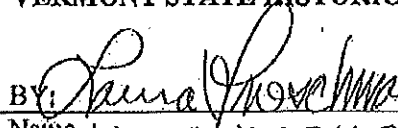
- A. This PA shall take effect on the date it has been fully executed by the Signatory Parties and will remain in effect until terminated pursuant to Stipulation VI.C of this agreement. Any amendments to this PA shall take effect on the dates they are fully executed by the Signatory Parties, or such other self-executing dates as may be described in those documents.
- B. Any Signatory Party to this PA may request in writing to the other Signatory Parties that this PA be amended. The Signatory Parties will consult in accordance with 36 CFR § 800.14(b) to consider such amendment.

- C. Any Signatory Party to this PA may terminate this agreement by providing 30 days written notice to the other Signatory Parties, provided that the Signatory and Concurring parties are consulted during the 30-day notice period in order to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the DOE will comply with 36 CFR Part 800 with regard to individual actions covered by this PA.


EXECUTION of this PA by the Signatory Parties and implementation of the stipulations provided herein evidences that the DOE and USACE have taken into account the effects of this Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

SIGNATORY PARTIES

VERMONT STATE HISTORIC PRESERVATION OFFICER

BY:  DATE: OCT 27, 2015
Name LAURA V. TRIESCHMANN
Title SHPO

U.S. DEPARTMENT OF ENERGY

BY:  DATE: 10/16/15
Name Meghan Conklin
Title Deputy Assistant
Secretary
Office of Electricity
Delivery & Energy
Reliability (OE)

CONCURRING PARTIES

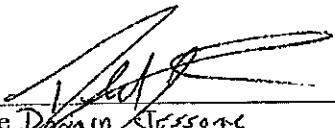
STOCKBRIDGE-MUNSEE BAND OF MOHICANS

BY: _____ DATE: _____
Name
Title

U.S. ARMY CORPS OF ENGINEERS

BY: _____ DATE: _____
Name
Title

TDI-NEW ENGLAND

BY:  DATE: Oct 20/11
Name Domingo Jossone
Title Eco & General Manager

Mills, Brian

Subject: FW: New England Clean Power Link

-----Original Message-----

From: Bonney Hartley [mailto:Bonney.Hartley@mohican-nsn.gov]

Sent: Friday, October 30, 2015 2:48 PM

To: Mills, Brian <Brian.Mills@hq.doe.gov>

Subject: RE: New England Clean Power Link

Hi Brian,

For the New England Clean Power Link Project, our tribe will opt not to sign the PA but instead receive Section 106 consultation as normal.

Thanks,
Bonney

Mills, Brian

Subject: FW: New England Clean Power Link Programmatic Agreement (UNCLASSIFIED)

-----Original Message-----

From: Adams, Michael S NAE [mailto:Michael.S.Adams@usace.army.mil]

Sent: Tuesday, October 20, 2015 6:56 AM

To: Mills, Brian <Brian.Mills@hq.doe.gov>

Subject: RE: New England Clean Power Link Programmatic Agreement (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Hello Brian,

My boss has informed me that the Corps does not want to be concurring party for the PA. I'm in the field today reviewing a project similar to TDI. I will call you Wednesday to discuss the project.

Best Regards,

Mike

Michael S. Adams

Senior Project Manager

U.S. Army Corps of Engineers

New England District

11 Lincoln Street, Room 210

Essex Junction, Vermont 05452



Department of Energy
Washington, DC 20585

Attachment 5

February 6, 2015

Ms. Laura Trieschmann
State Historic Preservation Officer
Vermont Division of Historic Preservation
1 National Life Drive
Davis Building, 6th Floor
Montpelier, VT 05620-0501

SUBJECT: Initiation Request for Section 106 Consultation under the National Historic Preservation Act (NHPA) for the proposed *New England Clean Power Link* (DOE/EIS-0503)

Dear Ms. Trieschmann:

The U.S. Department of Energy (DOE or the Department) is in the process of preparing its draft Environmental Impact Statement (EIS) for the proposed New England Clean Power Link (NECPL) project in the state of Vermont. DOE is preparing its draft EIS pursuant to its obligations under the National Environmental Policy Act (NEPA) to evaluate environmental impacts of providing a Presidential permit to TDI-New England (TDI-NE) for the construction, operation, maintenance, and connection of the portion of the transmission line within the United States. The proposed DOE federal action is the potential grant of a Presidential permit for the international border crossing requested by TDI-NE as part of its proposal. This action has been determined by DOE to be an undertaking that has potential to cause adverse effects on historic properties per the Advisory Council on Historic Preservation's (ACHP's) NHPA implementing regulations at 36 CFR §800.3(a).

The Department is coordinating its compliance with Section 106 of the NHPA with its review under NEPA according to the process set out in 36 CFR §800.3(b). Per standing policy, DOE will explicitly solicit information from the public (via the NEPA process) regarding cultural and historic resources through its Notice of Availability of its draft EIS when published in the *Federal Register*. DOE will also make cultural resources reports and information publicly available, as appropriate, on the NECPL project EIS website at <http://necplinkeis.com>.

In this letter DOE provides you with a summary of the actions that the Department is taking to comply with Section 106 of the NHPA, including project background, efforts to identify historic properties potentially affected by the proposed NECPL project to date, a preliminary list of potentially affected historic properties listed or eligible for listing on the National Register of Historic Properties (NRHP), and a list of potential Section 106 consulting parties for the proposed NECPL project. This letter also discusses DOE's initial proposal for direct Areas of Potential Effect to be used in the Department's proposed phased approach to identification and evaluation of historic resources under Section 106. Furthermore, DOE is

sending this letter as its official request for initiation of Section 106 consultation under NHPA with the Vermont State Historic Preservation Office (SHPO) located within the Vermont Division of Historic Preservation, and would appreciate your written reply within 30-days from the date of this letter or as soon as possible.

Background

On May 20, 2014, Champlain VT, LLC, d/b/a Transmission Developers Inc., New England (TDI-NE) applied to DOE for a Presidential permit¹ for a new approximately 154.1 mile-long, high voltage direct current (HVDC) electric transmission line that would cross the international border between the United States and the Canadian Province of Quebec, near the village of Alburgh, Vermont, and terminate at the existing Coolidge Substation in the towns of Ludlow and Cavendish, Vermont. The project would have an operating voltage of +/- 300 to 320 kilovolts (kV) with an expected power transfer rating of 1000 megawatts (MW). The transmission line would be a bipole line that consists of two solid (no fluids) dielectric, cross-linked polyethylene transmission cables, one positively charges and the other negatively charges.

The proposed NECPL project would be constructed in both aquatic (underwater) and terrestrial (underground) environments. From the Canadian border, the proposed transmission line would be located underground in Alburgh, Vermont, for approximately 0.5 miles and would enter Lake Champlain via a horizontal directional drill (HDD). The cables would then be buried in the bed of Lake Champlain to a target depth of 3-4 feet except at depths of greater than 150 feet where cables would be laid on the lake bottom. Installation of the cables in Lake Champlain would occur within the jurisdictional waters of Vermont for 97.6 miles. The cables would emerge from Lake Champlain in the town of Benson, Vermont and would be buried along town roads and state highway rights-of-way for approximately 55.7 miles until terminating at a proposed converter station in Ludlow, Vermont. The total direct current portion of the project is approximately 153.8 miles. From the converter station, the proposed NECPL project would involve underground installation of a single circuit 345-kV high voltage alternating current (HVAC) transmission system (i.e., two underground HVAC lines) which would run approximately 0.3 miles to the existing Coolidge Substation in Cavendish, Vermont owned by the Vermont Electric Power Company (VELCO) (*see enclosed NECPL Project Overview map*).

DOE is the lead federal agency in the preparation of the subject EIS. The U.S. Army Corps of Engineers, New England District (USACE), U.S. Coast Guard (USCG), and the U.S. Environmental Protection Agency, Region 1, will be cooperating agencies to DOE in the preparation of this EIS. DOE is also the lead federal agency for purposes of compliance with Section 106, in accordance with 36 CFR § 800.2(a)(2), and will address the potential effects of the NEPA cooperating agencies' proposed actions on historic and archaeological resources.

DOE documented a Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on August 26, 2014 (79 FR 50901), with an open public scoping period which ended on October 10, 2014 (*see enclosed NECPL NOI*). The NOI specifically indicated that cultural and

¹ In accordance with Executive Order (EO) 10485, as amended by EO 12038, and the regulations at 10 Code of Federal Regulations (CFR) 205.320 et seq. (2000), "Application for Presidential Permit Authorizing the Construction, Connection, Operation, and Maintenance of Facilities for Transmission of Electric Energy at International Boundaries."

historic resources are being analyzed as part of the federal environmental review. While the proposed federal action (and undertaking) is the potential grant of a Presidential permit by DOE for the international border crossing, the proposed construction, operation, maintenance, and connection of the portion of the transmission line within the United States is a connected action to DOE's proposed action under NEPA. DOE is therefore analyzing the potential environmental impacts from the proposed federal action and the connected action in the EIS. For the purposes of compliance with Section 106 of the NHPA, DOE is considering the potential for adverse effects to cultural and historic properties for the proposed border crossing and entire length of the proposed transmission line.

Consulting Parties

In accordance with 36 CFR §800.2, DOE has identified potential consulting parties, including ACHP, SHPO, THPOs, the Applicant, local government representatives, other Native American entities, local historical societies, heritage preservation commissions, state agencies, sites and museums, state-wide groups, national groups, and private individuals with a for the purposes of Section 106 consultation under NHPA. A list of consulting parties identified by DOE is enclosed with this letter for your review and input (*see enclosed Draft List of NECPL Section 106 Consulting Parties*). DOE requests that you and your staff provide the Department with feedback regarding any other potential Section 106 consulting parties for the NECPL project that may not have yet been identified or that should be included in this list of potential consulting parties. Any assistance your office may provide in this matter at this time is greatly appreciated.

As proposed, the NECPL project does not directly involve tribal reservation lands or require a right-of-way grant or special use grant from tribes, however, the proposal is located in an area that was inhabited by numerous American Indians before Euro-American settlement. As a result the proposal has the potential to impact tribes with current or historic interest in the project area.

In accordance with its responsibilities under Section 106, NEPA, the American Indian Religious Freedom Act (16 U.S.C. 1996), the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa-mm), the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001, et. seq.), Executive Order 13175 *Consultation and Coordination with Indian Tribal Governments*, (November 6, 2000), and DOE's "American Indian and Alaska Native Tribal Government Policy," as set forth in DOE Order 1230.2 (October 2000), DOE is initiating government-to-government consultation with the Tribal Historic Preservation Officer (THPO) for the Stockbridge-Munsee Community, Band of Mohican Indians. DOE understands that this Federally-recognized Tribe has an historic interest in resources of traditional or cultural importance in wetlands areas potentially affected by the proposed NECPL project, and will initiate its government-to-government consultation effort directly with this THPO and Tribe.

Identification Efforts to Date

The proposed undertaking has the potential to affect historic properties either listed in, or eligible for, inclusion in the National Register of Historic Places. An initial cultural resources survey (i.e., desktop literature review) was performed by TDI-NE as part of the NECPL project Presidential permit application to DOE. This survey considered a geographic area within which the Project may directly or indirectly cause alterations in the character or use of historic properties, and includes all areas along the proposed transmission line construction corridor where ground-disturbing activities would be conducted. It also included those areas outside the

proposed transmission corridor, including the Ludlow HVDC Converter Station site, laydown areas, access roads, and other locations that may be affected by the Project construction and operations.

An initial study of the NHRP listed or eligible properties by TDI-NE found the following list within proximity to the proposed NECPL project, as provided in Appendix D to TDI-NE's Presidential permit application:

Site Name	Distance from Proposed Project Route
Benson Village	0.25 miles
Cold River Bridge	0.25 miles
East Clarendon Railroad Station	50'
Laurel Glen Mausoleum--Laurel Hall	0.25 miles
Mountain View Stock Farm	50'
Smith, Simeon, House	0.25 miles

The NECPL Presidential permit application, including associated maps, drawings, and initial cultural resources study, can also be viewed or downloaded in its entirety from the DOE Office of Electricity Delivery and Energy Reliability (OE) program Web site at: <http://energy.gov/oe/downloads/application-presidential-permit-oe-docket-no-pp-400-tdi-new-england-new-england-clean>.

As a part of this effort, TDI-NE met with representatives from Vermont Historic Preservation Office to provide NECPL project briefings on December 9, 2013, and January 14, 2014. TDI-NE also met with your staff to discuss archaeological, cultural and historic resources specific to the Lake Champlain segment of the proposed NECPL project on February 13, 2014, which also included Lake Champlain Maritime Museum (LCMM) staff. Staff from your office also responded to requests by TDI-NE for periodic discussions about proposed Phase 1A assessment work plans for the proposed NECPL project during April 2014 – November 2014.

In addition to efforts by TDI-NE to identify historic resources potentially affected by the proposed NECPL project, DOE held two NEPA public scoping meetings in Burlington, Vermont, on September 16, 2014 and in Rutland, Vermont, on September 17, 2014, during a 45-day public scoping comment period. The meetings held in the towns of Burlington and Rutland, Vermont. DOE received two comments related to the overall consideration of potential effects to historic and archaeological resources and traditional cultural properties. No specific historic, archaeological or cultural resources were identified during the scoping period for the proposed NECPL project. DOE's *New England Clean Power Link Project Scoping Summary Report* (November 2014) is attached to this letter for your information and review.

Cultural Resource Studies

At this time, DOE understands that Vermont Office of Historic Preservation has been provided with the following cultural resource reports completed by TDI-NE for the proposed NECPL project:

- *Phase IA Archaeological Reconnaissance Survey, New England Clean Power Line Project – Overland Portion: Windsor, Rutland, and Grand Isle Counties in Vermont* (November 2014);
- *Historical Reconnaissance Survey, New England Clean Power Line Project – Overland Portion: Windsor, Rutland, and Grand Isle Counties in Vermont* (November 2014); and
- *Phase IA Archaeological Assessment in Support of the New England Clean Power Link Project- Lake Portion: Grans Isle County, Chittenden County, Addison County and Rutland County, Vermont* (November 2014).

DOE is also aware that NE-TDI filed for a Vermont Certificate of Public Good with the Vermont Public Service Board (PSB) on 12/8/2014, with information relevant to historic and archaeological sites in the “Environmental Considerations” section of that filing (per 30 VSA §248(b)(5)). At this time, DOE is not including hardcopies of the above mentioned three reports or historic and archaeological evidentiary information from the Vermont PSB filing with this Section 106 initiation request unless otherwise requested by your office. Please let DOE know as soon as possible if your office needs copies of these resources.

Scope of Future Identification Efforts under Section 106

In order to begin your consideration of DOE’s scope of future identification and evaluation efforts, the Department typically defines an Area of Potential Effect (APE) for this type of undertaking that includes the geographic area or areas within which the Project may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE includes all areas along the transmission cable corridor where ground-disturbing activities will be conducted. The APE would also include areas outside the transmission cable corridor, including the converter station site, the HVAC cable alignment, transmission interconnection sites, laydown areas, access roads, and other locations that may be affected by Project construction and operations. Additionally, the APE would take into account standing historic properties (i.e., buildings, structures, individual objects, and districts) that may be indirectly affected by the use of heavy equipment, particularly along the overland sections of the Project’s proposed route.

The width of the construction corridor varies based on installation techniques and environment. The excavation of the cable trench, installation of erosion and sediment control measures, installation of the cables, and stockpiling of excavated materials are expected to occur within a 50-foot-wide corridor, or 25 feet on either side of the Project’s centerline. To accommodate additional areas beyond the footprint of the trench that may be necessary for laydown/staging areas, and to accommodate indirect effects of Project construction activities, the APE for this undertaking has been defined to include an area encompassing 25 feet on either side of the Project’s centerline. DOE looks forward to future discussions with you and other consulting parties about the APE for the NECPL project, and understands that no final APE determinations may be made at this time.

Finally, the Department wants to take this opportunity to inform you early on of its intent to develop a PA pursuant to 36 CFR § 800.14(b) to resolve the proposed Project’s potential effects on historic properties at this time. The PA would be developed in consultation with SHPO, THPO, Consulting Parties, the public, and other interested parties, as appropriate. The PA would

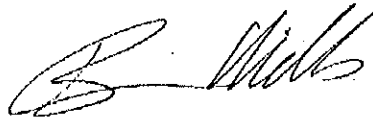
require TDI-NE to develop a Cultural Resources Management Plan (CRMP) for the proposed NECPL project in consultation with your office and the Consulting Parties prior to initiation of construction activities.

In close, DOE currently seeks your concurrence on initiating its Section 106 consultation process for the proposed New England Clean Power Link project. DOE also seeks any information or suggestions that your office may have with regard to potential consulting parties or tribes that are included in the attached consulting parties list, or if you have additional information that should be considered at this time. Please provide your Section 106 initiation concurrence and any material information that you may have in writing so that it may be added to the administrative record to evidence DOE's compliance with Section 106 consultation responsibilities.

At this time, we also wish to clarify the name and contact information for the Department's representative for purposes of consultation pursuant to Section 106. In accordance with 36 CFR Part 800.2(a)(3), the DOE has authorized Kleinschmidt Group to prepare DOE's subject EIS, which will include an analysis of the proposed NECPL Project's potential for adverse effects on cultural resources, including historic properties as defined by Section 106 of the NHPA and its implementing regulations at 36 CFR Part 800. Coordination of consultation activities under the Section 106 process will be completed by Ms. Kelly Schaeffer, Senior Regulatory Advisor at Kleinschmidt Group. Ms. Schaeffer can be contacted at (703) 753-9772 or by e-mail at Kelly.Schaeffer@KleinschmidtGroup.com. DOE remains legally responsible for findings and determinations and for the DOE's government-to-government relationships with Indian tribes.

DOE very much looks forward to working with you and your staff in the near future and appreciates your assistance in this effort. If you have any questions or comments regarding the proposed NECPL project, please contact me directly at any time at Brian.Mills@hq.doe.gov or (202) 586-8267.

Yours very truly,



Brian Mills
National Electricity Delivery Division (OE-20)
Office of Electricity Delivery and
Energy Reliability
U.S. Department of Energy

Enclosed:

- NECPL Project Overview Map
- DOE's NECPL Notice of Intent (NOI) (August 2014)
- Draft List NECPL Section 106 Consulting Parties
- NECPL Scoping Summary report (November 2014)

Cc: Charlene Dwin Vaughn, Advisory Council on Historic Preservation

106 Historic Preservation Consultation List- February 5, 2015

1.0 Federally Recognized Tribes

Stockbridge-Munsee Band of Mohican Indians

Sherry White

Stockbridge-Cultural Preservation Officer

P.O. Box 70 N8754 MohHeConNuck Road

Bowler, WI 54416

(715) 793-3970

Sherry.white@mohican-nsn.gov

Bonney Hartley

Tribal Historic Preservation Assistant- NY Office

Stockbridge-Munsee Mohican Tribal Historic Preservation

P.O. Box 718

Troy, NY 12181

(518) 326-8870 office

(518) 888-6641 cell

Bonney.Hartley@mohican-nsn.gov

The Department Contacts for Historic Preservation on the Stockbridge-Community Band of Mohican Indians website lists the mailing address as:

W13447 Camp 14 Road

Bowler, WI 54416.

http://www.mohican-nsn.gov/Departments/Historic_Preservation/index.htm

2.0 State Historical Groups

Vermont Historical Society

60 Washington Street

Barre, VT 05641

3.0 Lake Champlain Historical Groups

Lake Champlain Maritime Museum

4472 Basin Harbor Rd

Vergennes, VT 05491

4.0 Lake Champlain Ferry Organizations

Lake Champlain Transportation Company
1 King Street Dock
Burlington, VT 05401-5293

Fort Ticonderoga Ferry Company
1759 LTD
3143 Richville Road
Whiting, Vermont 05778

5.0 Lake Champlain Segment - Counties and Towns in the Project Area

Franklin and Grand Isle Counties

- **Grand Isle Historical Society**
Fay Chamberlin
PO Box 23,
Grand Isle, VT 05458
- **Alburgh Historical Society, Inc.**
Christine Tepper and Lorraine Mumley, Co-Presidents
PO Box 453
Alburgh, VT 05440
- **Town of Grand Isle**
Town Clerk
9 Hyde Road
Grand Isle, VT 05458

Chittenden County

- **Chittenden County Historical Society**
Carol Casey, President
PO Box 1576
Burlington, VT 05402

Addison County

- **Addison Town Historical Society**
Erwin Clark, Co-President
3968 VT Route 22A, Addison, VT 05491

- **Addison County Chamber of Commerce**
93 Court Street
Middlebury, VT 05753

6.0 Overland Segment – Rutland County: Towns of Benson, West Haven, Fair Haven, Castleton, Ira, West Rutland, Town of Rutland, Clarendon, Shrewsbury, Wallingford, and Mount Holly; and Windsor County: Ludlow and Cavendish

**** did not find a historical society for Ludlow and Ira**

- **Rutland Historical Society**
James Davidson, Curator
96 Center Street
Rutland, VT 05701
- **Shrewsbury Historical Society – Julie this is the one for the Village of Cuttingsville**
Ruth Winkler
5419 VT Route 103
Cuttingsville, VT 05738
- **Wallingford Historical Society**
Chris Bannerman, President
75 School Street
Wallingford, VT 05773
- **West Haven Historical Society**
Tad Mandel, President
2919 Main Road
West Haven, VT 05743
- **West Rutland Historical Society**
Peter Kulig, President
PO Box 385
West Rutland, VT 05777
- **Mount Holly Historical Society**
Dennis Devereux, Board of Directors Chair
PO Box 17
Belmont, VT 05730

- **Fair Haven Historical Society**

Cynthia Eaton, Secretary
3 North Park Place
Fair Haven, VT 05743

- **Benson Museum**

Genevieve Trutor, Curator
PO Box 218
Benson, VT 05731

- **Castleton Historical Society**

Holly Hitchcock, President
PO Box 219
Castleton, VT 05735

- **Town of Ira**

53 West Road
Ira, Vermont 05777

Windsor County

- **Windsor Historical Society**

Barbara Rhoad, President
PO Box 300
Windsor, VT 05089

- **Cavendish Historical Society**

Margo Caulfield, Coordinator
PO Box 472
Cavendish, VT 05142

- **Village of Ludlow**

Frank Heald, Municipal Manager
PO Box 359, Ludlow, VT 05149