



New Hampshire Association of Conservation Commissions

SERVING NEW HAMPSHIRE'S COMMUNITIES SINCE 1970

54 Portsmouth Street, Concord, NH 03301 | (603) 224-7867 | www.nhacc.org

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Executive Director
nicholascoates@nhacc.org

Emily Lord
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emilylord@nhacc.org

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Concord, NH 03301
603.224.7867
www.nhacc.org

NHACC's Current Thinking

NHACC is a resource network that provides education and assistance to New Hampshire's 216 local conservation commissions. Our mission is to foster conservation and appropriate use of New Hampshire's natural resources by providing assistance to conservation commissions, facilitating communication and cooperation among commissions, and helping to create a climate in which commissions can be successful.

The [Northeast Energy Direct Project](#) is a proposal by the Tennessee Gas Pipeline Company, a subsidiary of Houston based Kinder Morgan (KM), to expand their existing pipeline system in New England, New York and Pennsylvania. The proposed new route is for 30 or 36-inch natural gas pipeline and would pass through 17 New Hampshire towns, including Winchester, Richmond, Troy, Fitzwilliam, Rindge, New Ipswich, Greenville, Mason, Milford, Brookline, Amherst, Merrimack, Litchfield, Londonderry, Hudson, Windham and Pelham. KM is currently in the pre-filing or scoping phase of the NED Project and plans to submit a final proposal to the Federal Energy Regulatory Commission (FERC) later this year.

The NHACC Board has voted to not take a position on the Northeast Energy Direct Project. That said, NHACC plans to work with other conservation organizations in the state to keep an open dialog about this project. We are also evaluating other things we can do to support conservation commissions. In addition to the guide in the following document, some of these things might include:

Working with NHACC's counterpart in Massachusetts to provide comments on the FERC pre-filings, and encouraging CCs to do the same.

If NHACC is able secure additional funding, we may:

Contribute to the creation of the impact assessment tool.

Provide targeted education to conservation commissions around how to use the assessment tool to learning how to file with FERC, etc.

Based on the recent survey that NHACC distributed to conservation commissions in the pipeline project area, the following themes for need areas emerged:

- Information about the review and approval/denial process, including the chain of approvals and who are the primary and secondary decision makers in the permitting process.
- What information do commissions need to gather and how do towns evaluate the potential impacts of this project in their communities.
- Understanding what the role of conservation commissions in this project.
- Assistance on bringing conservation commissions together, including providing a forum or place where commissions can have an exchange of thoughts, ideas, concerns, and make requests of other commissions.

One way NHACC can facilitate communication among different towns/communities is through our easy to use members portal which can serve as an easy way for members from different Commissions to share data, approaches, concerns, questions, and generally discuss this project. If you need any assistance logging on, watch our tutorials: <http://bit.ly/NHACCvideos>

Considerations for Conservation Commissions

One of the many reasons we strongly encourage conservation commissions to develop Natural Resources Inventories is to inform decision-making. NRIs serve extremely useful in determining where your most sensitive resources are in town and whether you have adequate infrastructure in place to protect them. In addition to an NRI there are other important data you can collect in town (see below).

Don't be discouraged if your community has not developed an NRI or has limited information on local resources. There are some basic (free) tools out there that can still help you determine what might be at risk.

UNH GRANIT has a list of free GIS layers that you can download or view with their mapper tool - <http://granitviewii.unh.edu/>

One of the most commonly used tools is **NH Fish and Game Wildlife Action Plan** Data which ranks important habitats by region and condition, provides maps of different ecosystems, and when utilized with Wildlife Action Plan itself can tell you what species of concern depend on those habitats, and what activities they may be sensitive to.

There is also data on conservation lands (provided your town continues to submit updated information to them), wetlands, shore land, aquifers, important agricultural soils, large forested tracts and much, much more.

Keep in mind that these are state-wide resources based on either habitat models or larger scale mapping units and though they can be valuable in absence of more accurate information, can never replace the value of locally collected data.

The Nashua Regional Planning Commission also compiles mapping data on conservation lands in their service area and can help provide mapping and data to communities: <http://www.nashuarpc.org/hot-projects/project-pipeline/>

What Can Commissions Do Now?

- Review your **Natural Resources Inventory** for priority areas – if it is outdated, consider updating it!
- Review your town's **master plan** – if it is outdated, consider updating it with important natural resources identified (including viewsheds).
- Review your **zoning** ordinances/regulations – update with Wetland/Shoreland/Floodplain Zoning.
- Conduct an assessment of prime or significant **wetlands**.
 - Prepare potential impacts list and identify suitable mitigation sites.
 - Check municipal equalized values against ARM Fund listing to calculate wetland values
 -
- Develop a list of **priorities** for conservation AND restoration (based on NRI).
- Inventory conservation lands and **document** valuable resources.
 - And/or provide updates to **Conservation Lands Database** (with restrictions and easement holders, etc.). Assisting with the updating of the GRANIT layer helps provide accurate data to other conservation organizations across the state.
- Develop a **rating sheet** for potential conservation projects.

- Review the **Wildlife Action Plan**:
 - http://www.wildlife.state.nh.us/Wildlife/wildlife_plan.htm
- Check rare plants, wildlife and natural communities lists by town on NH Natural Heritage Bureau and submit any additional information you have to them:
 - <http://www.nhdf.org/about-forests-and-lands/bureaus/natural-heritage-bureau/>
- Identify, assess and document vernal pools based on aerial interpretation. Here's a guide:
 - http://www.wildlife.state.nh.us/Wildlife/Nongame/RAARP/Vernal_pool_manual.pdf
- Document and map any archaeological and historical resources.
- Make sure property deeds and conservation easements and restrictions have been recorded at the Registry of Deeds.
- Ensure that Baseline Documentation Reports (BDR's) are complete.
- Do homework necessary to establish value of conservation land in case of a negotiated easement or an eminent domain taking.
- Review conservation restrictions on conservation land to see if proposed survey methods would violate restrictions.
- Determine whether you'll want/need to hire an outside consultant and what local rules exist.
- *If you don't know how to do any of these, contact NHACC and we can help or find you someone who can.*

After the Pre-Filing and Before Kinder Morgan Files Formal Application with FERC

- Attend KM public meetings (open houses) in affected regions to discuss the project.
- FERC should be there to explain the FERC pre-filing process and the public comment opportunities.
- *NHACC advises commission involvement in the open houses, including providing information on possible environmental impacts of the proposed pipeline route and asking that a full environmental impact statement be prepared for the project.*

Participate in the NEPA Process

- KM's Pre-filing with FERC (filed September 15th) triggers review of the project under the National Environmental Policy Act (NEPA)
- NEPA goal: assess the environmental impact of the project and alternatives and identify mitigation for impacts
- NEPA requires public involvement, including public notice and public comment
- FERC will hold site visits and scoping meetings in the project area. Scoping highlights the issues that should be addressed in the NEPA review (for example, potential other routes for the pipeline, impacts on wetlands and endangered species, and the no-build alternative).
- NHACC advises that it is very important to be involved in the NEPA process, submit detailed comments during the scoping and comments on the draft Environmental Impact Statement (EIS).
 - Draft a letter to FERC that describes areas of greatest conservation concern in your town. This is also important because it establishes a formal record of these concerns w/ FERC.
 - Identify alternatives to locations of significant environmental concern; submit these in writing.
- The NEPA process will conclude after KM's formal filing with FERC.

- FERC ultimately decides if the NEPA review was adequate. The FERC decision can be appealed to court (issue for court review is process, not substance).

Participate in NH Site Evaluation Committee Process

- No “preemption” absent an order from FERC; until then all state and any applicable local requirements apply.
- NH SEC is a “one-stop shop” for state permits.
- Public involvement in SEC process includes:
 - Pre-application information sessions
 - Post-application information sessions
 - Public hearings
 - Formal intervention, adjudicatory proceedings, appeals
- <http://www.nhsec.nh.gov/index.htm>

During the FERC Application Review Process

- KM files a formal application with FERC.
- “Public convenience and necessity” must be shown by KM.
- Environmental Report filed by KM / NEPA process completed.
- People and groups can petition to intervene or protest the application.
- Options to consider if involved in the FERC process include: TBA
- FERC will schedule a public hearing on the application – FERC process can be slow.
- If FERC approves the project, it will issue a certificate of public necessity and convenience. **With that certificate, local and state laws and regulations are pre-empted unless the certificate states otherwise.**