

UNITED STATES FEDERAL ENERGY REGULATORY COMMISSION

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Tennessee Gas Pipeline Company, L.L.C.,)	
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Applicant, Northeast Energy Direct Project.)	Docket No. CP16-21-000
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MOTION TO INTERVENE BY
MOUNT GRACE LAND CONSERVATION TRUST, INC.

Pursuant to Section 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. § 385.214, Mount Grace Land Conservation Trust, Inc. (“Mount Grace”) respectfully moves to intervene in the above-captioned proceeding.

Mount Grace is a non-profit corporation organized and existing under the laws of the Commonwealth of Massachusetts, with a principal address at 1461 Old Keene Road, Athol, Massachusetts 01331. The mission of Mount Grace is to protect significant land and encourage land stewardship for the benefit of the environment, the economy, and future generations. A leader in Massachusetts land conservation, Mount Grace has conserved nearly 30,000 acres since 1986, including more than 30 family farms, 10 community forests, and 250 distinct public lands subject to Article 97 of the Massachusetts Constitution. Mount Grace owns 1600 acres of land for the benefit of the public, and manages and monitors 77 conservation restrictions on privately and publicly owned land. Since 2006, Mount Grace has raised more money than any other Massachusetts land trust for landscape scale conservation projects: \$17.5 million in USDA

Forest Legacy funding and \$2.8 million in funding from the Massachusetts Executive Office of Environmental Affairs, using for those projects a multi-landowner, multi-partner approach to protect more than 11,000 acres. Since 2010, via its statewide MassLIFT-AmeriCorps program, Mount Grace sends forth 23 AmeriCorps members each year to serve at other land trusts operating in more than 200 Massachusetts communities from the Berkshire Mountains to Massachusetts Bay.

Thus, Mount Grace, by its mission and by its actual conduct, has both direct conservation land ownership and management interests and representative interests in the conservation and stewardship of Massachusetts' farmlands, forests, and other natural lands, and in the protection of those properties against, among other sources of damage, such commercial development as is represented by the Applicant's proposed Northeast Energy Direct ("NED") project and pipeline, which may be directly affected by the outcome of the above-captioned proceeding. The participation of Mount Grace in this proceeding is in the public interest.

Service Address of Mount Grace

All documents required to be served upon Mount Grace in this proceeding should be addressed as follows:

Mount Grace Land Conservation Trust, Inc.
c/o Leigh Youngblood, Executive Director
1461 Old Keene Road
Athol, MA 01331

Email address: youngblood@mountgrace.org

Position of Mount Grace

It is the position of Mount Grace in this proceeding that no certificate of public convenience and necessity should be issued in response to the application of November 20, 2015.

Based on the studies of the Massachusetts Attorney General and others, in the balancing analysis required of the Commission any need for additional gas pipeline capacity is far offset by the extensive adverse effects on the interests of landowners and surrounding communities identified below and by other parties to this proceeding. The Applicant is now seeking approval for less than one-third (0.7 billion cubic feet per day) of the capacity described in the Commission's Notice of Intent issued for the NED on June 30, 2015 (2.2 billion cubic feet per day) while keeping the footprint of the project relatively unchanged. In addition, the negative environmental impacts on all scales, from the most local to the planetary, of this massive increase to the region's carbon energy infrastructure render this project impossible to certify under existing United States and Massachusetts law.

Interests of Mount Grace

Due to its land conservation and land stewardship work and responsibilities in 23 towns in north central Massachusetts, and its broader state-wide activities, Mount Grace has direct interests and represents additional direct interests that will be affected by the outcome of this proceeding. These range from direct ownership of protected conservation land on which the pipeline is to be built to its obligation to dues-paying members and to substantial donors to protect Massachusetts Constitutional and statutory provisions from evisceration through unnecessary and unwarranted claims of federal preemption and use of federal eminent domain and, of even greater importance to the continuation of land conservation in Massachusetts, from the loss of citizen confidence in the reliability and enforceability of instruments of land protection. Article 97 of the Massachusetts Constitution with respect to public lands, and legal principles of charitable trusts, restricted donations, and contractual conservation restrictions with

respect to private lands, together are the bedrock of land conservation in this state. Under these principles Mount Grace is obligated to protect many existing conservation investments made in the past; conversely, Mount Grace must protect these principles if future conservation investments are to be possible.

I. Conservation Land Owner

Specifically, Mount Grace is the owner of a 50-acre parcel on Poplar Mountain in Erving, Massachusetts (parcel 79 on the Erving Property (tax) Map No. 4), immediately north of the Erving Town Forest on Old State Road. This property was donated to Mount Grace for conservation purposes and ultimately will be granted by Mount Grace to Erving and added to its Town Forest. This mountain top land is heavily forested and is ranked at the highest level of well-recognized Habitat Block Analysis characteristics (score 18-23: Tire 1 Hot Spot) used by Mount Grace to judge the importance of properties for land conservation. The interest of Mount Grace in protecting the conservation values of this unique property, and implementation of its duty to do so, would be affected adversely by the installation of the proposed NED pipeline across the land, including by the destructive consequences of the construction process, the effects of blasting and erosion on steep terrain, the installation of access roads, and the risks of gas leakages, fires, or explosions associated with high pressure gas lines. These interests will be directly affected by the outcome of this proceeding, and thus Mount Grace, the only entity responsible for this property, must be a party to protect these interests.

Mount Grace is also the direct owner of the Charles A. Morse, Sr. Memorial Forest, 57 acres of land at milestone 28 in Section H of the NED pipeline map, on the northern border of the Town of Warwick. This property was donated to Mount Grace in 1996 for conservation

purposes and contains fragile steep slopes and extensive wetland communities, including a Black Gum Swamp. Under the plan as filed, the pipeline does not cross this conservation property, but access roads will, with the damage to conservation values that all road building brings.

II. Conservation Land Manager and Monitor

Other interests for which Mount Grace is directly responsible are those arising from ownership of conservation restrictions on land owned by others and from management agreements also applying to land owned by others along the proposed pipeline. In these circumstances, Mount Grace has the responsibility to monitor and insure that the conservation land is maintained in accordance with the requirements imposed by the conservation provisions designed to protect the property; in short, Mount Grace is made responsible contractually and by state law for enforcement of the applicable conservation restrictions. And again, no other entity has this responsibility in these circumstances.

One example is the property owned by Samuel and Barbara Richardson on which there is a conservation restriction owned by the Town of Northfield. Mount Grace facilitated the protection of these 38 acres and now, under a contractual arrangement with the Town, is responsible for monitoring the land to insure it is maintained as required by the conservation restriction document recorded at the Franklin County Registry of Deeds at Book 6034, Page 179. Mount Grace is uniquely obligated to protect the conservation values of this land and thus must participate in this proceeding because of the potential adverse effects the proposed pipeline can have on the property.

Similarly, Mount Grace has compliance, stewardship, and/or monitoring responsibilities and obligations with regard to other properties affected by the proposed pipeline:

(a) Land owned in Northfield by the Northfield Mount Hermon School, on which Mount Grace holds conservation restrictions and therefore is obligated to defend the property against any use not permitted by the conservation restriction document recorded at the Franklin County Registry of Deeds at Book 6194, Page 250.

(b) Mount Grace also has contractual monitoring and stewardship obligations on Town owned land managed as the Northfield Town Forest and protected by a USFS Forest Legacy deed restriction recorded at the Franklin County Registry of Deeds at Book 6034, Page 207.

III. Facilitator of Conservation Land

In addition to its interests in property owned directly or for which it has responsibilities, Mount Grace has continuing interests in land for which it facilitated conservation protections and which may be affected adversely by the proposed pipeline. For instance, Mount Grace obtained USDA Forest Legacy funding, which brings with it various restrictions inconsistent with pipeline construction, for the above-described Northfield Town Forest and Richardson CR property, and for land acquired by the Commonwealth that is now part of the Northfield State Forest (Franklin County Registry of Deeds Book 6144, Page 266). The proposed NED pipeline would cross each of these lands, the latter two of which also contain well-used sections of the New England National Scenic Trail. In addition, Mount Grace helped obtain state Self-Help Program (now known as the L.A.N.D. Program) conservation funding, which brings with it various restrictions inconsistent with pipeline construction, for the acquisition of the Erving Town Forest property, adjacent Old State Road Town of Erving CR, and Northfield's Brush Mountain Conservation Area.

IV. Charitable Trust and Public Trust

Mount Grace acquired, and subsequently conveyed explicitly for conservation purposes, the Brush Mountain Conservation Area, the Northfield Town Forest, and a 117-acre property

conveyed by Northfield Mount Hermon School for conservation purposes that is now a part of the Northfield State Forest, each of which would be directly impacted by the NED pipeline. And again, Mount Grace pre-acquired an Agricultural Preservation Restriction (APR) on property then owned by John R. Bitzer in Montague, Massachusetts, and subsequently transferred that APR to the Massachusetts Department of Agricultural Resources under its APR program. The NED pipeline originally was planned to go through this valuable, organically managed agricultural land but was, at least for the moment, moved just to the north, but the land remains within the explosion impact radius of the NED. In all of these cases Mount Grace actively sought and obtained charitable funding from members and donors specifically directed to these projects with the understanding and expectation that the land would be protected from residential, commercial, and industrial use in perpetuity, and that environmental and agricultural values would be maintained. If these expectations are undermined by the NED project, the ability of Mount Grace to develop similar projects in the future will be severely and adversely affected by loss of public trust in the land conservation process in Massachusetts.

V. Ongoing Public Conservation Needs and Objectives

In the 23 towns served by Mount Grace, 150,000 more acres of forest and farmland have been prioritized by the Commonwealth and others for conservation. Mount Grace's mission is to continue protecting land in these towns, and thus it has an interest not only in the properties of past conservation projects but also in those of the future. As there is no other entity or organization focused specifically on this potential for further conservation in its service area, Mount Grace must become a party here to help insure the future of land conservation is not undermined by a huge infrastructure project that is not necessary now and that contradicts the

direction energy policy and development must increasingly move in the immediate future to save the next human generation from extreme adversity.

In all of the above areas of interest, a wide variety of impacts to the land is at issue. Property will be affected by the clearing of land and the widening of existing rights of way, by construction and maintenance of access roads, by blasting, by drilling under rivers and streams, by erosion resulting from the construction process and permanent changes to soil structures, by gas leakage and blow-offs, by degradation and/or pollution of aquifers, by noise and light pollution caused by compressor stations, and by damage to the natural landscape and scenery of the entire area.

VI. Excessive Use of Eminent Domain

Finally, the Commission's decision in this matter is governed in part by the extent to which the proposed project would require excessive use of eminent domain proceedings by the Applicant to obtain necessary rights of way for the NED pipeline on both public and private land. Neither the Commonwealth nor Municipalities nor private land owners nor holders of conservation restrictions are free to negotiate pipeline easements that violate Article 97 of the Massachusetts Constitution, the laws of charitable trusts, or specific conservation restrictions: the alleged federal right of eminent domain will have to be imposed in scores of instances of state, municipal, and charitable interests. In addition, at least 50 other affected private landowners have advised Mount Grace that they also oppose selling easements to the Applicant, and accordingly acquisition of rights of way across many private properties will require exercise of eminent domain powers and procedures as well.

The Public Interest

At every level, therefore, from the most specific to the most encompassing, Mount Grace has interests that may be directly adversely affected by the subject project and the outcome of the above-captioned proceeding and that can be adequately expressed, represented, and protected only by its intervention as a party in this proceeding. Because many of these interests affect the public welfare and can be represented by no other party, the participation of Mount Grace in this proceeding is in the public interest.

WHEREFORE, Mount Grace hereby moves, pursuant to Rule 214 of the Commission's rules, to intervene in and thereby be made a party to the above captioned proceeding.

Respectfully submitted,

MOUNT GRACE LAND CONSERVATION TRUST, INC.

By


Leigh Youngblood
Executive Director

January 7, 2016

