

January 17, 2017

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Office of Energy Projects
Division of Hydropower Licensing
888 First Street, NE, Washington, DC 20426

RE:

Wilder Dam Project No. 1892-026
Bellows Falls Project No. 1855-045
Vernon Project No. 1904-073
Turners Falls Project No. 1889-081
Northfield Pumped Storage Project No. 2485-063

Dear Secretary Bose,

The Elnu Abenaki Tribe (Elnu), in collaboration with and as proxy for the Nulhegan Band of the Coosuk-Abenaki Nation (Nulhegan) and the Koasek Traditional Band of the Koas Abenaki Nation (Koasek), are filing the attached comments and proposal in response to the Federal requirements and recommendations for Tribal consultation in fulfillment of Section 106 of the National Historic Preservation Act (NHPA) and the National Register Bulletin 38 Guidelines (NRB38). The above-referenced five hydroelectric Projects on the Connecticut River are currently in the process of Federal Energy Regulatory Commission (FERC) relicensure and lie within the immediate traditional homelands of the Abenaki people. The applicant for the first three facilities (Wilder/1892, Bellows Falls/1855, and Vernon/1904) is TransCanada Hydro Northeast Inc. (TransCanada); the other two properties (Turners Falls/1889 and Northfield Pumped Storage/2485) are operated by FirstLight Hydro Generation Co. (FirstLight). Both licensees and all five properties are currently in the midst of sale and transfer to new operators, namely (in the same order) ArcLight Capital Partners/Great River Hydro and PSP Investments. The attached comments and proposals are being filed with the licensee's respective managers, John Ragonese for TransCanada and John Howard for FirstLight.

Specifically, Elnu, with its Abenaki Tribal partners, has been in review and dialogue with the relicensure applicants with regard to the findings of several Study Reports. Those under the purview of the NHPA, Section 106 include historic properties of religious and cultural significance to an Indian tribe and, under NRB38, Traditional Cultural Properties (TCPs), found within the currently defined Areas of Potential Effect (APE). Tribal representatives have participated in public Study Report Reviews with both TransCanada (June 1, 2016 Wilder, VT) and FirstLight (Sept. 30, 2015 Northfield, MA). At the invitation of Dr. Frank Winchell (FERC) and Harold Peterson of the Bureau of

Indian Affairs (BIA), the Abenaki as sovereign Tribal People have subsequently chosen to enter the Federal consultation process as vested parties with recognized interests in the abovementioned projects. While the cited topics are of singular concern, it must be noted that, as indigenous peoples, the subjects of other resource studies may also have great significance to the concerned parties, including but not limited to: water quality and flowage; accessibility; natural communities including fish, wildlife, and plants; and effects upon the landscape itself such as erosion, earthmoving, and management practices.

With the implicit understanding that the Abenaki are a river- and earth-centered culture, any activity on the Connecticut River and its tributaries will have an effect, to a greater or lesser extent, on the traditional and ongoing living relationship between the River, the Land, and the People. Areas may be flooded, eroded, modified, restricted, disrespected, damaged, destroyed, or otherwise compromised by industrial uses such as damming and hydro-generation. As an indigenous People and culture, place-based and in relationship with many other communities – human, natural, ancestral, and both temporal and intangible – we are conscious of the connections and effects amongst all of these entities within the landscape.

As mentioned, Elnu and its Tribal partners are filing a joint response in the form of brief comments and proposals for a consultation program in fulfillment of the requirements of NHPA, Section 106, and its guidelines for implementation, including NRB38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King), and the Advisory Council on Historic Preservation's (ACHP) *Native American Traditional Cultural Landscapes Action Plan*. This work will be coordinated with the licensees, as delegated agents of FERC, and their consultants. We acknowledge that the licensing process is well underway and the task at hand will require a substantial time frame; thus, we anticipate that the agreed-upon program will be implemented and maintained through Programmatic Agreements (PA), Memorandums of Agreement (MOA), and subsequently Historic Property Management Plans (HPMP), as licensure and operations proceed. Having previously lacked Tribal participation, the extant TCP studies performed by TransCanada (No. 33) and FirstLight (No. 3.7.3), and the Archaeological and Historic Properties Surveys, will be re-envisioned and brought in, or closer to, compliance with Federal regulations and the sovereign interests of the Abenaki people. Further, we acknowledge there may be other vested parties with which we will collaborate and coordinate, such as State Historic Preservation Officers (SHPO), other Tribal entities, and professional consultants.

Please see the attached draft proposal submitted jointly to TransCanada and FirstLight. Thank you for this opportunity to participate in the fulfillment of the requirements of this significant and far-reaching review process.

Cordially,

Richard Holschuh
For Elnu Tribe of the Abenaki

Roger Longtoe Sheehan
Chief, Elnu Tribe of the Abenaki

Donald Stevens
Chief, Nulhegan Band of the Coosuk-Abenaki Nation

Jim Taylor
Councilman, Elnu Tribe of the Abenaki

Shirly Hook
Co-Chief, Koasek Traditional Band of the Koas Abenaki Nation

Amy-Hook Therrien
Co-Chief, Koasek Traditional Band of the Koas Abenaki Nation

Carrie Gendreau
Co-Chief, Koasek Traditional Band of the Koas Abenaki Nation

January 17, 2017

John L. Ragonese, FERC License Manager
TransCanada Hydro Northeast Inc.
One Harbour Place, Suite 330
Portsmouth NH 03801

John S. Howard, Director FERC Compliance, Hydro
FirstLight Power Resources, Inc.
99 Millers Falls Road
Northfield, MA 01360

RE FERC Dockets:
Wilder Dam Project No. 1892-026
Bellows Falls Project No. 1855-045
Vernon Project No. 1904-073
Turners Falls Project No. 1889-081
Northfield Pumped Storage Project No. 2485-063

Gentlemen,

The Elnu Abenaki Tribe (Elnu), in collaboration with and as proxy for the Nulhegan Band of the Coosuk-Abenaki Nation (Nulhegan) and the Koasek Traditional Band of the Koas Abenaki Nation (Koasek), are filing the attached comments and proposal in response to the Federal requirements and recommendations for Tribal consultation in fulfillment of Section 106 of the National Historic Preservation Act (NHPA) and the National Register Bulletin 38 Guidelines (NRB38). At the invitation of Dr. Frank Winchell of the Federal Energy Regulatory Commission (FERC) and Harold Peterson of the Bureau of Indian Affairs (BIA), the Abenaki as sovereign Tribal People have chosen to enter the Federal licensing consultation process as vested parties with recognized interests in the abovementioned proceedings. These tasks will be coordinated with the licensees, as delegated agents of FERC, and their consultants.

In light of the concurrent relicensure of these five facilities by FERC, it seems reasonable to handle Tribal consultation in a similar manner. With joint operations overlapping within the immediate traditional homelands of the Abenaki people, irrespective of contemporary political boundaries, a comprehensive and coordinated assessment is in order. Please see the accompanying cover letter (filed with FERC) for additional background and citations.

Given that TransCanada Traditional Cultural Property (TCP) Study No. 33 and FirstLight TCP Study No. 3.7.3 were conducted absent required Tribal consultation, Elnu Abenaki and their Tribal partners (Nulhegan and Koasek),

as representatives of the indigenous People of this region (known as N'dakinna, our homeland), now stand as invited by FERC and the BIA to address the shortfall. NHPA Section 106 and the NRB38 Guidelines clearly reserve this final authority to those whose interests are at stake. TransCanada, to their credit, fully acknowledge this lack in their TCP Study, an opportunity that we embrace; FirstLight's TCP Study does not go nearly as far, and simply drops the obligation with a purported lack of communication, a charge not entirely accurate.

Accordingly, we propose below a draft plan of action in order to fulfill the Federal statutory requirements for Tribal consultation with regard to NHPA Section 106, addressing "historic properties of religious and cultural significance to an Indian tribe," and in accordance with the NRB38 Guidelines for evaluating and documenting TCPs. We acknowledge that the five-project licensing process is well underway and the task at hand will require a substantial time frame; thus, we anticipate that the agreed-upon program will be implemented and maintained through Programmatic Agreements (PA), Memorandums of Agreement (MOA), and ultimately Historic Property Management Plans (HPMP), allowing licensure and/or operation to proceed. We acknowledge there may be other vested parties with which we will collaborate and coordinate, such as State Historic Preservation Officers (SHPO), other Tribal entities, and professional consultants. Further, certain results of these investigations and surveys must and will be considered highly sensitive cultural knowledge; thus, confidentiality requirements as promulgated by the Tribes will be put in place as needed. These rights are reserved in the NHPA, Section 106, and the NRB38 Guidelines.

As a final staging point, we understand the project Area of Potential Effect (APE) as defined thus far is "the area within the FERC Project Boundary owned in fee simple by TransCanada and 10 meters, or about 33 feet of land inland from the top of bank in areas along the Connecticut River and affected portions of tributaries where TransCanada holds flowage rights." With regard to the APE when dealing with TCPs and their associated landscapes, it is critical to note that (quoting from NRB38 Section V) "boundaries are often difficult to define... [and] in part because of the difficulty involved in defining boundaries, it is important to address the setting of the property... The nomination form or eligibility documentation [should] discuss those qualities of a property's visual, auditory, and atmospheric setting that contribute to its significance, including those qualities whose expression extends beyond the boundaries of the property as such into the surrounding environment." In other words, TCPs, in particular, may be better understood as functioning within a holistic setting, such as a viewshed, watershed, or naturally defined feature.

Proposed Consultation Program:

First 8-12 months after proposal agreement, deliverables as listed:

1. An initial review with critiques and commentary of the existing TCP Studies: No. 33, as prepared for TransCanada by Willamette Cultural Resources Associates (WCRA), Ltd., in conjunction with PAL, dated May 16, 2016, and No. 3.7.3, as prepared for FirstLight by TRC, and dated March 31, 2015, as well as the various Archaeological and Historic Property Surveys and Reports prepared by the respective consultants.
2. Drafting of Programmatic Agreements with TransCanada and FirstLight for the pre- and initial license period, incorporating this proposal as agreed, at a minimum.
3. Coordination with WCRA, PAL, and TRC consultants for revision of existing TCP and Archaeological/Historic Property Studies and Surveys in concert with Tribal input, with methodologies to be agreed upon.
4. Planning for draft Historic Property Management Plans (HPMP) as anticipated.
5. Set-up of Tribally maintained archival systems, subject to confidentiality agreements.
6. Beginning ethnohistoric, ethnographic, and field research, if possible.

Each calendar year thereafter (license term):

1. Ongoing ethnohistoric, ethnographic, and field research components, using Tribal personnel, Native student interns, professional consultants, and/or their approved delegates (seasonally scheduled).
2. Documentation and archiving of the seasonal research.
3. Preparation of an annual report.

Proposed Budget

Jointly funded by the licensees for the term of the license.

- First year: \$15,000
- Usage: IT procurement, consultation and correspondence, Survey and Study review with commentary, initial research, report preparation, travel and expenses, printing.
- Each year thereafter: \$12,000, adjusted for inflation at 5 year increments.
- Usage: IT, ongoing research, fieldwork, monitoring, intern stipend, archival tasks, final report, travel and expenses, printing.

Thank you for your consideration and this opportunity for Tribal consultation, in fulfillment of Federal licensing requirements and in recognition of the substantial and ongoing project effects upon Abenaki Tribal heritage and culture.

Cordially,

Richard Holschuh
For Elnu Tribe of the Abenaki

Roger Longtoe Sheehan
Chief, Elnu Tribe of the Abenaki

Donald Stevens
Chief, Nulhegan Band of the Coosuk-Abenaki Nation

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