



Cowasuck Band of the Pennacook - Abenaki People
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9 May 2017

Ms. Kimberly Rose
Federal Energy Regulatory Commission
Office of Energy Projects / Division of Hydropower Licensing
Washington, DC 20426

Subject: TransCanada (TC) now Great Rivers Hydro (GRH)
Wilder Dam Project No. P-1892-026
Bellows Falls Project No. P-1855-045
Vernon Project No. P-1904-073

Re: Cowasuck Band of the Pennacook - Abenaki People
National Historic Preservation Act (NHPA) Section 106
Indigenous Tribal Consultation

Ms. Rose,

1. Introductory Comments

It is the position of the Cowasuck Band of the Pennacook - Abenaki People (Cowasuck Band) that TransCanada (TC) now Great River Hydro (GRH) through its efforts and its anticipated approval for an Integrated Licensing Process (ILP) for the: Wilder Hydroelectric Project FERC No. P-1892-026; Bellows Falls Hydroelectric Project FERC No. P-1855-045; and, Vernon Hydroelectric Project FERC No. P-1904-073 will ultimately control a major portion of the function and natural resources of the Connecticut River and the effected water shed in the Area of Potential Effect (APE). As such GRH has a major responsibility to protect and preserve said river and area for the next fifty years.

It is not the intent of the Cowasuck Band to make any specific demands. However, the Cowasuck Band expressly reserves its Indigenous rights under 25 U.S.C. and our rights to protect ourselves from any harmful action in regard to the ILP and the future operations of GRH. We believe that the NHPA Section 106 Tribal Consultation is a negotiated multi-lateral process that provides us an opportunity to express our concerns and suggestions relevant to this ILP and the continued operations by GRH.

2. Defining Area of Potential Effect (APE)

As the Area of Potential Effect (APE) is identified, the Cowasuck Band believes that this APE meets the minimum requirements. The Connecticut River and all of its associated water shed that is defined as the APE may in fact be a "fluid" reality that needs continued monitoring and redefined description. It may, in a broad scope, be considered a "living ecological system" that extends both upstream and downstream of the defined APE to limits that we can not fully understand or attempt to define.

3. Defining Vermont and New Hampshire State River Boundaries

Based on our historical review of the Vermont and New Hampshire border and Connecticut River boundary issues it appears to us that the vast majority of the APE is within the state of New Hampshire, with the exception of that portion that is within the Vermont Yankee Nuclear Power Plant locus. The Cowasuck Band believes that, as the Indigenous tribal entity resident in New Hampshire, we are a major stakeholder in this ILP.

4. Great River Hydro Custodial and Operational Responsibilities

We believe this is a significant custodial responsibility that requires GRH to act to responsibly protect, maintain, and potentially improve the APE in all particulars for the ensuing fifty years.

5. Indigenous Consultation Relationships

Due to the scope of this major responsibility we believe that no Indigenous, tribal entity, or non-profit organization should be charged with or otherwise allegedly engaged through the Indigenous NHPA Section 106 process to provide a service agreement to the GRH as Indigenous custodians for the APE.

We have reviewed publically submitted project documents that suggest that there are Indigenous entities which are seeking compensation agreements to assume the long term custodial responsibilities for the APE and input for the continued development of the Indigenous Traditional Cultural Property (TCP).

These entities either lack tribal authority, organizational resources, or vetted state authority to act as federal tribal entities for the purposes of the ILP or to receive funding to provide mitigation services.

Furthermore, these proposals allege to represent the interests of the greater Indigenous community at large but in fact are self serving proposals for these specific entities. Previous to the dates of these proposals, none of these entities discussed their agreement proposals with the Cowasuck Band. Considering the fact that the Cowasuck Band is a major stakeholder resident in New Hampshire these were deliberate actions on their part, an act of oversight that we cannot ignore.

The Cowasuck Band has a different interpretation as to what constitutes tribal engagement in regard to NHPA Section 106 Consultation for this particular ILP. To propose a tribal compensation agreement with no actionable plan is unacceptable. To accuse an ILP applicant of failing to provide proper tribal consultation based on a unilateral lack of actual consultation engagement or lack of reciprocal tribal communication is not acceptable or in the spirit of this process.

Ultimately, GRH should not abdicate any of these custodial or developmental responsibilities to any Indigenous entity for the purpose of this ILP when there is no method to assure that said potential compensation based agreements have identifiable actions, goals, objectives, or measurable results.

The Cowasuck Band will continue to discuss those items, issues, and concerns that we feel are of importance and consideration for the ILP and continued GRH operations.

6. Mitigation

A. Archaeological Activities and Documentation

The Cowasuck Band will be seeking mitigation action to properly document all project Archaeological activities, including prior historical findings, Phase 1A, Phase 1B, Phase II, and any continuing project archaeological activities. The goal is to produce from completed and ongoing archaeological activities a concatenated and condensed research report that includes but is not limited to: historical findings, detailed artifact pictures, artifact descriptions, artifact dating and other scientific analysis (as applicable), and with generalized site locations subject to previously requested confidentiality concerns established by the NH DHR to prevent future unauthorized archaeological "looting" activity. This described report document is intended for tribal and academic research and as such is not to be made available to the general public.

In the event that any "specifically unique" artifact is identified by any of the archaeological parties involved in this project and or the Cowasuck Band, additional scientific analysis should be conducted on this item. We believe that there are a wide variety of scientific analysis methods available to date and identify organic materials on, from, or within said artifacts. We believe that such scientific analysis may be limited in number and scope but any newly discovered data or information is in the best interest of the federal and state governments as well as the scientific, academic, and Indigenous communities.

B. Traditional Cultural Properties (TCP)

We have reviewed the previously submitted commentary related to the development of the Indigenous Traditional Cultural Property (TCP) and we are of the opinion that there is no obvious consensus of what that means to the greater Indigenous community.

It is difficult, if not impossible to develop this particular TCP if everything that may be important is considered "sacred," "secret" or in some way so confidential that a discussion about it can not occur. We may never fully understand what the Connecticut River water shed was like before European colonial contact. We can only make wide assumptions: that the river itself was a major North - South water travel way; that it was a commercial conduit for trade; that it was a major migratory route for a wide variety of aquatic life; and, that river flood plains and shorelines were major Indigenous agricultural areas.

C. Traditional Indigenous Fishing and River Access Sites

We suggest that GRH, study, plan, develop, and if possible construct traditional Indigenous fishing sites at locations under the control and or ownership of GRH. The goal and objective is to provide improved fishing and to reestablish a small portion of the Indigenous Traditional Cultural Property that was once in existence in the time before the Connecticut River was restricted or otherwise impacted by dams and colonial commerce.

These sites could also be designed for river access, if applicable, for swimming or conveyance by canoeing but with no provisions for motor powered water craft.

D. Aquatic Life - Fish and Aquatic Life Improvement - Dam Passage Improvements

We have reviewed the numerous reports and studies related to various aquatic, insect, and plant life, specifically the anadromous and catadromous fish species. It is obvious that dams on the river are man made obstacles to any of the migratory species that may have historically spawned within the Connecticut River watershed. Action is needed if any of the fish runs are to survive for the next fifty years.

Fish friendly safe and effective passage is required at all dams. We can not make specific recommendations, but we believe that multiple and unique strategies are required at each dam site to facilitate the up and down stream migration of the various migratory fish species. Simply stated, no one fish ladder or dam passage design for one particular

species is an adequate solution for the greater good of all fish species.

Furthermore, we believe that these dams are major part of a much larger issue. To make the entire Connecticut River water shed and its feeder tributaries more productive for aquatic life we need an inter-company strategy between all operating companies, the federal and state agencies, and the stakeholders to create safe fish passage at other major and tributary dams to increase available spawning habitat and success.

E. Dam Operation - River Flows, Water Levels, and Water Temperature

From our particular Cowasuck Band Indigenous perspective we will reiterate our more obvious concerns if they are not noted by other stakeholder parties.

We have confidence that through this re-licensing that GRH will be held to established regulatory operational standards that are in compliance with the current and appropriate federal and state agencies of authority and in the best interests of all stakeholders. However, we do not have long term confidence that the federal government will uphold these regulatory operational standards for the next fifty years.

From an operational standpoint we suggest that comprehensive testing should be conducted before making any changes to dam discharges and flow rate regimes to prove they will not harm any aquatic or plant life due to flow issues or erosion. Especially important are the operational conditions and flows that occur during peak and low river flow and the multiple migratory fish spawning time periods.

We favorably note that the discontinued heat discharge from the Vermont Yankee Nuclear Power Plant will lead to more seasonal and historical river temperatures. This may help in the efforts to improve aquatic life on the river down stream from this site.

We also recognize that the existing hydro-electric turbines were designed for power production in historical times when aquatic life passage issues were not a priority. We also believe that some of the particular hydro-electric turbine designs are more inherently destructive and lead to high fish mortality rates. Turbine design studies, possible design modifications, and operational changes should be implemented to lower these fish mortality rates.

F. River Bank Erosion Issues

Operational flow rates and water level considerations should be a high priority to protect river bank and shore line landscapes from any undue erosion. We realize that erosion remedial actions may require a: detailed action plan; inter-agency participation and permitting; and, potentially complex construction methods to stabilize areas of erosion. In the event that river bank erosion requires remedial (emergency or planned) action, GRH must be held as a responsible party, with the appropriate parties, to facilitate repairs to the river bank landscape.

If that river bank or shoreline erosion occurs and results in the exposure of an historical Indigenous site, known or newly discovered, GRH must notify the appropriate federal, state, and tribal (Cowasuck Band) authorities.

In our case, the NH DHR must be notified to take appropriate investigative action. If the NH DHR determines that this situation reveals or may potentially expose the presence of artifacts and or human remains then we would request that the action be taken under the provisions of New Hampshire Title XIX Public Recreation Chapter 227-C Historic Preservation, Preservation of State Historic Resources, Section 227-C:8-A. In the execution of these actions the Cowasuck Band would provide assistance to perform

traditional ceremonial repatriation services if required.

G. Curation and Repatriation - Sacred Artifacts, Human Remains, Funerary Artifacts, and Artifacts of Cultural Patrimony

It is our position that if an artifact is deemed to be "sacred" or otherwise an item of "cultural patrimony" by our Cowasuck Band and, or the New Hampshire Department of Historical Resources (NH DHR), that item must be appropriately curated by the NH DHR or repatriated regardless of any perceived ownership issues. No Indigenous human remains, funerary item, or artifact should ever be removed from the State of New Hampshire or our traditional homelands for the purpose of private sale, curation, or repatriation.

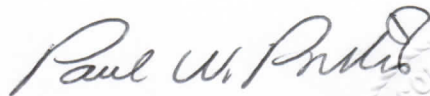
7. Concluding Statement

The Cowasuck Band of the Pennacook - Abenaki People expressly reserve our Indigenous rights in all regards to protect our organization and people from harmful action. We reserve our rights to add to, modify, or withdraw our commentary in regard to this ILP at our discretion.

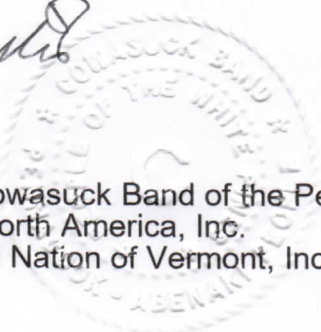
In advance, I thank you for your timely consideration on our Indigenous consultation commentary.

This letter is authenticated under the authority of our tribal seal on this 9th day of May 2017.

Sincerely,



Paul W. Pouliot
Sag8mo and THPO, Cowasuck Band of the Pennacook-Abenaki People
President, COWASS North America, Inc.
President, The Abenaki Nation of Vermont, Inc.



Document Content(s)

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