2 COMMENTS AND RESPONSES

This chapter contains an overview of the public comment process and presents the comments received during the comment period and DOE's response to those comments. All comments received were considered in the preparation of this Comment-Response Addendum.

2.1 OVERVIEW OF THE PUBLIC COMMENT PROCESS

DOE distributed the Draft EIS to members of the U.S. House of Representatives and the U.S. Senate, several Federal agencies (e.g., the EPA and the U.S. Army Corps of Engineers [USACE]), State of Maine and local governments, Native American Tribal governments, private industry, public interest groups, and members of the general public (see Appendix I of the Draft EIS), and invited them to submit written comments on the Draft EIS via mail, fax, or e-mail directly to DOE, or to provide oral comments at the public hearings. The Draft EIS was also made available during this time on the project Web site (http://web.ead.anl.gov/interconnecteis) and on the DOE NEPA Web site (http://www.eh.doe.gov/nepa/documentspub.html). Written and oral comments were given equal weight, and DOE considered all comments received. In addition, copies of the Draft EIS were made available in Maine for inspection at the Bangor, Brewer, Orrington, Princeton, and Baileyville public libraries and at the Calais Free Library. An announcement of the public hearings was also printed in local newspapers.

2.1.1 Comment Process

The EPA Notice of Availability of the EIS published on August 26, 2005, began a 45-day comment period that ended on October 11, 2005. During the comment period, DOE held public hearings in Baileyville, Maine, on September 28, 2005, and in Brewer, Maine, on September 29, 2005. The time and location of the public hearings were posted in a "Notice of Availability" published by DOE on September 12, 2005, in the *Federal Register* (70 FR 53786), on the project Web site, and in local newspaper advertisements.

The hearings included a presentation by DOE, a question and answer period, and an oral comment session where attendees were invited to formally enter comments into the public record. Transcripts of the public hearing proceedings were recorded by a court reporter. This Comment-Response Addendum includes the transcript for the September 29, 2005, public hearing at Brewer. No public comments were presented at the September 28, 2005, hearing at Baileyville. Therefore, the transcript for that hearing is not included in this document.

2.1.2 Issues Raised during the Public Comment Process

This section presents an overview of the issues raised by the public and the general approach undertaken to respond to these issues. Three speakers presented comments at the public hearings, and DOE received six public comment letters.

The following issues were raised during the Brewer public hearing: (1) the salvaging of trees cut during ROW clearing; (2) the impact of the transmission line on property values, tax revenues, and easement rights; and (3) uprating the existing MEPCO line rather than constructing a new transmission line.

The following issues were raised in written comments by the USACE (Delgiudice 2005) on the Draft EIS: (1) secondary and cumulative impacts associated with regional ROWs and potential project-related ROW widening; (2) impacts on natural resources from alternating current (AC) mitigation; (3) the occurrence of vernal pools, potential impacts on them, and mitigation measures; (4) coordination with Native American Tribes and the Maine Historic Preservation Commission; and (5) consistency with the language of CWA Section 404(b)(1) guidelines.

The following issues were raised in written comments by the Maine Historic Preservation Commission (Shettleworth 2005) on the Draft EIS: (1) the need for additional consultation regarding existing architectural resources in new construction areas that may not have been previously surveyed or reviewed by the State Historic Preservation Commission, and (2) the language of the EIS should clearly indicate the need to consult for potential architectural resources, in addition to archaeological resources, in areas that have not been previously surveyed or reviewed by the Commission.

The following issues were raised in written comments by the EPA (Higgins 2005) on the Draft EIS: (1) the rationale for selecting the preferred alternative; (2) the distribution of, potential impacts to, and mitigation measures for individual wetland types along the ROWs; (3) the potential introduction and control of invasive species; (4) the occurrence and location of, potential impacts to, and mitigation measures for vernal pools along the alternative routes; (5) ROW maintenance techniques; (6) ROW management for wildlife habitat; and (7) ROW monitoring during and after construction for possible wildlife impacts.

An issue raised by Maritimes & Northeast Pipeline, L.L.C. (Maritimes) (Penney 2005) on the Draft EIS was that the AC mitigation for the M&N gas pipeline should be installed and functional before the proposed transmission line is energized.

The following issues were raised in written comments by the Maine Department of Inland Fisheries and Wildlife (MDIFW) (Bard 2005) on the Draft EIS: (1) the need to update Appendix D with regard to the distribution of the sedge wren, and (2) the lack of inclusion and evaluation of potential impacts on animal species listed by the State of Maine as special concern species, including two Maine invertebrate species that have been reported in the vicinity of the Modified Consolidated Corridors Route.

The following issues were raised by the U.S. Fish and Wildlife Service (USFWS) in a letter sent by the U.S. Department of the Interior (Raddant 2005) on the Draft EIS: (1) responsibilities of the USFWS as a cooperating agency; (2) aerial surveys for bald eagle nests; (3) mitigation measures for Atlantic salmon streams; and (4) information on the geographic range and spawning habitat locations of the Atlantic salmon. In addition, several issues were raised about the biological assessment (BA) included as an appendix in the

Draft EIS, similar to those received on the Draft EIS related to the bald eagle and Atlantic salmon.

Comments related to issues of property values, tax revenues, and easement rights were addressed by explaining why these issues are out of the scope of the EIS. Comments related to issues of cleared timber, widening existing ROWs, secondary impacts of AC mitigation, coordination among agencies, the use of CWA terminology, and uprating of the existing MEPCO line were addressed by identifying the relevant sections of the Draft EIS where these issues are discussed.

The response to the issue regarding the identification of the preferred alternative identifies the criteria and considerations DOE used to identify its preferred alternative. The responses to comments on impacts on wetlands and on the possible introduction of invasive species refer to and summarize the relevant sections of the Draft EIS that discuss such impacts and associated mitigation measures. The responses regarding vernal pools discuss potential impacts and offsetting mitigation measures relevant to these resources and provides additional text for the Draft EIS. Comments on ROW maintenance, habitat management, and wildlife monitoring are addressed through a combination of a review of the strategies and resultant plans for ROW maintenance presented in the Draft EIS and citations to relevant sections of the document. It was noted that installation of AC mitigation for the existing gas pipeline would be expected to occur before the NRI is energized.

Comments related to the need for additional architectural resource consultations were addressed by identifying the relevant sections of the Draft EIS where the need for such surveys and consultations are discussed. The response also points out that any such surveys would have to be approved by the State Historic Preservation Officer (SHPO) and, as appropriate, Native American Tribes before construction could proceed. The response also includes clarification of the existing text regarding additional survey and consultation needs, as well as the addition of new text identifying the potential need for on-site SHPO inspection. Comments related to the use of more recent species distribution information and the need to evaluate animal species that are listed by the State of Maine as species of special concern were addressed by incorporating current species distribution data and including species of special concern in the impacts evaluation.

The comment related to the USFWS's responsibility as a cooperating agency was addressed by describing DOE's responsibilities under Section 7 of the Endangered Species Act of 1973 (ESA). The response to the issues regarding bald eagle surveys and the geographic range and spawning habitat locations of the Atlantic salmon was to modify the Draft EIS to discuss the additional aerial surveys for bald eagle nests that the applicant would undertake and to update the information on the Atlantic salmon. Through the consultation process under Section 7 of the ESA, DOE has worked with the USFWS to address issues on the BA (Appendix F of the Draft EIS) for the bald eagle and Atlantic salmon and has submitted a revised BA for USFWS review and concurrence. DOE will complete the consultation process before issuing its ROD. BHE has worked with the USFWS to incorporate mitigation measures to minimize potential impacts on the bald eagle and Atlantic salmon from construction and maintenance of the NRI. The factual updates presented in the comments on the BA that pertain to the Atlantic salmon

were incorporated as changes to the Draft EIS and BA. These included the addition of information on known Atlantic salmon spawning near the proposed NRI and revised information on the Atlantic Salmon Gulf of Maine distinct population segment (DSP). Also, the reasons for the endangered status of the Atlantic salmon Gulf of Maine DSP were revised, and the number of adults that returned from the sea for spawning were updated.

2.2 PUBLIC HEARING (ORAL) COMMENTS AND RESPONSES

This Comment-Response Addendum presents the oral comments received during the public hearing that was held in Brewer, Maine. The transcript for the Brewer public hearing is presented in its entirety on the left-hand pages, and individual comments are delineated by sequentially numbered sidebars within the margin of the transcript. DOE's responses to the individual comments appear on the facing right-hand page, along with the corresponding comment number.

2.3 WRITTEN COMMENTS AND RESPONSES

Written comment submittals are reproduced in their entirety on the left-hand pages, with individual comments delineated by sequentially numbered sidebars. Responses to the individual comments are provided on the facing right-hand pages; each response is denoted with the corresponding comment number.

BREWER PUBLIC HEARING TRANSCRIPT AND RESPONSES

1
2 DEPARTMENT OF ENERGY
3
4 (DOCKET NO. PP-89-1)
5
6
7 In Re: Application to amend Presidential Permit;
8 Bangor Hydro-Electric Company
9
10
11 September 29, 2005
12
13 AGENCY: Office of Energy Delivery and Electricity
14 Reliability
15 ACTION: Hearing of Draft EIS
16
17
18 BEFORE: Angella D. White, Notary Public, at Jeff's
19 Catering, 5 Coffin Avenue, Brewer, Maine, on Thursday,
20 September 29, 2005, beginning at 7:00 p.m.
21
22
23 DON THOMPSON & ASSOCIATES
24 Court Reporting
25

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(This hearing was taken before Angella D. White, Notary Public, at Jeff's Catering, 5 Coffin Avenue, Brewer, Maine, on Thursday, September 29, 2005, beginning at 7:00 p.m.)

* * * * *

DR. PELL: If everybody would be kind enough to be seated, I would like to start the meeting, if I may.

I'm with the U.S. Department of Energy in Washington, Dr. Jerry Pell, from the office of the Electricity Develop Delivery and Energy Reliability. And my colleague on the right is Mr. Brian Mills who is with the office of NEPA Policy and Compliance. NEPA is the National Environmental Policy Act. And his office of NEPA Policy and Compliance is within the office of Environmental Safety and Health in the Department of Energy also in Washington.

The reason we're here this evening is to take public comments on a draft Environmental Impact Statement, which is that white document that you all saw as you came in this evening.

That's a description of the potential environmental impacts on the project that Bangor-Hydro Electric has proposed that has been referred to as the Northeast Reliability Interconnect.

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3

Before we go any further, I'd like to know if anybody in the audience wishes to speak this evening on this report? Okay. Thank you.

By way of background, I'm going to read you a little bit from the introduction to the document. I can read it fairly because I helped write it. So it's okay for me to read it in this way. I'll make sure I don't leave anything out.

The Department of Energy Presidential Permit is required before anyone can conduct, connect, operate, and maintain an electric transmission line across the U.S. border. On September 30, 2003, Bangor Hydro-Electric Company applied to the DOE to amend their existing Presidential Permit 89 to authorize Bangor Hydro to construct an 85-mile long, single circuit, 345,000-volt alternating current electric transmission line that would originate at the Orrington Substation and extend eastward to the U.S.-Canada border near Baileyville, Maine, and continue into New Brunswick.

The currently proposed transmission line is along a different route from that for which DOE issued the original Presidential Permit 89 to Bangor-Hydro on the 22nd of January 1996.

The Department of Energy has determined that the

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issuance of an amendment of an existing Presidential Permit for this project would constitute a major federal action within the meaning of NEPA, the National Environmental Policy Act, as amended. The act originally was signed into law in 1969.

There was a Federal Register Notice of Intent to prepare an EIS and to conduct public scoping meetings and notice of floodplain and wetlands involvement. That was published on November the 2nd of 2004.

DOE held public meetings on November the 17th, 2004 in Baileyville, where we were again last night, and on November 18, 2004 right here in this same facility in Brewer. DOE also solicited written and electronic comments on the scope of the EIS in that Federal Notice of Intent at the scoping meetings and electronically through a project website.

The EIS addresses the environmental impacts of the proposed transmission -- excuse me, of the proposed transmission line and the range of reasonable alternatives. Four alternative transmission line routes are analyzed in this EIS. The Modified Consolidated Corridors Route is Bangor-Hydro's and also DOE's preferred alternative.

DOE will use the EIS to ensure that it has the information needed for purposes of informed decision

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making. The decisions themselves will be issued subsequent to the final EIS -- what we have here, I remind you, is the draft -- in the form of a Record of Decision by DOE no sooner than 30 days after publication of the US Environmental Protection Agency Notice of Availability of the final EIS. And that would be followed by an amendment to the Presidential Permit, as appropriate.

We at this juncture cannot tell you whether or not a Presidential Permit would be granted. The Department of Energy invited interested members of congress, state and local governments and other federal agencies, American Indian tribal governments, organizations and members of the public to provide comments on the draft.

The public comment period began on August the 26th with the publication of the notice of availability of the draft EIS in the Federal Register by the Environmental Protection Agency and will continue until October 11th, 2005.

So if anybody wishes to submit comments beyond tonight, you do have until October the 11th. Written and oral comments will be given equal weight. And DOE will consider all comments received or postmarked by that date in preparing the final EIS. Comments

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received or postmarked after that date will be considered to the extent practicable.

So that's my way of setting the stage and background to our being here this evening. And I'd like to start now by taking comments. I believe we have two people that would like to speak. I'll just take them in the order of where you're sitting, the first person -- well, okay, you've got it.

Do me a favor, please, and tell us your name and affiliation so that we can have it in the record.

MR. MACDONALD: John MacDonald, republican.

DR. PELL: Let me give you this. We are -- we will try to keep remarks down to about five minutes, if we can.

MR. MACDONALD: John Macdonald.

DR. PELL: Do you want to take this?

JoM-1 MR. MACDONALD: Yes, okay. Republican. I want to know how much trees are going to be removed from my land. When they first did it in the '70s, they devastated and burnt all the wood that could have been utilized for paper, lumber, anything.

Now, this time I want to know where they -- they're coming in. I know it's a 270-foot right-of-way, 1,400 and some feet. I want to know if they'll mark it so I can harvest the wood this time.

Response to JoM-1:

As discussed in Section 2.3.4.3 (page 2-28) of the Draft EIS, all vegetation cut during initial clearing would be cleaned up and disposed of in accordance with the Maine Slash Law. As part of land clearing operations, much of the merchantable wood materials (e.g., sawlogs and pulpwood) would be salvaged. The tops of trees, cull material, and branches could be chipped on site and the chips hauled to local power plants for use as fuel. In all instances, the easement agreements allow BHE to clear the ROW in accordance with applicable permit requirements (Sloan 2005b). Clearing would be contracted in large segments of the ROW, and the ownership of the wood would be transferred to the contractor to harvest and market as the contractor sees fit (Sloan 2005a).

JoM-1 (cont.)

I don't want to see it wasted, piled up and burnt, like they did the first time. Sir.

DR. PELL: No, I'll take it back, please.

MR. MACDONALD: Oh. I'm sorry.

DR. PELL: Quite all right. No problem. Thank you, Mr. Macdonald. I appreciate your comments and they will be part of the record and they will be included with the final document.

I'd like to now call on the second speaker. If we could, as we did for the first speaker, give your name and your affiliation, please, if you're a member of a group or whether you're just speaking for yourself.

RB-1

MR. BLANCHARD: Ron Blanchard, resident of Eddington, Maine, a landowner, in which I will lose one acre of land on an easement which is assigned to MEPCO or MEDCO, Maine Electric Power, not Bangor Hydro. I want to make that very clear. The easement on my land and my neighbor's land is for Maine Electric Power Company, not Bangor Hydro.

RB-2

At a meeting last night or the night before last in the town of Eddington the representative for Bangor Hydro, Mr. Steve Sloan, could not produce an easement, an authorization, any type of court document whatsoever that gave Bangor Hydro authorization to

Response to RB-1:

BHE must secure the necessary ROW for the NRI via negotiation with land or easement holders or under appropriate State or local laws that may facilitate rights acquisition for utility infrastructure. The issuance of a Presidential permit by DOE does not confer any real estate rights or right of eminent domain to BHE.

Response to RB-2:

Property taxes are a matter of local jurisdiction. Therefore, questions related to tax valuations and assessments should be referred to the local town or county tax assessor. If a Presidential permit is granted and the proposed line is constructed, BHE would be required to pay property taxes to each local taxing municipality based upon the value of the electrical facilities constructed within each municipality.

RB-2 (cont.)

1 come across my land, to steal my trees, to utilize my
2 land in which I am paying taxes on, the land in which
3 is my livelihood, in which the land is going to be
4 down-graded in taxes. And so the town of Eddington is
5 going to lose revenue because of this power line.

RB-3

6 Bangor Hydro has yet to prove to me -- and,
7 Dr. Pell, I was in Augusta at the PUC meeting and they
8 could not prove then that they had a legal -- a legal
9 right to come across my land.
10 I have requested in the Town of Eddington that
11 they hold any authorization up until Bangor Hydro can
12 legally prove that they can come across my land or any
13 of my neighbors' land, to give me fair compensation.
14 My easement, which was signed by a previous
15 owner, was to Maine Electric Power, not Bangor Hydro.
16 What's next? L & G Power Plant coming through,
17 Bangor & Aroostook Railroad going to come through
18 next? What else is the assignees going to --
19 MEPCO --? This needs to be investigated.
20 When -- it was assigned by the previous owner for
21 one power line, now it's two power lines. How about
22 three, four? What's next? We're talking about fair
23 compensation for the land.

RB-4

24 Now, let's just think a little bit about the tax
25 value of the land going down. Would you like to live

Response to RB-3:

See the response to RB-1.

Response to RB-4:

See the response to RB-2.

RB-4 (cont.)

underneath the power lines? There's a member of the audience right over here -- where is Jim?

MR. MCDONALD: Right there.

MR. BLANCHARD: This is coming right over his house on a corner. I can point it out on the map.

MR. MCDONALD: I'll speak.

MR. BLANCHARD: Okay. He'll speak later. Nobody wants to sell -- you cannot sell a house with power lines coming over it. When I bought my land or when he bought his, there was not but one power line there. Now we're talking two? Is there going to be three, four? Gas lines?

What legal right -- let's talk about legality now. Is it legal for MEPCO to sell an easement? Is -- is that the state law? Has Bangor Hydro produced the legal right to me, which I've requested in the last year, that the -- a legal right signed by a judge? No, they have not.

RB-5

They have not produced the legal right in the court of law that they have the legal right -- Bangor Hydro, not MEPCO -- they haven't produced it yet. They didn't produce it when they went before the PUC. They didn't produce it in Eddington two nights ago. Now, maybe they can tonight and shut me up.

Now, I'm not here to stop the electrical power to

Response to RB-5:

See the response to RB-1.

Boston. Because that's exactly where it's going. But we all know that. I mean, you go to Orrington, that's all going to New York. Well, that's fine. They've got -- but they're coming across my land and they're not giving me fair compensation.

They're not giving me a discount on my electrical rates. They're coming across my land, the land I pay taxes on, not Bangor Hydro. Oh, MEPCO pays a little taxes for the posts. But I can't sell that land. I can't -- I pay taxes on it, I can't do nothing with it. I can't cut it off, do nothing.

We're not here to stop progress. We know the poor people down in Boston need electricity. I mean, they're beautiful people down there.

But when I was down to -- in Augusta and talked to the PUC and says, how about redesign the electrical power lines so they don't have to cut another acre of land? And I think the number of 55,000 acres -- 55,000 acres, that's what they're going to encompass. 55,000 acres of lower tax revenue for the communities.

RB-6 I said, why don't you just take and redesign the power lines so we don't have to cut another tree, so we don't have to downgrade the tax assessed values? No, they didn't want to hear that.

RB-7 Oh, and the mention was that the Bangor Hydro --

Response to RB-6:

Section 2.2.2.3 (page 2-14) of the Draft EIS addresses uprating of the existing MEPCO line and why it was dismissed as a viable alternative. Also, see the response to RB-2 regarding the tax assessment issue.

Response to RB-7:

See the responses to RB-1 and RB-2.

RB-7 (cont.)

1 people that are buying power from Bangor Hydro have to
2 cough up $100 million to finance this line. And the
3 poor landowner, such as myself and my neighbors, have
4 absolutely no compensation. We get our trees stolen
5 away from us, the land in which we have no tax
6 assessed -- the tax assessed value on our land goes
7 down.
8 I am currently requesting the Town of Eddington
9 to have the -- the land in which they are going to put
10 the power line on to have it reassessed. And I am
11 going to request that Bangor Hydro pay the taxes on it
12 because it's absolutely worthless to me.

RB-8

13 And it's just not right, Dr. Pell. It's not
14 right. I pay taxes on the land and Bangor Hydro gets
15 to take my trees and sell power to Boston and make
16 money for their shareholders and I receive not one
17 iota of compensation, not one cent off my electrical
18 bill. And, in fact, my electrical rates go up to pay
19 for that.

RB-9

20 This is all in the PUC Commission. My rates go
21 up and I lose land -- lose the value of my land? I'm
22 sorry, it's not right, it doesn't pass a common sense
23 test.
24 They need to renegotiate with the landowners, not
25 the towns, because they don't have an easement. You

Response to RB-8:

Issues related to electrical rates and billing are out of the scope of the EIS. The rates are established through State regulatory proceedings, and the results of those proceedings are too speculative to consider in an EIS.

Response to RB-9:

Any decrease or increase in property values from the proposed transmission line would be a perception-based impact, that is, an impact that does not depend on actual physical environmental impacts resulting directly from the proposed project, but rather upon subjective perceptions of prospective purchasers in the real estate market at any given time. Any connection between public perception of a risk to property values and future real estate values would be uncertain or speculative at best, and therefore would not inform decision making. Thus, estimating impacts on real estate evaluations is out of the scope of the EIS. DOE has not attempted to quantify public perceptions of property values should the proposed project be built.

have to make it right here. Do we want 55,000 acres of American land destroyed -- state of Maine land destroyed so Boston can get electricity? No, I'm sorry. Thank you for your time.

DR. PELL: Thank you very much. I appreciate your comments and they will be part of the record and we will consider them in our preparing of the final document.

Is there anybody else with us this evening that wishes to talk? Please come to the microphone and tell us who you are.

MR. MCDONALD: Thank you. My name is Jim Mack.

DR. PELL: Can you spell that? M-a-c-k?

MR. MCDONALD: M-c-D. And I'm not from Canada, so I don't really have interest in Enron or whoever it is, whatever. But you're going right in front of my house.

In 1989 when they first come through with this, with the first draft, whatever, I didn't fight them, but I was questioning just like I am right now. And the need and the ability for how they went about it, it just needs to be questioned.

Because, you know, we -- we're just human beings, you know. It doesn't matter. But if you're going to drive something down your throat that you've got to

JiM-1

Response to JiM-1:

See the response to RB-9.

JiM-1 (cont.)

1 live with --. I mean, who wants to buy my place with
2 two places -- I mean, two poles -- two -- a million
3 volts or whatever it is? They just didn't go about it
4 right.
5 And I'm not going to make a long story out of
6 this. There's a lot more questions that should be
7 done, just do permits. Because at the time I said,
8 why don't you put the old on the new and the new on
9 the old? Oh, that's going to cost me $100,000. Well,
10 excuse me, you know.
11 Here we go, everything down the line. It's the
12 buck. And that's the bottom line of this whole damn
13 thing. And it's not good.
14 Now, we can go down to New Orleans, you know,
15 where's the buck or we can drive it right here. Now,
16 that's -- that's life, I guess. And whatever you
17 people decide, however it goes. It makes me sad,
18 really, you know. I can go to Labrador and look at
19 all the stuff, I can go to Canada and look at all the
20 good stuff, but right here it's no good.
21 I don't know if I've got any more to say. Thank
22 you.
23 DR. PELL: Thank you very much. And your remarks
24 have been recorded and they will be part of the record
25 for the final document. Is there anybody else that

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wishes to contribute this evening? This is a -- it's an open public meeting. If you have something to say, we'd be delighted to hear you say it.

Okay. I see no hands. I want the record to show, please, that there were no additional requests to speak at this time. And, therefore, I will adjourn the meeting. And we will end the formal part of tonight's proceeding. And if any of you wish to stay and chat informally with us or with the utilities, we're not going to run away, we'll stay here a little while.

So with that I hereby -- yes, sir.

MR. BLANCHARD: I was just wondering if you were open to questions, sir?

DR. PELL: After we're off the record.

MR. BLANCHARD: Off the record, yes, sir. Thank you.

DR. PELL: So at this point I would like to officially close out the record. Thank you all for coming on a rainy night. I appreciate your thoughts and we're glad to have you with us and we're glad to be here in Maine.

(Concluded this hearing at 7:21 p.m. this date.)

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CERTIFICATE

I, Angella D. White, a Notary Public in and for the State of Maine, hereby certify that on September 29, 2005, said hearing was stenographically reported by me to the best of my ability and later reduced to typewritten form with the aid of Computer-Aided Transcription, and the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of said hearing.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this 6th day of October 2005.

_____
ANGELLA D. WHITE, NOTARY PUBLIC
Court Reporter

My commission expires
May 17, 2010

WRITTEN COMMENTS AND RESPONSES

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:
ATTENTION OF:

Regulatory Division
CENAE-R-51

September 7, 2005

Dr. Jerry Pell
Office of Fossil Energy, FE-27
US Dept. of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Dr. Pell:

This concerns the application by Bangor Hydro-Electric Company (BHE) to construct a new 345 kV electrical transmission line from Orrington, Maine to New Brunswick, Canada, crossing to the east of Baileyville, Maine. The project has been named the "Northeast Reliability Interconnect" by BHE.

As you are aware, the Corps approved a similar project in 1995 that was never built. The previous permit expired and is no longer valid. We have therefore been actively engaged with the applicant and an interagency team since 2003 in the pre-application planning for the latest project. Much like they did in the past, the Dept. of Energy (DOE) has assumed "lead agency" role under NEPA and intends to prepare an Environmental Impact Statement (EIS) for the project.

We thank you for the opportunity to participate in the preparation of the EIS. Since you've given us the choice, we elect to be a commenting agency. This is due chiefly to the minimal amount of work that is subject to Corps jurisdiction and it is the same role we adopted for the past NEPA review. In addition to providing general comments on the DEIS, the Corps is available to answer any specific questions that DOE may have regarding navigation, wetland delineation and functional assessment, analyzing alternatives, and compensatory mitigation.

We have completed our review of the DEIS and have prepared the attached comments. Applicable section numbers are included for your reference. In general the document is well written and organized and provides an excellent overview of the project needs and alternative strategies for addressing those needs. The Corps looks forward to continued coordination with your agency as well as the interdisciplinary review team as project planning continues.

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-2-

If you have any questions concerning this matter please contact Jay Clement of my staff at 207-623-8367 at our Manchester, Maine Project Office. The Project Office address is US Army Corps of Engineers, 675 Western Avenue #3, Manchester, Maine, 04351.

Sincerely,

Jay L. Clement

FOR Frank J. Delgiudice
Chief, Permits & Enforcement Branch
Regulatory Division

Copies Furnished:
Beth Alafat – US EPA
Wende Mahaney – USFWS
Sean McDermott – NMFS
Jeff Murphy – NMFS
Jessica Bulloch – ME DEP

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CORPS OF ENGINEERS COMMENTS ON
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)
FOR THE NORTHEAST RELIABILITY INTERCONNECT PROJECT

USACE-1 1. Section S.1.2 & Section 1.1. These sections can also refer to the past Corps of Engineers permit. The original permit, number 199010732, was issued on January 10, 1995 and expired December 31, 2002.

USACE-2 2. Section S.2.2 & Section 1.2.2. The Corps defines the basic project purpose as required by the EPA 404(b)(1) Guidelines. This is often different than the purpose and need statement required under NEPA. In this case, we believe the basic project purpose is to increase the reliability and capacity of the existing bulk electric transmission system between Maine and New Brunswick, Canada.

USACE-3 3. Section S.3.1 & Section 1.3.1. You may identify the Corps as a commenting agency as previously noted in our letter.

USACE-4 4. Section S.4 & Sections 2.1.1 & 2.2. The Corps concurs that DOE has identified a reasonable scope of alternatives. We recommend that alternatives be dismissed using the language of the 404(b)(1) guidelines. Our goal is to ensure that your NEPA document satisfies the Corps requirements under the guidelines in order to avoid duplication of effort in our permit process. It

USACE-5 would be ideal if you summarized your discussion of alternatives in terms of their practicability and environmental impact. The term "practicable" is defined as available and capable of being done after taking into consideration cost, logistics, and available technology in light of overall project purpose (40 CFR 230.3(q).

USACE-6 5. Section S.5.6. This section doesn't clearly indicate that you coordinated with Maine's Indian Tribes as well as the Maine Historic Preservation Commission. Subsequent sections confirm that you did but it would be helpful to add it to the summary section(s). If a written effect determination has been received, it should be noted in the EIS document.

USACE-7 6. Section S.6 & subsequent sections. A typical secondary/cumulative impact with utility projects has been termed "sweetening" of the rights-of-way. This generally means the cumulative effect of an ever widening cleared right-of-way with associated impacts to natural resources, aesthetics, and other public interest factors. As such, the EIS should acknowledge the effect of the existing rights-of-way on the environment of the region and how the various alternatives change that effect.

USACE-8 In terms of secondary impacts, the EIS should identify the probable impact of the AC Mitigation work to be proposed under separate cover by Maritimes. Although no streams will be impacted by this work, it is highly likely that wetlands previously impacted and then restored by Maritimes will be again impacted by AC Mitigation work.

Response to USACE-1:

Footnote b of Table 9-1 on page 9-2 of the Draft EIS has been modified to refer to the past USACE permit.

Response to USACE-2:

DOE agrees with this statement. As stated in Sections S.2.1 (page S-3) and 1.2.1 (page 1-3) of the Draft EIS, the purpose and need for DOE's action is to respond to BHE's request to amend Presidential Permit PP-89. BHE's stated purpose and need, as described in Sections S.2.2 (page S-5) and 1.2.2 (page 1-5) of the Draft EIS, is to improve the reliability and stability of the bulk transmission system of the Maritimes area of Canada and New England, increase the import-export capacity between Maine and New Brunswick, and reduce transmission line losses in the overall regional system.

Response to USACE-3:

The comments received from Federal agencies are acknowledged in a manner similar to all other comments received on the Draft EIS. The issues raised in the USACE comment letter are presented in Section 2.1.2 of this Comment-Response Addendum. Changes made to the Draft EIS in response to USACE comments are summarized in the response and presented in Chapter 3.

Response to USACE-4:

None of the four primary alternative routes are dismissed in the EIS. DOE could choose to grant the amendment to Presidential Permit PP-89 for any one, two, or three of the new alternative routes (Modified Consolidated Corridors Route, Consolidated Corridors Route, and MEPCO South Route) (see Chapter 2 of the Draft EIS). DOE may also decide to rescind the permit. DOE's decision regarding the amendment of the Presidential permit and a selected alternative (if the amendment is granted) will be identified in the ROD. Other alternatives, including several alternative routes, were considered but dismissed in Section 2.2 (page 2-11) of the Draft EIS as being impracticable for various reasons.

Response to USACE-5:

DOE believes that the Draft EIS does summarize the discussion of alternatives in terms of practicability and environmental impact. DOE considers each of the four primary alternative routes as practicable. The impacts identified for each of these alternative routes are summarized in Tables S-4 (page S-39) and 2.5-1 (page 2-53), and summary discussions are provided in Sections S.5 (page S-30) and 2.5 (page 2-45) of the Draft EIS. These discussions, as well as the more detailed impact evaluations presented in Chapter 4 and the mitigation measures described in Section 2.4 (page 2-37) of the Draft EIS, use the term "practicable" as appropriate.

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Other alternatives, including several alternative routes, were considered but dismissed in Section 2.2 (page 2-11) of the Draft EIS as being impracticable for various reasons.

Response to USACE-6:

Section S.5.6 (page S-35) of the Draft EIS has been modified to indicate that cultural resources coordination and consultations occurred with the Maine Historic Preservation Commission (MHPC) and Maine's Native American Tribes.

Response to USACE-7:

The Draft EIS identifies the potential impacts that might be incurred from the construction and operation of a new transmission line for each alternative route. While not using the term "sweetening," the analysis presented in the Draft EIS acknowledges impacts associated with the widening of existing ROWs. For example, Section 3.5.1.1 (page 3-15) of the Draft EIS identifies the disturbance of terrestrial vegetation within existing ROWs from vegetation maintenance practices, while Section 4.5.2.1.1 (page 4-14) of the Draft EIS discusses the potential for habitat impacts due to expansion of the ROW width. The evaluation of cumulative impacts presented in Section 8.2 (page 8-2) of the Draft EIS considers the effects of existing ROWs in the region and points out which resources could incur incremental impacts from the proposed action and discusses impacts from new and co-located ROWs.

Response to USACE-8:

Potential impacts of AC mitigation on wetlands are presented in Section E.6 of Appendix E of the Draft EIS (see the last paragraph of page E-12). This discussion has also been added to Sections S.5.5 (page S-35) and 4.5.2.1.7 (page 4-25) of the Draft EIS.

USACE-9 7. Sections 2.3.3, 2.3.4, & 2.3.4.5. These sections should specifically note whether aquatic and other natural resources will be impacted or not. According to the applicant, this is unlikely at the substation or the staging areas but probably will occur for AC Mitigation.

USACE-10 8. Section 8.1. The discussion of Phase IV of the Maritimes project should be updated to reflect their current proposal. As of 9/2/05 work along that area of the pipeline was expected to include up to 51.1 miles of looping line and one new compressor station.

USACE-11 9. General. There is no discussion of vernal pools in the document. As you know, vernal pools are naturally occurring, intentionally created (mitigation), or accidentally created temporary or permanent bodies of water occurring in shallow depressions that fill in the spring and fall and may dry in the summer. Vernal pools have no permanent or viable populations of predatory fish and as such, provide the primary breeding habitat for numerous frogs, salamanders, and fairy shrimp. They also provide habitat for other wildlife including several endangered and threatened species. Vernal pools can be directly impacted by temporary or permanent access and indirectly impacted by clearing, herbicide application, and degradation of critical edge habitat. In some cases, loss of the critical edge habitat, often composed of uplands as well as wetlands, can completely eliminate the habitat value of the pool. The applicant should note whether vernal pools were identified within the proposed right-of-way and discuss proposed actions to avoid/minimize impacts to these resources and surrounding habitat.

Response to USACE-9:

Sections 2.3.3 (page 2-22), 2.3.4 (page 2-27), and 2.3.5 (page 2-33) of the Draft EIS describe substation alterations, transmission line construction (including staging areas), and AC mitigation, respectively. These sections are not meant to present impact analyses. Potential impacts on aquatic and other ecological resources are presented in Section 4.5 (page 4-14) and Appendices E, F, and G of the Draft EIS. In particular, potential impacts of AC mitigation on wetlands are presented in Section E.6 of Appendix E (see page E-12) and have also been added to Sections S.5.5 (page S-35) and 4.5.2.1.7 (page 4-25) of the Draft EIS (see the response to USACE-8).

Response to USACE-10:

The configuration for Phase IV of the Maritimes project is still in the design mode; thus, it is too speculative to analyze the cumulative impacts of this project with any degree of confidence. The information currently presented in the Draft EIS (Section 8.1, page 8-2) was based on the distance of the Phase IV project that could occur within the Stud Mill Road area, and that therefore would be close to the proposed NRI.

Response to USACE-11:

Additional text has been provided to Section 3.5.3 (page 3-21) of the Draft EIS to discuss the importance of vernal pools and the potential for these habitats to occur within and along the alternative ROWs. Additional text also has been provided to Section 4.5.2.1.7 (page 4-25) of the Draft EIS that addresses the potential impacts on vernal pools from the proposed project. See also the response to EPA-9.

MAINE HISTORIC PRESERVATION COMMISSION
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JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

September 28, 2005

Jerry Pell, Ph.D., CCM Project Manager
Office of Electricity Delivery and Reliability, OE-20
U.S. Department of Energy
Washington, DC 20585

Project: MHPC #2270-03 - NE Reliability Interconnect (Draft EIS); Bangor Hydro-Electric
Towns: Orrington, ME to Baileyville, NB

Dear Dr. Pell:

In response to your recent request, I have reviewed the Draft EIS for the above referenced project pursuant to Section 106 of the National Historic Preservation Act.

MHPC-1 While the Draft EIS is acceptable in most respects, we request that it address the potential need to consult to identify, and assess potential effects to, any existing architectural resources within the APE of new construction associated with the project that may not have been previously surveyed or reviewed by this office. Our office has consulted on the Modified Consolidated Corridors Route, and has indicated that this corridor will not affect historic properties [architectural or archaeological]. However, we have not consulted to identify architectural resources that might be within the APE for other aspects, and alternative corridor routes, related to the project.

MHPC-2 Other aspects of the project addressed in the EIS that may require further consultation or documentation regarding potential architectural resources include the divergence of the Consolidated Corridors Route from the Modified Corridors Route (section 4.6.2.1.1; Figure 2.1-4), the MEPCO South Route, temporary access road construction (section 4.6.2.1.2), any substation alterations that have not been previously reviewed (section 4.6.2.1.3), and any staging area construction (section 4.6.2.1.4) that has not been previously reviewed. While the Draft EIS adequately addresses concerns for archaeological resources within these sections, we request that the language be edited to clearly include the need to consult for potential architectural resources as well. Even in instances where there may be no standing structures within the APEs, documentation and completion of the consultation process is necessary for the Department of Energy to fulfill its Section 106 responsibilities.

We understand that consultation for some or all of these aspects of the project may not be necessary if alternatives requiring these undertakings are not utilized. Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,

Earle G. Shettleworth, Jr.
State Historic Preservation Officer

cc: Jay Clement, US ACOE

PHONE: (207) 287-2132

PRINTED ON RECYCLED PAPER

FAX: (207) 287-2335

Response to MHPC-1:

As discussed in Section 4.6.2.1.1 (page 4-37) of the Draft EIS, if the NRI would be constructed along the Consolidated Corridors, Previously Permitted, or MEPCO South Routes, a cultural resource survey would need to be conducted for those areas that have not been previously surveyed. The results of the surveys would have to be approved by the SHPO and, as appropriate, in consultation with Native American Tribes before the project would be constructed.

Response to MHPC-2:

As defined in Section 3.6 (page 3-25) of the Draft EIS, cultural resources include both archaeological sites and historic structures and features (i.e., architectural resources). Therefore, where it is stated in Sections 4.6.2.1.1 (page 4-37), 4.6.2.1.2 (page 4-37), 4.6.2.1.3 (page 4-38), and 4.6.2.1.4 (page 4-38) of the Draft EIS that cultural resource surveys may be necessary, this implies surveys for both archaeological and historic structures and features. Nevertheless, to clarify this point, the language in these sections has been edited as requested in the comment. In addition, a statement has been added to these sections to mention that if cultural resources are unexpectedly encountered, the applicant would need to have an on-site inspection by the SHPO to determine if avoidance or other mitigation of the resource would be required.