

My name is Marguerite Francis and I and my Sister-in-law, Sarah McCann, own a residence in New London.

In July 2020, I returned from a golf outing to find heavy construction equipment excavating dozens of boulders from our hillside, dump trucks continuously bringing in fill and gravel, and bulldozers transforming a steep slope into an industrial road and a 10,000 sq.ft. construction plateau. We did not receive any notice that this excavation/construction was going to occur. That road was never permitted—either at a state DES or municipal level.

Shortly thereafter, I made a commitment to a number of people that I would work to ensure that what happened to New London property owners in 2020 would never happen again. For the past 18 months, I have worked to fulfill that commitment. Here are some things that I learned.

- 1) I called the PUC who advised me that Eversource is not exempt from any municipal ordinances. In fact, I was told that if local rules are more strict than state rules, local rules prevail.
- 2) I learned that New Hampshire is the only New England state that does not statutorily require property owner notification when work is going to occur. And as Eversource is quick to point out, any communication they attempt to do is courtesy. I and many others are working with the state legislature to close this gap. But the wheels of change move slowly.
- 3) Despite that, I discovered that we have state and town permitting processes that provide controls to ensure that property owners and the wider public are included in the process, at least when those procedures are followed correctly.
- 4) Eversource has never denied that we own the property that the power distribution lines traverse. They confirm this in published policy manuals regarding their Right of Way. “The majority of the rights-of-way used for our electric system were established through the purchase of easement rights by Eversource from owners of the underlying property. While Eversource has rights to operate and

maintain the electric system through these easements, the underlying property is still owned by private parties. Their rights to use the property continue, subject to Eversource's easement rights."

(Source—Eversource's "Right of Way" Guidelines available on their website). Eversource routinely refers to those of us whose property deeds include the ROW as "property owners" in their correspondence on power corridor re-builds occurring in other parts of the state, documentation which is vastly improved over what happened in New London in 2020. "Since portions of the work will take place on or near your property, we wanted to keep you informed of upcoming activities." (Source—Eversource A-111 project communication dated August, 2021). Attorney Eric Newman, the lead attorney for the Driveway Permit issue, does not generally claim that Eversource is the "Property Owner" of the ROW land. In a communication addressed to Diane Martin, former Chairperson of the PUC and acting head of the SEC at the time, he wrote: "The Committee has longstanding experience with Eversource's management of property owners' interests and concerns and is familiar with our successful outreach in avoiding complaints and formal dispute resolution, even with projects involving hundreds of property owners such as more recently with Merrimack Valley Reliability Project and Seacoast Reliability Projects." (Source—Eric Newman written communication dated 5/21/2021 and available on the SEC website). I have researched Eversource's use of the term "Property Owner(s)" in the other New England pool states. It is very consistent with what is published on their web site and what is disclosed in publicly available communications. Finally, in every discussion I and other New London property owners have had with Eversource, they have quickly stated that we are the property owners. If Eversource has consistently differentiated themselves from the underlying property owners, why are they now representing themselves on the Driveway Permit application as both the "Applicant" and the "Property Owner".

- 5) It is concerning that Jeremy Fennel (an Eversource employee) is listed as the exclusive property owner on the Driveway permit application. Eversource and property owners both have title interests

in the underlying property. Eversource has limited use easements on New London private property and owners cannot prevent Eversource from exercising those contractual rights. Eversource, however, cannot operate outside of the four corners of those contracts. Good, up front communication ensures that both sets of interests are protected. In my opinion, it is not OK for Eversource to walk in and do what they want, forcing property owners to fight after the fact to protect their interests.

- 6) An example...Anne and Michael McDonald own property on Forty Acres, off of Whitney Brook. No driveway or other municipal construction permits were pulled for the road built in 2020 to access their property. They found out about the project when the helicopter company used by Eversource knocked on their door saying they wanted to use their property as a refueling station. In addition to lack of proper permitting and notification, Eversource left behind un-restored property and a 20-foot mountain of debris that blocked a trailhead which was part of the New London trail system. It took over a year and the threat of legal action for the debris to be removed, the trail reopened, and for property restoration to occur. Had communication happened up front, this mess would have been prevented. Trust me, there is nothing in our easement contracts that says Eversource can create a mess and leave it behind, or infringe on our rights to enjoy hiking on our property.
- 7) Eversource's attempts at restoring New London properties in 2020-21 were spotty and that work continues today. We had to be "squeaky wheels" and be aggressive in order for the policy rules defined in their ROW manual to be followed. They are a for profit commercial enterprise whose stakeholder priority is to cut costs wherever possible. I was told by our Community Relations point person (Conor Jennings) that he was aware that some contractors piled up debris and left it on the edge of the ROW. In my opinion, that is unacceptable, against their own corporate policy, and not what we should expect from any business operating within our town borders. I clean up my property. The Cook's and other hikers monitor our trail system and clean up debris. Our town budgets money to keep our

roads and sidewalks free from tree branches. Why do we allow Eversource to operate under different expectations? If it were Town of New London property, would we not want to know what was going to happen before construction occurred? And would we not want upfront communication on the specifics of clean up and restoration to avoid having to threaten legal action on the back end?

- 8) A couple of observations regarding the appeals case cited by Attorney Newman. The court said that it gives some deference to the regulatory agency in interpreting its own rules. In this case, that would be the Town Planning Board. That case centered around whether or not an Easement Holder could apply for a permit. This case is about whether or not the town can require property owner signatures on the application. The Easement contract behind that case gave the holder the right “to do whatever they wanted”, which is not the case with our Easement contracts. Our Easement language is specific in defining what can be constructed on our property. And finally, in the cited case, DES did not include “Applicant” and “Property Owner” designations on the application. Of course, our Driveway Permit Application does include both designations, and allows for multiple property owners.
- 9) The fact that municipal permits and other relevant Board approvals (pole height variance, etc,) are underway is a huge step forward. In 2020, the partial rebuild of the M127 power corridor never made it to the Planning Board for discussion. I commend our Town Administrative team for living up to their commitment to improve our internal processes. What I find disappointing is that Eversource is working so hard to exclude property owners in up front discussions. If they had spent a couple of hours with property owners in 2020 discussing their construction plans, they would have saved a hundred hours of back end conversations, site visits, lawyer time, etc. responding to a myriad of problems.

Thank you for your time. Unfortunately, I cannot attend the Planning Board meeting in person. I know all of the players from Eversource who will be

meeting with you. We have had many encounters over the past 18 months, both publicly at state level PUC and SEC sessions, and privately. This has been a long and arduous journey to affect change. I hope you find a way to move forward keeping property owner rights and Eversource easement rights in balance. As Eversource has always said, they are not the property owner. But they do, in New Hampshire, sometimes behave as though they are.

A final note—New London is fortunate in having Matt Flanders in place as the focal point for the construction work that will be occurring this year. This is a significant change from 2020. Matt and I are not friends. He has a job to do and we have an impervious road that is stubbornly refusing vegetative growth and restoration. However, Matt can be trusted. He never lied to property owners, was and continues to be responsive to issues, and has the professional talent to balance Eversource's stakeholder interests with those of property owners. I have little doubt that Matt's involvement in the proposed work will benefit our town in untold ways.

If you have a need for any additional documentation prior to the February meeting, please let me know.

Sincerely,

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