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June 22, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Installation of Line 134 and Substation Improvement  
(within an existing Right-of-Way #240)  
PROJECT MUNICIPALITY : Carver, Middleborough, Rochester and Wareham  
PROJECT WATERSHED : Buzzards Bay  
EOEA NUMBER : 14030  
PROJECT PROPONENT : NSTAR Electric (NSTAR)  
DATE NOTICED IN MONITOR : May 23, 2007

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **requires** the preparation of an Environmental Impact Report (EIR). A Scope for a Draft EIR is included below. If the Draft EIR adequately addresses the substantive issues in the Scope, I will consider reviewing the Draft EIR as a Final EIR in accordance with the provisions of the MEPA regulations at 301 CMR 11.03(8)(8)(b)(2)(a).

The project as proposed in the Environmental Notification Form (ENF) consists of construction and operation of new 115 kv line along an existing Right-of-Way (ROW number 240) from the NSTAR substation site in Carver to the "Tremont" substation in Wareham. According to the ENF, the project will result in temporary impacts to 191,940 square feet of Bordering Vegetated Wetlands (BVW) associated with use of swamp mats and fill, and access to poles. The project also involves alteration of 2.6 acres of land due to installation of new electrical equipment required at the Carver substation site. The purpose of the project is to increase capacity and reliability of the transmission system and it will include installation of a new transmission line (Line 134) on existing structures along the ROW. The existing ROW and transmission system underwent MEPA review previously (EOEEA# 6273).

The project is undergoing environmental review because it requires state agency action and meets or exceeds MEPA review thresholds. The project requires preparation of a mandatory EIR pursuant to Section 11.03(3)(a)(1)(a) because it will result in alteration of more than one acre of Bordering Vegetated Wetlands (BVW). The project is also undergoing review pursuant to

Section 11.03(2)(b)(2) because it may involve a taking of a state-listed threatened species on a project site greater than two acres that includes an area mapped as Priority Habitat, and Section 11.03(10)(b)(2) because it may involve destruction of archaeological sites listed in the Inventory of Historic and Archaeological Assets of the Commonwealth.

The project requires a 401 Water Quality Certification from the Massachusetts Department of Environmental Protection (MassDEP) and a MassHighway Permit for construction within the Route 44 highway layout. The project may require a Conservation and Management Permit from the Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP). The project requires an Order of Conditions from the Conservation Commissions of the Towns of Carver, Wareham, Middleborough, and Rochester (and, on appeal only, a Superseding Order from MassDEP). The proponent will file a Petition under M.G.L. c. 164, Section 72 with the Massachusetts Department of Public Utilities (DPU) and a request for Zoning Exemption under M.G.L. c.40, Section 3. The project may also require a National Pollutant Discharge Elimination System (NPDES) Construction Activities Permit from the U.S. Environmental Protection Agency (EPA).

The project does not involve financial assistance from the Commonwealth. Therefore, MEPA jurisdiction applies to those aspects of the project, within the subject matter of required or potentially required Permits that may cause Damage to the Environment as defined in the MEPA regulations. In this case, MEPA jurisdiction extends to wetlands, water quality, rare species, transportation, and archaeological and historical resources.

## SCOPE

### General

The proponent should prepare a Draft EIR (DEIR) in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations as modified by this Scope. The DEIR should include a copy of this Certificate and a copy of each comment letter received. The DEIR should include maps and plans of sufficient detail and scale to facilitate review and comment.

### Wetlands

The DEIR should include sufficient information for wetlands impacts to be assessed. Temporary impacts to BVW were quantified in the ENF at 191, 940 sf (approximately 4.4 acres). The DEIR should also describe and quantify potential impacts to inland banks and riverfront areas. The DEIR should include plans showing the delineation of BVW, isolated wetlands, riverfront and other resource areas.

The DEIR should include an alternatives analysis that considers the use of helicopters in construction of the transmission line. The proponent indicated at the MEPA consultation that

aerial construction methods may be used and could significantly reduce wetlands impacts associated with the project. The DEIR should include a comparative analysis of the project as proposed in the ENF (using swamp mats for access) and an alternative that uses helicopter access to minimize construction-related impacts. The analysis should describe and quantify impacts associated with each alternative. As part of the Notice of Intent and 401 Water Quality Certification review, the proponent will be required to demonstrate that reasonable alternatives have been explored to minimize wetlands impacts. The DEIR should describe how the project will meet 401 Water Quality Certification requirements.

As noted in the MassDEP comment letter, a Certified Vernal Pool is located on the project site in the ROW. The DEIR should discuss potential impacts to the vernal pool and describe how impacts will be avoided, minimized and/or mitigated to the maximum extent feasible.

### Rare Species

As further detailed in the comment letter from NHESP, portions of the project site are located within Priority Habitat and are mapped for Long-leaved Panic-grass (*Panicum rigidum ssp pubescens*), a state-listed "threatened" species. The project requires review through a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA; 321 CMR 10.18). The ENF does not contain sufficient information for the NHESP to determine whether or not the project will result in "take" of a state-protected species. The proponent should submit a filing as required by NHESP and provide an update on consultations with NHESP in the DEIR. The DEIR should describe how the project will avoid a "take" or how it will meet the standards for a Conservation and Management Permit, if required.

As noted in NHESP's comment letter, it appears that the proponent can reduce or avoid impacts to Long-leaved Panic-grass by conducting botanical surveys to locate state-listed plants and to subsequently avoid them during construction. Impacts may be further reduced by limiting construction activities in Priority Habitat to the winter when the plant would be dormant.

Botanical surveys should be conducted in Priority Habitat at the appropriate time of year and within suitable habitats for Long-leaved Panic-grass. The proponent should ensure that the botanist conducting the surveys is pre-approved by NHESP. I refer the proponent to the NHESP comment letter for guidance on survey protocols, which should be submitted to NHESP for review. The results of the surveys should be submitted with the MESA filing, which should also include plans showing detailed limits of work including all access routes, stockpile and staging areas, and travel lanes.

### Archaeological Resources

As further detailed in the comment letter from the Massachusetts Historical Commission (MHC), the project area was previously reviewed by MHC and archaeological testing was conducted in 1992 and 1993. Initial surveys located eighteen ancient archaeological sites and two

historic archaeological sites within the ROW #240, and eight sites were subject to archaeological site examinations. The proponent should provide MHC with additional information, including line sheets for the project indicating proposed new construction, repairs to existing structures, staging areas, fill or grading areas, heavy equipment access routes within the substations and ROW, and current original photos of the project area keyed to plans or line sheets. The DEIR should include an update on consultations with MHC and describe how the project will avoid, minimize or mitigate impacts to state-listed archaeological resources.

### Transportation

The Executive Office of Transportation (EOT), in its comment letter, indicates that traffic associated with the project will have a limited impact on the state highway system. The proponent must replace all traffic control signal equipment disturbed during construction to current MassHighway standards. EOT has determined that details of any project-related access or traffic management issues can be handled during the permitting process. The DEIR should describe proposed mitigation for any transportation impacts in the draft Section 61 Findings.

### Response to Comments

The DEIR should respond to the comments received on the ENF to the extent that they are within MEPA jurisdiction. The proponent should use either an indexed response to comment format, or direct narrative response. The DEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received.

### Mitigation and Section 61 Findings

The DEIR should include proposed Section 61 Findings for all state permits that includes mitigation details and commitments, a schedule for implementation, and information on parties responsible for funding and implementing the mitigation measures.

### Circulation

The DEIR should be circulated to all who submitted comments on the ENF as listed below, to any agency from which the proponent may require a permit or approval, and to others as required by Section 11.16 of the MEPA regulations. A copy of the DEIR should also be made available for public review at Public Libraries in the towns of Carver, Middleborough, Rochester and Wareham.

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June 22, 2007



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Ian A. Bowles, Secretary

Comments Received:

6/08/07 Executive Office of Transportation, Office of Transportation Planning  
6/11/07 Massachusetts Historical Commission  
6/12/07 Department of Environmental Protection, Southeast Regional Office  
6/15/07 Division of Fisheries and Wildlife,  
Natural Heritage and Endangered Species Program

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