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September 14, 2018

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME	: Sudbury-Hudson Transmission Reliability Project
PROJECT MUNICIPALITY	: Hudson, Marlborough, Stow, and Sudbury
PROJECT WATERSHED	: Sudbury, Assabet, and Concord (SuAsCo)
EEA NUMBER	: 15703
PROJECT PROPONENT	: NSTAR Electric Company d/b/a Eversource Energy
DATE NOTICED IN MONITOR	: August 8, 2018

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G. L. c. 30, ss. 61-62I) and Section 11.08 of the MEPA regulations (301 CMR 11.00), I have reviewed the Final Environmental Impact Report (FEIR) and hereby determine that it **adequately and properly complies** with MEPA and its implementing regulations. The project may proceed to permitting.

The FEIR and prior review documents have provided a detailed project description, analysis of alternatives, identified environmental impacts, and proposed measures to avoid, minimize and mitigate Damage to the Environment. The project Proponent has revised the design of the Preferred Alternative to further reduce environmental impacts.

Comments from State Agencies identify aspects and issues of the project that require additional analysis during permitting. Comments from State Agencies do not request additional MEPA review. State Agencies and local Conservation Commissions have sufficient regulatory

authority to address outstanding issues that are identified in this Certificate and these processes will provide additional opportunities for public review and comment.

The project will proceed through review by the Massachusetts Energy Facility Siting Board (EFSB) which will determine whether the project, which is proposed to provide reliability of the electrical system, is necessary, serves the public convenience and is consistent with public interest. EFSB will also determine whether the project will provide a reliable energy supply, with a minimum impact on the environment, at the lowest possible cost.

If subsequent review and permitting results in a material change to the project, that would increase environmental impacts compared to those identified in the FEIR, prior to the taking of all Agency Actions, the project may be required to file a Notice of Project Change (NPC).

Project Description

As described in the Draft EIR (DEIR) and FEIR, the project includes the construction of a 9-mile, 115-kilovolt (kV) underground transmission line extending from the Eversource substation on Boston Post Road (Route 20) in Sudbury (the "Sudbury Substation") to Hudson Light & Power Department's substation at Forest Avenue in Hudson (the "Hudson Substation") and upgrades to both substations. The project will be installed primarily along an inactive railroad right-of-way (ROW) owned by the Massachusetts Bay Transportation Authority (MBTA). The Department of Conservation and Recreation (DCR) maintains a lease over a 6.7-mile portion of the ROW corridor to develop a portion of the Massachusetts Central Rail Trail (MCRT).[1]

The project will generally include clearing and maintenance of a 22- to 30-foot (ft) wide corridor along the ROW to construct a 18- to 22-ft wide construction platform generally comprised of a 14-ft wide gravel access road, 4-ft wide duct bank within the footprint of or offset from the access road by 1 ft, splice vaults, and 3 ft of additional construction area to facilitate installation of the duct bank. The FEIR indicated that splice vault locations will be located partially underneath the access road with manhole covers adjacent to the road and in the shoulder. At each splice vault location, the limits of clearing will be expanded to a total width of 40 ft for a length of 50 ft to accommodate temporary work pads for installation of the vault. Following construction, a 22- to 30-ft wide corridor will be maintained; of which 14 ft will be comprised of a gravel access road, and the remainder will be revegetated with native plant species. The 14-ft wide gravel access road will serve as the base for subsequent construction of the MCRT by DCR.

The project will repair/rehabilitate a bridge over Hop Brook (Bridge #128) in Sudbury and will replace bridges over Hop Brook (Bridge #127) in Sudbury and Fort Meadow Brook (Bridge #130) in Hudson. At culverts and drainage pipes, the Proponent will retain existing structures and install the transmission line above or below as necessary using traditional open trench construction methods.

[1] The MCRT is a 23-mile long shared use path through the municipalities of Berlin, Bolton, Hudson, Stow, Sudbury, Wayland, Weston, and Waltham. The MCRT (EEA#15123) completed MEPA review in 2014.

The project is proposed to relieve potential overloads on elements of the area transmission system and maintain reliable electric service to customers of this system. Under certain operating conditions, supply to approximately 80,000 customers in the greater Marlborough area cannot be maintained and could create thermal overloads. The Proponent is required to maintain its transmission system consistent with the reliability standards and criteria developed by the North American Electric Reliability Corporation (NERC), the Northeast Power Coordinating Council (NPCC), and the New England Independent System Operator (ISO-NE). The project is one of approximately 40 independent transmission projects recommended by the ISO-NE Greater Boston Working Group to address identified reliability needs affecting the electric transmission system that serves the New Hampshire – Massachusetts region, and the Greater Boston area in particular. The project will specifically address reliability within the Marlborough Subarea of Sub-Area D.

Project Site

The majority of the project corridor follows the approximately 82.5-ft wide MBTA ROW. The project corridor originates at the Sudbury Substation and travels northwest along the MBTA ROW, extending through short sections of Marlborough and Stow before entering Hudson, where it exits the MBTA ROW and travels underground within public roadways for 1.3 miles to terminate at the Hudson Substation. The ROW was formerly the Massachusetts Central Railroad corridor which was used for passenger and/or freight service until approximately 1970. Portions of the ROW contain remnants of the single track railroad (ballast, tracks, and ties) and sections of the ROW are used by residents for passive recreation. The ROW traverses through or near developed and undeveloped areas, including conservation and open space held and/or managed by the Town of Sudbury, City of Marlborough, Sudbury Valley Trustees (SVT), and the U.S. Fish and Wildlife Service. These areas include: the Assabet River National Wildlife Refuge, Great Meadows National Wildlife Refuge, Marlborough-Sudbury State Forest, Memorial Forest, Hop Brook Conservation Land, and Marlborough Desert Conservation Area.

A portion of the project corridor is located in Priority and Estimated Habitat as mapped by the Division of Fisheries and Wildlife's (DFW) Natural Heritage and Endangered Species Program (NHESP) in the 14th Edition of the MA Natural Heritage Atlas. The project corridor is located within a half-mile radius of 16 Certified Vernal Pools/Outstanding Resource Waters (ORW). The project corridor will cross Fort Meadow Brook, Hop Brook (a designated coldwater fishery resource), Dudley Brook, and several other unnamed streams. It will also traverse the following wetland resource areas: Bank, Bordering Vegetated Wetlands (BVW), Bordering Land Subject to Flooding (BLSF), Isolated Land Subject to Flooding (ILSF), Isolated Vegetated Wetlands (IVW), and Riverfront Area. Portions of the project corridor are located within the Zone II Wellhead Protection Areas for municipal public water supply wells in the Towns of Hudson and Sudbury. The project corridor is located within and adjacent to historic and archaeological resources identified in the Massachusetts Historical Commission's (MHC) *Inventory of Historic Assets of the Commonwealth* (the Inventory) and/or the State and/or National Registers of Historic Places.

Environmental Impacts and Mitigation

The FEIR indicated that the project has been revised to reduce grading and impacts to wetland resource areas, rare species habitat, and land alteration since the DEIR was filed. The project will alter 23.93 acres of land, comprised in part of a discontinued railroad ROW and existing roadways. The addition of equipment at the Hudson Substation may result in a slight increase in impervious area. Approximately 4 acres of work will occur within mapped rare species habitat. As presented in the FEIR, the project will impact the following wetland resource areas: BVW (2,233 square feet (sf) temporary/284 sf permanent), IVW (951 sf permanent), LUW (1,139 sf temporary/59 sf permanent), Inland Bank (232 lf temporary/55 lf permanent), BLSF (4,978 sf temporary/29,335 sf permanent), ILSF (754 sf permanent), and Riverfront Area (6,776 sf temporary, and 311,680 sf permanent). The project will provide a net increase in flood storage (640.4 cubic yards (cy) in BLSF and 99 cy in ILSF).

As described in the FEIR, wetland impacts will be avoided, minimized, or mitigated by reducing the width of clearing (from 30 to 22 ft) and the construction platform (from 22 to 18 ft) in some areas; limiting tree clearing to the limits of grading; locating the access road and duct bank outside of resource areas where feasible; providing wetland replication at a ratio of 2:1 to mitigate permanent impacts to BVW and IVW; and designing the project to provide a net increase in flood storage. The Proponent clarified that the width of the clearing has been reduced to less than 30 ft for approximately 6.8 total miles and the width of the construction platform has been reduced to 18 ft for a total of 1.16 miles along the 7.5 mile ROW corridor.[2] The Proponent will prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with its National Pollutant Discharge Elimination System Construction General Permit (NPDES CGP). Erosion control measures (ECMs) and best management practices (BMPs) will be implemented to minimize and mitigate potential stormwater runoff impacts within the project corridor and wetland resource areas. As described in the FEIR, impacts to rare species and their habitat will be minimized through development of species-specific protection plans, implementation of time-of-year (TOY) restrictions, and wildlife surveys as required by NHESP. The FEIR indicated impacts to historic and archaeological resources will be addressed through review under Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (36 CFR 800).

Jurisdiction and Permitting

The project is undergoing MEPA review and requires an ENF pursuant to Sections 11.03(3)(b)(1)(f) and 11.03(7)(b)(4) of the MEPA regulations because it requires State Agency Actions and will result in the alteration of greater than ½ acre of any other wetlands, and it will result in the construction of an electric transmission line with a Capacity of 69 or more kV, provided that the transmission lines are one or more miles in length along New, unused or abandoned ROW, respectively. Project revisions since the DEIR was filed have reduced land alteration and BVW impacts such that the project no longer exceeds the ENF thresholds at 301 CMR 11.03(1)(b)(1) and 301 CMR 11.03(3)(b)(1)(d).

The project will require three Chapter 91 (c. 91) Licenses from the Massachusetts Department of Environmental Protection (MassDEP) (for the bridge crossings); a State Highway

[2] Email from Vivian Kimball (VHB) to Page Czepiga (MEPA Office) sent 9/13/18.

Access Permit (for work across Route 20) and Structural Adequacy Review pursuant to MGL c. 85 § 35 (for underpass at Chestnut Street) from the Massachusetts Department of Transportation (MassDOT); and a consolidated Petition to Construct (M.G.L. c 164, § 69H, 69J and 72) and Zoning Exemptions (M.G.L. c. 40A, §3) from the EFSB and the Department of Public Utilities (DPU).[3] The Project requires a Land Transfer from the MBTA in the form of an easement which will convey an interest in the property. The Proponent will execute a Memorandum of Understanding (MOU) with DCR to address the permitting and construction of the aspects of the Project related to the MCRT. The project is subject to the MEPA Greenhouse Gas (GHG) Emissions Policy and Protocol. BVW impacts have been reduced such that the project no longer requires an individual 401 Water Quality Certification (WQC) from MassDEP.

The project will require Orders of Conditions (OOC) from the Hudson, Stow, and Sudbury Conservation Commissions; or in the case of an appeal, Superseding Order(s) of Conditions from MassDEP. The project will require consultation with the MHC in accordance with Section 106 of the NHPA (as amended) and MGL c. 9 § 26-27C (950 CMR 70-71), submittal of a Self-Verification or Pre-Construction Notification (PCN) to the U. S. Army Corps of Engineers (ACOE) under the General Permits for Massachusetts in accordance with Section 404 of the Federal Clean Water Act (CWA), and a National Pollutant Discharge Elimination System Construction General Permit (NPDES CGP) from the United States Environmental Protection Agency (EPA).

Because the project requires a Land Transfer from the MBTA and numerous Permits, several of which confer broad scope jurisdiction, subject matter jurisdiction is functionally equivalent to full scope jurisdiction in accordance with 301 CMR 11.01(2)(a)(3). Therefore, MEPA jurisdiction for this project extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Review of the FEIR

The FEIR described the project and changes since the filing of the DEIR, identified existing conditions, and described potential environmental impacts and mitigation measures. The FEIR included supporting narrative and graphics in response to the Scope issued in the Certificate on the DEIR. It provided a brief description of applicable statutory and regulatory standards and requirements, and described how the project will meet those standards. It included a list of required State Permits, Financial Assistance, or other State approvals and provided an update on the status of each of these pending actions. The FEIR indicated that the Proponent and DCR will file joint Permit applications with MassDEP, NHESP, and the local Conservation Commissions that will address the transmission project and the MCRT. Since the DEIR was filed, MassDOT has approved the MCRT design (MassDOT Project #608995). According to the FEIR, DCR intends to construct the Sudbury to Hudson portion of the MCRT in Fiscal Year 2021, following completion of the transmission line by the Proponent.

As described in the FEIR, the Proponent has advanced project plans to the 75% design level, completed additional stormwater analysis, completed structural assessments of the bridge crossings and refined proposed bridge designs. There are no changes to the work proposed at

[3] Consolidated docket number EFSB 17-02/D.P.U. 17-82/17-83

Bridges #128 and #130. Work at Bridge #127 has changed since the DEIR was filed; it includes reconstruction of the bridge span and new abutments. The FEIR indicated that substation improvements and transmission line corridor route have not changed since the DEIR was filed. The design of the transmission line has been revised to further reduce environmental impacts. The majority of these reductions are associated with design changes that limit tree clearing to the limits of proposed grading. This change (and other design revisions described below) have reduced total land alteration and decreased impacts to rare species habitat, BVW, and BLSF since the DEIR was filed.

Alternatives Analysis

To provide context for the project design, the Scope for the FEIR required the Proponent to identify the applicable standards set by the DPU or other applicable regulatory agency that govern the minimum distances between structures, transmission lines, and related equipment, vegetation management requirements, and other design criteria. The Scope also required the Proponent to identify and to further analyze construction methodologies and site design measures to reduce the impacts of the project, with an emphasis on reducing impacts to land alteration and wetland resource areas. The Scope did not require additional analysis of transmission line alternatives.

The DEIR did include an analysis of transmission line alternatives to meet the identified need within the regional electric transmission system, including: a No-Build Alternative; Non-Transmission Alternatives (NTAs); Alternative Transmission Solution (ATS); Routing and Design Alternatives within the MBTA ROW and within different roadways (including the Noticed Variation and Noticed Alternative); and the Preferred Alternative. The DEIR compared the environmental impacts, abutting land uses and cost of each alternative.

The Noticed Alternative Route consists of 10.3 miles of transmission line located entirely underground within public roads in the Towns of Sudbury, Stow, and Hudson. The DEIR demonstrated that the Noticed Alternative would reduce tree clearing, wetland, rare species, and coldwater fishery resource impacts compared to the Preferred Alternative. It also indicated that the Noticed Alternative would have greater construction period impacts, including traffic, to residents and commercial/industrial land uses, and would cost an additional $19.4 million compared to the Preferred Alternative.

The Noticed Variation follows the same route as the Preferred Alternative but consists of a combination of overhead (7.6 miles) and underground (1.3 miles) transmission line. The Noticed Variation would require increased wetland impacts and tree clearing compared to the Preferred Alternative and it would cost $46.8 million less to construct compared to the Preferred Alternative. The DEIR indicated that the Preferred Alternative was selected to achieve the best balance between cost and environmental impact while meeting the project's need.

I have received several comment letters from legislators, municipal representatives, environmental advocacy groups, and residents which identify concerns regarding wetland resource and rare species impacts, soil and drinking water supply contamination, and impacts to historic/cultural resources. Many of these comment letters request additional consideration of the

Noticed Alternative to avoid these impacts. I acknowledge and appreciate these concerns; however, the Scope for the FEIR did not require additional analysis of project alternatives and the purpose of MEPA review is to evaluate the environmental impacts of a proposed project in light of the Proponent's objectives. Identification of a project's purpose and need provides context for MEPA review and the alternatives analysis. MEPA requires that the Proponent identify environmental impacts, consider and analyze alternatives that could reduce environmental impacts and evaluate and adopt measures to avoid, minimize and mitigate Damage to the Environment. It does not prescribe to a Proponent what, where, or how a project should be designed or built.

The FEIR evaluated the following: additional reductions in roadway width and clearing, locating the majority of the duct bank within the footprint of the access road, jack-and-bore and/or horizontal directional drilling (HDD) at stream/culvert crossings, and use of smaller construction equipment to limit construction access clearing. In locations where the width of the construction platform is reduced to 18 ft to avoid impacts to wetlands and historic resources, the duct bank will be located within the footprint of the access road. According to the FEIR, locating the duct bank under the access road for the entire project length would increase construction duration and cost and increase the difficulty of performing maintenance on the transmission line. The FEIR indicated that the stream crossings at Hop Brook and Fort Meadow Brook do not have ideal site characteristics for jack-and-bore installation. In addition, it indicated this method is not appropriate for the smaller culvert crossings because it would increase environmental impacts compared to the work that was already proposed at these locations (replacement of drainage pipe #127A and removal of obstructions at other drainage pipes). The Proponent developed preliminary HDD alignments to evaluate the feasibility of using this method for the large waterway crossings on the project (Bridges #130, #128, and #127). The FEIR indicated that an HDD installation at these crossings could reduce impacts to BVW by 220 sf and would result in a net increase of 0.47 acres of clearing. The FEIR indicated that bridge rehabilitation and reconstruction remains the Preferred Alternative for these three crossings and noted that this work is a necessary component of the MCRT. According to the FEIR, smaller construction equipment is not available, with the exception of an excavator, and use of a smaller excavator would not reduce land alteration or clearing because the minimum limits are based on the clearance requirements of the largest piece of equipment.

The FEIR identified specific locations where the 22-ft wide construction platform was reduced to 18 ft to minimize grading and reduce impacts to land alteration, wetland resources, and historic resources. As described in the FEIR, a 22-ft construction platform is the minimum width necessary to maintain two-way construction vehicle traffic which will facilitate installation of 125 to 150 ft of the transmission line each day. According to the FEIR, in locations where the 18-ft wide construction platform will be used, a maximum of two crews can be deployed with each one accessing from opposite ends of the corridor. The FEIR indicated this will reduce installation of the transmission line to 35 to 50 ft each day. The FEIR indicated that the 22-ft construction platform will reduce construction duration, construction costs, impacts to abutting residents, facilitate emergency vehicle access, and allow construction vehicles to be staged alongside the excavated trench.

Land Alteration

According to the FEIR, the project will alter 23.93 acres of land, which represents a 4.03 acre reduction since the DEIR was filed. Based on this, the project no longer exceeds the ENF threshold for land alteration at 301 CMR 11.03(1)(b)(1). The FEIR characterized the existing and proposed vegetative cover within the project corridor. The FEIR indicated that predominant vegetation along the corridor is comprised of moderately dense young trees, saplings, shrubs, and herbs. According to the FEIR, the project was designed to utilize, to the extent possible, the existing rail and ballast areas where existing paths currently exist.

The FEIR identified additional site design measures that were incorporated into the Preferred Alternative to further reduce environmental impacts and land alteration. These include the use of retaining walls and permanent turf reinforcement matting; use of permanent sheet piles; allowing slopes of up to 6:1 within the construction platform to reduce grading; locating manholes outside of wetland resource areas and maximizing their spacing; installation of new bridge abutments landward of existing abutments (to avoid impacts that would be associated with removal); maintaining existing grade of Bridges #130 (Fort Meadow Brook) and #128 (Hop Brook) to avoid impacts to adjacent wetlands that would result from increasing the grade of the bridge approaches; avoiding disturbance of drainage pipe #125b to avoid potential impacts to the hydrology of the adjacent vernal pool; and shifting the project alignment vertically and horizontally to minimize limits of grading and impacts to adjacent environmental resources. The FEIR also identified applicable standards and requirements for vegetation management and the construction and design of the transmission line, access road, and rail trail and described their impact on project design and the limits of work.

The FEIR included a copy of the draft MOU between the Proponent and DCR which identified responsibility for maintenance activities. Upon completion of the transmission line project, DCR will pave a 10-ft wide section of the gravel access road and will loam and seed the remaining 2-ft wide shoulders on either side of the path. DCR will be responsible for vegetation management and maintenance of the path, bridges, box culvert at Chestnut Street, bridge decking, and railings. The FEIR indicated that DCR intends to construct the rail trail within one year of completion of the transmission line project. If construction or maintenance of the rail trail by DCR is delayed more than four years, the Proponent will assume vegetation management responsibilities over the area of the duct bank in accordance with their Vegetation Management Plan and 220 CMR 22.00 (Notification of Vegetation Maintenance Activities for Transmission Rights-Of-Way). The FEIR described the primary method (mechanical), area, and frequency of vegetation management activities. Targeted use of herbicides will be limited to control infestations of invasive species and will comply with 33 CMR 11.00 (Rights of Way Management) which establish a regulatory process to minimize the use of, and potential impacts from herbicides and specifically limits the herbicides that can be used in and near "Sensitive Areas", including water supplies, state-listed species habitat, and wetlands. These regulations limit the type, frequency, and method of herbicide use within riverfront area and within 100 ft of a wetland or Certified Vernal Pool and do not allow any herbicide use within 10 ft of any wetland, Certified Vernal Pool, or rivers.

Construction access and laydown/staging areas will be identified by the contractor. The FEIR clarified that the Proponent will require contractors to locate these areas in previously disturbed locations that will not require additional clearing or impacts to wetlands or rare species habitat. As requested in the Scope, the FEIR described why the amount of land alteration identified in the ENF (26.7 acres) increased in the DEIR (27.96 acres). More detailed engineering identified the need for additional grading to accommodate swales and vertical slope limitations for the rail trail. As noted above, project revisions have reduced the amount of land clearing by 4.03 acres since the DEIR was filed. The FEIR clarified that the project will not require blasting.

Wetlands

The project will require an Order of Conditions from the Hudson, Stow, and Sudbury Conservation Commissions which will review the project to determine its consistency with the Wetlands Protection Act (WPA), the Wetlands Regulations (310 CMR 10.00), and associated performance standards, including the Stormwater Management Standards (SMS). The Proponent and DCR will jointly submit Notice of Intent (NOI) applications for construction of the project and subsequent MCRT. The site plans and impact calculations identified in the FEIR are based on the most recent wetland delineation data. The Hudson and Sudbury Conservation Commissions issued Orders of Resource Area Delineation (ORAD) which approved the delineation on February 5, 2018 and August 27, 2018, respectively.[4] The FEIR indicated that wildlife habitat evaluations are being conducted in accordance with MassDEP's *Wildlife Habitat Protection Guidance for Inland Wetlands*. The results of this evaluation will be used to identify key habitat features and additional avoidance and mitigation measures.

The FEIR indicated that both the transmission line and MCRT qualify as limited projects under the WPA pursuant to CMR 10.53(3)(d) and 310 CMR 10.53(6), respectively. The FEIR described and quantified wetland impacts by resource area and identified the reasons for any change in impacts compared to the DEIR. Impacts to BVW have been reduced since the DEIR was filed and the project no longer requires an individual 401 WQC or exceeds the ENF threshold for BVW impacts at 301 CMR 11.03(3)(b)(1)(d). As presented in the FEIR, the project will impact the following wetland resource areas: BVW (2,517 sf), IVW (951 sf), LUW (1,198 sf), Inland Bank (287 lf), BLSF (34,314 sf), ILSF (754 sf), and Riverfront Area (318,456 sf). Impacts to Riverfront Area may be conservative as they consider all streams as perennial. Permanent wetland impacts are associated with grading and fill, construction of a headwall and scour protection at an existing drainage pipe (#127B), and replacement of an existing drainage pipe (#127A). Temporary wetland impacts are associated with installation of sheeting to construct bridge abutments, use of timber mats to facilitate equipment access, and post-construction maintenance of the ROW.

The FEIR generally described the wetland mitigation program and indicated that it is designed to meet ACOE, MassDEP, and local bylaw requirements and performance standards. Areas that are temporarily disturbed will be revegetated and restored in place. The project will

[4]The Proponent has indicated that impacts to BLSF have likely decreased as a result of minor changes to the BLSF delineation that occurred during the ORAD process. The impact calculations presented in the FEIR are conservative as they do not reflect this reduction.

mitigate BVW and IVW loss at a 2:1 ratio. The FEIR included plans that identified potential locations for wetland replication areas (15 areas, 11,031 total sf), described its design, and generally described the proposed wetland and invasive species monitoring program. Project plans provided with the FEIR identified areas of fill along the corridor and included cross sections which quantified the amount of cut and fill at each elevation. According to the FEIR, the project has been designed to provide a net increase in flood storage within BLSF of 640.4 cy. The project will require grading within ILSF, however this work will not involve fill and will result in a net increase in flood storage within ILSF of 99 cy. I note comments from the Town of Sudbury identify concerns regarding the quantification of wetland impacts. Additional information to demonstrate compliance with applicable provisions of the WPA and the Wetlands Regulations should be provided with the future NOI applications.

According to the FEIR, the project will not directly impact any vernal pools. The FEIR identified the distance from the limit of work to the 16 vernal pools within the project corridor and identified measures that will be implemented to protect them during construction. I note it is critically important that the Proponent employ erosion control and stormwater management measures to avoid construction impacts to adjacent Vernal Pool resources and encourage the Proponent to continue evaluating increasing the natural buffers to vernal pools. The FEIR provided an update on consultations with DFW regarding potential impacts to coldwater fishery resources (i.e. the two Hop Brook crossings) and noted that a site visit with DFW was conducted in April 2018. The FEIR concluded that the project is not anticipated to impact coldwater fishery resources as it will not cause a significant increase in stream temperatures, appropriate vegetation will be replanted after construction, and in-stream work will be completed in accordance with appropriate TOY restrictions. The FEIR provided project plans and an update on the structural analysis and proposed improvements at existing culverts, drainage pipes, and other non-bridge stream crossings. The project will construct a new headwall and scour protection at drainage pipe #127B, replace drainage pipe #127A, and remove debris and/or clear vegetation from four other culvert or drainpipe locations (#129C, #127I, #126B, #126A). Minor repairs are also proposed at the cattle crossing. The project includes two new drainage pipes in Hudson (29 ft long and 24 inches wide) and in Stow (28 ft long and 24 inches wide). The FEIR indicated that stream crossings will not be enlarged or replaced to avoid hydraulic impacts.

Stormwater

As described in the FEIR, the transmission line project will not create any impervious area. The gravel access road will serve as the base for the 10-ft wide paved MCRT which will create impervious area. MassDEP comments indicate that the paved MCRT will be required to meet SMS under 310 CMR 10.05(6)(k). The FEIR indicated that 310 CMR 10.05(6)(m)(6) requires "footpaths, bike paths, and other paths for pedestrian and/or non-motorized vehicle use" to comply with the SMS to the maximum extent practicable. According to the FEIR, the stormwater management system has been designed to meet the applicable SMS to the maximum extent possible. The FEIR included an evaluation of consistency of the transmission line and MCRT design with each of the SMS. According to the FEIR, the project has been designed to consider the MCRT and includes vegetated shoulders and conveyance swales with check dams to promote infiltration and recharge. The stormwater management system was designed to maintain existing drainage patterns and sized to accommodate runoff from the MCRT paved surfaces to

accommodate a two-year storm, consistent with DCR's design standards for rail trail facilities. The FEIR indicated the project will not increase peak flows to abutting private properties or closed drainage systems at roadway crossings during the 25-year storm event. The FEIR indicated that the stormwater management system does not incorporate additional BMPs to achieve the total suspended solids (TSS) removal rates identified in the SMS because new pollutants or TSS loads will not be introduced and BMPs to achieve these rates would require additional clearing and grading. The FEIR indicated that the proposed design balances stormwater management with minimization of impacts to wetland resource areas. I refer the Proponent to MassDEP's comment letter which identifies additional information and calculations that should be provided with the future NOI applications. Additional analysis of the stormwater management system will be required as part of this permitting process.

Rare Species

According to the FEIR, the project will impact 4 acres of Priority and/or Estimated Habitat for several state-listed rare species and requires a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA, MGL c.131A) and its implementing regulations (321 CMR 10.00). The FEIR identified the mapped species (Eastern Box Turtle, Eastern Whip-poor-will, Gerhard's Underwing, and Coastal Swamp Metarranthis) and associated habitat requirements, described existing habitat conditions and identified potential impacts from development of the project and the MCRT. The FEIR included a Turtle Protection Plan (TPP) that was developed with NHESP to avoid and minimize impacts to the turtle population during construction. It includes contractor training, TOY restrictions, protection of overwintering locations, turtle surveys, construction monitoring and turtle sweeps, and relocation of turtles. The following measures are proposed to avoid, minimize and mitigate impacts to the other state-listed species: TOY restrictions, avoiding destruction of host plants (to the extent possible), and revegetating the area with appropriate plant species. The FEIR included a copy of the Corridor Management Plan which identifies maintenance activities (including vegetation management) and incorporates specific measures to protect state-listed species based on consultation with NHESP (i.e. TOY restrictions requiring turtle sweeps prior to vegetation maintenance activities and minimum mower deck heights). Comments from NHESP indicate that the project will not result in a Take of state-listed species, provided that the Proponent implement the TPP and Corridor Management Plan and adhere to construction-period TOY restrictions to protect Eastern Whip-poor-will. Comments indicate any other concerns related to state-listed species can be addressed during the MESA review process.

Greenhouse Gas (GHG) Emissions

The project is subject to the MEPA Greenhouse Gas Policy and Protocol (GHG Policy) because it required the preparation of an EIR. Each of the two new 115-kV circuit breakers at the Sudbury Substation will require the use of Sulfur Hexafluoride (SF_6) gas, a potent GHG. The FEIR indicated that each breaker will be designed for an annual emission rate of 0.1% which is as low as is commercially available. According to the FEIR, this is equivalent to a total of 1.688 tons per year (tpy) of greenhouse gas (GHG) emissions. The FEIR indicated that the potential for SF_6 emissions is minimal and identified additional actions the Proponent has taken to reduce SF_6 emissions. According to the FEIR, the Sudbury Substation can accommodate the interconnection

of distributed renewable energy and there are no additional changes that could be implemented in conjunction with this project to improve its ability to accommodate these resources.

Historic/Archaeological Resources

The project corridor is located within and adjacent to historic and archaeological resources identified in MHC's Inventory and/or the State and/or National Registers of Historic Places. The project is subject to review by the MHC acting as State Historic Preservation Office (SHPO) in accordance with Section 106 of the NHPA (as amended) and MGL c. 9 § 26-27C (950 CMR 70-71). The scope and purpose of this review process is focused on preserving historic and archaeological resources. As requested by the MHC, the Proponent completed reconnaissance level surveys in December 2017. The Proponent is currently undertaking intensive (locational) archaeological surveys and will provide the results to MHC upon completion. Comments from MHC indicate that the results of the surveys will be used to avoid, minimize, or mitigate adverse effects to significant historic and archeological resources through the consultation process. I expect the Proponent will provide MHC with the most recent bridge plans, as appropriate, and refer the Proponent to comments from Protect Sudbury and H. Rebecca Cutting which identify additional resources to assist in identifying historic elements in the project area.

Construction Period

Construction is anticipated to commence in April 2019 with a completion date of winter 2020. Work will occur from 7:00 am to 7:00 pm Monday through Friday and from 9:00 am to 5:00 pm on Saturday. The FEIR identified procedures that would be followed if construction needs to be extended beyond normal hours and days. The FEIR clarified that the typical construction sound levels previously identified in the DEIR were conservative as they assumed no physical barrier between the person and the noise source.

Stockpiling of material within the ROW will be limited in size and duration (1 week maximum) and will be located as far from sensitive areas as practicable. At a minimum, stockpiles will be managed in accordance with MassDEP's *Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails* (Rail Trail BMPs). The Proponent has identified areas of potential contamination concern and is sampling soils in areas where preliminary review indicated a need for further investigation. The FEIR described notification procedures and identified who would be notified if contamination is encountered at the site. Contaminated soil (and stockpiles) will be managed pursuant to the provisions of a Utility Release and Abatement Measures (URAM) regulated under the Massachusetts Contingency Plan (MCP, 310 CMR 40.0000). In these areas, contaminated soil will be encapsulated through installation of a geosynthetic barrier and 12 inches of clean fill will be placed above the potentially contaminated material. The Proponent will develop a site-specific groundwater management plan and will retain a Licensed Site Professional (LSP) to oversee implementation of the MCP.

The project will install temporary steel decks over Bridges #127 and #128 to carry construction equipment loads. At the end of the construction period, the steel decks will be

replaced with permeant wood decks that meet DCR standards for multi-use trails. The FEIR elaborated on mitigation measures that will be implemented during the project to avoid or minimize impacts associated with construction traffic, noise, traffic, site contamination, and other impacts. Mitigation measures identified in the FEIR include erosion and sedimentation control measures, scheduling material deliveries during non-peak hours, and use of low-noise generators and other noise mitigation measures. Designated truck routes will be developed as part of the local permitting process. The project will implement erosion and sedimentation controls and measures to minimize the spread of invasive species in accordance with the Proponent's *Best Management Practices Manual for Massachusetts and Connecticut* ("Eversource's BMP Manual"). I expect the Proponent will coordinate appropriately with emergency services during the construction period to incorporate fire prevention practices, spill containment measures, and to identify potential emergency vehicle access routes. The project must comply with MassDEP Solid Waste and Air Quality Control regulations, pursuant to M.G.L. Chapter 40, Section 54, during construction. All construction activities should be undertaken in compliance with the conditions of all State and local permits.

Mitigation and Draft Section 61 Findings

The FEIR provided revised draft Section 61 Findings for MassDEP, DPU/EFSB, and MassDOT. It described mitigation measures and contained commitments to mitigation. The draft Section 61 Findings will serve as the primary template for State Agency Permit conditions and should be revised, as necessary, in response to this Certificate and/or comment letters and provided to State Agencies to assist in the permitting process and issuance of final Section 61 Findings. As described in the DEIR and FEIR, the Proponent has committed to implement the following measures to avoid, minimize, and mitigate environmental impacts:

Wetlands/Water Quality/Stormwater

- Use of construction mats to minimize direct impacts to wetland resource areas;
- Creation of wetland replication areas at a minimum 2:1 ratio;
- Design of the project to provide a net increase in flood storage capacity;
- Restoration of all disturbed areas with appropriate vegetation (with the exception of the gravel access road);
- Implementation of a post-construction wetland inspection and monitoring plan, including invasive species control efforts;
- Compliance with TOY restrictions prohibiting active construction within 340 ft from vernal pools from March 1 to May 14 to avoid the migratory breeding period; and
- Installation of a stormwater management system that complies with the SMS (to the maximum extent practicable). It will include vegetated shoulders and conveyance swales with check dams.

Rare Species

- Development and implementation of a Turtle Protection Plan specifying TOY restrictions for vegetation and earthwork (November 1 and March 31) and protection of overwintering locations (November 1 and March 31), and requiring additional turtle surveys, construction monitoring (April 1 to October 31), turtle sweeps and relocation, and visual inspections during vegetation management activities (April 1 to November 1);

- Development and implementation of a Corridor Management Plan which incorporates specific measures to protect state-listed species during vegetation management activities;
- Compliance with TOY restrictions (May 1 to August 1) to avoid impacts to Eastern Whip-poor-will during the nesting season;
- Compliance with TOY restrictions (November 1 to March 31) to avoid impacts to black racer hibernaculum;
- Compliance with TOY restrictions (October 1 to May 31) for in-water work at Hop Brook to avoid impacts to coldwater fisheries; and
- Designing the project to avoid destruction of host plants (to the extent possible).

Greenhouse Gas Emissions

- The Proponent will take the following actions to reduce fugitive SF6 emissions: voluntary participation in the US EPA Emission Reduction Partnership for Electric Power Systems, improved SF6 tracking, early detection measures, and active breaker replacements.

Historic/Archaeological Resources

- Completion of an intensive archaeological survey; and
- Consultation with MHC pursuant to Section 106 of the NHPA (as amended) and MGL c. 9 § 26-27C (950 CMR 70-71) to avoid, minimize, and mitigate impacts to historic and archaeological resources.

Construction Period

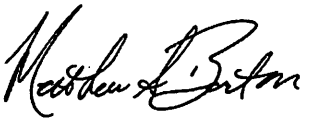
- Use of erosion and sedimentation controls and measures to minimize the spread of invasive species in accordance with the Proponent's Best Management Practices Manual for Massachusetts and Connecticut;
- A Stormwater Pollution and Prevention Plan (SWPP) will be prepared in connection with the project's NPDES CGP;
- Soil stockpiles will be managed in accordance with the MassDEP Rail Trail BMPs document and contaminated soil or other material will be managed pursuant to the provisions of a URAM regulated under the MCP (310 CMR 40.0000);
- Development and implementation of a soil and groundwater management plan that will also include procedures for the management of dewatering;
- Proponent will require that contractors locate construction access and staging/laydown areas in previously disturbed locations that will not require additional clearing or impacts to wetlands or rare species habitat;
- Noise mitigation measures including the use of low noise generators when possible, locating generators as far away as possible from sensitive receptors, and use of vibration dampening pads and/or sound dampening enclosures or barriers;
- Development of work zones to maintain trail connectivity for trails that cross the MBTA ROW from abutting recreational and conservation properties (to the maximum extent feasible);
- Dust control measures will be implemented, including wet suppression, covering trucks leaving the site, covering soil stockpiles and stabilizing disturbed areas;
- Proponent will use ultra-low sulfur diesel (ULSD) fuel in its construction equipment and will require contractors working on the project to retrofit any diesel-powered non-road

construction equipment rated 50 horsepower or above to be used for 30 or more days over the course of the project with U.S. EPA-verified (or equivalent) emission control devices (e.g., oxidation catalysts or other comparable technologies);
- The project will comply with MassDEP regulations limiting vehicle idling (310 CMR 7.11 (1)(b)); and
- Coordination of delivery of materials to off-peak hours and development of designated truck routes.

Conclusion

The FEIR is responsive to the issued in the December 15, 2017 Certificate on the DEIR. Comments from State Agencies do not identify issues that warrant additional analysis in a Supplemental FEIR. Additional analysis and review are necessary to finalize design of the stormwater management system and cultural/historic resources and rare species mitigation and will continue through project permitting. Based on a review of the FEIR, comment letters, and consultation with State Agencies, I find that the FEIR adequately and properly complies with MEPA and its implementing regulations. Outstanding issues can be addressed during State and local permitting and review. The project may proceed to permitting. The Proponent and State Agencies should forward copies of the final Section 61 Findings to the MEPA Office for publication in accordance with 301 CMR 11.12.

If there is a material change to the project that will increase environmental impacts prior to the completion of Agency Actions for the project, the Proponent may be required to file a NPC.



September 14, 2018
Date

Matthew A. Beaton

Comments received:

08/03/2018 State Representative Kate Hogan
08/19/2018 Gregory Opp
08/23/2018 Gleasondale Village Association
08/28/2018 Town of Hudson, Thomas Moses, Executive Assistant
09/04/2018 Joe and Donna DiFranco
09/04/2018 Town of Hudson, Conservation Commission
09/05/2018 Massachusetts Historical Commission (MHC)
09/06/2018 H. Rebecca Cutting
09/06/2018 Natural Heritage and Endangered Species Program (NHESP)
09/06/2018 Brian O'Neill
09/06/2018 Elisa Pearmain
09/06/2018 Protect Sudbury

09/06/2018	Brian White and Catherine Schoenleber
09/07/2018	Todd Billings
09/07/2018	Sudbury Valley Trustees (SVT)
09/07/2018	Town of Sudbury, George Pucci, KP Law, P.C.
09/07/2018	Christine Nelson
09/07/2018	Massachusetts Department of Environmental Protection (MassDEP) – Waterways Regulation Program
09/07/2018	MassDEP – Northeast Regional Office

MAB/PRC/prc

The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

KATE HOGAN
STATE REPRESENTATIVE
STATE HOUSE, ROOM 130
TEL. (617) 722-2130
Kate.Hogan@MAhouse.gov

CHAIR
Committee on Public Health

August 3, 2018

Page Czepiga, Environmental Analyst
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Sudbury-Hudson Transmission Reliability Project Final Environmental Impact Report

Dear Ms. Czepiga,

Thank you for offering the opportunity to provide comments regarding the proposed Sudbury-Hudson Transmission Reliability Project. As the State Representative for the Third Middlesex District, which includes the towns of Hudson and Stow, I appreciate the efforts of Eversource Energy to improve the delivery of power to our region. However, as was communicated by Senator Jamie Eldridge, Representative Carmine Gentile, and me in our March 2016 letter and in an additional response letter sent in June 2017, both the company's Primary Route and Alternative Route will have detrimental impacts on the environment that are difficult to overlook. Therefore, I would like to reiterate my support for the Noticed Alternative Route, comprised of an entirely underground route within public roads in the towns of Hudson, Stow, and Sudbury, which will have a significantly smaller negative environmental impact if implemented.

I have met with dozens of constituents, including those whose lands abut the proposed Primary Route/Alternative Route, and we have discussed how they find the cited impacts to our natural environment to be highly distressing. Over the past few decades, residents in my towns have proactively voted to protect open space along the proposed route, and state and federal agencies and elected officials have gone to great lengths to protect this area from development.

I write again to emphasize how greatly my constituents value the conservation lands in our area, and how, according to the Corrected Environmental Notification Form, the Primary Route/Alternative Route will negatively impact them; causing serious disruption to the natural environment, rare species, and historic lands and resources that exist along the route. As State Representative for this region and a local resident who often enjoys the very conservation land that would be affected, I maintain that the potential damage the proposed project would inflict on our environment and local wildlife is of the utmost concern.

I ask you to once again consider the Noticed Alternative Route. This clear and reasonable alternative would remove the threat to our much-loved protected lands by avoiding the right-of-way. Thank you for your consideration. If you should need any further information, please do not hesitate to contact my office.

Sincerely,

Kate Hogan

Kate Hogan
State Representative
Third Middlesex District

109 Fort Meadow Drive
Hudson, MA 01749
August 19, 2018

Executive Office of Energy and Environmental Affairs
Attn: MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: EEA # 15703, FEIR Sudbury-Hudson Transmission Reliability Project

Dear Honorable Secretary Beaton and Staff,

I searched the Draft and Final Environmental Impact Reports for this Eversource "Project" and did not find any references to fire prevention and firefighting during construction. This topic was raised in a comment to the Energy Facilities Siting Board in June 2017 but was not propagated to the environmental impact reports. It's being raised again now.

The **Preferred Alternative** and **Noticed Variation** traverse both of Hudson's Watershed Protection Areas which provide groundwater to all five Town wells. The Central Massachusetts Railroad rail bed retains old wooden ties and steel rails, and is overgrown with vegetation, all of which must be removed before construction. If a fire were ignited by a stray spark, there are many places along the right-of-way which would be difficult for standard firefighting equipment to access.

Therefore, I am requesting that the Final Environmental Impact Report be amended to add a section to Chapter 2, Project Description and Permitting, which specifies fire prevention and firefighting requirements during construction. Some examples would be:

- no smoking
- at least one fire extinguisher per vehicle (rated A-B-C?)
- suspending work during extremely dry conditions

Obviously, the fire chiefs in Hudson and Sudbury have much greater expertise in this matter. I believe they should be consulted before construction commences.

Sincerely,

Gregory L. Opp

Gregory L. Opp

cc: Hudson Fire Chief Stephen P. Geldart

109 Fort Meadow Drive
Hudson, MA 01749
June 5, 2017

Energy Facilities Siting Board
One South Station
Boston, MA 02110

Reference: EFSB 17-02/D.P.U. 17-82/17-83

Dear Stephen August, Esq. and Honorable Board Members,

I have reviewed some sections of Eversource's Filing with the EFSB at:
http://www.townofhudson.org/Public_Documents/HudsonMA_Eversource/Eversource%20Filings/
Perhaps the most critical section for the majority of the residents is "5.12 Public Water Supply Protection Areas". This section is supplemented by "Appendix 5-6, Groundwater Hydrology Assessment" for Hudson, MA.

The **Project** and the **Noticed Variation** travese both of Hudson's Watershed Protection Areas which encompass all five town wells. While erosion controls and containment of spills are described, I found no sections regarding fire prevention or requirements for fire suppression equipment. For example, a fire on the old railroad embankment and trestle which crosses Fort Meadow Brook would be difficult for standard fire fighting equipment to access.

Therefore, I am requesting a section be added to Volume 1 or as an appendix that specifies fire prevention and fire fighting requirements during construction, such as,

+ no smoking
+ at least one "dry" fire extinguisher per vehicle
+ suspending work during extremely dry conditions

Obviously, fighting a fire with water may stress the erosion controls and spill contaiment. It can also be avoided with foresight and planning.

If the Sudbury-Hudson Transmission Reliability Project is approved, please be diligent in protecting Hudson's drinking water acquifers. Thank you.

Sincerely,

PRINTED FROM ELECTRONIC ORIGINAL.
19-AUG-2018 Gregory L. Opp

Gregory L. Opp

cc: Hudson Conservation Commission

Czepiga, Page (EEA)

From: Gleasondale Village <gleasondalevillage@gmail.com>
Sent: Thursday, August 23, 2018 5:52 PM
To: Czepiga, Page (EEA)
Subject: Eversource Sudbury-Hudson Transmission Reliability Project Final Environmental Impact Report - EEA No. 15703

We are asking that if the Eversource Hudson to Sudbury project is necessary, that the MBTA route both overhead or underground be eliminated.

The proposed MBTA route would still negatively affect the residents of Hudson, Marlborough, Sudbury and Stow with potentially harmful impacts to our environment and our private wells.

The proposed underground MBTA route requires clear cutting and possible toxic herbicide applications along its entire route.

The proposed MBTA route traverses Hop Brook Marsh Conservation Land, Assabet River National Wildlife Refuge, Sudbury Valley Trustees Memorial Forest and Marlborough State Forest and comes within 1,500 feet of Boon Lake and 1,200 feet of White Pond.

It also goes through many residential neighborhoods including our historic village of Gleasondale.

The MBTA route has been proposed to theoretically provide "the base" for a bike trail, however, this comes at too large an environmental cost. No bike path is worth the poisoning of residential wells, soil or habitats. Utility companies should not be allowed to poison our air, water or ruin the esthetics of a historically significant village.

Gleasondale village residents are vehemently opposed to the destruction that would be caused by using the MBTA route or any overhead wires or herbicide usage now and forever on any section of the route in Stow.

The environmental effects of clear cutting, habitat destruction and possible herbicide use could be eliminated by using the third proposed option:

Underground and along the existing roadways.

Environmental conservation should take priority over recreation, lest we destroy the natural environment which inspires us to step outside in the first place to walk, hike, paddle, swim and bike and we do not wish to threaten the health of ourselves, children and neighbors by not keeping our soil and water safe for everyone.

Gleasondale Steering Committee:
Laurel Cohen
Meg Costello
Eve Fischer
Cody Anderson
Joanna Grossman

--
* Important - Please refrain from using "reply all" unless you really think everyone on the list needs to receive the email.

Gleasondale Village Association

Thomas Moses
Executive Assistant
Town of Hudson
78 Main Street
Hudson, MA 01749
tmoses@townofhudson.org

August 28, 2018

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs
Commonweal of Massachusetts
100 Cambridge Street, Suite 900
Boston, MA 02114
Attn: MEPA Office, Page Czepiga, EEA No. 15703

Re: Sudbury-Hudson Transmission Reliability Project Final Environmental Impact Report - EEA #15703

Dear Secretary Beaton:

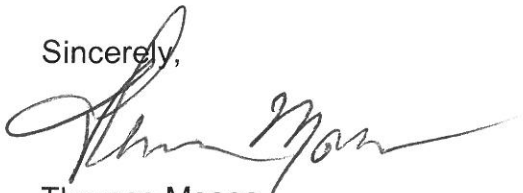
Please accept my comments on the above-referenced project on behalf of the Town of Hudson. I am re-submitting my comments made in conjunction with the Environmental Notification Form, primarily because neither of my comments was addressed in the either the DEIR or FEIR.

The evaluation of alternatives remains flawed and relies on criteria weighting that only the applicant determined. The results are biased, subjective and defy common sense. The applicant included cost criteria in the environmental evaluation in an attempt to improve the score of their preferred alternative. They afforded relatively high weight to temporary impacts environmental while undervaluing permanent ones. As a result, the DEIR and FEIR evaluate the wrong alternative.

VHB/Eversource's vegetation management also defies common sense. The applicant has submitted no cost/benefit analysis of purely mechanical management versus their preferred limited use of herbicides. Their contention that mechanical management may harm stream banks only make sense if they are allowed to remove vegetation right up to the stream banks, something that should not be done. It is again counterintuitive to prefer the application of herbicides over management without herbicides, especially without any detailed cost/benefit analysis.

Protection of our natural and drinking water resources remain Hudson's highest priority, and for these reasons we strongly advocate for an in-street solution for the Sudbury-Hudson Transmission Reliability Project.

Sincerely,



Thomas Moses
Executive Assistant

Thomas Moses
Executive Assistant
Town of Hudson
78 Main Street
Hudson, MA 01749
tmoses@townofhudson.org

June 16, 2017

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs
Commonweal of Massachusetts
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Sudbury-Hudson Transmission Reliability Project (EEA #15703)

Dear Secretary Beaton:

Please accept my comments on the above-referenced project on behalf of the Town of Hudson. I will restrict my comments to two issues, flawed evaluation of the noticed variation and the noticed alternative route by the applicant, and inadequate consideration of the vulnerability of the Town of Hudson's drinking water supply. Other aspects of the Environmental Notification Form will be addressed by other boards and/or officials from Hudson.

Flawed Evaluation of Alternatives

Appendix A of this letter lists the environmental criteria used by Eversource in their Energy Facilities Siting Board submission (EFSB 17-02), Table 4-5 "Scoring Matrix" on pages 4-27 and 4-28. I reformatted this information to show each option separately. Note that the totals do not match exactly to Table 4-5, perhaps due to rounding and/or formula differences.

More importantly, Table 4-6 on page 4-29 of EFSB 17-02 is supposed to be a summary of the totals in Table 4-5 and ranks the projects from lowest impact to highest. There are some serious inconsistencies between Tables 4-5 and 4-6.

For example, the total score for Options 2A, 2B and 11, respectively, in Table 4-5 are 27.26, 17.60 and 21.37. In Table 4-6 they are 29.03, 19.37 and 25.41. Table 4-6 is completely inconsistent with the detailed calculations.

In Appendix A the totals indicate that Option 2B (underground along the MBTA right of way) has the least impact with a score of 17.66, Option 11 (underground in-street) is next with 21.46, and Option 2A (overhead along the MBTA right of way until Forest Avenue) has the greatest impact at 27.34.

Including constructability criteria with environmental criteria, as Eversource has done for this alternatives analysis, is a miscategorization. If anything, constructability is a subset of cost criteria (and may even be redundant). For the purposes of MEPA review, the last four constructability criteria should be ignored.

Backing these criteria out, the revised ranking is Option 11 – 14.69; Option 2B – 15.86; and Option 2A – 25.54. This correction alone changes the order of preference in favor of the in-street option. These results are listed in my Appendix B.

Examining the weighting that Eversource subjectively created for each category reveals serious flaws in their assumptions. These flaws err in favor of Option 2B. The criteria place too much importance on temporary effects. The first three criteria plus the Scenic Roadways criterion deal primarily with the construction phase. These criteria should be weighted to reflect their transient nature.

At the MEPA scoping session on June 12, 2017 Eversource stated that they will only have a 20-year lease with the MBTA. The weighting at the very most should reflect the percentage of time that the construction period comprises of the entire lease, which would certainly be less than 4 out of 20 years, or 20%. Therefore, the weighting should be no more than 1 out of 5, also 20%.

Finally, and of critical importance to the Town of Hudson, is that Eversource's weighting of the impact to public water supplies as a 3 is certainly not reflective of community prioritization. Without these water supplies, there are no communities. This is Hudson's highest priority and should be assigned a weighting of 5.

Appendix C reformats the project rankings using this improved weighting. This further separates Option 11 from the others as the least impactful on the environment.

The table below displays the evolution of the ranking discussed in the paragraphs above, up to and including the use of improved environmental weighting. Green depicts the option with the least impact to the environment, yellow in the middle and red the most impact.

	Appx A Raw Score	Appx B Environ only	Appx C Improved Weights
2A (OH)	27.34	25.54	25.41
2B (UG)	17.66	15.86	17.66
11 (streets)	21.46	14.69	11.08

Removing non-environmental criteria from the evaluations establishes the in-street option as having the least environmental impact. By improving the relative weights of the criteria that advantage becomes more pronounced. The in-street option is then unquestionably better from an environmental perspective.

Vulnerability of Public Water Supply

Attached after the appendices are aerial views showing two sections of the right of way route with the approximate locations of all of the Town's wells. Also attached are relevant sections of Eversource's hydrological study (VHB, Groundwater Hydrology Assessment: Hudson, MA Public Community Water System). That study states that the soil in the area is extremely porous and that there is rapid exchange between surface water and the aquifers. "The aquifer materials are highly transmissive to the flow of water" (page 3). "Permeability is approximately 90 ft/day" (page 3). "The aquifer is sensitive to surface spills and sources of contamination. Spilled liquids could rapidly seep down to the water table and enter the groundwater" (page 6). Because of this, Hudson's well sites are extremely vulnerable to both construction activity and herbicidal vegetation management along the right of way. As recently as November 14, 2016 our wells recorded elevated fecal coliform counts, probably from area wildlife. In response we were required to notify the public. Construction and vegetation management increases several fold the likelihood that harmful contaminants will be introduced into the groundwater.

Finally, MEPA should consider that Eversource has admitted to (though has shown no proof of) a limited 20-year lease arrangement with the MBTA. If we take them at their word, we must also recognize that the MBTA could have granted a much longer lease. That creates the chance that the lease may not be extended or renewed. This would mean that disruptions that occur during construction with either of the right of way options may recur in 20 years. This, of course, is not an issue with in-street infrastructure, where further disruption is not anticipated. This is yet another reason to consider the in-street option as the option with the least harmful environmental impacts.

Eversource did a poor job on their ENF and had to file a "corrected" ENF. Because of this and the reasons outlined in this letter, the Town of Hudson is requests that MEPA require Eversource to complete a comprehensive Environmental Impact Report with alternatives analyses and with proper consideration of Hudson's drinking wells.

Respectfully submitted,

Thomas Moses
Executive Assistant

Appendix A

Option 2A - overhead along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	5	0.10	0.50
Commercial/Industrial Uses (Total Building Units)	4	0.21	0.84
Sensitive Receptors (Total Parcels)	5	0.13	0.65
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	4	0.08	0.32
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	1.00	1.00
Tree Clearing (acres)	5	0.96	4.80
Wetland Resource Areas (acres)	5	0.93	4.65
Public Water Supplies (miles)	3	0.83	2.49
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	1.00	5.00
Route Length	1	0.81	0.81
Trenchless Crossings	3	0.07	0.21
Existing Utility Density	3	0.15	0.45
Hard Angles (> 30 degrees)	1	0.33	0.33
Total Weighted Score			27.34

Option 2B - underground along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	5	0.10	0.50
Commercial/Industrial Uses (Total Building Units)	4	0.21	0.84
Sensitive Receptors (Total Parcels)	5	0.13	0.65
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	4	0.07	0.28
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	0.26	0.26
Tree Clearing (acres)	5	0.37	1.85
Wetland Resource Areas (acres)	5	0.35	1.75
Public Water Supplies (miles)	3	0.83	2.49
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	0.39	1.95
Route Length	1	0.81	0.81
Trenchless Crossings	3	0.07	0.21
Existing Utility Density	3	0.15	0.45
Hard Angles (> 30 degrees)	1	0.33	0.33
Total Weighted Score			17.66

Option 11 - underground in-street

	weight	Score	Ext
Residential Land Uses	5	0.18	0.90
Commercial/Industrial Uses (Total Building Units)	4	0.15	0.60
Sensitive Receptors (Total Parcels)	5	0.42	2.10
Cultural Resources	2	0.23	0.46
Scenic Roadways (miles)	4	0.82	3.28
Potential for Traffic Congestion	5	0.84	4.20
Potential to Encounter Subsurface Contamination	1	0.45	0.45
Public Shade Trees	1	-	-
Tree Clearing (acres)	5	-	-
Wetland Resource Areas (acres)	5	0.03	0.15
Public Water Supplies (miles)	3	0.85	2.55
Conservation Lands (miles)	3	-	-
State-Listed Rare Species Habitat (acres)	5	-	-
Route Length	1	0.93	0.93
Trenchless Crossings	3	0.67	2.01
Existing Utility Density	3	0.98	2.94
Hard Angles (> 30 degrees)	1	0.89	0.89
Total Weighted Score			21.46

Appendix B

Option 2A - overhead along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	5	0.10	0.50
Commercial/Industrial Uses (Total Building Units)	4	0.21	0.84
Sensitive Receptors (Total Parcels)	5	0.13	0.65
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	4	0.08	0.32
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	1.00	1.00
Tree Clearing (acres)	5	0.96	4.80
Wetland Resource Areas (acres)	5	0.93	4.65
Public Water Supplies (miles)	3	0.83	2.49
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	1.00	5.00
Total			25.54

Option 2B - underground along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	5	0.10	0.50
Commercial/Industrial Uses (Total Building Units)	4	0.21	0.84
Sensitive Receptors (Total Parcels)	5	0.13	0.65
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	4	0.07	0.28
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	0.26	0.26
Tree Clearing (acres)	5	0.37	1.85
Wetland Resource Areas (acres)	5	0.35	1.75
Public Water Supplies (miles)	3	0.83	2.49
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	0.39	1.95
Total			15.86

Option 11 - underground in-street

	weight	Score	Ext
Residential Land Uses	5	0.18	0.90
Commercial/Industrial Uses (Total Building Units)	4	0.15	0.60
Sensitive Receptors (Total Parcels)	5	0.42	2.10
Cultural Resources	2	0.23	0.46
Scenic Roadways (miles)	4	0.82	3.28
Potential for Traffic Congestion	5	0.84	4.20
Potential to Encounter Subsurface Contamination	1	0.45	0.45
Public Shade Trees	1	-	-
Tree Clearing (acres)	5	-	-
Wetland Resource Areas (acres)	5	0.03	0.15
Public Water Supplies (miles)	3	0.85	2.55
Conservation Lands (miles)	3	-	-
State-Listed Rare Species Habitat (acres)	5	-	-
Total			14.69

Appendix C

Option 2A - overhead along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	1	0.10	0.10
Commercial/Industrial Uses (Total Building Units)	1	0.21	0.21
Sensitive Receptors (Total Parcels)	1	0.13	0.13
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	1	0.08	0.08
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	1.00	1.00
Tree Clearing (acres)	5	0.96	4.80
Wetland Resource Areas (acres)	5	0.93	4.65
Public Water Supplies (miles)	5	0.83	4.15
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	1.00	5.00
Total			25.41

Option 2B - underground along the MBTA right of way

	weight	Score	Ext
Residential Land Uses	1	0.10	0.10
Commercial/Industrial Uses (Total Building Units)	1	0.21	0.21
Sensitive Receptors (Total Parcels)	1	0.13	0.13
Cultural Resources	2	0.32	0.64
Scenic Roadways (miles)	1	0.07	0.07
Potential for Traffic Congestion	5	0.27	1.35
Potential to Encounter Subsurface Contamination	1	0.31	0.31
Public Shade Trees	1	0.26	0.26
Tree Clearing (acres)	5	0.37	1.85
Wetland Resource Areas (acres)	5	0.35	1.75
Public Water Supplies (miles)	5	0.83	4.15
Conservation Lands (miles)	3	1.00	2.99
State-Listed Rare Species Habitat (acres)	5	0.39	1.95
Total			15.76

Option 11 - underground in-street

	weight	Score	Ext
Residential Land Uses	1	0.18	0.18
Commercial/Industrial Uses (Total Building Units)	1	0.15	0.15
Sensitive Receptors (Total Parcels)	1	0.42	0.42
Cultural Resources	2	0.23	0.46
Scenic Roadways (miles)	1	0.82	0.82
Potential for Traffic Congestion	5	0.84	4.20
Potential to Encounter Subsurface Contamination	1	0.45	0.45
Public Shade Trees	1	-	-
Tree Clearing (acres)	5	-	-
Wetland Resource Areas (acres)	5	0.03	0.15
Public Water Supplies (miles)	5	0.85	4.25
Conservation Lands (miles)	3	-	-
State-Listed Rare Species Habitat (acres)	5	-	-
Total			11.08


Google Maps
ROW
Google
Imagery ©2017 Google, Map data ©2017 Google 200 ft

Google Maps

Imagery ©2017 Google, Map data ©2017 Google 500 ft

Attachment for the locations of the wells, aquifers, Wellhead Protection Areas, and Eversource Project and Noticed Variation.

The Fort Meadow Brook Aquifer that the Kane and Chestnut Street wells obtain water from is an unconfined, stratified sand-and-gravel aquifer of glacial origin that extends over a one square-mile area between Chestnut Street on the west, Main Street to the south, Boons Pond to the east, and Sudbury Road to the north. The glacial deposits of sand and gravel originated from outwash-plain and ice-contact deposits during glacial melting approximately 10,000 years ago. These deposits are deep, ranging to approximately 100 feet below ground surface, and are underlain by poorly-sorted, dense, glacial till. The aquifer materials are highly transmissive to the flow of water, with measured transmissivities on the order of 11,600 to 19,600 ft^2/day, averaging 15,000 ft^2/day (Whitman & Howard, 1991). Permeability is approximately 90 ft/day on average, and groundwater flow velocities range from approximately 2 to 3.1 ft/day (Whitman & Howard, 1988).

The Fort Meadow Brook Aquifer is recharged with water from a combination of precipitation onto the overlying land surface, and to a large degree from water infiltrating from the Assabet River and Fort Meadow Brook. The natural groundwater flow direction is to the north, but the pumping of these wells captures water from the Assabet River located to the north, and induces localized radial flow towards the wells from all directions (Whitman & Howard, 1991).

The groundwater aquifer that the Cranberry well obtains water from is also an unconfined, stratified sand-and-gravel aquifer of glacial origin. The glacial deposits of sand and gravel originated in post-glacial lakes and streams from outwash-plains, kettleholes, and ice-contact deposits such as kames and eskers during glacial melting approximately 10,000 years ago. These deposits are less deep than at the Fort Meadow Brook Aquifer, grading below depths of approximately 40 feet into finer-grained materials that are unsuitable for productive wells. Drilling refusal, likely on the underlying bedrock, has been encountered between 70 and 100 feet below grade in the general area. The aquifer materials are highly transmissive to the flow of water (Earth Tech, 2000).

The Cranberry aquifer is recharged primarily with water from precipitation onto the overlying land surface, and to a smaller degree from water infiltrating from the Hop Brook tributary and adjacent wetlands. The natural groundwater flow direction is generally to the southeast, parallel to the Hop Brook tributary, but is complex and variable, and the pumping of the Cranberry well may induce localized radial flow (Earth Tech, 2000).

III. Description of the Eversource Project and Noticed Variation

The Sudbury-Hudson Transmission Reliability Project would consist of electric transmission lines that would follow the unused MBTA corridor through the Town of Hudson and surrounding towns. VHB understands that both the Project and Noticed Variation would follow the existing MBTA right-of-way.

Meadow Brook Aquifer) and 3 (Cranberry Bog Aquifer) of the Attachment. Groundwater would be able to continue flowing as it does presently, beneath the structures. Due to the high permeability and transmissivity of the sand and gravel materials in the aquifer, groundwater would be able to flow readily around and under the structures. Potentially, minor amounts of groundwater mounding could occur on the upgradient side of the structures which would develop the hydraulic gradient sufficient to counteract any minor impediment to flow that might be caused by the manhole structure.

For the Noticed Variation, the caissons would extend below the groundwater level; however, due to the small size of the caissons relative to the distance between each, groundwater would simply flow under and around the caissons without any impact.

V. Conclusions and Recommendations

Neither the Project or Noticed Variation would have any appreciable effect on groundwater flow rates or directions, nor would either option impact the yield of the Hudson municipal wells.

With the Project, for the majority of the length of the route within Hudson and its Wellhead Protection Areas, subsurface Project features would be placed above the elevation of the groundwater, and thus could not affect it. In the localized segment of the Project near the Fort Meadow Brook crossing, deeper project components (manholes) would slightly extend into the water table, but would not alter groundwater flow rates or directions because construction would enter only a small fraction of the aquifer, which is highly permeable, allowing groundwater to flow under and around the structures in the same rates and directions and it does presently.

For the Noticed Variation, due to the small size of the caissons relative to the spacing, groundwater would simply flow under and around them without any impact.

Because the overburden is highly permeable sand and gravel, the aquifer is sensitive to surface spills and sources of contamination. Spilled liquids could rapidly seep down to the water table and enter the groundwater. Therefore VHB recommends development and implementation of a Spill Prevention and Response Plan to address project construction equipment, fuels, lubricants, and any other liquid or hazardous materials that may be on site during construction. Best Management Practices should be established for spill prevention and cleanup. If over 1,320 gallons of oil are to be stored above-ground, a Spill Prevention, Control, and Countermeasure Plan ("SPCC Plan") stamped by a professional engineer would be required in accordance with United States Environmental Protection Agency ("EPA") regulation Title 40 CFR 112, Oil Pollution Prevention.

Czepiga, Page (EEA)

From: donna difranco <ddifr@hotmail.com>
Sent: Tuesday, September 04, 2018 7:41 AM
To: Czepiga, Page (EEA)
Subject: Sudbury to Hudson Transmission Reliability Project

Dear Ms. Czepiga:

Please consider the Noticed Alternative Route (all underground in streets) to Eversource's proposed Sudbury to Hudson Transmission Reliability Project as the only viable solution. Over the years, we've seen how much the many people who walk the conservation trails or ride them on horseback, rely on them as a simple encounter with unspoiled nature, that is so rare yet so much needed. Thank you.

Sincerely,

Joe & Donna DiFranco

CONSERVATION COMMISSION

78 Main Street, Hudson, MA 01749
(978) 562-2948

Paul Byrne, Chairman *Joseph Rodrigues* *Marianne Iarossi*
David Mercer, Vice Chair *Emilie Wilder* *Brandon Parker* *Jason Weksner*

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office, Page Czepiga, EEA 15703
100 Cambridge Street, Suite 900
Boston, MA 02114

September 4, 2018

Re: Final Environmental Impact Report
Sudbury-Hudson Transmission Reliability Project
EEA No. 15703

Dear Secretary Beaton:

The Town of Hudson Conservation Commission offers the following comments on the Final Environmental Impact Report ("FEIR") filed by Eversource Energy ("Eversource") regarding the Sudbury-Hudson Transmission Reliability Project (the "Project"). The Project proposes construction of approximately nine miles of new 115-kV transmission line through Sudbury, Marlborough, Stow and Hudson.

The Commission appreciates the effort that Eversource has made to decrease the project footprint. However, we still believe that the preferred route described by Eversource, under the ground along a Right of Way ("ROW") through an inactive railroad corridor owned by the Massachusetts Bay Transportation Authority ("MBTA"), will have a significant environmental impact, greater than that stated in the FEIR. The Commission continues to strongly urge that the alternative route, entirely under existing roads is carefully considered.

We would like to re-iterate our concerns regarding the preferred route. The preferred route would disturb soils potentially contaminated with wood preservatives, heavy metals and other contaminants deposited from years of train operations. In addition, the machinery and fuels involved in construction, and future disturbance and pollution caused by the use of the access road(s) once in place, pose a threat of environmental harm.

The Project would alter nearly 320,000 square feet of jurisdictional wetland resource areas and permanently fill 284 square feet of bordering vegetated wetlands, a significant environmental impact. Wetlands are protected resources which perform

critical functions including flood control and pollution filtering, and are a valuable habitat for diverse wildlife.

The Project's environmental impacts extend well beyond water and wetlands. The Project would result in the loss of over one million square feet of forestland, which would have a large impact on soils and wildlife, and would alter the local microclimate by changing the winds, temperatures, moisture and light. This could have a potentially devastating impact on fish and other wildlife that depend on a limited range of water temperatures for living or breeding. A specific example are the native brook trout that rely on a cold water habitat.

Mature and healthy forests are comprised of a mix of tree growth. Clearing the ROW for 6.7 miles of all trees, even at a width of 22 feet, would result in a loss of 24 acres of trees. This is a significant clearing of trees, especially considering the bogs, vernal pools, streams and other wetlands adjacent to the ROW. The loss of habitat and the contribution to climate change, the impacts on water absorption and soil erosion, and the potential for invasive growth to take root in disturbed areas are critical concerns that cannot be fully mitigated.

The FEIR discusses protection of endangered species, which impacts a small percentage of the land to be cleared. However, as natural areas in the region are rapidly shrinking, remaining large areas of habitat such as the MBTA ROW are critical to protect wildlife regardless of their endangered status.

The Commission believes that the rating system used to determine the preferred route was flawed. The rating of "3" for disruption of Conservation Land use is too low to account for the loss of important protected public land and for the negative impact on water and wetland resource areas, protected ecosystems and valuable wildlife habitat. Alterations to wetland resource areas were calculated differently in the different towns, with areas protected by local bylaws included only in those towns. Although Hudson doesn't have a local wetlands protection bylaw, its natural resources are as valuable as those in other communities. The loss of potential vernal pools, buffer zones for vernal pools and intermittent streams, and other bylaw-protected resources should receive as much weight in Hudson as in neighboring towns.

The Commission feels that not enough attention and weight was paid to the proximity of the Project to the watersheds and aquifers surrounding the five Hudson town wells (the Chestnut, Cranberry and Kane wellhead areas), which provide water for over 20,000 people. The ROW transverses two Zone II protection areas and is close to several Zone 1 protection areas associated with those wellhead areas. The threat of contamination of drinking water due to disturbance of potentially contaminated soils has not been adequately considered. The rating of "3" for wellhead areas is insufficient.

If the preferred route were to be approved, the Commission feels strongly that the development and implementation of a comprehensive management plan would be

required for the entire corridor, including a policy on pesticide application, invasive control, mowing, and other activities in perpetuity. In particular no herbicides could be allowed in Zone I and Zone II of public wells, within 100 feet of a certified or potential Vernal Pool, or within 100 feet of a Bordering Vegetated Wetland or other jurisdictional wetland resource area. In addition, a Storm Water Pollution Prevention Plan would be required to protect groundwater during construction, and measures would be required to prevent increased storm water runoff during construction and future operation of the Project. The depth, flow, recharge and quality of groundwater must be maintained in order to ensure safe operation of public wells. All hazardous and contaminated materials in and along the ROW would need to be identified and mitigated, and no liquid contaminants could be used during construction. The protective environmental measures required for construction, the mitigation required after construction, and the maintenance costs to manage the environmental impacts of ongoing use of the corridor would all add significant costs to the Project.

MEPA review must include careful consideration of the Project's alternatives. The environmental impacts have been understated for the Project's impacts along the MBTA ROW, and overstated for the alternative Project design for installation of the transmission lines entirely under existing roads. The Project's alternative route under existing roads must be better assessed, described, and compared to the Preferred Route along the ROW, to ensure that feasible alternatives with less environmental impacts are carefully considered and vetted during the MEPA process.

In conclusion, if the cost of the Project were calculated using a full cost accounting, including the costs of lost environmental services, the potential of increased flooding and pollution due to the loss of water absorption and filtering by wetlands and tree roots, contributions to climate change, and the other environmental impacts discussed above, it would be much higher than the current estimates indicate.

Thank you for your consideration of our concerns.

For the Commission,

Pam Helinek
Conservation Agent, Town of Hudson

From:	ritchcutts@aol.com
To:	Czepiga, Page (EEA)
Subject:	Comments on FEIR - Eversource - Sudbury-Hudson Transmission Reliability Project - EEA #15703 - H. Rebecca Cutting - Attached Exhibits
Date:	Thursday, September 06, 2018 4:32:48 PM
Attachments:	MCRT - Rail Trail MEPA certificate-20140110 - Jan 10 2014.pdf MCRT - Rail Trail MEPA Final Record of Decision - January 12, 2014.pdf FEIR Comment Letter - HR Cutting - September 6, 2018.pdf

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Dear Ms. Czepiga,

My comment letter on the above-referenced FEIR is attached.

In my FEIR comment letter I reference the:

Order of Resource Area Delineation - Sudbury Conservation Commission - July 26, 2018

The document is too large to be attached here but can be found
at the "Documents" tab at the Commission's web site:
https://sudbury.ma.us/conservationcommission/documents/

My comment letter also references the following two documents which I have attached to this email:

1) Certificate on the Expanded ENF - Mass. Central Rail Trail - January 10, 2014

2) Record of Decison - Mass. Central Rail Trail - February 12, 2014

Thank you for your prompt consideration of these documents.

Should you have any questions I may be contacted by response to this email or by phone at: 978-443-3612

Sincerely,

H. Rebecca Cutting, Esq.
381 Maynard Road
Sudbury, MA 01776

September 6, 2018

H. Rebecca Cutting, Esq.
381 Maynard Road
Sudbury, MA 01776
ritchcutts@aol.com

Secretary of Energy & Environmental Affairs
Executive Office of Energy & Environmental Affairs
Attn: MEPA Office, Page Czepiga, re: EEA No. 15703
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Comment on FEIR dated July 2, 2018 (identical refiled July 31)
Eversource - MEPA Filing – EEA# 15703
Proposed 115kv line from Sudbury to Hudson
aka "Sudbury-Hudson Transmission Reliability Project"
EFSB Docket 17-02; DPU Dockets 17-82, 17-83 (Exh. EV-18)

Dear Secretary Beaton:

Please accept these public comments on the above-referenced Final Environmental Impact Report ("FEIR") filed with the MEPA Office by VHB on behalf of NSTAR Electric Company d/b/a Eversource Electric ("Eversource") on or about July 2, 2018 and withdrawn and refiled on July 31, 2018, due to service defects. I have previously filed public comments on the Scope and on the Environmental Notification Form ("ENF"). My ENF comments are included in the public record through your Certificate on the ENF. See, pp. 102-136 (EFSB Comments) and pp. 136-139 letter. The Applicant's generic responses to my particularized comments are included in the DEIR Volume 1, appendices as 15.55, "ENF Comment Letter 53". My comments on the DEIR and Eversource's responses thereto are included in this FEIR at pp. 132-136.

I wish to note that, as a previous commenter (Scoping, ENF and DEIR), I never received a copy of the initially filed FEIR (July 2, 2018) in either electronic or hard copy from either VHB or Eversource as required by 301 CMR 11.16(3)(b)[1] nor any notice of same. After waiting a reasonable time for such notice or copies I contacted VHB to inquire about this apparent lapse. I received a copy on July 19th, losing over two weeks of review time. I realize that VHB and Eversource refiled in order to correct this lack of service. However, I am compelled to note what I view as an attempted preclusion of timely commentary by members of the interested public (others were similarly left out) in violation of the MEPA Regulations.

As to the FEIR, one can only be disappointed by its failure to close large factual gaps or provide specific and relevant responses to your Certificate on the DEIR. The FEIR is as open-ended and non-responsive as was the DEIR; it adds little to the MEPA goals to avoid, minimize and mitigate Damage to the Environment. M.G.L. c. 30, §61, 301 CMR 11.07(6)(j). It fails to meet the requirements for FEIRs at 310 CMR 11.07. I repeat my detailed comments on the DEIR and ask that they be incorporated here as VHB's responses to my DEIR comments do not answer the questions I raised nor does the FEIR itself.

[1] This regulation requires: "(b) To **Previous Commenters** and Others. One copy, free of charge, to each Person or Agency who previously commented on the ENF and to any other Agency or Person identified by the Secretary in the Scope or thereafter. "

For example, the Proponent's responses at pp. 132 and 133 continue to make factual assertions that are evasive, attempting to conflate the DCR bike trail with its utility installation to support its argument that the installation of splice vaults, a service road and other more extensive permanent clearing will not be more damaging. However, clear cutting, excavating (potentially contaminated soils)[2] and filling will be occurring immediately adjacent to, or in, wetland resource areas. See, FEIR, Tables 5-1, 5-2 and 5-3. The responses refer to a 19 ft. DCR "platform" yet the FEIR shows (Figure 2-4) a 60 ft variable width clearing and the vegetation management plans describe a 22 ft clearing. See, Appendix 2-4, MOU, para. 11.0. This response ignores the utility's requirements for vegetation to be cleared much more broadly than the bike trail (and not replaced e.g., trees) in addition to installing splice vaults, the access road, laydown areas, bridge repairs and BLSF[3] excavation. See, FEIR, Table 2-1

Specifics requested in your DEIR Certificate (FEIR p. 72) such as soil staging areas and off-site disposition are also lacking. Instead the FEIR only generally describes its intent to locate staging/laydown areas (4-5 of them; 1-2 acres each) off-site but does not identify them, leaving it to the contractor to avoid "additional clearing or impacts to wetlands or rare species habitat." FEIR p. 73.

Further, no conceptual plans identifying these areas as you requested are provided. Instead the FEIR makes more vague promises regarding stockpiling on the ROW as "...limited in size and duration... located as far outside of sensitive areas **as practical**." FEIR, p. 73 (emphasis added). No mention is made of prohibiting such stockpiling near Zone II's, Vernal Pools or protected habitat. Perhaps because this would preclude much of the ROW for such a use; this highlights the inappropriateness of such extensive soil excavation; differing greatly from rail trail installation[4].

In response to the DEIR Certificate's question regarding wetland impacts from duct banks, splice vaults and the construction platform and access road[5], the FEIR states that it must follow its own construction protocols and concludes that it will "instruct contractors to locate access, staging and laydown areas only within previously disturbed areas..." This response does not answer with any of the specifics the DEIR Certificate requested such as: methods for locating duct banks etc., **identification of "specific locations"**, comprehensive alternatives analysis for Water Quality Certifications, commitment to locate staging, laydown areas, etc "within upland areas or include **conceptual plans and narrative that identifies these areas, potential impacts and impact avoidance...measures.**"FEIR, p. 82 (emphasis added). None of these requests from the DEIR Certificate are provided by Eversource's typically vague, open-ended promises and references to guidance that is neither provided, explained or its impacts explained.

Railbeds are known sources of contaminated soils but here there are also ten (10) known 21E sites along the ROW. Apparently groundwater and soil investigations of these sites are either non-existent or unavailable as the FEIR fails to address them; yet another data gap.

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[2] Although Eversource recites that it will follow DCR Guidance for Bike Trails the fact remains that it will be excavating and clearing well beyond what bike trails require; typically not excavation to any comparable depth.

[3] Final BLSF delineation in Sudbury is not included in the FEIR as the ORAD was issued after FEIR completion.

[4] Note the self-serving explanation at Section 2.3.1.1 responding that "The amount of vegetation being removed by the Project is driven by the area needed by the construction contractor..." p. 20. Also that the management plan is to be determined by MDAR and a YOP but no details provided for avoiding or minimizing mowing, habitat disturbance (tree/brush removal), invasives control and impacts to vernal pools and other wetland habitat.

[5] See, FEIR, Section 5.2, p. 82, "Minimization of Impacts to Wetland Resource Areas".

Section 8.4 of the FEIR attempts to address this question of how to manage contaminated soils and groundwater. FEIR, p. 117. However, the description sheds no light on whether such materials will be stored on the ROW or how. This section of the FEIR does reference DEP's Rail Trail BMP's but only promises to deploy siltation control. "Potentially" Contaminated soils are proposed to be stored on the ROW with only silt fencing and signs. Apparently, such soils will not be properly and promptly characterized, covered or transported off site to appropriate treatment facilities. The FEIR promises only that "...stockpiling of potentially contaminated materials will be minimized." (p. 118). No mention is made of required notifications.[6]

The FEIR continues the DEIR's use of vague, open-ended language when describing the extent of clearing such as "Section 2.1.1, the **typical**[7] width of clearing ... is 22 feet." FEIR, p. 143. The implication being that clearing could be more extensive without identifying where or how much. The actual width of clearing is rendered even more confused by Figure 2-2 that shows "Limits of Clearing" parenthetically described as possibly as much as 60 feet; three times the width of the 22 foot corridor that the FEIR makes much of in asserting a reduction in wetland impacts. See, FEIR, Section 5.3, p. 83. In Section 5.3 the vague language about limits of clearing is: "... **in most cases** within a 22-foot wide corridor rather than the 30-foot corridor previously identified in the DEIR."(emphasis added). Which is it? Or are all options being left open for a case by case determination by the contractor to be hired? Again, the DEIR Certificate questions (p. 83) are not answered. Further, the FEIR acknowledges that the extent of BLSF was not yet determined by the Sudbury Conservation Commission at the time of its submission. FEIR, Section 5.1, Wetland Delineation, p. 81, 3d para. Thus, key facts remain unknown that are fundamental to your determination of impacts to resources.

Such opaque and open-ended responses can also be found in the FEIR's description of locations for "laydown areas". Your DEIR Certificate requested specifics regarding storage of excavated soils. In response the FEIR described such storage areas "... as far outside of sensitive areas **as practical**."[8] DEIR p. 73, Section 4.1. Here again, the FEIR leaves such factual details as extent and location unspecified. The DEIR Certificate also stated: "It is unclear how or whether impact calculations account for these areas." (referring to staging, access and laydown areas). The foregoing open-ended responses demonstrate that the FEIR fails to progress from the DEIR with a greater level of fact and detail and does not properly respond to the DEIR Certificate which asked for a commitment to storage in upland areas.

In addition, the quibbling about the maturity of trees[9] also misses the point that trunk diameter is irrelevant to canopy/shade loss especially when a tree is 40-50 years old or older, the cutting corridor

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[6] Notification promises made by VHB at the Sudbury Conservation Commission hearing held August 20th, on the soil sampling NOI only included 2 hr. notifications under c. 21E; omitting the other required notifications for 72 hr and 120 days. It also bears noting that DEP's comment letter on the DEIR did not address 21E issues pertaining to adjacent sites or to the depth and extent of rail bed excavation that Eversource will do well beyond that of a typical rail trail. DEP's protocols for rail trails are inapplicable to this utility project.

[7] How extensive is "typical" and where will the exceptions be located? Presumably at each splice vault as well as along the service road and entrances from public ways.

[8] It is only when Damage to the Environment cannot be avoided that minimization and mitigation become "practicable". 301 CMR 11.07(k) discussing Section 61 Findings. Here there is an alternative that allows avoidance; Eversource has simply chosen to "balance" in favor of saving money.

[9] See, e.g., FEIR, Section 2.3.2.2.6, "Massachusetts Wetlands Protection Act and Regulations", at p. 48, 4th full para. "In general large, mature trees are not found within the proposed limits of disturbance associated with the Project..." This persistent refrain misses the point that few "large, mature trees" are found in any part of Massachusetts and that shade provided by the canopies of 40-50 year old trees and even younger trees is still shade, capable of precluding dessication, exposure to heat

"typically" 60 feet wide extending over the existing shoulder on steep slopes above vernal pools, perennial streams (including a cold water fishery)[10] and that such extensive clearing will cause loss of forest leaf litter, remove shade and cause thermal impacts and be generally damaging to vernal pool habitat and species as well as turtles; setting aside the impacts of bike traffic. Instead of describing vernal pool mitigation strategies, Eversource advances an ACOE study theory, "directional buffers", in its response to comments by the Sudbury Valley Trustees[11], that the ROW itself has already removed habitat and that species migrate in other directions! Honestly, this assumes that such species know the difference[12] and ignores the loss of forest floor, canopy shade and moisture from the 60 foot clearcut corridor as well as the need to mitigate rather than dodge and deny. This response amounts to a pretty name for species destruction.

The FEIR's "Figures" Section provides photographic evidence of the dappled shade provided by existing trees, the proximity of trees on the railbed and banks and the presence of leaf litter and duff cover providing shade and moisture even in "Active Use" areas. FEIR, Figure 2-1 (series of 21 photos of existing conditions)[13]. Further, the vegetation management plan makes much of "reseeding" and allowing "revegetation" which will result in grasses, invasives and some shrubs along the margins of the bike trail and shoulders then be mowed and herbicided; no mention is made of replanting to replace the extensive canopy removal and attendant loss of shade and thermal impacts. There is no mention of replanting trees likely because they would interfere with the utility's needs for access beyond that of the bike trail. One tires of repeating that answers to required mitigation are not being given[14] and the plain fact is that Eversource's project requires removal of 24 acres of canopy (23.93 acres)[15] in order to succeed as a utility corridor; an extent not required by the MCRT. This utility corridor should be placed in the public ways where such extensive alterations and the attendant environmental impacts will not occur.

Your Certificate rightly notes that MEPA's purpose does "...not proscribe to a Proponent what, where, or how a project should be designed or built." But that it does "...require[s] that the Proponent identify environmental impacts, consider and analyze alternatives that could reduce environmental impacts and evaluate and adopt measures to avoid, minimize and mitigate Damage to the Environment." DEIR Certificate at 7. Unfortunately, I respectfully submit, the DEIR Certificate in directing greater specificity on the Preferred Alternative, accepted Eversource's application of alternative selection considerations such as cost and need that may be criteria appropriate to the EFSB

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effects and providing shelter and moisture from leaf mold. The photos in the Figures Section of the FEIR demonstrate the predominance of such shade.

[10] The FEIR descriptions of work in Hop Brook do not describe what revegetation will replace removed bank canopy. See, FEIR, Section 5.3.3, Bridges and Coldwater Fishery Resources, p. 89, acknowledges increased isolation and temperatures from vegetation removal but will "replant appropriate and compatible vegetation" while noting that Hop Brook has open meadows. Does this mean that existing shade is less important?

[11] See, FEIR, p. 152, response c.42 to Comment by Sudbury Valley Trustees.

[12] Note the presence of turtles found during the survey on the ROW. Clearing to 60 feet and creating a 22 foot trail will remove shade and attendant leaf litter/duff and moisture. Thus, in fact, the Project will remove existing habitat on the ROW.

[13] Of the 21 photos of existing conditions only one, "Station 113: Hudson, Wilkins Street to Chestnut Street" shows a lack of trees yet leaf litter and duff remain. The photo of "Station 601: Sudbury Horse Pond Road to Union Ave" is misleading as it does not show the railbed at all but adjacent lawn area. A photo of "Station 143: Hudson, Chestnut Street to Fort Meadow Brook" is used in two places: "Current Use Conditions: Moderate Use" p. 5 and the exact same photo on p. 12 to show "Vegetative Cover Conditions: Sparse or None". This is also misleading and inaccurate and really stretches the characterization.

[14] Your DEIR Certificate requires: "Identify the locations and limits of the vernal pools relative to the proposed work, identify potential impacts to the vernal pools, and propose measures to avoid, minimize and mitigate such impacts."

[15] Eversource makes much of its 4 acre reduction from the DEIR (27.96 acres) but it amounts only to 1/7th. The fact is this alternative will remove over 20 acres of trees; a reduction of 1/7th is not significant mitigation.

but which clearly lie outside MEPA's ambit and did so without comment thereon. Further, commenters did caution that the DEIR left many key areas of impact either unidentified or provided only vague descriptions of best intent for mitigation where feasible. While the DEIR Certificate sought greater detail and specificity, the FEIR responses to it on mitigations remain open-ended or unspecified and the FEIR lacks any information on cultural resources or a final wetlands delineation. Perhaps Eversource is anticipating that these omissions are inconsequential.

While it is clear that MEPA cannot dictate how a project may be put forward, it is equally clear that MEPA can find that a Proponent has not met the MEPA requirements your Certificate recites. As the DEIR Certificate appears to have accepted Eversource's selected alternative, it is important to be reminded that project need[16] and project cost[17] as well as project purpose and practicable protections[18] are not among the MEPA criteria for "Damage to the Environment" and that the project as proposed has not provided the answers your DEIR Certificate required. A reminder also is warranted that the alternative selection criteria used in the DEIR included construction period factors outside MEPA such as "impacts" on adjacent residential units, commercial/industrial units, "sensitive receptors" (not environmental but day care centers, etc.), traffic congestion and scenic roads. DEIR, Table 3-4, p. 3-27. Your DEIR Certificate notes that this analysis was presented to the EFSB and that seems to be the explanation for the final weighting of construction impacts and costs in the selection of the Preferred Alternative; a choice which your Certificate erroneously appears to ratify.

Your DEIR Certificate specifies that: "In particular, the FEIR **must include additional evaluation of impacts to rare species and wetland resource areas and present a comprehensive mitigation program**." (emphasis added). DEIR, top of p. 2. The FEIR fails to provide these required impact evaluations and only hints at how mitigation will be accomplished. As these comments again point out, the proponent continues to give general, qualified or incomplete answers when requested to provide specifics (vegetation management plan, species mitigation plan[19], stormwater management[20], wetland replication, etc).

Also, significant environmental impact areas, beyond species and habitat destruction, remain unidentified in the proposed work and accompanying plans, e.g., wetland delineation and cultural resources. The proponent and VHB may respond that they have been "working on it" but that time has long since passed. The facts are that the Order of Resource Area Delineation ("ORAD") did not issue

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[16] Public need is an EFSB criterion.

[17] Refer to DEIR, Section 3.5.7, p. 71, which states: "In conclusion, although the Noticed Alternative would have less impacts to natural environmental considerations it was not selected as the Preferred Project given its substantially higher costs."

[18] "Practicable" is an ACOE term that does appear in some of Massachusetts environmental statutes and regulations such as Riverfront Areas but it is not a MEPA standard; avoid, mitigate and minimize are. See, 301 CMR 11.08(6) "...the availability of reasonable alternatives and methods to avoid minimize potential environmental impacts..."

[19] Species mitigation rests on standard vegetation management for utility ROWs and DCR bike trail protocols both of which utilize mowing and herbiciding. It is true that there will be "turtle sweeps" and blade elevation during mowing events but there is no mention of habitat enhancement potential and the NHESP process remains unfinished effectively precluding public comment by public and private entities working on habitat preservation in this unique corridor.

[20] The stormwater plan is to use vegetated swales (approx. 1 ft deep) with check dams (intervals and material unspecified) using only the 2-year storm frequency which will not attenuate larger more intense rainfall events now more frequent in this region. What is missing entirely is any description of discharge point locations, proximity to sensitive receptors and any mitigation of silt in such discharges. Instead Eversource dismisses TSS removal BMPs (detention basins etc.) as too destructive of resource areas to be used; an argument similar to that used to set aside directional drilling at stream crossings. See, FEIR, Section 3.2.4.2 "Horizontal Directional Drilling", pp. 76-77. Other less intrusive BMPs would be more protective than a straight discharge from the swale/ditch to resource areas.

until after they completed the FEIR. See, ANRAD plans stamped July 26th attached hereto. Consequently, wetland impacts could not be quantified, particularly as to Vernal Pools in this FEIR. Note, for example, that VHB continues in the FEIR to deny that there will not be impacts to Vernal Pools because they are **not working in them** or in VP habitat. See, FEIR, p. 88. This assertion is false as the following plan sheets of the ORAD demonstrate: plans, 3,4,8-11, 14-18, 21,39,40-43 all show work in vernal pool habitat most typically Bordering Land Subject to Flooding ("BLSF"). The stream crossings alone account for extensive work in Land Under Water and BLSF as well as closely proximate to identified vernal pools[21].

Information on impacts to cultural resources are completely absent and unidentified in the FEIR; an omission that should not go unremarked by MEPA. The DEIR at Section 12, describes work being done and to be done by its consultant, Commonwealth Heritage Group ("CHG"), as primarily visual impacts to existing historic sites; a curious approach in a town as historically important as Sudbury. DEIR, p. 187. A preliminary field survey ("reconnaissance") of prehistoric resources was to have been done earlier this summer. The FEIR mentions reconnaissance work done in December 2017 and "a comment letter" issued March 19, 2018 from the Mass. Historic Commission. Neither of these has been placed in the public record. It is well known that the project passes through a key battlefield of the King Phillip War and at least one historic mill site as well as over historic rail structures such as the stone railway bridges and the Signal House I mention in these comments that appears to be in an active work area. See, ftnt. 32.

Instead, as is Eversource's pattern, the DEIR contains only promises of "continuing coordination with MHC and local historic commissions" and "consultation with Native American tribes **that express an interest** in the cultural resources...."(emphasis added) in response to the DEIR Certificate's requirement to describe field work/surveys and provide avoidance/mitigation plans. DEIR, p. 188. As to the "intensive (locational) archaeological surveys permitted at the end of May 2018 and purportedly conducted by CHG in late June and early July 2018, the lack of factual detail and vague promises of continued "coordination" are repeated. FEIR at p. 28. This lack of information leaves commenters in a vacuum with no future recourse and presumably ousts review by MEPA as well. This is yet another example of MEPA criteria left open-ended and now very late in the process which, as for the other areas (wetland delineation, species mitigation), may preclude "meaningful opportunities for public review of additional analysis ..." required by 301 CMR 11.08(8)(c)1.

I continue to be concerned that Eversource in this FEIR adheres to its DEIR position on alternative routes that finances must outweigh the extensive, documented environmental impacts and that **cost** is allowed to be the chief reason for selection of the Preferred Alternative over the Noticed Alternative which has, by comparison, few **environmental** impacts. This unwarranted presumption that the cost of the public way installation precludes its consideration as an alternative to the subsurface installation on the MBTA right of way ("the ROW") is not, I respectfully submit, an appropriate "balancing" for MEPA[22]; which contains no criteria resting on project purpose or cost effectiveness. See, e.g., 301 CMR 11.06(9)[23] , 301 CMR 11.07(3)[24] and 301 CMR 11.07(6)(f)[25]. I therefore repeat my DEIR

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[21] The FEIR specifies that there are 16 Vernal Pools along the project. FEIR, Section 5.3.2, Vernal Pools, pp. 87-88, Table 5-3.

[22] It is instead a balancing analysis that is suited for considerations of facilities siting for the Energy Facilities Siting Board under G.L. c. 164, §69J, but inapplicable to MEPA alternatives analysis.

[23] 301 CMR 11.06(9), describes the limits of jurisdiction for the scope as: "...limited to the direct and indirect potential environmental impacts that are within the subject matter of any required Permit..."

comments that Eversource persists in sidestepping MEPA's requirements to avoid, minimize and mitigate "Damage to the Environment"[26].

While it is true that, over time, Eversource's MEPA submittals have incrementally reduced certain square footage impacts and the width of the proposed work area, but these reductions are a small fraction of the total impacts and thus continue to fail entirely to **avoid** or significantly minimize and mitigate the proposed extensive impacts to publicly protected habitat and wetlands (cultural resources also remain an unknown)[27]. Such avoidance is not infeasible. As the DEIR Certificate notes, this failure to avoid was noted by your own agency, DEP, in its comments on the DEIR that: "The Proponent should consider **relocating** the access road and ROW in the towns of Hudson, Marlborough and Sudbury to **avoid any alteration to the vernal pool habitat**." (emphasis added). As my comments on the DEIR stated, and as the record clearly demonstrates, VHB's glib recitation in the FEIR that no work will be conducted **in** the multiple vernal pools (total of 16) along the ROW does not obviate the fact that the existing rail bed is either immediately adjacent to (a few feet from) [28]many pools or within the 100 foot vernal pool habitat with new 6:1 slopes; a very steep grade promoting erosion and siltation. This is of particular concern since the FEIR is silent on discharge points for the stormwater ditches. Simply stating that Eversource will take mitigating measures does not answer the question that the DEP letter poses as to impacts to vernal pool habitat. A site visit would make this fact clear and underscores the need for avoidance.

In addition, the DEP comment letter points out the availability of directional drilling, a well known minimization technique for stream crossings. However, VHB and Eversource have chosen to reject this method as causing more impacts than bridge reconstruction[29]. FEIR pp. 76-77. This conclusion warrants additional scrutiny, such as peer review, especially where a main basis for this rejection is bridge reconstruction for the Mass. Central Rail Trail project ("MCRT"). This separate project, with its own completed reviews should not be a lever for increasing impacts here. Eversource proposes a much different project and thus should be charged with avoidance appropriate to its impacts.

It is useful to observe in this context that Eversource's proposed footprint has evolved considerably over the course of these reviews; from 80-100 feet to 30 feet[30] and in the FEIR to 22 feet in

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[24] 301 CMR 11.07(3), describes the DEIR as following the Scope to provide: "..a reasonably complete and stand-alone description and analysis of the Project and its alternatives, and an assessment of its potential environmental impacts and mitigation measures."

[25] 301 CMR 11.07(f), describes the approach to EIR alternatives which Eversource attempted in the DEIR. In the FEIR, Eversource simply moved on to mitigation for its Preferred Alternative without addressing the analysis of differences between the alternatives "...particularly regarding potential environmental impacts;..." as 11.07(f)4, requires. This analysis was side-stepped in the FEIR amounting to a presumption by Eversource that it might proceed to exclusively address a single alternative.

[26] G.L. c. 30, §61. "'damage to the environment' **shall** mean any **destruction, damage or impairment, actual or probable, to any of the natural resources of the commonwealth** and shall include but not be limited to air pollution, water pollution, ... excessive noise, ...impairment of water quality, ... impairment... of rivers, streams, flood plains, lakes, ponds or other surface or subsurface water resources...archaeological resources, wetlands, open spaces, natural areas, parks...." (emphasis added).

[27] As the ORAD was not taken into account by the FEIR the exact extent of wetland resource areas needs to be applied before the proposed alterations are accepted; another open question.

[28] See, my synopsis *infra* at p. 8 and FEIR Table 5-5, p. 88.

[29] DEIR, p. 2, identifies three major stream crossing bridges proposed to be reconstructed: Fort Meadow and Hop Brook (east & west).

[30] As the DEIR explains at p. 2, the project will require a permanent 30 foot corridor containing a 22 ft " construction platform" which includes a 14 ft "access road" with substantially wider clearing for splice vaults. Figure 2-2 of the FEIR shows the "22 ' Typical Construction Platform" with **"Limits of Clearing (Varies up to 60'")**.

a 60 foot variable limit of clearing. FEIR, Figure 2-2. Although these dimensions have been slowly whittled down, they still exceed the MCRT's permanent 14 ft platform by a significant amount especially taking the 60 foot clearing of trees into account. FEIR, Figure 2-2. If Eversource wants to point to the MCRT as a justification for its larger impacts, it should be reminded that the Certificate and Record of Decision on the MCRT[31] establish a smaller footprint with far fewer environmental impacts. Such bootstrapping by Eversource should not be allowed and suggests that MEPA should consider these as cumulative impacts since the utility installation is not the equivalent of the proposed DCR bike trail. Eversource should be held to reasonable measures to avoid, minimize and mitigation its environmental impacts and be held to requirements appropriate for this project which is out of scale for the ROW and the major impacts to conserved lands it seems determined to impose.

Your Certificate on the DEIR requires that: "In particular, the FEIR must include additional evaluation of **impacts to rare species** and **wetland resource areas** and present a **comprehensive mitigation program.** " (emphasis added). DEIR Certificate, p. 2. Despite your directive to Eversource in the DEIR Certificate to provide "a comprehensive mitigation program", the FEIR provides no such comprehensive program only Eversource's standard "Vegetation Management Plan" and a "Corridor Management Plan" for maintenance of the rail trail. See, Appendices 2-3,2-4 and 6-1. For example, the FEIR's discussion of mitigation in Eastern Box Turtle habitat mentions only mower blade height[32] (abstaining from mowing Nov 1 – March 1) which assumes that turtles are not present from March 1 to Nov 1 (most active period) and is silent on the subject of herbicide use. FEIR, Section 6.4, p. 119. This is neither mitigation nor avoidance and makes no sense from a protection perspective; it only addresses construction period impacts, not the effects of permanent alteration of the ROW and adjacent resource areas. While the FEIR describes Appendix 6-2, "Eastern Box Turtle Protection Plan", as resulting from consultation with Mass Fisheries and Wildlife's "Natural Heritage" program there is no evidence in the FEIR of either their review, comment or approval of it. This remains unfinished without analysis or discussion by either agency or public commenters and perhaps MEPA too; essentially out of reach.

Now that the areal extent of the extensive wetlands in Sudbury has been clearly established by the Conservation Commission and VHB in the July 26th ORAD, the extent of damage to the environment can be accurately quantified; particularly for BLSF which will affect Vernal Pool habitat. However, the FEIR missed this opportunity, thus the exact extent of wetland impacts remains a moving target. This and the other unknown MEPA considerations such as cultural resources[33] and mitigation for state-listed species habitat warrant your consideration of the need for a Supplemental FEIR per 301 CMR 11.08(8)(c)(2). Certificate at 2.

In conclusion, many substantive environmental impact topics remain open-ended. While environmental permitting can address work details, MEPA is intended to provide project planning in advance of permitting so as to reduce, or eliminate entirely, damage to the environment. 301 CMR 11.01(1)(c). As Eversource persists in planning and engineering only for its Preferred Alternative, its inability to sufficiently reduce significant and extensive environmental damage continues to be revealed.

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[31] The Certificate on the Expanded Environmental Notification Form (1/10/14) and Final Record of Decision (2/12/14) are attached hereto.

[32] Presumably mower tires are not a threat?

[33] In this context it bears noting that the plans with the FEIR seem to show a vault at the easterly Hop Brook crossing of Route 20 that is on or near the historic RR Signal House at the corner of Maple Avenue. 75% Plans, #62.

What this process appears to come down to at this point is that the $19.4 in additional costs posed by the Noticed Alternative outweighs Damage to the Environment, e.g.:

4 acres of mapped habitat,

Work within 2-6 ft of four (4) Vernal Pools (25% of the total), within 7-15 ft of eight (8) VPs (50% of the total) and work witin 20-34 ft of the remaining 4 VPs[34] (25%)[35],

34,314 sf of Bordering Land Subject to Flooding (29,335 sf permanent)[delination incomplete],

287 lf of Bank (232 lf alleged to be "temporary" without plans for revegetation; 55 lf permanent),

2,517 sf of Bordering Vegetated Wetland (284 sf permanent)

951 sf of Isolated Vegetated Wetland (all permanent)

1,198 sf of Land Under Water (59 sf permanent)

754 sf of Isolated Land Subject to Flooding (all permanent)

318,456 sf of Riverfront Area (311,680 sf permanent)

497,028 sf of Buffer Zone (492,391 sf permanent)

and clear cutting 23.93 acres of trees.

Is MEPA really intended to be an influence on such impacts if it allows considerations of cost and purported need to outweigh Damage to the Environment? I urge you to remind Eversource that the Damage to the Environment posed by the Noticed Alternative is virtually nil and constitutes the best method for avoiding and mitigating. Your DEIR Certificate pointed to such questions which remain open and/or unanswered. I urge you not to proceed to find MEPA compliance in your Certificate on the FEIR in light of the overwhelming evidence that the selected route causes substantial Damage to the Environment well beyond that of the MCRT and thus does not meet MEPA's requirements.

In addition, in light of the remaining open questions pertaining to significant areas of Damage to the Environment (e.g., cultural resources, wildlife and BLSF) I ask that you find that the FEIR fails to meet the applicable MEPA standards. Further, and perhaps most importantly, the FEIR fails repeatedly to respond to your DEIR Certificate with the specific, quantifiable facts requested. Instead, Eversource and VHB persist in only providing open-ended answers that fail to provide the requisite basis for your MEPA determination of compliance.

In the alternative, if you have faith that you will receive a specific, reliable response, a Supplemental FEIR per (301 CMR 11.08(8)(c)(2), could be required to give Eversource one final opportunity to provide all of the impacts (cultural, species and wetland) and more specific effective mitigation plans as your DEIR Certificate requested. I respectfully suggest however, that Eversource has

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[34] See, FEIR, Table 5-3, p. 88. I suggest that these distances amount to work in Vernal Pools especially if 75% of the VPs will have work within 2 -15 feet and are otherwise within the 100' habitat perimeter. See, ORAD attached. Eversource's insistence that it is not working in VPs is misleading as to impacts and generally not a candid assessment of potential Damage to the Environment.

[35] See, FEIR, Table 5-3, p. 88.

proven itself incapable of such a response and thus that a Supplemental FEIR would only prove to be a waste of time and resources public and private.

Thank you for your consideration of these comments,

H. Rebecca Cutting, Esq.

Attachments:
ORAD Sudbury Cons. Commn. – July 2018
Certificate on Expanded ENF – MCRT – January 10, 2014
ROD – MCRT – February 12, 2014

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January 10, 2014

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

PROJECT NAME	: Mass Central Rail Trail – Wayside Branch
PROJECT MUNICIPALITY	: Berlin, Bolton, Hudson, Stow, Sudbury, Waltham, Wayland, and Weston
PROJECT WATERSHED	: Charles, Sudbury, and Assabet Rivers
EOEA NUMBER	: 15123
PROJECT PROPONENT	: Massachusetts Department of Conservation and Recreation
DATE NOTICED IN MONITOR	: November 20, 2013

Pursuant to the Massachusetts Environmental Policy Act (MEPA, M.G. L. c. 30, ss. 61-62I) and Sections 11.06 and 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and hereby determine that it **does not require** further MEPA review. In a separate Draft Record of Decision (DROD) also issued today, I have proposed to grant a Waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR) for the project. This Certificate sets forth the issues that must be addressed by the Massachusetts Department of Conservation and Recreation (DCR) during permitting and discusses recommendations that were submitted on the project during the MEPA review period.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the proposed project consists of the construction of the Mass Central Rail Trail – Wayside Branch (MCRT-WB) through the municipalities of Berlin, Bolton, Hudson, Stow, Sudbury, Wayland, Weston, and Waltham. It will consist of a 23-mile long shared-use path, 10 feet wide with two-foot vegetated shoulders. It will be constructed within a 19-foot wide corridor within the existing 50- to 100-foot wide former Massachusetts Central Railroad right-of-way (ROW) owned by the Massachusetts Bay Transportation Authority (MBTA). DCR has secured a lease with the MBTA along the ROW that allows it to construct, manage and maintain a rail trail within a 19-foot delineated corridor and develop additional amenities outside of this corridor provided they do not conflict with other MBTA uses.

The project is a priority for DCR and will contribute to the development of an extensive multi-use pathway traversing the state from west to east, specifically connecting Northampton (where the current Norwottuck Rail Trail is heavily used) to Boston. Portions of the MCRT in the central part of the corridor, between Oakham and Sterling, have already been constructed. DCR delineated the corridor within the existing ROW and received approval from the MBTA for its use for the project. This corridor largely follows and is centered on the existing single wide track, ties and ballast. Construction phasing of the various segments of the project is dependent on several factors, such as design, resolution of encroachment issues, environmental permitting, and availability of funds. Once completed, the project will be managed by DCR and maintained by either DCR, municipalities through which it crosses, or through a cooperative agreement between DCR and the municipalities.

Project Site

The project will be located within the former Massachusetts Central Railroad ROW, a passenger and freight service rail line originally extending from Boston to Northampton. The EENF describes the project alignment in each municipality.

Berlin (2.3 miles) – Beginning at Coburn Road, approximately 182 feet north of the Coburn Road/West Street intersection, extending east along the existing ROW track alignment to the Berlin/Hudson town line. The Berlin segment crosses two roads at-grade (Highland Street, and Sawyer Hill Road) and under Interstate 495 (I-495).

Bolton (100 feet) – The path crosses over the Berlin/Bolton town line for a very brief distance before crossing into Hudson. The Bolton segment crosses one road at-grade (Stone Road).

Hudson (6.9 miles) – From the Bolton/Hudson town line, extending east to the Hudson/Sudbury town line. The Hudson segment crosses 17 roads at-grade, over, or under the existing roadway. The at-grade crossing streets are: Central Street (at two locations), Cottage Street, Warner Street, Lincoln Street, Felton Street, Pope Street, Church Street, Manning Street, Priest Street, Cox Street, Main Street, Parmenter Road, and White Pond Road. The path will travel under High Street and Chestnut Street (via a box culvert underpass), and will travel over Wilkins Street and Tower Street (via a replacement bridge). The project will intersect the existing Town of Hudson segment of the Assabet River Rail Trail east of Wilkins Street.

Stow (327 feet) – The path crosses over the Hudson/Stow town line for a very brief distance before crossing back into Hudson east of Wilkins Street.

Sudbury (4.6 miles) – From the Hudson/Sudbury town line, extending east to the Sudbury/Wayland town line. The Sudbury segment crosses five roads at-grade (Dutton Road, Peakham Road, Horse Pond Road, Union Avenue, and Boston Post Road). The path will travel under (via an underpass) Landham Road.

Wayland (3.0 miles) – From the Sudbury/Wayland town line, extending east to the Wayland/Weston town line. The Wayland segment crosses six roads at-grade (Boston Post Road, Old Sudbury Road, Concord Road, Millbrook Road, Glen Road, and Plain Road).

Weston (3.0 miles) – From the Wayland/Weston town line, extending east to the Weston/Waltham town line. The Weston segment crosses Gun Club Lane at-grade, and will cross under three roads via underpasses (Concord Road, Conant Road and Church Street).

Waltham (3.0 miles) – From the Weston/Waltham town line, extending east to the end point at the intersection of Beaver Street and Waverley Oaks Road (Route 60). The Waltham segment crosses eight roads: seven at-grade, and one (I-95) along an overpass (Jones Road, Interstate 95, Stow Street, Main Street, Hillside Road, Prospect Hill Road, Hammond Street, Bacon Street, Lexington Street, Lyman Street, and Linden Street).

The rail trail will be constructed as an off-road multi-use path. As with other multi-use paths in Massachusetts, the project will have trail heads at adjacent intersecting streets and will use existing parking facilities along its corridor to the greatest extent feasible.

Environmental Impacts

Potential environmental impacts associated with the project include the creation of approximately 28 acres of new impervious surface area, the likely removal of trees of 14-inch or more diameter at breast height (DBH), and permanent and temporary wetlands impacts that include the alteration of 4,150 square feet (sf) of Bordering Vegetated Wetlands (BVW), 475,504 sf of Bordering Land Subject to Flooding (BLSF), 466,599 sf of Riverfront Area, and 2,140 linear feet (lf) of Bank. The project requires the temporary alteration of Land Under Water and Waterways (LUWW), although the EENF does not disclose the amount at this conceptual stage of project design. The project corridor contains mapped habitat for rare or endangered species and is within and near numerous National Register Historic Districts, individually listed National Register properties, and inventoried historic properties. Construction impacts will include the removal of the existing railroad ties and rails, rehabilitation or replacement of 11 bridges, paving, grading, landscaping, and installation of new stormwater drainage system.

MEPA Jurisdiction and Permitting

The project is subject to MEPA review and requires the preparation of a mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2) and 11.03(3)(a)(1)(b) because it requires State Agency Actions and will result in the creation of ten or more acres of new impervious area and will alter more than ten acres of other wetlands. The project also exceeds the ENF threshold at 301 CMR 11.03(3)(b)(1)(b)(2) because it will alter 500 or more lf of inland bank. Additionally, the project will likely exceed the ENF threshold at 301 CMR 11.03(6)(b)(2)(b) because it will require the cutting of five or more living public shade trees of 14 or more inches DBH. The project will require a Chapter 91 (c.91) Waterways License from the Massachusetts Department of Environmental Protection (MassDEP), an Access Permit from the Massachusetts Department of Transportation (MassDOT), Section 106 review by the Massachusetts Historical Commission (MHC), and review under the Massachusetts Endangered Species Act (MESA) by the Natural Heritage and Endangered Species Program (NHESP). The project is also subject to the MEPA Greenhouse Gas Emissions Policy and Protocol (GHG Policy).

The project also requires: Orders of Conditions from each of the eight municipal Conservation Commissions (and, on appeal only, Superseding Orders of Conditions (SOCs) from MassDEP), a National Pollution Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA), and an individual Section 404 Permit from the United States Army Corps of Engineers (ACOE).

The project will be undertaken by DCR, a State Agency. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, DCR has submitted an EENF with a request that I grant a Waiver of the Mandatory EIR requirement. The EENF and additional information provided by DCR to the MEPA Office identifies the project's consistency with the criteria for a Waiver. The EENF was subject to an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. DCR requested a second extension which extended the comment period an additional 11 days.

I have received many comments which indicate strong support for a Waiver. While I acknowledge the comments from the Sudbury and Wayland Conservation Commissions that outline concerns regarding wetlands, stormwater and water quality, I am confident that these issues can be resolved during the state and local permitting processes. These processes provide additional avenues for public review and comment. I note that State Agencies did not identify alternatives that should be analyzed in an EIR.

I have reviewed the EENF and the Waiver request and I hereby find that the project meets the standards for a Waiver. These findings are addressed in the DROD which will be published in the January 22, 2014 edition of the Environmental Monitor. DCR submitted a letter of clarification to the MEPA Office on January 8, 2014 that responds to concerns identified in comment letter.[1]

Project Alternatives

The EENF provides an analysis of the No-Build Alternative and the Preferred Alternative. The No-Build Alternative assumes that the project will not be developed and the existing MBTA-owned ROW will continue to be used as an informal trail that is not designed consistent with the Americans with Disability Act (ADA). The No-Build Alternative will not impact any environmental resources, however, it will not further state, regional, and local trail initiatives and connections, promote public health and exercise, increase recreational opportunities, provide an alternative transportation option, and improve air quality. In addition, the No-Build Alternative will not discourage unwanted activities such as dumping, all terrain vehicle (ATV) use, and encroachment of the ROW.

[1] Massachusetts Department of Conservation and Recreation Letter of Clarification submitted to the MEPA Office on January 8, 2014

According to the EENF, the Preferred Alternative is based on: connection to other trails as part of a more extensive trail network, the available space throughout the ROW, environmental resources, accessibility, and roadway crossings. The general location of the project corridor (from Berlin to Waltham) was chosen due to its potential for connections to other trails in the region, the absence of a trail traversing west to east in this vicinity, and the role the MCRT plays as a segment to enhance the statewide trail networks such as the Bay State Greenway network, East Coast Greenway System, and the overall cross-state rail trail vision.

For the majority of its alignment, the project will follow the original Massachusetts Central Railroad ROW. Since the cessation of railroad activities in the 1980s, wetlands and other environmental resources have developed in the ROW. Also, encroachments by abutters and leased development have occurred throughout the corridor. The EENF indicates that throughout the development of the Preferred Alternative, these obstructions and conflicts have been considered and environmental resources were avoided to the maximum extent possible. Wetland resource areas were avoided to the extent practicable. Access points along the proposed trail and safe roadway crossings were also considered for the development of the Preferred Alternative.

DCR identified three road crossings that may require deviations from the current alignment or use of additional ROW in Wayland at Routes 20 and 27/126; and in Waltham at Stowe Street/Route 117. The Town of Wayland has already addressed problematic crossings and developed safe bicycle and pedestrian crossings. Just east of the I-95 bridge in Waltham, a bank parking lot has been constructed entirely in the ROW (permitted by the MBTA), but the bank is obligated in its easement to allow the project to be developed through this area. The proponent of the former Polaroid Site in Waltham (1265 Main Street LLC), has satisfied the commitment identified in its Section 61 Findings (EEA#13952 Certificate on the Final EIR) to develop bicycle and pedestrian accommodations from its site entrance on Route 117 across Route 95/128 to Green Street. The proponent of the former Polaroid site intends to work with DCR to coordinate long-term development plans, alternatives, and potential off-site mitigation measures, as they relate to the project. Potential alternatives may include use of the existing ROW and railroad bridge over I-95, or working with private developers and MassDOT to add a multi-use pathway along Green Street and the Route 117 bridge to connect to the existing pathway at the Polaroid site entrance. DCR will continue to work with the bank, 1265 Main Street LLC, and MassDOT to evaluate, design and develop project connections through this area.

As described elsewhere in this Certificate, the project requires compliance with the Wetlands Protection Act (WPA) and c.91 regulations. I note that the WPA and c.91 review processes require an alternatives analysis that considers additional practicable alternatives to avoid, minimize, and mitigate impacts to wetland resource areas. I note that the project is being proposed along an existing rail corridor to provide recreational benefits and alternatives to driving. DCR indicates that it has considered practical alternatives within its project purpose. To the extent that additional analysis of alternatives is necessary to further reduce impacts, it can be addressed during permitting.

Wetlands

The project requires review by the eight Conservation Commissions with jurisdiction along the corridor for consistency with the WPA and its implementing regulations (310 CMR 10.00). The EENF describes the methodology used to estimate wetland impacts associated with the project based on a 19-foot corridor superimposed on the ROW. Wetlands impacts associated with the project include the alteration of 4,150 sf of BVW, 16.7 acres of wetlands including areas of BLSF overlapping Riverfront Area, and 2,140 lf of Bank. The EENF identifies wetland impacts by municipality. The largest impacts to BVW and Riverfront Area will occur in Hudson (1,164 sf and 148,495 sf (3.4 acres), respectively), and the largest impacts to BLSF will occur in Wayland (190,011 sf (4.3 acres). The EENF indicates that the corridor may be shifted in order to avoid potential environmental impacts. According to DCR's letter of clarification, as part of the Notice of Intent (NOI) filings, base mapping, resource area delineation, trail and bridge design will be completed to a level that supports more accurate assessment of impacts (if any) to BWV, BLSF, and Riverfront.

The EENF indicates that that project does not require a 401 Water Quality Certification (WQC) because it will alter less than 5,000 sf of BVW. Comments from MassDEP Northeast Regional Office (NERO) indicate that if there are any BVW impacts within Outstanding Resource Waters (ORW) or the total permanent or temporary impacts to BVW or LUWW exceed 5,000 sf, then a 401 WQC will be required. As described in greater detail below, DCR's letter of clarification maintains that a 401 WQC is not required. Wetlands replication and mitigation will be developed consistent with the BVW performance standards in 310 CMR 10.55(4) and the MassDEP Massachusetts Inland Wetland Replication Guidelines, March 2002.

Riverfront Area within the project corridor consists of previously-developed railroad embankment that is altered with rails and ties, other developed area and roadways, and some areas of wetland and upland vegetation. The project alignment will impact Riverfront Area resulting from path construction, grading, vegetation clearing and landscaping. The EENF indicates that the portions of the project that are in Riverfront Area alone are proposed as a limited project (310 CMR 40.53(6)). I refer DCR to MassDEP NERO's comments regarding compliance with limited project provisions.

According to the EENF, the elevated railroad embankment may indicate that the corridor is above the 100-year floodplain elevation. If subsequent analysis demonstrates flood elevations to be higher than presumed, the embankment will be kept at its current elevation to minimize any potential impacts to the 100-year floodplain and retain current floodplain storage. In addition, the affected area consists of former railroad track and ballast material, and does not provide important wildlife habitat.

DCR's letter of clarification indicates that it will work with local Conservation Commissions, MBTA and MHC to develop appropriate specifications for access and laydown areas, limits of work, and will identify sensitive areas where construction laydown and staging will not be allowed. DCR should ensure that it includes additional, if any, resource area impacts due to the construction access and staging.

While I acknowledge the issues raised by the Sudbury and Wayland Conservation Commissions, I believe that they can be addressed in the permitting processes. DCR has committed to work with various municipal boards and commissions and other key stakeholders to design the project to avoid or minimize resource area impacts and reasonably mitigate any unavoidable impacts.

Stormwater and Drainage

According to the EENF, the project will result in the creation of 28 acres of new impervious area. All stormwater design will meet the MassDEP's Stormwater guidelines to the greatest extent possible. The stormwater design for the trail will vary, depending on surrounding land uses. In more urban settings, a closed drainage system consisting of deep sump catch basins, manholes, and pipes may be used to collect stormwater from the trail and surrounding lands that may cause additional runoff and runoff sheeting along the trail or potential flooding of adjacent properties. Where applicable, the drainage will be connected to existing town or state-owned drainage systems. In more rural or undeveloped areas, country drainage will be used rather than piped drainage systems. DCR's letter of clarification indicates that the trail design will include an open stormwater system, with the use of water quality swales with checkdams adjacent to the trail in locations where warranted. Stormwater will generally be shed off the trail directly onto the adjacent vegetated shoulder and areas. A variety of native landscaping materials will be implemented into the design at road crossings, trailheads, and areas with steep embankment slopes that exceed a 3:1 slope. Shrubs will be planted at the tops of embankments, overlook areas, and stream crossings outside of the trail clear zone, to treat stormwater runoff.

I refer DCR to the comments and guidance provided by MassDEP NERO to ensure the project is designed in compliance with the Stormwater Management standards. The comments also note DCR's commitment to meet the standards in its NPDES General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer (MS4s – Permit No. MAR 43001). While I acknowledge MassDEP NERO's concerns regarding the lack of a complete evaluation of the stormwater management system and a demonstration of compliance with applicable stormwater standards in the EENF, I am confident that DCR will incorporate a high level of stormwater management along the corridor. Specifically, stormwater must be appropriately managed in sensitive environmental areas such as ORWs, vernal pools, and rare and endangered species habitat. DCR's letter of clarification indicates that because pollutants associated with vehicles, sanding, de-icing and other treatment for winter use will not be present along the corridor, the project will not result in a discharge of pollutants in stormwater. As a condition of the DROD, I am requiring DCR to provide supplemental stormwater information to MEPA and commenters by February 5, 2014.

I strongly encourage DCR to incorporate commitments to sustainable design elements such as solar powered lighting and signage. Because the project is at a conceptual design stage, there are ample opportunities to incorporate renewable energy technology, energy efficiency and Low Impact Development (LID) techniques into the site design. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas such as bioretention/raingardens, which

encourage detention, infiltration and filtration of stormwater on-site. DCR should consider measures to reduce the amount of new impervious area through the use of porous paving materials on some portions of the trail.

Bridge Rehabilitation

DCR prepared a study, the Mass Central Rail Trail Evaluation of Existing Bridges, Wayside Branch – Waltham to Berlin (2013), to determine the structural integrity of 10 existing bridges along the project corridor. Based on this evaluation, the bridges were recommended for rehabilitation or replacement. The EENF describes proposed bridge rehabilitation. The EENF indicates that five timber bridges were recommended for rehabilitation or replacement.

MassDEP NERO comments indicate that floodway and floodway encroachment, and hydraulic impacts within wetland resource areas were not considered in the EENF. DCR's letter of clarification indicates that while bridge designs have not yet been developed, the general approach for bridges over water is to replace the superstructure with a 14-foot wide deck, retaining the existing timber pilings. In some cases, individual pilings will require removal and new pilings will be driven. DCR claims that driving pilings does not constitute "fill" with respect to Sections 404 or 401 of the federal Clean Water Act and does not require Water Quality Certification. If the bridge pilings are severely deteriorated, a new bridge may be required with a clear span across the waterway. The bridges would also all require reconstruction of the backwall and wingwall of the abutments to support the new superstructure. New abutments will be set back from the edge of water and this reconstruction will not affect Bank or LUWW. During bridge design, DCR should consider the impacts of the bridges within the 100-year floodplain and regulatory floodway to address potential deficiencies and remove hydraulic restrictions.

I strongly encourage DCR to consult with MassDEP to identify mitigation measures for adverse impacts resulting from bridge-related construction activities. MassDEP NERO advises DCR that replaced stream crossings should be designed to conform to the Massachusetts Stream Crossing Standards.

Chapter 91

According to the EENF, a c.91 Waterways License is required for the rehabilitation and reuse of bridges located over navigable waters. Potential navigable waters the project will cross include: Hogg Brook in Berlin/Hudson; Assabet River and Fort Meadow Brook in Hudson; Hop Brook, Wash Brook, and Dudley Brook in Sudbury; Sudbury River, Mill Brook, and Hayward Brook in Wayland; Cherry Brook and Stony Brook in Weston; Chester Brook and Beaver Brook in Waltham. These waterways are either bridged or conveyed in a culvert beneath the existing railroad embankment. Waterways regulations (310 CMR 9.04 and 9.05) require a c.91 license for any maintenance or repair of structures, and any change in use of structures in non-tidal navigable rivers or streams. Several of the navigable river and stream crossings will require c.91 Licenses, in particular, the Sudbury and Assabet River crossings for reuse and change of use from a railroad bridge to a public rail trail use.

Public Shade Tree Removal

The project will include removal of trees that are more than 14 inches in diameter at breast height (DBH), as well as the selective removal of trees at bridge and culvert locations, and other areas along the project corridor. DCR should explore options to retain as many healthy trees as practicable. DCR should work with the MBTA and the municipalities to evaluate additional tree protection using tree wells and other protective measures. I encourage DCR to minimize vegetation removal and, where feasible, to replace trees on-site. Where mitigation on-site is not feasible, DCR should consult with the Conservation Commissions to identify other areas where tree planting may be beneficial, and identify appropriate mitigation for vegetation removal in resource areas. DCR should continue to modify the project design where feasible to maintain as many mature healthy trees as possible along the route.

DCR indicates that a Vegetation Management Plan (VMP) will be developed and implemented. The VMP should include a maintenance and monitoring plan to ensure that tree planting efforts are successful. I expect that issues relating to vegetation removal in wetlands resource area, as well as replanting and other mitigation measures will be addressed during local review and permitting by the Conservation Commissions. The VMP will discuss the control of invasive species. DCR will use only native species for revegatation and enhancement.

Rare Species

As described in the EENF, according to the most recent addition of the Massachusetts NHESP atlas (2008), segments of the project corridor are located within three areas of *Priority* and *Estimated Habitat* for eight state-listed rare species. The state-listed species known to occur in the vicinity of the project corridor include the Blandings Turtle (Threatened), Wood Turtle (Special Concern), Eastern Box Turtle (Special Concern), Blue-Spotted Salamander (Special Concern), American Bittern (Endangered bird), Common Moorhen (bird of Special Concern), Least Bittern (Endangered bird), and Pied-Billed Grebe (Endangered bird). The rare species and their habitats are regulated pursuant to the implementing regulations of MESA (MGL c131A, 321 CMR 10.00).

The EENF indicates that the project is not anticipated to affect the habitat of the four bird species, that occupy deep-water marshes and open water habitats, as the project will not alter these wetland types. The former railroad ROW has the potential to provide nesting habitat for the three listed turtle species. DCR will continue to coordinate with NHESP to avoid and minimize impacts to these habitats, and mitigate any potential unavoidable impacts during construction and operation of the project.

Comments from NHESP indicate that the project will require review for compliance with MESA and its implementing regulations (321 CMR 10.14 and 10.18) and/or the rare species provisions of the WPA regulations (310 CMR 10.37 and 10.59) for activities that are not otherwise exempt. While NHESP supports the removal and proper disposal of the existing rail road tracks and ties, it notes that the effects of increased human use, impervious surface, and potential clearing/grading of rare species habitats should also be considered during the planning process and avoided and minimized to the greatest extent possible. As a condition of the Waiver,

DCR will provide an assessment of potential impacts to state-listed species in filings for review pursuant to MESA, will initiate pre-filing consultations with NHESP as soon as possible in order to inform this assessment.

Greenhouse Gas (GHG) Emissions

The project is subject to the MEPA GHG Policy (revised May 5, 2010) because it exceeds thresholds for a mandatory EIR. The Policy contains a de minimus exemption for projects that will produce minimal amounts of GHG emissions. This is a rail trail project promoting bicycle and pedestrian uses. It does not include construction of buildings nor will it generate a significant number of vehicle trips. GHG emissions are associated primarily with the construction period of the project. Because it does not appear that this project will create a significant source of emissions, I am declining to require a quantitative GHG analysis and mitigation plan. However, I encourage DCR to incorporate measures to avoid and minimize GHG emissions (and other air pollutants) during the construction period such as limiting idling and using bio-fuels in off-road construction equipment.

Water Resources

According to comments from MassDEP NERO, the project will cross Cherry Brook in Weston and Stony Brook in Weston/Waltham which are both designated as Class A ORWs because they are tributaries to the active public water supplies of Stony Brook Reservoir and Cambridge Reservoir. The project also passes through the Zone A associated with both surface waters. DCR should ensure the project is designed to protect public water supplies and ORWs including vernal pools. Because DCR is applying for coverage under the NPDES CGP, it also requires compliance with Massachusetts' statutory and regulatory provisions that protect and control pollutant discharges to ORWs. Comments from MassDEP indicate that it must determine whether the activities taking place during construction near Cherry and Stony Brooks have adequate stormwater pollution prevention measures and controls that will avoid or minimize stormwater discharge of pollutants to the protected resources. DCR is required to submit an application of BRP WM 09 – Approval of NPDES Stormwater Pollution Prevention Plan (SWPPP) for Construction or Industrial General Permits Discharging to ORWs to MassDEP. The review of this information will assist MassDEP in determining whether additional stormwater measures will be required to protect ORWs during construction.

According to the EENF, the project will cross five impaired waterbodies listed in MassDEP's 2012 Integrated List of Waters as Category 5, which are waters where a total maximum daily load (TMDL) has been developed for listed pollutants. Phosphorus is a pollutant of concern for four of the five waterbodies including the Assabet River, Hop Brook, Hop Brook/Wash Brook, and Beaver Brook. MassDEP advises DCR to include in its SWPPP the CGP requirements for discharges of stormwater to sediment or nutrient-impaired waters.

According to comments from the MWRA, Section 8 (m) of Chapter 372 of the Acts of 1984, MWRA's Enabling Legislation, allows it to issue permits to build, construct, excavate, or cross within or near an easement or other property interest held by the MWRA. The project likely requires a Section 8 (m) Permit from the MWRA because it will cross its water line

Section W10 at Beaver Street and Linden Street in Waltham. I encourage DCR to consult with MWRA for permitting assistance early in the design process. I refer DCR to MWRA's comment letter for more permitting information on the MWRA Aqueducts Program, which is a new policy authorizing public access along certain ROW at four inactive water supply aqueducts including the Sudbury, Weston, Cochituate, and Wachusett Aqueducts.

Transportation

The project requires an Access Permit from MassDOT because it will cross state highways including Route 20, I-495, and I-95. The project will cross over 40 roadways and the Assabet River Rail Trail. The EENF describes potential improvements for the roadway crossings. DCR should work with the eight municipalities and the Metropolitan Area Planning Council (MAPC) to design these improvements and investigate additional mitigation. No parking is proposed; however, parking areas adjacent to the corridor are identified.

Historic and Archaeological Resources

According to the EENF, a cultural resources assessment (*Proposed Mass Central Rail Trail: Cultural Resources Assessment*) was performed in order to assess historic and archaeological resources within 0.25 miles of the MCRT corridor (the Area of Potential Affect (APE)). The assessment identified seven individual resources listed in the State and National Registers of Historic Places (except where noted) including: the Goodale Homestead in Hudson; the Boston and Maine (B&M) Railroad Section Tool House in Sudbury (only State Register-listed); the First Free Public Library Marker, the Wayland Railroad Station, and the Central Massachusetts Railroad Freight House (only State Register-listed) in Wayland; and the Theodore Lyman House, Vale Estate and the Linden Street Railroad Bridge in Waltham. The assessment identified 23 resources in the Inventory of Historic and Archaeological Assets of the Commonwealth including ten previously inventoried railroad bridges that will be reused by the project. Potential impacts to State Register-listed individual properties and inventoried resources are anticipated to be minimal as the construction of the project will not physically alter the resources, with the exception of the 11 bridges that are recommended for rehabilitation based on their deteriorated condition.

The assessment identified six districts listed in the State and National Registers (except where noted) including: the Wayside Inn Historic District, the Peakham-Southwest District (local historic district and State-Register listed), and the George Pitts Tavern Historic District (local historic district and State-Register listed) in Sudbury; the Wayland Center Historic District and the Wayland Center Local Historic District (local district and State-Register listed) in Wayland; and the Boston Post Road Historic District in Weston. Construction of the project is not expected to alter the historic character of the historic districts. The project will serve to educate the public about these historic districts such as the use of interpretive signage, as they are potential destinations and access points for the shared-use path.

The assessment identified 16 previously reported archaeological sites within 0.25 miles of the centerline of the ROW. DCR prepared a preliminary determination of additional areas of sensitivity for both ancient Native American and historic period archaeological sites adjacent to

the corridor. Construction of the project will not affect any identified areas of archaeological sensitivity due to the shallow depth of construction entirely within the old railroad ballast and subgrade areas.

The comment letter submitted by MHC on the EENF requested additional information to allow MHC to comment on the APE, eligibility opinions, and to determine what effect, if any, the proposed project may have on any significant historic or archaeological resources to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800) and M.G.L. c.9, Sections 26-27C (950 CMR 71.00). The MHC comment letter also provided comment and guidance to assist DCR with MHC review including the consideration of additional resources in the project APE, compliance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation as it relates to the repair/rehabilitation of significant bridges, and extant railroad-related historic archaeological resources. DCR should consult with MHC early during project design to ensure that the project does not result in adverse impacts to state-listed historic and archeological resources. Additional information should be sent concurrently to MHC, ACOE, the local historical commissions, and the local historic district commissions. DCR should coordinate with MHC to respond to its request for an archaeological reconnaissance survey and associated survey parameters as outlined in the EENF comment letter. The results of surveys and other related data should be provided in a manner consistent with the MHC comment letter.

I acknowledge comments from the Wayland Historical Commission and the Wayland Historic District Commission that outline concerns regarding the historical significance of the rails within each railroad center (historical districts). I expect DCR will consider their requests to preserve certain railroad components such as rails (e.g. side rails) and other track features, and to ensure the protection of individual items directly adjacent to the rails during project construction.

Construction Period

The project must comply with MassDEP Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. c.40, s.54 during construction and demolition. All construction and demolition activities should be undertaken in compliance with the conditions of all State and local permits. DCR should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal, and strive to minimize construction impacts (including but not limited to land disturbance, noise, dust, odor nuisance, vehicle emissions, construction and demolition debris, and construction-related traffic) and consider feasible measures that can be implemented to eliminate or minimize these impacts. The project requires the preparation of a SWPPP in accordance with the NPDES CGP to control erosion and sedimentation during the construction period.

DCR should seek guidance from MassDEP on how to limit the impacts of demolition and construction activities through waste management and recycling efforts. I strongly encourage DCR to consult with MassDEP and review its recommendations and adopt practices to the maximum extent practicable. The former railroad ties and rails along the majority of the alignment will be removed before trail construction. The existing steel rail will be recovered and

recycled. The ties are impregnated with creosote and cannot be recycled and will be properly disposed.

DCR construction specifications will stipulate the use the ultra-low sulfur fuel in construction equipment with necessary engine modifications in accordance with the MassCleanDiesel Program. DCR is advised that if oil and/or hazardous material are identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary.

Conclusion

Based on a review of the information provided by DCR and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during permitting.

I have also issued today a DROD proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be published in the next edition of the Environmental Monitor on January 22, 2014 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on February 5, 2014. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6). If the Waiver is not approved, based on comments received on the DROD, then this Certificate will be re-issued with a Scope for an EIR.

January 10, 2014
Date

Richard K. Sullivan, Jr.

Comments Received

12/06/2013	Massachusetts Natural Heritage and Endangered Species Program
12/06/2013	Massachusetts Historical Commission
12/13/2013	Massachusetts Department of Environmental Protection – CERO
12/31/2013	Massachusetts Department of Environmental Protection – NERO
12/20/2013	Massachusetts Water Resources Authority
12/31/2013	Metropolitan Area Planning Council
12/27/2013	Bolton Conservation Commission
12/06/2013	Stow Conservation Commission
12/17/2013	Sudbury Conservation Commission
12/17/2013	Wayland Board of Selectmen (submitted from three separate commenters)
12/26/2013	Wayland Historic District Commission
12/30/2013	Wayland Historical Commission
12/30/2013	Wayland Conservation Commission
12/27/2013	Weston Conservation Commission
12/13/2013	Larry Kiernan, Wayland Representative – Mass Central Rail Trail Coalition
12/18/2013	WalkBoston

12/27/2013	Mass Centrail Rail Trail Coalition
12/31/2013	Friends of the Community Path
12/05/2013	Eli Horowitz
12/18/2013	Lydia Rogers
12/19/2013	Leonard Simon (1)
12/28/2013	Linda Segal
12/31/2013	Alice Boelter
12/31/2013	Richard Williamson
01/07/2014	Leonard Simon (2)
01/09/2014	Massachusetts Department of Conservation Letter of Clarification

RKS/PPP/ppp

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February 12, 2014

FINAL RECORD OF DECISION

PROJECT NAME	: Mass Central Rail Trail – Wayside Branch
PROJECT MUNICIPALITY	: Berlin, Bolton, Hudson, Stow, Sudbury, Waltham, Wayland, and Weston
PROJECT WATERSHED	: Charles, Sudbury, and Assabet Rivers
EOEA NUMBER	: 15123
PROJECT PROPONENT	: Massachusetts Department of Conservation and Recreation
DATE NOTICED IN MONITOR	: January 22, 2014

Pursuant to the Massachusetts Environmental Policy Act (MEPA, M.G.L.c.30, ss. 61-62I) and Section 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed this project and hereby **grant** a Waiver from the categorical requirement to prepare an Environmental Impact Report (EIR).

Project Description

As described in the Expanded Environmental Notification Form (EENF), the proposed project consists of the construction of the Mass Central Rail Trail – Wayside Branch (MCRT-WB) through the municipalities of Berlin, Bolton, Hudson, Stow, Sudbury, Wayland, Weston, and Waltham. It will consist of a 23-mile long shared-use path, 10 feet wide with two-foot vegetated shoulders. The rail trail will be constructed within a 19-foot wide corridor within the existing 50- to 100-foot wide former Massachusetts Central Railroad right-of-way (ROW) owned by the Massachusetts Bay Transportation Authority (MBTA). DCR has secured a lease with the MBTA along the ROW that allows it to construct, manage and maintain a rail trail within a 19-foot delineated corridor and develop additional amenities outside of this corridor provided they do not conflict with other MBTA uses.

The project is a priority for DCR and will contribute to the development of an extensive multi-use pathway traversing the state from west to east, specifically connecting Northampton (where the current Norwottuck Rail Trail is heavily used) to Boston. Portions of the MCRT in the central part of the corridor, between Oakham and Sterling, have already been constructed.

DCR delineated the corridor within the existing ROW and received approval from the MBTA for its use for the project. This corridor largely follows and is centered on the existing single wide track, ties and ballast. Construction phasing of the various segments of the project is dependent on several factors, such as design, resolution of encroachment issues, environmental permitting, and availability of funds. Once completed, the project will be managed by DCR and maintained by either DCR, municipalities through which it crosses, or through a cooperative agreement between DCR and the municipalities.

Project Site

The project will be located within the former Massachusetts Central Railroad ROW, a passenger and freight service rail line originally extending from Boston to Northampton. The EENF describes the project alignment in each municipality.

Berlin (2.3 miles) – Beginning at Coburn Road, approximately 182 feet north of the Coburn Road/West Street intersection, extending east along the existing ROW track alignment to the Berlin/Hudson town line. The Berlin segment crosses two roads at-grade (Highland Street, and Sawyer Hill Road) and under Interstate 495 (I-495).

Bolton (100 feet) – The path crosses over the Berlin/Bolton town line for a very brief distance before crossing into Hudson. The Bolton segment crosses one road at-grade (Stone Road).

Hudson (6.9 miles) – From the Bolton/Hudson town line, extending east to the Hudson/Sudbury town line. The Hudson segment crosses 17 roads at-grade, over, or under the existing roadway. The at-grade crossing streets are: Central Street (at two locations), Cottage Street, Warner Street, Lincoln Street, Felton Street, Pope Street, Church Street, Manning Street, Priest Street, Cox Street, Main Street, Parmenter Road, and White Pond Road. The path will travel under High Street and Chestnut Street (via a box culvert underpass), and will travel over Wilkins Street and Tower Street (via a replacement bridge). The project will intersect the existing Town of Hudson segment of the Assabet River Rail Trail east of Wilkins Street.

Stow (327 feet) – The path crosses over the Hudson/Stow town line for a very brief distance before crossing back into Hudson east of Wilkins Street.

Sudbury (4.6 miles) – From the Hudson/Sudbury town line, extending east to the Sudbury/Wayland town line. The Sudbury segment crosses five roads at-grade (Dutton Road, Peakham Road, Horse Pond Road, Union Avenue, and Boston Post Road). The path will travel under (via an underpass) Landham Road.

Wayland (3.0 miles) – From the Sudbury/Wayland town line, extending east to the Wayland/Weston town line. The Wayland segment crosses six roads at-grade (Boston Post Road, Old Sudbury Road, Concord Road, Millbrook Road, Glen Road, and Plain Road).

Weston (3.0 miles) – From the Wayland/Weston town line, extending east to the Weston/Waltham town line. The Weston segment crosses Gun Club Lane at-grade, and will cross under three roads via underpasses (Concord Road, Conant Road and Church Street).

Waltham (3.0 miles) – From the Weston/Waltham town line, extending east to the end point at the intersection of Beaver Street and Waverley Oaks Road (Route 60). The Waltham segment crosses eight roads: seven at-grade, and one (I-95) along an overpass (Jones Road, Interstate 95, Stow Street, Main Street, Hillside Road, Prospect Hill Road, Hammond Street, Bacon Street, Lexington Street, Lyman Street, and Linden Street).

The rail trail will be constructed as an off-road multi-use path. As with other multi-use paths in Massachusetts, the project will have trail heads at adjacent intersecting streets and will use existing parking facilities along its corridor to the greatest extent feasible.

Environmental Impacts

Potential environmental impacts associated with the project include the creation of approximately 28 acres of new impervious surface area, the likely removal of trees of 14-inch or more diameter at breast height (DBH), and permanent and temporary wetlands impacts that include the alteration of 4,150 square feet (sf) of Bordering Vegetated Wetlands (BVW), 475,504 sf of Bordering Land Subject to Flooding (BLSF), 466,599 sf of Riverfront Area, and 2,140 linear feet (lf) of Bank. The project requires the temporary alteration of Land Under Water and Waterways (LUWW), although the EENF does not disclose the amount at this conceptual stage of project design. The project corridor contains mapped habitat for rare or endangered species and is within and near numerous National Register Historic Districts, individually listed National Register properties, and inventoried historic properties. Construction impacts will include the removal of the existing railroad ties and rails, rehabilitation or replacement of 11 bridges, paving, grading, landscaping, and installation of new stormwater drainage system.

MEPA Jurisdiction and Permitting

The project is subject to MEPA review and requires the preparation of a mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2) and 11.03(3)(a)(1)(b) because it requires State Agency Actions and will result in the creation of ten or more acres of new impervious area and will alter more than ten acres of other wetlands. The project also exceeds the ENF threshold at 301 CMR 11.03(3)(b)(1)(b)(2) because it will alter 500 or more lf of inland bank. Additionally, the project will likely exceed the ENF threshold at 301 CMR 11.03(6)(b)(2)(b) because it will require the cutting of five or more living public shade trees of 14 or more inches DBH. The project will require a Chapter 91 (c.91) Waterways License from the Massachusetts Department of Environmental Protection (MassDEP), an Access Permit from the Massachusetts Department of Transportation (MassDOT), Section 106 review by the Massachusetts Historical Commission (MHC), and review under the Massachusetts Endangered Species Act (MESA) by the Natural Heritage and Endangered Species Program (NHESP). The project is also subject to the MEPA Greenhouse Gas Emissions Policy and Protocol (GHG Policy).

The project also requires: Orders of Conditions from each of the eight municipal Conservation Commissions (and, on appeal only, Superseding Orders of Conditions (SOCs) from MassDEP), a National Pollution Discharge Elimination System (NPDES) Construction

General Permit (CGP) from the United States Environmental Protection Agency (EPA), and an individual Section 404 Permit from the United States Army Corps of Engineers (ACOE).

The project will be undertaken by DCR, a State Agency. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, DCR has submitted an EENF with a request that I grant a Waiver of the Mandatory EIR requirement. The EENF and additional information provided by DCR to the MEPA Office identifies the project's consistency with the criteria for a Waiver. The EENF was subject to an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. DCR requested a second extension which extended the comment period an additional 11 days.

I have received many comments on the ENF which indicate strong support for a Waiver. While I acknowledge the comments from the Sudbury and Wayland Conservation Commissions that outline concerns regarding wetlands, stormwater and water quality, I am confident that these issues can be resolved during the state and local permitting processes. These processes provide additional avenues for public review and comment. I note that State Agencies did not identify alternatives that should be analyzed in an EIR.

As a condition of the Waiver, DCR was required to submit supplemental information to the MEPA Office and commenters on the EENF during the review period for the DROD (i.e. no later than February 5, 2014). This information was requested by MassDEP to provide a reasonably complete evaluation of the stormwater management system, a demonstration of how the project will comply with the applicable stormwater management standards, and additional information to understand how stormwater will be managed near ORWs, vernal pools, and rare species habitat to demonstrate compliance with the Critical Area Standard in the Stormwater Management regulations. DCR submitted this information to the MEPA Office and commenters on the EENF on February 3, 2014.

The supplemental information describes the proposed stormwater design for the MCRT based on the presence of four existing drainage conditions along the ROW which include the location of the railbed:

a. at the same elevation, or slightly higher than, the surrounding land – country drainage is proposed;
b. within a developed area, surrounded by pavement and buildings – a closed drainage system consisting of deep sump catch basins, manholes, and pipes may be used and where applicable, stormwater will be conveyed to existing town or state-owned closed drainage systems;

c. below the elevation of the surrounding land – existing drainage ditches will be reconstructed to maintain stormwater flows and improve water quality, and may be constructed as bioswales with check dams where feasible; and
d. elevated above the surrounding land on a narrow berm – no design is proposed as these narrow sections do not provide sufficient cross-section to add drainage features without requiring the alteration of wetlands.

DCR indicates that during the design phase for each segment, it will consider additional stormwater design features, such as riprap flow dissipaters, to protect adjacent wetlands and waterways.

The supplemental information addresses the project's compliance with the ten Massachusetts Stormwater Management Standards. As described, the project will not generate pollutants, nor require attenuation of pollutants, nor create new point source discharges of stormwater. DCR maintains that it is not practicable for a redevelopment project within a 19-foot corridor to construct a stormwater management system that provides detention or retention.

The project will be sloped to drain away from the vernal pools; runoff will flow across the vegetated shoulder and side slope and be recharged. The project, in the vicinity of Cherry Brook and Stone Brook, is on a narrow elevated berm adjacent to wetlands. The conceptual design in both locations is for open country-style drainage with overland flow, using vegetated strips to filter and recharge runoff. DCR argues that the Critical Area standard (Stormwater Standard 6) only regulates discharges near a critical area, if there is a strong likelihood of a significant impact occurring. DCR maintains that the project does not have a strong likelihood because the project will not generate pollutants or create new point source discharges of pollutants.

The supplemental information provides additional information on source control measures to address pet waste and litter which are existing sources of contaminants along the ROW. DCR will install signage at trail access points to indicate pet waste must be removed and that littering is prohibited. DCR will be responsible for maintaining the trail, assisted by volunteers and/or municipalities, and will regularly remove litter. DCR will consider the use of porous pavement as a potential trail surface material. DCR will design the trail in accordance with MassDEP's *Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails.*

I have reviewed the EENF and the Waiver request and I hereby find that the project meets the standards for a Waiver. These findings were addressed in the Draft Record of Decision (DROD) which was published in the January 22, 2014 edition of the Environmental Monitor. DCR submitted a letter of clarification to the MEPA Office on January 8, 2014 that responds to concerns identified in comment letter.[1]

[1] Massachusetts Department of Conservation and Recreation Letter of Clarification submitted to the MEPA Office on January 8, 2014

Standards for All Waivers

The MEPA regulations at 301 CMR 11.11(1) state that I may waive any provision or requirement in 301 CMR 11.00 not specifically required by MEPA and may impose appropriate and relevant conditions or restrictions, provided that I find that strict compliance with the provision or requirement would:

(a) Result in an undue hardship for the Proponent, unless based on delay in compliance by the Proponent; and,
(b) Not serve to avoid or minimize Damage to the Environment.

Determinations for an EIR Waiver

The MEPA regulations at 301 CMR 11.11(3) state that, in the case of a Waiver of a mandatory EIR review threshold, I shall at a minimum base the finding required in accordance with 301 CMR 11.11(1)(b) stated above on a determination that:

(a) The project is likely to cause no Damage to the Environment; and,
(b) Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction.

Findings

The project is proposed to further state, regional, and local trail initiatives and connections, promote public health and exercise, increase recreational opportunities, provide an alternative transportation option and improve air quality. I note the strong support for the Waiver Request from the Metropolitan Area Planning Commission (MAPC), the Wayland Board of Selectmen, the Weston Conservation Commission, the Bolton Conservation Commission, the Stow Conservation Commission, WalkBoston, the Mass Central Rail Trail Coalition, Friends of the Community Path, and area residents.

Based on the EENF, supplemental information, and consultation with State Agencies, I find that the Waiver request has merit and that DCR has demonstrated that the proposed project meets the standards for all waivers at 301 CMR 11.11(1). I find that strict compliance with the requirement to prepare a Mandatory EIR for the project would result in undue hardship because the Preferred Alternative is designed to avoid, minimize and mitigate impacts. Neither State Agencies nor municipalities have requested additional analysis of alternative sites or layouts. Furthermore, the subsequent permitting and review processes can adequately address the outstanding design issues and development of final mitigation.

I also find that compliance with the requirement to prepare an EIR for the project would not serve to avoid or minimize Damage to the Environment. In accordance with 301 CMR 11.11(3), this finding is based on my determination that:

1. The project is not likely to cause Damage to the Environment.

    a. The project will be subject to the following licensing/permitting review processes:

- a c.91 License from MassDEP for the rehabilitation and reuse of bridges located over state navigable waters;
- an Access Permit from MassDOT;
- Section 106 review by MHC;
- MESA review by NHESP; and,
- Orders of Conditions from the eight Conservation Commissions with jurisdiction along the project corridor.

    b. The project is being proposed along a previously developed rail corridor. Furthermore, the project will employ the following mitigation measures to ensure the impacts of the project are avoided, minimized and mitigated:

- Reuse of an existing ROW and a limited width path (10 feet). If necessary to further reduce impacts to wetland resource areas, the width may be reduced to 8 feet;
- Work within the previously developed Riverfront Area is being proposed under the limited project provisions of the Wetlands Protection Act (WPA). Work within BLSF will not result in loss of flood storage;
- DCR will develop wetlands replication and mitigation consistent with the BVW performance standards in 310 CMR 10.55(4) and the MassDEP Massachusetts Inland Wetland Replication Guidelines, March 2002.
- DCR will develop a stormwater management system that complies with the Massachusetts Stormwater Management Regulations.
- DCR will work with local Conservation Commissions, MBTA and MHC to develop appropriate specifications for access and laydown areas, limits of work, and will identify sensitive areas where construction laydown and staging will not be allowed;
- DCR will develop and implement a Vegetation Management Plan that will incorporate replanting with native species and invasive species management;
- No take of rare species is anticipated. Interpretive signage to protect species is proposed;
- No adverse impacts to cultural resources is anticipated. Interpretive signage, resource documentation and other preservation-related efforts benefitting adjacent historic resources is proposed;
- DCR will prepare a SWPPP in accordance with the NPDES CGP to outline best management practices (BMPs) to control erosion and sedimentation during the construction period. The SWPPP and BRP WM 09 application materials will also be reviewed by MassDEP to ensure protection of Outstanding Resource Waters (ORWs) such as vernal pools and Class A waterbodies during construction;

2. Ample and unconstrained infrastructure facilities and services exist to support those aspects of the project within subject matter jurisdiction:

    - This project does not require infrastructure facilities or services. Throughout the project corridor, DCR will use the ROW and existing parking lots.

As noted above, I believe there is ample opportunity for public review and comment on the project during the permitting process. The Orders of Conditions from the Conservation Commissions will include appropriate conditions to ensure that the project will be conducted in accordance with the WPA, in particular the Stormwater Management Regulations. During project permitting, I encourage DCR to provide updated stormwater design plans, calculations, and reports to the Conservation Commissions and MassDEP. I expect that DCR will continue to make a good faith effort to work with project stakeholders to address their concerns through the state and local permitting processes.

Conclusion

Based on these findings, I have determined that the waiver request has merit, and issued the DROD, which was published in the Environmental Monitor on January 22, 2014 in accordance with 301 CMR 11.15(2), which began the public comment period. The public comment period lasted for 14 days and ended on February 5, 2014. No comments were received on the DROD. I hereby **grant** this project a Waiver from the requirement to prepare an EIR.

February 12, 2014
Date

Richard K. Sullivan, Jr.

No comments received on the DROD.

RKS/PPP/ppp

MASSWILDLIFE

DIVISION OF
FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581
p: (508) 389-6300 | f: (508) 389-7890
MASS.GOV/MASSWILDLIFE

Jack Buckley, *Director*

September 6, 2018

Secretary Matthew A. Beaton
Executive Office of Environmental Affairs
Attention: MEPA Office
Page Czepiga, EEA No. 15703
100 Cambridge St.
Boston, Massachusetts 02114

Project Name:	*Sudbury-Hudson Transmission Reliability Project*
Proponent:	*NSTAR Electric Company d/b/a Eversource Energy*
Location:	*Sudbury & Hudson, MA*
Document Reviewed:	*Final Environmental Impact Report (FEIR)*
Project Description:	*Construction of underground transmission line*
EEA No.:	*15703*
NHESP Tracking No.	*15-34327*

Dear Secretary Beaton:

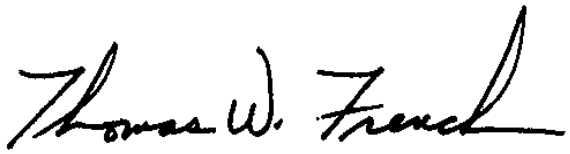
The Natural Heritage & Endangered Species Program (NHESP) of the Massachusetts Division of Fisheries & Wildlife (Division) has reviewed the *Final Environmental Impact Report (FEIR)* for the *Sudbury-Hudson Transmission Reliability Project* and would like to offer the following comments.

As previously noted, portions of the proposed project are located within *Priority Habitat* and *Estimated Habitat* as indicated in the 14th Edition of the *MA Natural Heritage Atlas* and therefore requires review with the Division for compliance with the Massachusetts Endangered Species Act (MESA, MGL c.131A) and its implementing regulations (321 CMR 10.00).

In anticipation of filing a MESA Checklist, the project proponents have been consulting with the Division regarding potential rare species concerns associated with the project. The Division has reviewed the results of rare species field studies conducted by the Applicant. Based on a review of information that was submitted and the information contained in our database, the Division anticipates that the proposed project will avoid a Take of state-listed species. Conditions to avoid a Take will include, but may not be limited to: a) implementation of a turtle protection plan to protect state-listed turtles during all phases of construction; b) implementation of a corridor management plan developed by Eversource and DCR, c) time of year restriction for construction to protect Eastern Whip-poo-will. The Division anticipates that any other concerns related to state-listed species, including the future development of the Mass Central Trail, may be addressed during the MESA review process. We anticipate that the proposed project will **not** require a MESA Conservation & Management Permit to proceed.

If you have any questions or need additional information, please contact Lauren Glorioso, Endangered Species Review Biologist at (508) 389-6361 or lauren.glorioso@state.ma.us.

Sincerely,



Thomas W. French, Ph.D.
Assistant Director

cc: Denise Bartone, Eversource
Vivian Kimball, VHB
Marc Bergeron, VHB
Paul Jahnige, DCR
Hudson Board of Selectmen
Hudson Conservation Commission
Hudson Planning Department
Sudbury Board of Selectmen
Sudbury Conservation Commission
Sudbury Planning Department
DEP Central Regional Office, MEPA Coordinator
DEP Northeastern Regional Office, MEPA Coordinator

Page Czepiga

MEPA offices
100 Cambridge St., Suite 900, Boston, MA 02114

FEIR comments for Sudbury to Hudson Electrical Reliability Project proposed by Eversource Energy.
RE: EEA#15707
EFSB 17-02/D.E.P. 16-17

Ms. Czepiga

I am submitting these comments regarding the Eversource Energy Sudbury to Hudson Reliability project. I am sure that you and your staff have read the final environmental impact report (FEIR). For full disclosure, I am the president of Protect Hudson. A 501(c)(3) environmental advocacy group formed to organize and raise money as well as awareness in an attempt to stop the Sudbury to Hudson Electrical Reliability Project' preferred route. As you may know Eversource' preferred route is primarily on the MBTA owned ROW traveling about 8.5 miles east to west from a NG substation in Sudbury to Wilkins Street in Hudson. The preferred route then goes under-street to the Hudson Light and Power substation on Forest Ave. in Hudson.

I am not an environmental scientist nor do I have a master's degree or doctorate in any environmental science. Common sense will tell anyone that pulling up and removing 8.5 miles of rail bed, in use from 1881 till 1968 will be fraught with peril. Removing this rail bed, and then digging an 8.5 mile long trench, within mere feet of zone 1 and into zone 2 aquifers would also come to the immediate conclusion that this is a very bad idea. The towns of Sudbury and Hudson get all of their drinking water for townspeople from their own wells. The aquifers for Hudson are in direct peril if the MBTA ROW is approved as the preferred route. This rail bed is an example of industrial era siting and would never be sited where it is now. It is a scar from the industrial age that is slowly but surely being consumed by the forest in a natural manner.

Leo Roy, the current head of the DCR, wants this utility corridor to be a bike path. I have read the construction plans and have conferred with industrial electrical engineers. They tell me that an unshielded 115K volt electrical conduit mere feet below the ground, will generate EMF several times greater that is allowed in any industrial setting according to OSHA. I will assumed that MEPA will also take into consideration the protection of humans related to this utility project. As a footnote, Leo Roy was the Principal at VHB for 12 years. VHB is the contractor tasked to build this utility corridor for Eversource should it be approved and survive an appeal before the Massachusetts Supreme Court. You should know that.

Should "the project" be approved, the permanent damage that will be caused to this metrowest region will be incalculable. You need to know that the preferred route will travel through a Mass. State forest. A Federal animal preserve. The Dessert, a very rare tract of land found almost nowhere, where heavy sand soils somehow support unique conifers as well as animals that are seldom seen outside of this micro environment. We also have Hopp Brook in Sudbury. A very rare, natural cold water fishery. We also have Fort Meadow Brook in Hudson. A paradise for animals. These pieces and parcels are in the direct path of this proposed project and are diminishing as sprawl takes over. These parcels have been protected since the 1950's and should not be sacrificed for corporate profits.

It has been 2.7 years that we concerned citizens have been fighting this destructive preferred route. To find out at the EFSB hearings that Eversource cannot even prove a need for this project is an absolutely travesty!

I appreciate the time you have taken to read my comments and as you know, this will all come down to a hand full of Massachusetts specialist who we hope care more for the endurance and environment of our State than they do for corporate profits.

Brian O'Neill
31 Parmenter Road
Hudson, MA 01749
978-568-1239

Elisa Pearmain, M.A. , M.Ed., LMHC

127 White Pond Rd. Hudson, MA 01749

(781) 640-9499

September 6th, 2018

Dear MEPA Board,

I am writing to express my concern about the FEIR that Eversource has put forth to you for building a transmission line from Sudbury to Hudson center. There are many reasons that this plan must be rejected for an under-road project. All Selectmen in both towns, and both Conservation Commissions agree. I live three houses down from the MBTA line in Hudson and walk on the paths in that area weekly. I am in no way interested in having a bike path there!

Firstly, the Eversource FEIR grossly underestimates the financial costs of building an under or above ground transmission line through pristine forests, wetland and National Wildlife areas in these two towns. It is not possible that it could cost more to take down thousands of trees, drag immense machinary through thickly forested areas and delicate wetlands than it would to dig up a few roads. That is ludicrous and if you do not see that then you have clearly already made up your minds to okay this project. They have also not correctly estimated the costs into perpetuity of the pesticides, herbicides, and other factors involved in caring for the disturbed areas.

Second, they have grossly under estimated the environmental damage that this project would do to our forests, wetlands and town water wells. It would disturb contaminants in the soil left over from the railroad, disrupt numerous delicate wetlands, reduce habitat for wildlife and countless other effects that they say they can manage but that is absurd, and you know it by looking at their other projects. They have NEVER undertaken a project like this before and are not going to be able to do it within budget or without significant harm to our environment. They also have given different point systems to wetlands that are protected by town wetland protection by-laws and areas that are only protected by State laws. You must take our Conservation Commission's findings seriously!

Eversource has also not paid enough attention to the proximity to our towns watersheds and aquifers surrounding the town wells (the Chestnut, Cranberry and Kane well head areas). These provide water for over 20,000 people. There are also numerous individual wells in the area.

Thank you for denying this MBTA route until you have correctly assessed the true costs of the under road plans that all residents and officials prefer. Eversource has grossly over stated these costs at great detriment to our natural resources, future safety, and well-being.

Sincerely,

Elisa Pearmain

BY ELECTRONIC MAIL (page.czepiga@state.ma.us)

Secretary of Energy and Environmental Affairs
Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Page Czepiga, EEA No. 15703
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Sudbury-Hudson Transmission Reliability Project
EEA# 15703
(Protect Sudbury Inc.)

Dear Ms. Czepiga:

Please accept these comments from Protect Sudbury, Inc. for consideration by Secretary Beaton in response to the Final Environmental Impact Report ("FEIR") submitted by Eversource Energy (hereafter "Proponent" or "Eversource"). Protect Sudbury's fundamental position is that the need for the Sudbury-Hudson transmission line project has not been established by the Proponent and it is not necessary. As such, our comments are offered to protect our community if the project is approved despite our opposition. It is our expectation that MEPA will place primary emphasis on 'avoidance' as required by statute and afford our community the protection that is provided under the law. 301 CMR 11.01(1)(a).

I. Community Opposition to Project

Public input into all phases of the MEPA process is vital to the process and occurs through comment letters, site visits and community meetings. CMR 11.01 (1) (a)). As such, MEPA places great value on public input and on the impact to the community due to the potential environmental damage that may occur. Public concern for a proposed project is an important and continuing consideration throughout the entire MEPA process.

The Proponent's proposed project remains vigorously opposed by citizens and local government in both the Town of Sudbury ("Sudbury") and the Town of Hudson ("Hudson"). Opposition to such projects may not be unusual in MEPA's experience, the unity, strength, and commitment of opposition to the proposed Project because of its avoidable environmental impacts is unprecedented.

It is important to note that while the community is opposed to a high voltage transmission line on the MBTA ROW, the Town of Sudbury generally supports the development of a recreation trail on the MBTA ROW. While the Proponent has created an artificial linkage between these two projects, the development of a recreation trail in Sudbury is not dependent upon the Proponent.

Sudbury has repeatedly extended offers to work cooperatively with the DCR. DCR's own internal directive instructs proponents of such projects to work closely with the host community.

Kurt Gaertner, Executive Office of Energy and Environmental Affairs and a representative on Governor Baker's "Trails Team" has stated, "…the administration is not going to be advancing trails that don't have local support…. We're not going to be forcing a trail unless it's something that municipalities voluntarily decide that it wants to do". Golden Spike Conference, July 28, 2018. Eversource's proposal is wholly inconsistent with those remarks.

Throughout the filing, the Proponent has spun a deceptive narrative of the so-called benefits this project might offer to the Commonwealth. The Proponent claims to offer a path to greater grid reliability, lower energy costs, 'new and improved' wildlife habitats, and a new recreation trail, yet glosses over the truth of the actual impacts on our community and our environment. Large-scale spraying of carcinogenic herbicides uncomfortably close to the water supply for 18,000 people; the killing and destruction of the eastern box and Blandings turtles, harm to cold water fisheries, and the state listed whip-poor-will nesting areas, as well as the decimation of acres of wooded habitat and forest canopy, all impacts that could easily be avoided if the Project were not sited on a undisturbed corridor.

Eversource completely dismisses out of hand the under street alternative route that would yield the same grid reliability, without ANY of the egregious impacts on community, residents, water supply, local wildlife and habitats.

The existing MBTA ROW is already currently used extensively as a multi-use recreational trail in a fashion that is consistent with the wishes of the community. It is a (currently) shaded canopy over a soft dirt path that walkers, runners, bikers, cross country skiers, equestrians, canines, and wildlife enjoy year-round. Many of these uses will be lost to our community if this project is permitted in its present form.

Moreover, the Proponent states in the FEIR that no use of the MBTA ROW will be permitted until the DCR is able to complete their portion of the project. The Proponent's hollow offer of an unfunded rail trail that may never be built, atop a new high voltage transmission line in a manner that our town and its elected officials have rejected, is inconsistent with the wishes of the community.

The Proponents opinion that they are doing what is in the "best interests of the citizens of the Commonwealth" is simply their *opinion*. It is an opinion not shared by state legislators, local officials, local, state and national environmental organizations. A complete listing of individuals and organizations in opposition to this project is contained in Appendix 1.

Sudbury, as a Home Rule Chartered municipality, strongly believes in the principles of home rule and self-determination as set forth in Article LXXXIX of the Massachusetts State

Constitution. These principles and rules of law have been the foundation of our opposition to the project. Specifically, as set forth in Article 2 of this amendment.

> ***"It is the intention of this article to reaffirm the customary and traditional liberties of the people with respect to the conduct of their local government, and to grant and confirm to the people of every city and town the right of self-government in local matters…"***

We believe that these principles set forth in our state constitution should rank above any opinions expressed by the Proponent a private for-profit corporation headquartered in Connecticut,

II. Risk Assessment of Proposed Project: Lack of Specific Experience Puts Assessment into Question

The Proponent has limited experience in designing and constructing underground transmission lines on inactive railroad rights of way. Further, the Proponent has absolutely no experience in simultaneously constructing both an underground transmission line and a recreational trail. In testimony presented to the EFSB, November 9, 2017, the Proponent acknowledged that they did not have previous experience in the collocation of an underground transmission line with a rail trail.

> ***Q. [GREEN] Is this the first project where the company has proposed collocating an underground transmission line with a rail trail or some other pedestrian facility?***
>
> ***A. [SODERMAN] There is one location in Connecticut, in Richfield, underneath an overhead transmission line where a rail trail was constructed after an overhead transmission line already was built.***
> (Appendix 2. Volume 5, Evidentiary Hearing, p: 748 -760)

The Proponent demonstrates this lack of experience in the FEIR as they switch between the construction and design standards for each of these two projects. 'Chameleon-like' in their approach, the Proponent simply calls it an 'access road' when it suits them and applies one set of environmental standards with the expectation that MEPA will follow suit. Likewise, when the relaxed MEPA standards for rail trails are advantageous to them, the access road suddenly transforms into a rail trail. **The difficulty and risk associated with the construction and permitting of two fundamentally different projects should not be taken lightly.** In fact, the risk associated with combining these projects substantially increases the potential for unintended consequences.

Likewise, MEPA has not been consistent in its own application of requirements. This project should be evaluated as both a fully developed high voltage transmission line and a fully developed recreation trail. The MEPA standards for each individual project must be fully applied and with even more caution to account for the potential of impacts from this unique and hazardous construction approach.

The inexperience of the Proponent is also evident in a deficient DEIR requiring a substantive number of additions and revision. This pattern continued into the FEIR, which is replete with even more deficiencies, omissions and errors. For example, the Proponent's use of outdated topographical maps that significantly understated the impact on wetlands and amount of bordering land subject to flooding significantly changes the scope and level of permitting for this project. These fundamental errors should be a cause of great concern to MEPA.

III. History of Non-Performance by Proponent: Underestimating Environmental Impacts on the Community

Town of Sudbury

Since the construction of a Sub-Station in South Sudbury in the 1950's and the subsequent construction of an overhead transmission line through South Sudbury to Framingham, the Town of Sudbury and citizens of Sudbury have firsthand experience with the Proponent's inability to honor commitments and communicate with the community on hazardous and on-going maintenance activities.

History has shown that once the Proponent's projects are completed, maintenance is an afterthought and typically assigned to third-party contractors with no knowledge of the history of the project or prior agreements with Sudbury. Failure to inform Town officials and residents of these on-going maintenance activities on this existing right of way have been well documented in Sudbury throughout the years.

That attitude is reflected in the Memorandum of Understanding between the DCR and Eversource and is illustrative of this business practice.

> "Eversource will construct the gravel base that will serve as the base of the MCRT and will also provide permanent and perpetual access for the construction, reconstruction, maintenance and access to Eversource's Transmission Project. Such access will be by foot, vehicle, truck, crane or other equipment, as deemed necessary at Eversource's sole discretion, through the property and to its facilities within and along the Massachusetts Central Branch Rail Line and the MCRT Leased Premises."
> (FEIR Appendix 2-4 Sec. 2.0)

The Proponent once gaining legal access to a property exercises this 'right' with impunity, at their "sole discretion" and with disregard to the impact to the surrounding community.

This pattern continues even within the MEPA process itself. As noted by the Proponent in FEIR Section 2.2.4 Coordination with Agencies and Stakeholders, between January and May, the Proponent has managed to have four meetings with the DCR yet only one meeting with the Town of Sudbury.

State of Massachusetts

Perhaps the most significant example of the Proponent's disregard for the environmental impact of their activities on the communities in which they operate is the continued use of dangerous herbicides throughout the Cape Cod area. Their continued use of glyphosate-based herbicides threatens the health and safety of residents and their drinking water. Even in the light of the mounting evidence as to the carcinogenic dangers presented by this herbicide and the recent court awards to victims exposed to this substance, they are intractable in their position. The Proponent does not respond to community concerns about the environmental impact of their maintenance practices; we implore that MEPA step in and require them to discontinue all use of such herbicides.

Such behavior should be carefully considered by MEPA when evaluating the Proponent's promises of compliance to MEPA and State and Local regulations.

IV. MEPA Requirements – Avoid or Minimize and Mitigate

MEPA regulations require that a project proponent take all feasible measures to avoid Damage to the Environment or, to the extent Damage to the Environment cannot be avoided, to minimize and mitigate Damage to the Environment to the maximum extent practicable.

It appears that the primary tenet of "avoidance" was not carefully considered given the tacit acceptance by MEPA in the DEIR of the underground route along the long-abandoned rail line/right-of-way owned by the Massachusetts Bay Transportation Authority in Sudbury (the "MBTA ROW"). This is particularly troublesome when an under-street alternative is available without impacts such as the 23.93 ac. of permanent 'alteration' and the additional 284 sq. ft. of permanent fill within bordering vegetated wetland. These permanent alterations do not even account for the indirect alteration to biological changes that have been documented to occur using the herbicides prescribed as part of Eversource's and the DCR's routine maintenance methods.

A. Project Alternatives: Eversource Did Not Consider Project Alternatives

The FEIR is deficient in that the Proponent has not taken "all feasible means to avoid damage to the environment". 301 CMR 11.01(1)(a).

Under 301 CMR 11.07 (6) (f)(4) of the MEPA requirements, the Proponent is required to provide "an analysis of the principal differences among feasible alternatives under consideration, particularly regarding potential environmental impacts"

The Proponent's presentation of the project alternatives in the DEIR and again in the FEIR are deficient and do not meet the requirements outlined under 301 CMR 11.07 (6) (f)(4).

In the DEIR Section 2.3 the Proponent essentially restates the information contained in their initial petition to the EFSB submitted in April 2017. The Proponent argues that the "Noticed Alternative" is inferior to the "Preferred Alternative" based on cost and environmental impact. However, expert testimony has been offered by both the Town of Sudbury and Protect Sudbury to the EFSB that the "Noticed Alternative" is superior to the "Preferred Alternative" on each of these major criteria. The Proponent's submittal should be considered in context with the submittals of Protect Sudbury and the Town of Sudbury.

Indeed, the expert opinion offered by all stakeholders must be analyzed by MEPA to render a thoughtful and logical determination given the <u>entire</u> range of project alternatives available.

1. <u>Alternatives Analysis - Cost</u>

The FEIR is deficient as the Proponent has not provided conclusive evidence their "Preferred Alternative" is superior in cost to the "Noticed Alternative".

The Proponent concedes that the under-street alternative has less natural environmental impact to their proposed project than the MBTA ROW route.

"As identified in the DEIR, although the Noticed Alternative would have less impacts to natural environmental considerations it was not selected as the Preferred Project given its substantially higher costs." (FEIR, Answer c.69.)

The Proponent therefore primarily bases it's argument for MEPA certification of the "Preferred Route" on project cost. Yet, throughout the EFSB hearing and in filed testimony, the basis for this claim was refuted by experts from both the Town of Sudbury and Protect Sudbury. (Appendix 3a Protect Sudbury Initial Brief, Section D and Appendix 3b, Town of Sudbury Initial Brief, Section F (4)).

Conceptual estimates, such as those presented in the DEIR are inherently uncertain. This level of uncertainty is reflected in the wide range of -25% to +50% assumed for these types of estimates. Moreover, conceptual estimates are not helpful in evaluating cost estimates for project alternatives where, as in this case, the project estimates are relatively close together and where there is a the wide range and variation of the competing projects (under street, underground and on an existing utility ROW.

The Proponent indicated that they have had limited experience in building underground transmission lines in inactive rail beds. They do however have extensive experience in building under street transmission lines. Common sense alone would indicate that cost estimates associated with a project in which the Proponent has had limited experience will result in less accurate cost estimates with greater variability. On the other hand, constructing an under-street route, which is routinely undertaken by the Proponent, would result in more accurate cost estimates with less variability.

2. Alternatives Analysis - Environmental Impact

In a meeting in November 2016 between Eversource, VHB, Sudbury and Protect Sudbury, when questioned about the potential environmental impact of the MBTA ROW route, Marc Bergeron, VHB, Senior Project Manager/Wetland Scientist stated, "we acknowledge there are significant permanent negative environmental impacts with the MBTA route, overhead or underground, which would not be present with an under-street route."

Yet, despite this statement, Eversource's route scoring methodology comes to the foregone conclusion that the MBTA ROW has substantially LESS environmental impact than the under-street route. The Proponent's self-created scoring system is fundamentally flawed, with no distinction between the temporary impact on the developed environment and the permanent impacts on the natural environment. The Proponent's route scoring clearly illustrates that major damage will take place in every route except the under-street one. Any damage done by an under-street route is temporary, while the damage to the environment in this case is permanent.

This flawed route scoring methodology and results were included by the Proponent in both the DEIR and FEIR and resulted in an entirely spurious conclusion: From the DEIR;

> 3.5.4.2 Environmental Analysis Results Summary
> In summary, Candidate Routes located along the MBTA ROW (with an underground design) had the lowest overall scores as these routes tend to balance impacts to both the developed and natural environment. Candidate Routes located entirely within public roadways have the least impact on the natural environment but the highest impact to the developed environment.

In fact, when performing the relative route scoring calculation while using a statistically relevant denominator, the Proponent's Preferred Route ranks 18th best, ranking significantly poorer than Under Street Alternatives. The Town of Sudbury EFSB Initial Brief, March 2, 2018, Section IV(D) presents a thorough analysis of the flawed Eversource route selection process. The Town of Sudbury EFSB Final Brief, Section II (c) of March 16, 2018, provides additional support for this argument. Appendix 3b, Section D.

In testimony provided to the EFSB by both Sudbury and Protect Sudbury, we enumerated the flaws in the Eversource routing analysis between the MBTA ROW and the under-street route. In Sudbury, the MBTA ROW abuts 6,145 feet of protected open space with public access and contains or directly abuts 5,930 linear feet within state priority and estimated habitat areas. It has eight perennial stream crossings, and ten vernal pools located within 100' of the MBTA centerline. Two National Wildlife Refuges, the Great Meadows National Wildlife Refuge, and the Assabet River National Wildlife Refuge, have a total of 4,185 linear feet of property line abutting the MBTA ROW in the project area. These lands were purchased through citizen dollars for the purposed of permanent protection of natural resources of the Town, the

Commonwealth, and the nation. The proposed project passes through three Zone 2 aquifers, areas containing endangered state-listed rare species, fragile wetland areas, and involves the clearing of 23.93 acres of trees and dumping 282 square feet of fill. Yet, the Eversource analysis incredibly (and falsely) concluded that the MBTA ROW route would somehow have LESS impact than an under-street route with virtually none of these environmental risks.

There is no logical basis on which MEPA can grant a FEIR certificate with such a glaring inconsistency in the FEIR filing of the Proponent given the additional information provided by the expert testimonies of Sudbury and Protect Sudbury at the EFSB hearings and included here for your review and evaluation.

3. No-Build Analysis: Deficient Analysis by Proponent

The no-build analysis offered in both the DEIR and FEIR is deficient. Per 301 CMR 11.01(6)(f)(2) "the alternative of not undertaking the Project (i.e., the no-build alternative) for the purpose of establishing a future baseline in relation to which the Project and its alternatives can be described and analyzed, and its potential environmental impacts and mitigation measures can be assessed".

In the DEIR, the Proponent dismissed this requirement by stating in 3.3.1 that if the project were not built it would not address the identified reliability requirement. It provides absolutely no environmental baseline to measure the actual environmental impacts.

For example, the Proponent has acknowledged that the MBTA ROW rail bed is likely contaminated, both by its nature as a rail bed and by the identified Mass EEA hazardous waste sites along the ROW corridor. There is no provision in the FEIR for determining the current characteristics of the water quality in proximity to the rail bed; i.e. baseline conditions. Further, there is no monitoring or testing of the water table during or after construction. In short, there is no base case established. Waiting for the test results that will measure the amount of contamination on the MBTA ROW does not excuse the Proponent from this requirement. Given the extent of the known contamination, these test results must be made available to MEPA prior to certification and evaluated by MEPA so that proper oversight can be ordered.

Further, while the Proponent has identified the 23.93 acres of tree clearing in the FEIR, they are silent on the impact to the viewscape of properties near the MBTA ROW. Protect Sudbury will cover this topic in more detail further on, but again, the Proponent has not documented the current viewscape so that their impact can be measured and be effectively mitigated if needed.

While the Proponent has acknowledged the presence of cold water fisheries, they fail to establish a baseline to assess and protect brook trout habitat in the Sudbury River tributary streams known to have wild brook trout populations. Native Eastern brook trout (Salvelinus fontinalis) are a notable keystone species in the northeastern United States, inhabiting flowing, highly oxygenated, cold-water streams. While brook trout are still relatively common in western and central Massachusetts, eastern populations are greatly reduced. Today, the

Eastern Brook Trout Joint Venture estimates that geographically isolated populations remain in only about 10% of the sub watersheds in eastern Massachusetts. The survival of these remaining populations is threatened by habitat degradation (e.g. streamflow and temperature changes due to increased watershed development), dams, undersized or inadequate road culverts, non-point source pollution, climate change, and by competition and predation by non-native fish species (including rainbow and brown trout). The FEIR is deficient in failing to address the findings of a remarkable 2014 study report "Protecting Trout-Bearing Streams in the Sudbury River Watershed" by OARS, USGS, Greater Boston Trout Unlimited, Sudbury Conservation Commission, and Sudbury Valley Trustees. See Appendix 24

Further, observations of juvenile bald eagles in Memorial Forest and the Plympton Trail adjacent to the Project, entered in the NHESP Vernal Pool and Rare Species Reporting System (A9622 and A9623) are not included in the FEIR. The potential for impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, as described by The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c) should be addressed by the FEIR.

Observations of other rare species reported at the Sudbury substation in 2014 by Oxbow Associates (teaming with VHB for NSTAR), should likewise be included in the FEIR to establish a baseline. These are observations (A2567 and A2568) in the NHESP VPRS system, as indicated in attached memo 'substation-observations-2014.pdf', obtained by Protect Sudbury via public records request from the Massachusetts Department of Fish and Game. Appendix 25

The Proponent has also already identified a handful of significant historical sites, yet they offer no base case analysis for these historic structures and artifacts know to be present on the project site. Waiting for an additional assessment ordered by the Massachusetts Historical Commission ("MHC") does not excuse the Proponent from this requirement.

B. Historical and Archeological Interests: Many Potential Impacts Not Addressed by Proponent

Protect Sudbury is aware that the "MHC" is in the process of conducting a field survey of the MBTA ROW. Protect Sudbury is an organization with local knowledge of historical and archeological remains, structures and artifacts on or in the immediate proximity of the MBTA ROW. We offer the following information to ensure that all such structures, remains, and artifacts are protected under the appropriate state and/or federal statutes.

The FEIR is deficient to the extent that these sites have either not been identified to date by the Proponent or may not be found in the field survey being conducted by MHC.

1. Native American Presence

The history of Native American presence in Sudbury is well documented. Their presence in East and South Sudbury is an area in which many relics and artifacts have been discovered over the

years. Specifically referenced in the text of the "History of Sudbury" by Albert Hudson are locations adjacent to or in the areas now occupied by the MBTA ROW. See Appendix 22 for representative samples.

> "Another place where relics have been found in abundance is on the Coolidge estate, by Lanham Meadows, a little south of the East Sudbury depot. "
>
> "Another place worthy of mention is at South Sudbury, on the east side of Mill Brook, on what was lately the farm of Israel How Brown"
>
> (From the History of Sudbury, Massachusetts 1638 – 1889, by Alfred Sereno Hudson)

To proactively explore the MBTA ROW for Native American sites of cultural significance, Protect Sudbury, in cooperation with the Town of Sudbury, contracted with representatives from the Narragansett and Wampanoag tribes to do an initial field survey of the entire length of the MBTA ROW in Sudbury.

On Friday, May 25th, 2018 a team consisting of members of Protect Sudbury, the Sudbury Historical Society, and preservations officers from two tribes conducted the survey.

In the report prepared by the tribes, it was determined that two culturally significant sites were identified that will require further investigation pursuant to the National Historic Preservation Act and National Register of Historic Places guidelines. (Appendix 5a)

2. Boston and Maine Railroad Section Tool House

The Proponent identified the existence of the structure listed in the National Registry of Historic Places yet is silent on how this structure will retain the context of its historical significance or how construction activities would be safely conducted near this structure.

3. Unidentified Archeological Site

The foundation of what appears to be an early settlement was discovered in May 2018 in an area on the MBTA ROW. This site is subject to Section 106 review. Pictures and GPS coordinates are provided in Appendix 6.

4. The Central Massachusetts Railroad

The railroad itself has a rich history. In fact, it was instrumental in linking central and western Massachusetts with Boston in the late 1800's and early 1900's. On the MBTA ROW today, the original switch towers and other railroad apparatus still exist. These artifacts should be accounted for and evaluated by the Massachusetts Historical Commission for preservation and restoration.

5. Historic Districts

The MBTA ROW runs through the Sudbury "George Pitts Historic District". Adjacent to the MBTA ROW are eleven houses that are listed in the Massachusetts Historic Commission's database of historic buildings.

Including C Culter House 7 Maple Ave;
Forrest D House, 10 Maple Ave;
11 Maple Ave;
F Bradshaw House 14 Maple Ave;
15 Maple Ave;
J Shedd House 19 Maple Ave;
22 Maple Ave;
25 Maple Ave;
28 Maple Ave;
31 Maple Ave;
and 34-36 Maple Ave

(Appendix 7a, 7b, 7c "Historic Homes - Maple Ave. Sudbury")

The MBTA ROW also bisects and directly abuts the Wayside Inn Historic District #2. There are homes both modern and historic that abut the MBTA ROW and are within the Wayside Historic District #2. (Appendix 8 "Wayside Inn Historic District")

It is incumbent on the Proponent to preserve lands surrounding these structures to maintain the appropriate and proper historical context.

6. Historic Bridges

The FEIR is deficient as the 75% design calls for the destruction of one historic bridge and the 'refurbishment' of another historic bridge. The filing is also deficient in not fully describing the process of bridge demolition, construction, renovation and the associated environmental impact. Some of the deficiencies are set forth below.

Hop Brook (Bridge 127)

The Proponent's FEIR 75% design now calls for the demolition of this bridge structure. See FEIR 2.1.2.2.

Note however, in the DEIR the Proponent concludes that rehabilitation of the bridge is "feasible". No new information was presented in the FEIR to justify this change in approach.

Hop Brook (Bridge 128)

The Proponent's latest plan calls for refurbishment of this bridge. It is unclear what the Proponent means by refurbishment relative to maintaining the historic character of the bridge structure. The primary design objective for the Proponent is to facilitate the passage of construction vehicles. The placement of high voltage transmission lines on this structure in any location would be inconsistent with its historic character.

Rationale for Proposed Construction Technique for Water Crossings

Bridge demolition and bridge refurbishment clearly have greater environmental impact than other alternatives available such as the Horizontal Directional Drilling ("HDD") technique the Proponent has discussed. According to the Proponent (See 2.1.2.3) the environmental risks/impact include, but are not limited to:

- Unspecified amount of vegetation removal
- Erosion of the river bank
- Debris entering environmentally sensitive waterways
- Installation of new bridge abutments creating high levels of suspended solids in environmental sensitive waterways.

The most common practice in place for crossing narrow waterbodies used in the utility industry is HDD. It is also generally acknowledged that while equipment staging is typically required, overall disturbance within a sensitive area will be minimized. The Proponent has used such construction techniques throughout their service area for over 40 years and is thoroughly familiar with them. The MBTA ROW is ideally suited to the HDD technique due to the lack of the typical constraints found in residential and business areas. (existing utilities, narrow and limited work areas). The work area requirement noted in the FEIR (Section 3.2.4.2) is well within the space available at each of these bridge crossings. The Federal Energy Regulatory Commission ("FERC") classifies the waterbody crossings at the two Hop Brook locations as "Intermediate". As such, HDD is feasible and could be done at a significantly less cost

Most importantly, the Proponent has acknowledged that the HDD is "feasible" for the projects waterbody crossings. (See FEIR Section 3.2.4.2)

Proponent's Rationale for Bridge Removal and Refurbishment

The Proponent claims that a "turning platform" is required to turn construction vehicles around to facilitate construction. Nevertheless, other options are available to the Proponent. For example, the areas that would be cleared for splice boxes (50' x 60') are more than adequate to turn the vehicles. Of course, there is always the option of putting the vehicle in reverse and exiting the construction area in that fashion. The need for any such "turning" structure, temporary or permanent has never been mentioned by the Proponent. In fact, Eversource has

long recognized the feasibility of other options that do not involve bridge construction/reconstruction.

Specifically, since the start of the public phase of this project in 2016, the Proponent has stated at public meetings in Sudbury, Hudson and Stow that the required maintenance for this transmission line could be easily accomplished by a non-contiguous access road. The access road has numerous street access points and any required maintenance access can easily be accomplished in this fashion. At the Stow Board of Selectman's meeting, Feb. 23, 2016, Beverly Shultz, Eversource Project Manager stated, "We are not proposing a bike path. We're proposing an access road that can be utilized. I would like to point out that, I was mentioning that there are some existing bridges. We do not plan to make use of those bridges. We don't really know the condition of those bridges nor their ability to support our very large construction and maintenance vehicles. So, we will come from either direction from roads when we need to get to any part of the right of way. There are a number of roads that cross over the right of way." Video recording available of this statement is available on the Town of Stow website in the Stow TV section.

In addition, the only other rationale that the Proponent could provide was that it would benefit the DCR recreation trail. In fact, the Proponent under terms of the Memorandum of Understanding ("MOU") in FEIR Appendix 2-4 Section 5.0 is required to "design, permit, and construct bridge improvements within the MCRT leased premises".

This agreement, however, should not be considered in any evaluation of Eversource's filing. The rail trail is simply not an integral component of the transmission line project and provides no benefit to electric ratepayers.

Accordingly, the Proponent's statement the they project will somehow assist DCR in the construction of these bridges is unfounded and should be rejected.

<u>Bridges are Historic Structures</u>

All three bridges, Hop Brook (Bridge 127), Fort Meadow Brook (Bridge 130) and Hop Brook (Bridge 128) are considered historic resources by the State of Massachusetts. All are listed in the State Registry for Historic places database the Massachusetts Cultural Resource System. ("MACRIS")

The MHC database listing and description of these structures are contained in Appendix 7d and 7e.

In addition, applications have been submitted by the Sudbury Historic Commission ("SHC") to the MHC for consideration for National Registry listing. As the Proponent has pointed out in the DEIR, Section 2.6.1.1:

"No undertaking shall cause effects on properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unknown historic properties within the permit area, unless the Corps or another Federal action agency has satisfied the consultation requirements of Section 106 of the National Historic Preservation Act ("NHPA").

The FEIR is deficient in that both properties must go through the proper review by appropriate State and Federal agencies.

Bridges - Summary and Conclusion

MEPA's priority is avoidance. The certain damage, destruction, and defacement of these historic structures can be avoided by instructing the Proponent to avoid any bridge replacement or refurbishment.

There are many other avenues for the DCR to pursue that do not involve construction of an unnecessary and costly transmission line if it wishes to rehabilitate these bridges for use as a recreation trial, as it has done with so many other similar projects. In fact, it already has a willing partner to begin this process with; the Town of Sudbury.

C. Project Segmentation, Macro Level: Circumventing MEPA Thresholds

The Proponent's filing is deficient at a macro level. It circumvents MEPA permitting thresholds by segmenting the construction of the project into three separate, but integral pieces; the Sudbury sub-station, the transmission line on the MBTA ROW and the Hudson sub-station. All three must be completed for the Proponent to address the reliability issue identified by ISO New England and then presented by the Proponent to the EFSB. This has resulted in an underestimation of the wetlands impact and the amount of bordering lands subject to flooding ("BLSF") among other factors associated with environmental impact. MEPA permitting thresholds have been circumvented and have restricted MEPA's regulatory authority.

As per 301 CMR 11.01(2)(c),

> "In determining whether a Project is subject to MEPA jurisdiction or meets or exceeds any review thresholds, and during MEPA review, the Proponent, any Participating Agency, and the Secretary **shall consider the entirety of the Project**, including any likely future Expansion, and not separate phases or segments thereof. The Proponent may not phase or segment a Project to evade, defer or curtail MEPA review". (emphasis added)

Transmission Line Project Segmentation

The Proponent's filing at the EFSB clearly defines the parameters of the proposed project,

> "Eversource Energy ("Eversource" or the "Company"), seeking approval from the Energy Facilities Siting Board ("Siting Board") pursuant to G.L. c. 164, § 69J ("Section 69J") to construct, operate and maintain an approximately 9-mile, 115-kilovolt ("kV") underground transmission line between Eversource's Sudbury Substation located in Sudbury ("Sudbury Substation") and the Hudson Light & Power Department's ("HLPD") Substation in Hudson ("Hudson Substation") (the "New Line")". – Petition of NSTAR Electric Company d/b/a Eversource Energy Pursuant to G.L. c. 164, 69J EFSB Case # 17-02

The FEIR discusses only one of the three components of the proposed project, the "New Line". Missing is the expansion that was required at the Sudbury Sub-Station specifically for the interconnection equipment required for the "New Line". Also missing is the extensive work to be performed at the Hudson Substation to interconnect the "New Line".

The illustration contained in the DEIR Figure 2 – 1 of the existing Sudbury Substation and the proposed Improvements clearly shows the extent of the new work being proposed at the Sudbury Sub-Station and the Proponents use of the expanded footprint of the sub-station. Appendix 9

In the Proponent's EFSB filing which describes the goal of the project as connecting the Sudbury Sub-Station to the Hudson Sub-Station, they clearly affirmed the relationship between the "New Line" referenced in the FEIR. They also clearly noticed the need to build out the footprint of the Sudbury sub-station for the "new line" to accommodate the new equipment required for interconnection the line with the sub-station. Although the Proponent chose to complete this portion of the project in 2014, the work performed at this time was a necessary component of the project described in the FEIR. Therefore, the impact of the Sub-Station project on wetlands and BLSF should be included in calculating the overall impact of the project in the FEIR. The Sudbury Substation Project Description submitted by Oxbow Associates and the various permitting application obtained by Protect Sudbury under public records request provides additional confirmation of the relationship of these projects as well as information regarding the wetland and environmental impact of this project.

See, Appendix 10 'Sudbury Substation Project Description Oxbow Associates'.
Appendix 11 'Sudbury Substation Permitting Process Files'.

Included is an email from Beverly Schultz, Eversource Project Manager to Jody Kablack, Sudbury Town Planner (retired) obtained through a public records request, that clearly indicates that the work at the Sudbury substation was performed in anticipation of the 115 kV Transmission line proposed in this project. Appendix 12

In addition, the MOU between Eversource and the Town of Sudbury also provides a correlation between the Sudbury substation work and the proposed 115 kV line. (Appendix 13)

The Proponent provides a description of specific components of the substation upgrade in Section 2.4 of the petition before the EFSB. (Appendix 14)

Although the Hudson Sub-Station work to accommodate this new line is being constructed by Hudson Light and Power, it is required specifically and exclusively for the 'new line' being constructed by the Proponent.

The executed agreement between Hudson Light and Power and Eversource obtained through a public record request made by Project Sudbury to Hudson Light and Power on April 12, 2016, confirms the relationship between these projects. (Appendix 15)

The illustration contained in the DEIR (Figure 2 -2 Existing Hudson Substation and Proposed Improvements) clearly shows the proposed expansion and the potential environmental impact.

D. Project Segmentation, Micro Level: HVTL and Rail Trail Require Different Construction Methods and therefore have Very Different Environmental Impacts

The FEIR submitted by the Proponent attempts to further segment the project by attempting to combine a high voltage transmission line project with a project to construct a recreation trail to artificially minimize the environmental impacts and avoid more stringent MEPA regulations. At the heart of this deficiency in the Proponent's filing is the assumption that the construction of an underground high voltage transmission line and the construction of a recreation trail fundamentally use the same construction methods, have a similar environmental impact and should, therefore, be permitted as such. This assumption led to the premise that rail trail development guidelines are adequate for providing the necessary construction and environmental guidance for trenching a 5' x 5' ditch for 7 miles, through a contaminated rail bed, and into the underlying water table. MEPA should evaluate and permit each project (transmission line and rail trail) individually under the appropriate construction and environmental guidelines. When these project activities cross paths, MEPA should consider the unintended consequences of building these projects simultaneously and apply even more rigorous and stringent standards and reject the Proponent's attempt to piggyback these projects to avoid additional regulation. Guidelines should be put in place to account for the impacts combining two radically different projects in some of the most environmentally sensitive areas in the State.

E. Contamination – Groundwater – Water Supply

The FEIR is deficient with respect to the handling of known and potential contamination throughout the project area.

The Eversource evaluation of hazardous materials was conducted in accordance with the MassDEP guidance document entitled "Best Management Practices for Controlling Exposure to Soil During the Development of Rail Trails". The Proponent's project is, however, an underground utility installation with far greater potential to disturb/expose contaminated soils than the typical rail-trail project for which the MassDEP guidance document was developed. As an example, the proposed power transmission duct bank along the Preferred Route is shown with the bottom of the completed duct bank over 5 feet below finish grade. Construction measures necessary for utility installation typically require excavation below the bottom of the proposed duct bank. In comparison, the typical rail trail development would limit excavation activity to near the existing grade surface. Thus, the use of this MassDEP guidance document for evaluating the Preferred Route may significantly underestimate the potential impact of contaminated soils on the Preferred Route cost. Any contaminated soils encountered during the construction would need to be handled in accordance with the requirements of the Massachusetts Contingency Plan (MCP)(310 CMR 40.). Eversource should conduct an MCP Phase 1 level of investigation (310 CMR 40.0483) to further assess the contamination risks and potential costs. Eversource should conduct these tests and report the results to both the EFSB and MEPA before a final FEIR certificate is issued.

The majority of the project extends along an unused rail corridor, which was operational for 90-years. As outlined by VHB, railroad operations result in elevated levels of residual contamination consisting of carcinogenic PAHs, heavy metals and petroleum. Other than spills, typical railroad bed contaminants are not very soluble and do not generally represent a migrating source of contamination but the railroad ballast and more importantly the entrained fines and underlying soils do pose a significant of exposure, hence MassDEP establishment of BMPs (within the guidance document) requiring 12-inches of clean fill over a geosynthetic barrier. MassDEP Guidance goes on to say:

> "DEP does not believe that these BMPs are, by themselves, sufficient and appropriate for use without more extensive site investigation in industrial areas with known or likely non-railroad sources, or in rail yards."

Available data indicates groundwater depth at the property ranges from approximately 1.26 to 6.13 feet below grade surface. That raises two key issues: 1) that the soils beneath the ballast would have received 90-years of relatively immobile contaminants being washed through the stone ballast to the organic soils below, and 2) the groundwater is relatively shallow meaning that industrial corridors will likely result in plumes beneath the project route that will require special handling and treatment during construction (at additional cost). The Eversource filing includes a representative sketch (EFSB17-02 Figure 5-15) that shows the typical duct bank trench detail as 4 feet wide and 5½ to 8 feet deep, depending on the design profile of the duct

bank. At a minimum, that places the bottom of the duct bank at 5 to 6 feet below grade, not only encountering area groundwater but also placing the excavation in the zone of higher contaminant concentration. While the MCP includes provisions to limit liability for contamination discovered during utility construction, it does not remove the responsibility for managing risk.

The Proponent primarily relies upon the MassDEP's Best Management Practices for Controlling Exposure to Soil During the Development of Rail Trails ("Rail Trail BMP"). See FEIR Section 9.4.4 Project Mitigation Measures. **The Proponent's petition to the EFSB is for the construction of a high voltage underground transmission line, not a rail trail.** As such, the ASTM Standard, Phase 1 and 2, is the proper standard to apply to the underground transmission line project. In fact, the Rail Trail BMP states "the DEP does not believe that these BMPs, (referring to the Rail Trail Guidance) are sufficient themselves or appropriate to use without more extensive site investigation in industrial areas with known or likely non-railroad sources" of contamination.

The Rail Trail Guidance is intended for constructing a rail trail using a capping technique on top of an existing rail bed to protect the contaminates from disturbance and potential migration into groundwater. **The Rail Trail BMP does not account for construction of an underground transmission line, which in this case involves trenching a 5' x 5' trench into ten contamination sites in Sudbury identified within the Energy and Environmental Affairs data portal for waste sites and reportable releases.**

The regulations outlined under 310 CRM 40.000 are directly applicable to the underground transmission line and should be applied accordingly. Specifically, but not limited to the following Sections:

> General Law - Part I, Title XVI, Chapter 111, Section 160.pdf
> "Examination of water supply; assistance to cities, towns, and districts for groundwater aquifers and recharge areas"
>
> General Law - Part I, Title II, Chapter 21A, Section 11C.pdf
> "Prohibition on alteration or pollution of rivers and streams"
>
> General Law - Part I, Title II, Chapter 21C, Section 7.pdf
> "Collection, transportation, treatment, and disposal of hazardous waste; licenses; underground drinking water sources"
>
> General Law - Part I, Title II, Chapter 21E, Section 8.pdf
> "Rules governing testing and analysis; quality assurance program; independent forensic laboratories"

As a matter of precedent, MEPA has applied the 310 CRM 40.000 regulations in previous cases of a similar nature. Specifically, in the Eversource's West Roxbury to Needham Reliability

Project; Boston, Dedham, Needham, MA; MEPA Draft Environmental Impact Report; EEA No. 15529. The following is a representative example from that filing.

> Solid Waste
> ” Proponent will manage contaminated soil or other material along the Preferred Route pursuant to the provisions of a Utility Release and Abatement Measures (URAM) regulated under the Massachusetts Contingency Plan (MCP, 310 CMR 40.0000).”
>
> Finally, while the Proponent provides brief mention to a section of 310 CRM 40.000, they leave the door open to disregard these requirements at their own discretion. From DEIR Section 9.3
>
> “Work will then likely be conducted as a Utility-Related Abatement Measure (URAM) pursuant to 310 CMR 40.0460 of the MCP” (emphasis added)

Allowing the Proponent to arbitrarily apply rules more applicable to a rail trail would circumvent the appropriate MEPA permitting process.

F. Contamination Sites: Proponent Omits Sites

The FEIR is also deficient with respect to the issue of potential contamination by omitting known contamination sites. The following sites are omitted from the Proponent’s filing.

1. Former Sudbury Rod and Gun Club

The Proponent claims that RTN 3-24573, Former Rod and Gun Club, 33 Bulkley Road, Sudbury poses “No Significant Risk”. (See DEIR Section 9.2.1 Environmental Database Review)

As noted in the detailed filings and records within the MassDEP Waste Site Reportable Release database, this site contained high concentrations of lead because of its extensive use as a gun club. Remediation already performed in the site adjacent to the MBTA ROW required removal of hundreds of tons of topsoil. It is clear from historical sources that the orientation of the firing range resulted in the unintentional use of the MBTA ROW berm as the safety backstop for the range. As such, it is likely that the MBTA ROW is also highly contaminated with lead.

A report created in cooperation with the U.S. Fish and Wildlife Service, Water-Resources Investigation Report 02-4282, “Ground-Water Contamination from Lead Shot Prime Hook National Wildlife Refuge, Sussex County, Delaware” concludes that such sites pose a significant threat to groundwater and water supplies. The former Sudbury Rod and Gun Club site poses a significant risk and must be investigated and remediated accordingly.

The Proponent claims this site ‘has no significant risk’. We disagree. This EPA listed site presents significant risk for both the transmission line project and the recreation trail project.

MEPA must look at this site across both potential uses and consider the consequences of both disturbing the lead contaminated soil around a 5' x 5' trench into groundwater levels as well as the regular presence of the public near this contaminated site.

2. Former Raytheon Site – 528 Boston Post Road

The FEIR is deficient with respect to performing an Environmental Site Assessment with Subsurface Investigation in substantial conformance with the scope and limitations of ASTM Practice E 1527-13 with respect to 528 Boston Post Road, Sudbury, Massachusetts. (Appendix 17)

The MBTA ROW is in immediate proximity to the northeastern portion of the former Raytheon property documented at this site. The conclusions reached by the Proponent in their hydrology report are that the known contaminants in this area are not likely to be released into the groundwater in this Zone 2 aquifer. Yet they also say that "Because portions of the overburden, where the clay layers are not present, are highly permeable sand and gravel, the Raymond Road aquifer is sensitive to surface spills and sources of contamination". EFSB17-02 Appendix Groundwater Hydrology Assessment.

The presence of CVOCs in groundwater was first identified between 1990 and 1991, and the Site was initially assigned RTN 3-3037. The initial investigations were requested by DEP as part of a regional investigation for the source of CVOCs in the Town of Sudbury's Raymond Road well field. It is believed that the CVOCs migrated from this site and contaminated the water being drawn from the Town's Raymond Road wellheads. While the groundwater concentrations have remained consistent with those detected during earlier studies, Raytheon, the former occupant of that site, elected to provide notification based on updated reporting requirements under the MCP. That notification was assigned RTN 3-27243. Raytheon then continued to perform groundwater quality monitoring at the Site since that time.

The Proponent's belief that additional groundwater contamination is 'not likely' is not consistent with the history of the site. Their assessment that contaminants at this Zone 2 aquifer would not migrate to the drinking water supply is also in error. Adherence to the standards for Rail Trail development will not protect the Town of Sudbury's water supply. MEPA must establish additional safeguards to protect Sudbury's primary source of drinking water.

Most of the reference documents in their hydrology assessment are derived from reports and tests performed between 1970 and the 1990's. A more recent report by Sanborn Head Engineering provides their Phase 1 Environmental Site Assessment with Subsurface Investigation for a property adjacent to the MBTA ROW. The report accurately defines the potential for groundwater contamination at their site and the proper monitoring and mitigation measure. This is the standard to which the Proponent should be held to. Reliance upon reports produced 30 to 40 years ago for this critical resource is just not adequate. See Appendix 23.

G. Viewshed

The FEIR is deficient for not including a Visual Assessment Analysis of the "Preferred Alternative".

Protect Sudbury disagrees with the Proponent's conclusion that the "Preferred Alternative" underground route on the MBTA ROW does not require a Visual Assessment Analysis. In fact, this analysis was performed for the Noticed Variation, one of three routes being considered by the EFSB and would be of significant value in assessing the impact on the viewshed on the "Preferred Alternative". The Noticed Variation Visual Analysis is included as a reference. (Appendix 17)

The Proponent submitted a Viewshed Analysis for the "Preferred Alternative" in a similar case; a West Roxbury to Needham transmission line. That visual analysis is also included as a reference. (Appendix 18)

The Proponent asserts that 'on average' the required clearing is 22 feet. While even that 22' footprint will contribute to the loss of viewshed, the points at which addition grading and fill are required will result in the taking of trees beyond the 22' limit. Further, the installation of twenty-eight splice vaults along the MBTA ROW will result in clearings of up to 60' x 50' (See FEIR Figure 2-2). The Proponent fails to consider the extreme proximity of over 300 residences and businesses to the MBTA ROW.

In certain cases, the areas adjacent to the ROW will essentially be clear-cut and will dramatically alter the viewshed of residences and businesses all along the route. The route also intersects two historic districts in Sudbury. The planned clearing will dramatically alter the historic nature of the settings in which these buildings are located.

Photographic examples are included to illustrate the impact that such alterations will have on a select group of residences and businesses. (Appendix 19)

The additional impact of a paved rail trail must also be considered when assessing visual impact. Such a recreational trail will invite a dramatically increased number of pedestrians, bicyclists, ambulances, police cars and runners. Non-authorized use will undoubtedly occur by other motorized vehicles. The Proponent has indicated that they too will deploy motorized maintenance vehicles at will and without notice. FEIR Appendix 2-4 Sec. 2.0
Such access will be by foot, vehicle, truck, crane or other equipment, as deemed necessary in Eversource's sole discretion through the property and to its facilities within and along the Massachusetts Central Branch Rail Line and the MCRT Leased Premises."

Mitigation measures for each residence, business, historic district and certain conservation areas should be determined by the Proponent prior to the issuance of a FEIR certificate. These measures are typical of such projects. The FEIR should contain clear commitments to

implement Viewshed mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation.

To accurately assess the impact on viewshed the Proponent should be instructed to do a field survey of the entire ROW as part of the Visual Impact Analysis. They must first establish the base case of the current viewshed and then assess the impact of the tree clearings at each location. Mitigation measure and options should then be specified and placed into the FEIR so that these property owners are protected. The mitigation offered in the FEIR of "allowing the area to revegetate… and actively revegetating areas only as necessary" is both inadequate and leaves the determination of what is "necessary" totally in the hands of the Proponent. (FEIR Section 5.5.2)

H. Tree Clearances Not Defined

The FEIR is deficient as the Proponent has not clearly defined tree clearing parameters. The Proponent has been inconsistent in their definition of the parameters and definition of a 'clearing'. The Proponent has been asked to define this term on several occasions in public forums. They consistently defined it to mean "Ground to Sky", meaning that any tree adjacent to the defined clearing that had overhanging branches would also be removed. An example of a well-designed rail trail without ground to sky clearing is the rail trail in Dennis, MA. Appendix 20. A 'ground to sky' clearing example is also included for comparative purposes. Appendix 20a.

A "ground to sky" approach would have a much more significant impact on both the viewshed as well as the recreation trail. It also raises questions of whether such an approach in protective conservation areas would result in a violation of Article 97.

An explicit definition of "clearing" is required from the Proponent for adequate MEPA evaluation of these impacts.

H. EMF Radiation

The FEIR is deficient in that proposed Electromagnetic Frequency ("EMF") levels exceed recommended State levels.

The Proponent has provided 75% design documents and maps that indicate the position of the 115kv high voltage transmission line relative to the recreational rail trail. It is estimated that the transmission line occupies the center line of the recreational rail trail approximately one-third of the entire length of the MBTA ROW route. The Proponent acknowledges this design characteristic in the FEIR. (See FEIR Section 2.3.1.3).

The Proponents EFSB filing provides EMF calculations for the "Project" at annual peak loading. (See EFSB17-02 Vol ii, Appendix 5-10, pg-116, Table A-3.

As indicated in the table, the EMF level directly above the cables on the rail trail is 88mG and 99mG at the Manhole locations.

The Proponent's stated EMF levels are beyond levels deemed even remotely acceptable, e.g. 85mG, particularly when considering that this project is proposed to include a rail trail. See EFSB15-04, Electric and Magnetic Field (EMF) Analysis for Woburn-to-Wakefield Junction Underground 345-kV Transmission Line, Table 2-2. (Appendix 20)

These levels are particularly alarming when considering the nature of the proposed rail trail. While a typical under street route would limit exposure due to infrequent street crossings by pedestrians and the EMF shielding provided to automobile occupants traveling along such roads, a rail trail is quite a different matter. By its very nature, it is intended to attract walkers, runners, and cyclists and encourage frequent and prolonged usage potentially exposing users to prolonged EMF and herbicide exposure. In fact, one hour spent by a child/or adult on the rail trail would exceed the recommended level of safe EMF exposure for an entire day, assuming otherwise normal exposure averaging 2mG/hour, and place that child/or adult at the upper 95th percentile of all Americans for EMF exposure per the NIEHS/DOE EMF RAPID Program Study (2002).

This issue speaks directly to the danger of combining the construction of a high voltage transmission line with a rail trail. This is only one of the many unintended consequences associated with combining these two disparate projects. Perhaps this is exactly why the Proponent, when questioned at the Siting Board hearing could provide no example of such a combined construction project. At a minimum, MEPA needs to apply the appropriate public safety standards to prevent such exposure to the public or deny the FEIR.

J. Greenhouse Gas (GHG) Emissions

The concern for greenhouse gas emission is rooted in our overall concern about their impact on global warming. In addition to what the proponent might contribute to this impact, equally important are the destructive activities that contribute to global warming. Therefore, the FEIR is deficient in that it fails to determine how much the proposed amount of tree clearing will impact carbon storage. Tree cutting, and clearing is recognized as a major anthropogenic disturbance that affects terrestrial carbon storage, in turn, contributes to global warming.

From the inception of this proposed project, Protect Sudbury was concerned about this potential impact and did a study of the impact of tree clearing in the MBTA ROW on carbon storage. Based on the current estimate by the Proponent of 24 acres of disturbance, we estimate a loss of over 10,000 trees being removed from the corridor. Such a disturbance would result in the loss of over approximately 900 tons of carbon storage on forested land.
That loss is equivalent to:

Over 7,000,000 miles of miles driven by average passenger vehicle
Over 300,000 gallons of gasoline consumed

Over 3,000,000 pounds of coal burned and
Over 400 homes use of electricity for one year

The proponent should be denied a FEIR certificate when an under-street alternative exists that carries none of these adverse environmental effects. The Proponent should be held accountable by MEPA for this valuable loss of precious environmental resource and their direct contribution to global warming. The Protect Sudbury study is contained in Appendix XX.

V. Conclusions and Summary

As noted above, the FEIR is deficient in the following key areas:

- Project Alternatives
- No Build Alternatives
- Bridge Construction
- Project Segmentation
- Groundwater Contamination
- Viewshed
- EMF Exposure and
- Greenhouse Gas Emissions

Many of these deficiencies identified are largely explained by the Proponent 'cherry picking' in its reporting, particularly in the way they have scaled the environmental impact of their routes. It is clear Eversource's proposal will result in permanent and significant environmental damage. Considering all the risks, costs, potential delays, and adverse effects it remains baffling as to why the Proponent continues to pursue this course of action and has been intractable in their position. There are a range of alternatives available to them - such as the under-street route - that would do little or no environmental harm and which the communities would accept if this project were to be proven necessary. We ask that MEPA focus squarely on their mandate to AVOID, then minimize and mitigate.

Regards,

Ray Phillips
President, Protect Sudbury Inc.

Protect Sudbury

www.protectsudbury.org

From:	Brian White
To:	Czepiga, Page (EEA)
Subject:	Sudbury-Hudson Electrical Reliability Project
Date:	Thursday, September 06, 2018 10:57:24 PM

Hi Page,
My wife and I are citizens of Hudson and are writing to express continued concern with the proposed route for the Subury-Hudson Transmission Reliability Project. The proposed primary route and noticed variation will have dramatic consequences for established wetlands, wooded land, and conservation areas. Most notably, the route could damage the wetlands that protet a major water source, for the town of Hudson. While the route utilizes an existing ROW, this route wouldn't have been built under modern regulations and the land has started to heal, since the ROW was abandoned. These areas will be stressed by clear cutting and routine maintenance, which will disrupt the recovery, damage the wetlands, and endanger the wild life. The wetlands in particular need to be aggressively preserved and protected in order to maintain healthy drinking water for the town, natural habitats, and biodiversity in Massachusetts. For this reason, we ask that the primary route and noticed variation, utilizing the MBTA-ROW, be rejected.

If, in your judgment the transmission project is necessary, we request that you give preference to the Noticed Alternative Route or other underground routes that use established roadways or active ROWs.

Thank you for your support.

Sincerely,

Brian White & Catherine Schoenleber
29 Loring St.
Hudson, MA 01749
978-568-0724

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Sincerely,

Brian White & Catherine Schoenleber
29 Loring St.
Hudson, MA 01749
978-568-0724

From:	Todd Billings
To:	Czepiga, Page (EEA)
Subject:	My comment regarding the Sudbury to Hudson Electrical Reliablity Project,
Date:	Friday, September 07, 2018 11:09:50 AM

Page Czepiga.

Please hear and pass on my concern that the transmission line must run under ground under the street for its entirety through Hudson.

I vehemently reject any transmission line that will, run overhead, under/along rail road beds, under vegitation, or near to or have a proximity to any public/private water source.

Thank you.

Todd Billings

33 Temple Ave.

Hudson, MA 01749

tbill864@comcast.net

Sudbury Valley Trustees

Conservation, Collaboration, and Community since 1953

September 7, 2018

Secretary of Energy & Environmental Affairs
Executive Office of Energy & Environmental Affairs
Attn: MEPA Office, Page Czepiga
100 Cambridge St., Suite 900
Boston, MA 02114

Re: Comments on FEIR filed August 8, 2018
EEA #15703, Sudbury-Hudson Transmission Reliability Project

Dear Secretary Beaton:

Please accept our comments on the Final Environmental Impact Report (FEIR) prepared by VHB for the Eversource Sudbury-Hudson Transmission Reliability Project. We previously filed public comments on the Environmental Notification Form ("ENF") and the Draft Environmental Impact Report ("DEIR").

Sudbury Valley Trustees (SVT) is an abutter to the project, owning 4,000 linear feet along the MBTA right-of-way that is being proposed by Eversource as their preferred route. This 220-acre SVT property is known as the General Federation of Women's Clubs Memorial Forest (commonly known as "Memorial Forest"). SVT has managed this land and abutting conservation lands owned by the Women's Federation for over 20 years. Established in 1953, SVT is as a regional conservation organization that works to protect natural areas and wildlife habitat throughout a 36-town region west of Boston.

While the preferred Eversource route appears to be a practical straight line between two points, it also happens to go through one of the most significant natural areas in Metrowest Boston. The FEIR and 75% plans present a proposal that reduces environmental impacts from the DEIR for the underground route and we were pleased to see some impact reductions, such as the reduction of the size of the splice vaults and the narrowing of the construction corridor. However, there is no doubt that the proposed project will still have significant short and long term impacts on rare species and sensitive habitats. There is a clear alternative that entirely avoids the extensive impacts to this unique conservation area.

Of foremost concern to SVT is the failure of the FEIR to include an assessment of the below-streets alternative. The lack of this assessment runs contrary to the MEPA requirement to avoid, minimize or mitigate environmental impacts. In the Secretary's Certificate on the DEIR, Table #1 indicates that the Noticed Alternative (under roads) would have significantly less environmental impacts. We strongly believe that the FEIR is not complete without a full assessment of the environmental impacts of the below-streets option.

Concerns that we expressed in previous comment letters are still relevant:

- The Preferred Route, located along the MBTA abandoned rail line, will severely impact a globally rare natural community, several listed rare species, a rich assemblage of wetland resource areas, and hundreds of acres of conservation lands that were protected with private, local, state and federal tax dollars, and the wilderness character of this natural area located only 25 miles from Boston.

- The Desert Natural Area, south of Hudson Road, in the City of Marlborough and Town of Sudbury is comprised of 900 acres of high quality conservation lands composed of a diverse mix of forests, barrens, wetlands, and cold water streams. **Pitch Pine-Scrub Oak Barrens are recognized as a globally unique natural community that hosts 32 state-listed species plus eight "species of Greatest Conservation Need" as defined by the Massachusetts State Wildlife Action Plan.** These 900-acres, along with the additional 2,300 acres of national wildlife refuge located north of Hudson Road, create an incredible wilderness that supports a great diversity of wildlife and a recreational resource for thousands of people in the Metrowest region.

- The United States Government, Commonwealth of Massachusetts, Town of Sudbury, City of Marlborough and SVT have invested a tremendous amount of public and private resources in the acquisition and management of these lands. Over the last 25 years these conservation owners have worked in partnership to clean up what used to be a dangerous back land of shooting sprees and burning cars. Today, one can find safe and well-maintained trails, cold water streams that support native brook trout and a diverse array of wildlife habitats. The proposed project would put this investment at risk.

- The entire length of the proposed Eversource underground route that runs through this area is part of a **Priority Habitat for rare species**. Those species include whip-poor-will, Eastern box turtle, wood turtle, blue spotted salamander, and several moth species. The **only whip-poor-will** that has been heard calling in recent surveys has been next to the MBTA ROW. Construction and maintenance of the utility line and proposed rail trail will directly disrupt breeding habitat of the whip-poor-will. SVT also documented the presence of three state-listed moth species in the area: Pine Barrens Zanclognatha (*Zanclognatha martha*), Coastal Swamp Metarranthis (*Metarranthis pilosaria*), and Gerhard's underwing (*Catocala herodias gerhardi*).

- The **ONLY** remaining population in this area of the **watch-listed species wild lupine** is located directly on the MBTA ROW. *The FEIR proposes to slightly reroute the rail trail partially around this lupine population, which will almost certainly result in severe impact to, if not complete elimination of this population. We have witnessed the destruction of a nearby lupine population due to recreational impacts.*

- **Post-construction maintenance issues continue to be a tremendous concern.** All of the "best management practices" on paper do nothing to safeguard the resources and the public in practice. The Eversource proposal assigns long-term maintenance of the corridor to DCR. Lack of sufficient funding regularly prevents DCR from providing adequate management of their park lands. It is improbable that they would have funding to maintain the proposed rail trail according to their BMPs. Furthermore, contractors hired by Eversource to

maintain or perform other work along the utility lines are notorious for wreaking havoc and not following best management practices. SVT has observed on numerous occasions how utility companies do not adequately supervise the contractors that they hire for this type of work.

In addition to the complete lack of an alternatives analysis, Eversource failed to address several items required by the Secretary's Certificate on the DEIR. **The FEIR is incomplete** because it does not include the following:

- Rare species surveys and wildlife habitat evaluations are underway but have not been completed. It is impossible to provide an adequate assessment of significant impacts to rare and declining species without this information.

- The wetlands delineations were not completed and approved prior to the filing of the FEIR; therefore, the FEIR does not account for this updated information.

- Handling of construction materials and especially hazardous waste continues to be of concern and the FEIR does not provide sufficient detail for how these materials will be addressed.

- The FEIR does not specify how construction practices will mitigate the import of invasive plants and seeds. As is typically the case, large construction projects like this proposed project will inadvertently import invasive seeds and plant materials to the site. The construction activity will also disturb established vegetation and soils which inevitably also promotes growth of invasive plant seeds already on site. Allowing the disturbed areas to regrow naturally is a good practice in most areas, but Eversource is not proposing to monitor and remove invasive plants following construction. Invasive species continue to be one of the greatest threats to our native habitats, plants and wildlife and SVT has expended considerable private resources on their control. DCR is unlikely to be able to implement the best management practices it proposes to manage invasive plants along the proposed rail trail.

Overall, even with improved planning to reduce environmental impacts, it is clear that sensitive habitats and species will be impacted during construction. For example, construction is planned to occur immediately adjacent to numerous vernal pools. It is highly unlikely, even with erosion control in place that impacts can be avoided given the proximity and precarious slopes. Additionally, the construction will remove canopy cover that is a critical element to maintaining the micro-climates of the vernal pools. The resulting open corridor will also eliminate some of the upland habitat of the vernal pools.

The FEIR specifies time-of-year restrictions on construction so as to minimize impacts to state-listed and other significant wildlife species; however, the report then goes on to say numerous times that the time restrictions will only be followed "to the extent practicable." That qualification nullifies the time restrictions, so that while work may be planned to occur outside of those time frames, any inconvenience may override those time restrictions.

The narrowing of the construction footprint from 30 ft. to 22 ft. is not fully controlled and limited based on the engineering plans. All of the "typical sections" shown in the FEIR indicate that the Limit of Clearing varies rather than being kept to either 22 feet for the transmission line/rail trail or just to 40 feet for the splice vault construction. How is Eversource actually limiting work to 22 and

40 feet as claimed in the text? What factors would influence this varied construction width and are there any limitations on the variation? Such variations should be specified on the plans and narrative but remain unclear in the FEIR.

The FEIR specifies that the stormwater management ditch and check dams areas designed for two-year storms *as per DCR's standards for conveyance of a 2-year storm*. It is unclear how this proposal will meet the DEP Stormwater Standards for TSS removal. In addition, this minimal design is grossly inadequate given the increased frequency of high intensity rainfall events we have been experiencing and which will only get worse with continued climate change patterns. A recent example from a project under construction in Marlborough illustrates this point. Marlborough's Environmental Monitor reported on conditions during an intense, short duration rain event on August 8, 2018. Despite additional proactive measures taken by the contractor (such as augmenting the erosion control barrier with additional temporary impoundments and a hefty berm of stump grindings) there was a major breach of the erosion control barrier. The erosion controls were blown apart by the stormwater and hay bales were washed 30 feet from the barrier. The monitor noted sediment deposition for about 30 feet through the breach with scouring and flow paths for an additional 70 feet. These types of storm events and stormwater control issues are becoming much more frequent. SVT is concerned for the proximity of Vernal Pools to the steep slopes of the ROW and the lack of specified outfall points and sediment controls for them. Thus, while the proposed stormwater plan may comply with MassDEP SMS it doesn't seem at all adequate especially in an environmentally sensitive area that contains perennial streams, a cold water fishery, vernal pools, and extensive BLSF.

Installing a major utility corridor right through the heart of this significant conservation land will generate unacceptable long-lasting, recurring impacts and environmental damage. We have experience to show that utility companies and their contractors frequently do not follow best management practices. SVT has witnessed these issues within the last year at several of our properties. Stream banks were severely damaged and never remediated in the case at Memorial Forest. Wetlands were filled at a site in Framingham. Public safety was put at risk at a case in Framingham and Ashland when unannounced large machinery sent large woody material flying into the woods and nearby trails. We cannot count on contractors to follow best management practices in their construction and maintenance practices. Conservation landowners are left to deal with the resulting damages and remediation is extremely difficult, if not impossible, to obtain.

In closing, SVT remains strongly opposed to the proposed preferred underground route along the MBTA abandoned rail line. We continue to encourage Eversource to pursue the under street alternative which will have much lower environmental impacts.

Sincerely,

Lisa Vernegaard
Executive Director

KP | LAW
The Leader in Public Sector Law

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September 7, 2018

George X. Pucci
gpucci@k-plaw.com
(617) 654-1718

BY ELECTRONIC MAIL (page.czepiga@state.ma.us)

Secretary of Energy and Environmental Affairs
Executive Office of Energy and Environmental Affairs (EEA)
Attn: MEPA Office
Page Czepiga, EEA No. 15703
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Sudbury-Hudson Transmission Reliability Project
EEA# 15703
(Town of Sudbury)

Dear Ms. Czepiga:

This firm serves as Town Counsel to the Town of Sudbury ("Town" or "Sudbury"). Please accept these comments on behalf of the Town for consideration by Secretary Beaton ("Secretary") in response to the Final Environmental Impact Report ("FEIR") submitted by Eversource Energy ("Proponent" or "Eversource") for the above-referenced project ("Project").

The Secretary's Certificate on the Proponent's Draft Environmental Impact report ("DEIR Certificate") required that additional information and analysis be provided in the FEIR. In particular, the FEIR was to include additional evaluation of impacts to rare species and wetland resource areas and present a comprehensive mitigation proposal. The DEIR Certificate also concluded that the DEIR did not include discussion of construction methodologies and site design measures that have been incorporated into the Project to further avoid and minimize Damage to the Environment nor did it demonstrate that the Project could meet the performance standards for Bordering Land Subject to Flooding established in the Massachusetts Wetland Regulations at 310 CMR 10.57(4), particularly whether or not compensatory storage volume for placement of fill in Bordering Land Subject to Flooding can be provided incrementally equal to the volume of flood water at each elevation.

At this time, it is the Town's position that the FEIR does not adequately address the issues required under the DEIR Certificate. Substantive issues remain to be addressed and Eversource has still inadequately described the Project and the effects of the Project on the environment. A Supplemental FEIR pursuant to 310 CMR 11.08(8)(c)(2) should be required.

As the Secretary may be aware, the Town is an Intervener in the MA Energy Facilities Siting Board ("EFSB") proceedings currently in progress. The Town and its consulting firm, Nover-Armstrong Associates, Inc. had an opportunity to review the FEIR for preparation of comments

presented herein. Eversource's FEIR and its Petition before the EFSB including subsequent Responses to Information Requests from the EFSB and Interveners, has not begun to justly identify likely environmental impacts from the Project nor did it allow the Town to confirm testified environmental impact qualifications and quantifications. The Town is confident that the Secretary and this MEPA process will ultimately require a true accounting of environmental impacts from the Project.

General Comment

Eversource presents 75% design level plans ("FEIR plans") showing a definitive design concept including temporary and permanent bridge construction over the two Hop Brook river crossings; final proposed limit of work/clearing; revised resource area boundary locations confirmed by the Sudbury Conservation Commission in the Order of Resource Area Delineation issued on 08/27/2018; limited stormwater management features; and slope stabilization changes along Hop Brook's banks to reportedly reduce direct alteration to Bank to Cold Water Fishery Resource. The FEIR provides a *Summary of Changes to Potential Impacts to Wetland Resource Areas Since DEIR Filing* showing a reduction in impacts to Bordering Vegetated Wetlands ("BVW") and Bordering Land Subject to Flooding ("BLSF") along with increases in impacts to Inland Bank, Isolated Land Subject to Flooding ("ILSF"), Riverfront Area ("RA"), Land Under Water ("LUW") and Isolated Vegetated Wetlands ("IVW"). According to the Summary, total disturbance in the 100-foot Buffer Zone has been slightly reduced.

The DEIR Certificate required Eversource to provide and update the structural analysis and provide updated plans for each of the proposed bridge crossings and to quantify potential impacts to wetland resource areas and Cold Water Fishery Resource ("CFR") at these locations. It is the Town's belief that the impacts to BLSF, Bank, LUW associated with Hop Brook, a CFR, are substantially under-estimated. The construction-related impacts to resource and sensitive areas associated with site preparation (fill/grading beyond that needed for the constructed Project) for the crane mats needed to support heavy equipment to lift the temporary steel bridge spans at the beginning of the construction project and removal at the end of the construction project at the two Hop Brook bridges are potentially significantly understated. Additionally, placement of "temporary" fill at Hop Brook Bridge #127 (East) is in FEMA Floodway. Cubic yards of fill in FEMA Floodway at incremental elevations is not presented in the FEIR nor an analysis of potential downstream or upstream flooding impacts.

According to the FEIR, Eversource and the Massachusetts Department of Conservation and Recreation ("DCR") will file joint applications for some of the environmental permits required for each respective project so that the state agencies may have a chance to consider the sum of the two actions along the common alignment. If this is Eversource's intent then this MEPA process should have combined both projects to evaluate the overall cumulative environmental impacts. The Town

believes this joint permit application is a strategic effort by Eversource to benefit from less stringent MassDEP Stormwater Management Standards afforded to bike path projects.

FEIR and FEIR Plan Deficiencies, and Requested Requirements for a Supplemental FEIR

The Town requests the following requirements in a Supplemental FEIR (set forth below in bold and italics following the specific deficiencies at issue):

- The FEIR plans are deficient in describing the necessary grading required to place the crane mats on both the east and west sides of the Hop Brook Bridge crossings. As noted on the FEIR plans, the maximum crane pad dimensions at Hop Brook bridge #127 (East) of 40'x40' are allowed at any given time. A longer crane mat footprint is shown on the FEIR plans to allow the crane mat location to be shifted during construction of the steel sheeting and bridge. Both temporary and a small amount of permanent impacts to wetland resource areas associated with Hop Brook Bridge #127 (East), a CFR are presented including Bank, LUW, BVW and BLSF. Not identified on the FEIR plans and document is the placement of fill in FEMA Floodplain at the Hop Brook Bridge #127.

The Supplemental FEIR and plans should provide sufficient detail to describe how the crane mats and required grading to create a level area of sufficient size (40' x 40') at Hop Brook Bridge #127 (East). If placement of steel sheeting beyond Bank and in LUW to support fill and limit further impact to LUW/CFR, then that should be presented and shown in detail. The Supplemental FEIR and plans should also provide sufficient detail to describe how the fill and potential steel sheeting will be removed from Hop Brook without permanently damaging the natural river channel substrate and its Bank and provide Bank and LUW restoration details to support the "temporary" impact qualification.

- The FEIR plans depict an 85'x 90' and 95'x 40' crane mat areas at the Hop Brook Bridge #128 (West). It is likely that the placement of crane mats will require a level area over the existing steep slopes beyond the existing MBTA level platform. No slope stabilization to prevent impacts to Bank and LUW associated with Hop Brook, a CFR is presented. Based on the FEIR plans, it appears that there may be substantial impact to Bank on the east side of Bridge #128 that has not been quantified.

The Supplemental FEIR and plans should provide sufficient detail to describe how the crane mats and required grading to create a level area of sufficient size at Hop Brook Bridge #128 (West) will be constructed without impacting the adjacent sensitive wetland resource areas, including CFR.

- The FEIR is not clear if the temporary Bank, LUW and BLSF associated with the fill and grading for the crane mats will occur twice – once for the lifting and placement of the

temporary steel decks to support construction equipment loads (HS-20 rating) and again when the temporary steel decks are removed and replaced with a permanent wood deck (HS-10 rating) at the end of Project construction.

The Supplemental FEIR and plans should provide a more detailed sequencing and Schedule Overview for Bridges #127 and #128 with respect to the fill/grading required for the crane mats and if fill in LUW and BLSF will remain in place until the temporary steel decks are removed and the permanent wood decks are placed at the end of the Project construction, including potential construction of the Massachusetts Central Rail Trail improvements.

- The FEIR is deficient in describing that grading/fill associated with the placement of crane mats at Bridge #127 (East) will be in mapped FEMA Floodway.

The Supplemental FEIR and plans should evaluate the feasibility of placement of temporary fill in FEMA Floodway associated with the grading/filling to create a level area for crane mats at the Hop Brook Bridge #127 (East) crossing. It should also detail how long the fill will remain in place. If a detailed hydraulics study is required to document that the fill in FEMA Floodway will not cause a Rise in FEMA's base flood elevation, then the FEIR should at a minimum, state that one will be performed.

- The FEIR document and plans are deficient in demonstrating that placement of fill in BLSF will be compensated for pursuant to the performance standards found in the Massachusetts Wetland Regulations at 310 CMR 10.57(4). FEIR Table 5-2 *Project Impacts to Bordering Land Subject to Flooding* or the FEIR plan views and cross sections do not appear to quantify temporary fill associated with the crane mats at Hop Brook Bridge #127 (East).

The Supplemental FEIR should demonstrate the Project's ability to fully comply with the BLSF performance standards outlined in 310 CMR 10.57(4) as required by the DEIR Certificate.

- The FEIR presents a Project construction schedule that will adhere to time-of-year restrictions related to state-listed species, non-listed species, CFR, and vernal pools. No in-stream work in Hop Brook is allowed from October 1 to June 30. In-stream work is defined as work in LUW.

The Supplemental FEIR and plans should evaluate the scheduling feasibility of the temporary fill placed for the construction of the crane mat work area associated with the placement and removal of the temporary steel bridge decking at the end of the construction project. Fill should be removed as soon as feasible as it is in FEMA Floodway and CFR which is an Outstanding Resource Water and Critical Area.

- The FEIR does not provide sufficient information to describe the work and the environmental impact associated with construction of the Project's stormwater management best

management practices. The FEIR states that Eversource and DCR will file joint applications for some of the environmental permits required for their projects. According to the Chapter 1 of the Massachusetts Stormwater Handbook, the Stormwater Standards ("Standards") shall only apply to the maximum extent practicable. According to the Massachusetts Wetland Regulations, the Eversource Project must fully comply with the Standards. The Wetland Regulations at 310 CMR 10.53(3) state that notwithstanding the provisions of 310 CMR 10.54 through 10.58 and 10.60, an Order of Conditions may be issued permitting Limited Projects. This provision does not relieve Eversource's Project from fully complying with 310 CMR 10.05(6)(k), the stormwater provisions. As presented in the FEIR and FEIR plans, the Project currently does not fully comply with the Standards.

The Supplemental FEIR and plans should demonstrate that the Project can fully comply with the Standards and quantify the total environmental impact from this compliance. As indicated in the FEIR, full compliance will substantially increase total impact to wetland and sensitive resource areas.

- Although specifically required by the DEIR Certificate, the FEIR has not presented an adequate evaluation of impacts to rare species or comprehensive mitigation proposal. There will be 2.1 acres of permanent loss of State-listed Species Habitat (PH 1040/EH 1440) with a total disturbance of 4.0 acres. The DEIR Certificate highlights that the Project requires a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA, MGL c.131A) and its implementing regulations (321 CMR 10.00) and indicates the MESA Project Review Checklist will be submitted to NHESP in April 2018. According to the FEIR, the project filing of the NHESP Project Review Checklist and Conservation Management Permit under MESA was scheduled for July 2018. It has yet to be determined by NHESP if the Project will result in a "take".

The Supplemental FEIR should include the results of the "Appendix B" Detailed Wildlife Habitat Evaluations in accordance with MassDEP's Wildlife Habitat Protection Guidance for Inland Wetlands and identify measures to avoid, minimize, and mitigate impacts to identified key habitat features. It should also include whether the Project will result in a "take", thereby requiring a MESA Conservation Management Permit. Until this is complete, mitigation proposals are not comprehensive and effective.

- The FEIR does not provide sufficient information to describe the work and the environmental impact associated with construction of the Project or whether it can comply with applicable environmental permitting performance standards. It continues to appear that, on balance, from an environmental perspective, both the Noticed Alternative and the NEP Alternative may still be superior to the Project.

The Supplemental FEIR should quantify all temporary and permanent impacts that will result from the Project and state whether the Project will result in a "take" of rare and endangered species. Evaluation of Alternatives requires complete and accurate project-related impacts.

- The Project's limit of work shown on the FEIR Plans is within 0 feet to 18 feet of 16 vernal pools. It has been the Town's opinion that such work will cause significant adverse impacts – both temporary and permanent to the VP breeding habitat. The FEIR addresses this by saying no area Subject to Protection Under the WPA associated with these vernal pools will be altered. Eversource imposed a time of year ("TOY") restriction (during breeding season) where no construction activities will occur within 450 feet of these vernal pools (other than construction vehicle access over the ROW to construction areas).

The Supplemental FEIR should address the practicality of the 450 foot TOY during the VP breeding season (March 1 through May 14) with respect to the projected 2-year construction completion schedule especially when coupled with the remaining TOY restrictions proposed including no construction in areas mapped for eastern whip-poor-will (May 1 through July 31); no work within 100 feet of black racer hibernaculum (November 1 through March 31) and no active in-stream work in Hop Brook (October 1 through June 30). It should be noted that the Wildlife Habitat Evaluation has not been presented and therefore, there will likely be far more wildlife habitat mitigation required including potentially additional TOY construction restrictions. The Supplemental FEIR should also address expected mortality of vernal pool breeding species migrating to the pools from construction equipment and machinery and worker vehicles travelling along the ROW during the VP breeding season.

- The Project involves construction of an underground utility line and will result in potentially contaminated soil management activities well beyond that normally required for rail trail construction. As a result, Project compliance with DCR's Standards for Rail Trails, may not be adequate to protect public health, safety and the environment. The evaluation of subsurface soil and groundwater in Sudbury has not been completed and therefore, the extent and cost of contaminated media handling and disposal is not known. It is understood that the evaluation of subsurface soil and groundwater is nearing completion in the Town of Hudson.

The Supplemental FEIR at a minimum should present the findings from subsurface investigation conducted in Hudson and consequential construction and cost implications. It is likely that these findings will be similar to what will be found in Sudbury. Construction activities in contaminated areas have potentially significant effects on adjacent wetland resource areas and wildlife habitat including CFR as well as protected public lands used for passive recreation. Mitigation and public protection costs should be addressed as it is needed for the Project Alternatives Analysis.

Project Description and Permitting

The DEIR Certificate provided that the FEIR should provide a brief description and analysis of the applicable statutory and regulatory standards and requirements, and a description of how the project will meet those standards.

The FEIR document and FEIR plans are deficient in describing the project change associated with the addition of the crane mats at the bridge locations. The necessary grading and BLSF fill required to prepare the ground beneath the crane mat areas on both the east and west sides of each of the Hop Brook Bridge crossings is not described.

The Supplemental FEIR and plans should provide sufficient detail to describe the required grading and construction methodologies to create a level area of sufficient size for the crane mats at each of the Hop Brook Bridges. If placement of steel sheeting beyond Bank and in LUW is required to limit further impact to LUW / CFR, then that should be provided and presented in detail. Resource restoration details for Bank and LUW should be included. The Supplemental FEIR and updated plans should evaluate the feasibility of placement of temporary fill in FEMA Floodway associated with the grading/filling to create a level area for crane mats at the Hop Brook Bridge #127 (East) crossing. The documents should also detail how long the fill will remain in place.

The FEIR is deficient in describing the grading / fill associated with the placement of crane mats at Bridge #127 (East) will be in FEMA Floodway and whether that fill will cause a Rise in the FEMA base flood elevation.

If a detailed hydraulics study is required to document that the fill in FEMA Floodway will not cause a Rise in FEMA's base flood elevation, then the Supplemental FEIR should at a minimum, state that one will be performed.

The FEIR does not demonstrate the Project's ability to fully comply with the BLSF performance standards outlined in the Massachusetts Wetland Regulations at 310 CMR 10.57(4) as required by the DEIR Certificate associated with the temporary fill associated with the crane mats.

The FEIR is not clear if the temporary Bank, LUW and BLSF associated with the fill and grading for the crane mats will occur twice – once for the lifting and placement of the temporary steel decks to support construction equipment loads (HS-20 rating) and again when the temporary steel decks are removed and replaced with a permanent wood deck (HS-10 rating) at the end of Project Construction.

Alternative Analysis

The Supplemental FEIR should include a comparison of the environmental impacts associated with the No-Build, Noticed Variation Alternative, Routing Alternative, and the Preferred Alternative and a summary table of anticipated wetlands, rare species, land alternation, public water supply protection areas, cold water fisheries, traffic, and construction period impacts including those anticipated for the construction activities at the crane mat areas on each side of the Hop Brook bridges. The Supplemental FEIR should provide the NHESP finding whether the Project will result in a "take" of rare and endangered species. This accurate Project impact data is critical to the comparison of environmental impacts associated with each of the Project Alternatives.

In their DEIR comment letter, the Town presented a detailed argument that it appears, on balance, from an environmental perspective, the Noticed Alternative or NEP Alternative may be superior to the Project. The fact that impacts to several wetland resource areas have increased as a result of a more defined Project design and updated wetland resource area boundaries in addition to the undocumented environmental impacts associated with the placement and removal of fill in BLSF and FEMA Floodway further supports the Town's position that the NEP Alternative and Noticed Alternative will result in considerably less Environmental Damage than the Project.

Land Alteration

The DEIR Certificate requires that the FEIR should include a copy of the MOU that is currently being developed with DCR. The MOU should clarify the parties responsible for maintenance activities. It should specify the method of vegetation maintenance and should address how the ROW will be maintained over time.

The draft Memorandum of Understanding between Eversource and DCR with respect to paragraph 6.0 states that once constructed, Eversource will not be responsible for maintenance of the gravel base, bridges, box culvert, surface, shoulders, road crossings, landscaping, bridge decking, etc. If the MCRT is not constructed, the FEIR is unclear as to Eversource's legal and permit conditions responsibilities.

The Supplemental FEIR should provide assurances on how the maintenance of Stormwater BMPs, culverts, erodible surfaces created, and success of the resource area mitigation areas will achieved and who the responsible party will be.

Wetlands/Stormwater

The DEIR Certificate requires that the FEIR include detailed site plans and a narrative that describes the work within the wetland areas. The FEIR should quantify the potential impacts to wetland resource areas and CFR in the locations of the bridges.

The FEIR is deficient in describing the effects of the work on the wetland resource areas and CFR in the two Hop Brook Bridge locations specifically with respect to the crane mats. No BLSF fill is quantified; no methods for constructing the level crane mats over Bank and in LUW/FEMA Floodway is provided. No resource area restoration details for Bank and LUW is provided. Further, the FEIR presents that impacts to Bank and LUW will be temporary but no detail on how the fill/ grading below Hop Brook's Bank will be placed and removed without causing permanent Damage to the Environment is provided. The document also does not state the length of time the fill will be in place and if this fill activity will need to be conducted twice – once for placement of the temporary steel bridge decking and again for its removal at the end of the construction project.

The FEIR should quantify the area and volume (cubic feet) of impacts to BLSF, identify the location and volume of proposed compensatory flood storage, and include a narrative that demonstrates the project's compliance with the Performance Standards for BLSF.

As stated earlier, the FEIR is deficient in describing the grading/fill associated with the placement of crane mats at Bridge #127 (East) will be in BLSF and FEMA Floodway and whether that fill will cause a Rise in the FEMA base flood elevation. It also does not demonstrate the Project's ability to fully comply with the BLSF performance standards outlined in the Massachusetts Wetland Regulations at 310 CMR 10.57(4)) as required by the DEIR Certificate.

The FEIR should evaluate impacts from stormwater runoff during construction and post-construction and demonstrate that post-construction drainage system will be designed in compliance with MassDEP Stormwater Management Standards.

As indicated in the FEIR, full compliance is not provided but if provided, it would result in a significant increase in total impact to wetland and sensitive resource areas.

The Supplemental FEIR should demonstrate that it is feasible for the Project to fully comply with the Stormwater Standards as required by the Wetland Regulations, 310 CMR 10.00 and if feasible, qualify and quantify the total environmental impact from such compliance.

Rare Species

The DEIR indicated that the Proponent anticipates submitting a MESA Project Review Checklist to NHESP in April 2018. The DEIR Certificate required that the Proponent consult with

the MEPA Office and NHESP regarding the status of the rare species impact assessment and the ability to incorporate sufficient information into the FEIR.

The DEIR Certificate highlights that the Project requires a direct filing with NHESP for compliance with the Massachusetts Endangered Species Act (MESA, MGL c.131A) and its implementing regulations (321 CMR 10.00) and indicates the MESA Project Review Checklist will be submitted to NHESP in April 2018. According to the FEIR, the project filing of the NHESP Project Review Checklist and Conservation Management Permit under MESA was scheduled for July 2018. It has yet to be determined by NHESP if the Project will result in a "take". As noted above, until the results of this MESA review, Project permitting feasibility cannot be confirmed and species and habitat location specific protection and mitigation measures cannot be developed.

Conclusion

The Town appreciates your consideration and respectfully requests that the Secretary require a Supplemental FEIR addressing the foregoing issues and requirements.

Very truly yours,

George X. Pucci

GXP/man
cc: Town Manager (by electronic mail)
Jeffery M. Bernstein, Esq. (by electronic mail)
Catherine J. Keuthen, Esq. (by electronic mail)
Ms. Vivian Kimball, VHB, Watertown (by electronic mail)

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Page Czepiga
MEPA offices
100 Cambridge St., Suite 900, Boston, MA 02114

September 7, 2018

Christine Nelson
31 Parmenter Road
Hudson, MA 01749

Ms. Czepiga,

I am writing to you to submit my public comments related to the Eversource Energy Sudbury to Hudson Electrical Reliability Project. EEA#15703 EFSB 17-02/D.E.P. 16-17.

After reading the Final Environmental Impact Report, my concerns about this environmentally destructive project remain as they have always been for the past 2.5+ years. Eversource has failed to prove that the devastation of 9 miles of environmentally sensitive land abutting town water supplies which serves as the home to naturally sensitive, protected species is any less disruptive to the environment nor less costly to build than an under the road route.

My main concerns are as follows. Eversource still has not adequately addressed the use of herbicides, the idea of building a bicycle path over high voltage power lines is ludicrous, and the glaring lack of any further information provided in this FEIR since the DEIR was submitted.

Eversource still does not address how herbicides will be used. There are no details regarding the chemical controls and Eversource maintains that the DCR will, within one year after the powerlines are constructed, be responsible managing invasive plants including chemical treatment of the adjacent land (p.75). Who oversees DCR's future compliance? How is this not the perpetual responsibility of Eversource? Will DCR or Eversource really comply with the first recommended practice of hand pulling weeds for 9 miles along this route? Will their mechanical control result in continued disruption of sensitive species and noise pollution for abutters?

A DCR proposed bike path over an unshielded 115K volt utility corridor does not mitigate the clear and evident environmental damage that will occur if Eversource's preferred route is approved. The fact that Eversource is trying to sweeten the deal by proposing a bicycle path with DCR is preposterous.

In the FEIR Eversource repeats word for word their responses to multiple DEIR public comments. For example, their response to the protection of the wild lupine species identified along the route is inadequate, repetitive and vague. They state that the

proposed work will avoid the “majority” of the plants and that they will “continue to refine the design to determine whether it will be possible to avoid these plants entirely” (p. 138 and cut and paste repeat reply on p.141). When does the public have an opportunity in the future to review these future design refinements and who oversees these processes including their estimates of the “majority” of plants? The replies by Eversource in this FEIR continue to be vague and repetitive and offer no further details than those posted in the DEIR.

Please keep in mind that the following publicly appointed government officials have opposed this route from the very beginning and continue to do so: US Senator Ed Markey, Rep. Kate Hogan, Senator Elizabeth Warren, Representative Tsongas, Representative Clark, Senator Jamie Eldridge, State Representative Carmine Gentile and the Board of Selectmen in Sudbury and Hudson.

Additionally, numerous environmental groups have also unanimously opposed this route from the beginning: the US Department of the Interior, Fish and Wildlife Service, the Environmental League of Massachusetts, Clean Water Action, Sudbury Valley Trustees, Massachusetts Sierra Club, Mass Audubon Advocacy Department, OARS for the Assabet, Sudbury, and Concord Rivers, Friends of the Assabet River National Wildlife Refuge, Sudbury State Water District and the Hudson, Sudbury ,and Marlboro Conservation Commissions.

This project continues to advocate for the widespread destruction of miles of environmentally sensitive land encompassing wetlands, vernal pools, rare, microhabitats for protected species including the Eastern Box Turtle, Eastern Whip-poor-will, and wild lupine, to name a few, for the sole purpose of benefitting one corporation: Eversource. No amount of mitigation will ever repair the permanent environmental damage this project will produce along this precious ROW.

I thank you for your time and dedication to preserving the mission of MEPA to “ensure clean air, land and water … and to preserve the state's wetlands… resources.” I urge you to continue to advocate for the avoidance of environmental destruction and to oppose this project along this route.

Sincerely,

Christine Nelson

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

Memorandum

To: Page Czepiga, Environmental Analyst, MEPA/EEA

From: Jerome Grafe, Waterways Regulation Program, MassDEP/Boston

Cc: Ben Lynch, WRP Section Chief

Re: **Comments from the Chapter 91 Waterways Regulation Program − EEA #15703 FEIR, Eversource - Sudbury-Hudson Transmission Reliability Project**

Date: September 7, 2018

The Department of Environmental Protection Waterways Regulation Program (WRP) has reviewed the above referenced FEIR (EEA #15703), submitted by Vanasse Hangen, Inc. on behalf of Eversource ("the Proponent") for construction of a new 115-kV transmission line between Sudbury and Hudson on Central Mass Branch ROW owned by the MBTA.

Chapter 91 Jurisdiction:
The project site is located on filled tideland and flowed trustlands of Hop Brook and Fort Meadow Brook and therefore subject to a Chapter 91 jurisdiction.

Water Dependency:
The Department has determined that this project is a water-dependent infrastructure crossing facility pursuant and public service project pursuant to 310 CMR 9.02.

WRP Comments:
The Proponent proposes the maintenance, renovation or replacement of existing railroad bridges, installation of new electric transmission lines, and adaptive reuse of the bridge structures as necessary to accommodate a future shared use path as part of the Massachusetts Central Rail Trail. WRP has determined that proposed bridge work does not have an adverse impact on navigability and has met with the proponent to determine appropriate regulatory action.

If you have any questions regarding the WRP's comments, please feel free to contact Jerome Grafe at (617) 292-5708 or jerome.grafe@state.ma.us

Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection
Northeast Regional Office • 205B Lowell Street, Wilmington MA 01887 • 978-694-3200

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

September 7, 2018

Matthew A. Beaton, Secretary
Executive Office of
Energy & Environmental Affairs
100 Cambridge Street
Boston MA, 02114

Attn: MEPA Unit

RE: Sudbury-Hudson
Transmission Line FEIR

EEA # 15703

Dear Secretary Beaton:

The Massachusetts Department of Environmental Protection's ("MassDEP") Northeast Regional Office (NERO) has reviewed the FEIR for the Sudbury-Hudson Transmission Reliability Project (the "Project") in Sudbury, Marlborough, Stow, and Hudson.As described in the FEIR, NSTAR Electric Company d/b/a Eversource Energy ("Eversource") proposes to construct, operate and maintain an approximately nine (9) mile long, 115 kilovolt underground transmission line extending from the Sudbury Substation on Boston Post Road in Sudbury to Hudson Light and Power Department's substation at Forest Avenue in Hudson. In addition, Eversource is working in collaboration with the Department of Conservation and Recreation ("DCR") to extend the Massachusetts Central Rail Trail ("MCRT") on the same path over the transmission line. The MCRT is a proposed multi-use trail managed by DCR. The Department provides the following comments.

In coordination with DCR, Eversource has designed its project to incorporate the future construction of the MCRT. The 14-foot wide gravel access road proposed in Eversource's transmission line project will serve as the base for the MCRT 10-foot wide paved multi-use trail. Work associated with the MCRT is located within Bordering Vegetated Wetlands (BVW), Riverfront Area, Bordering Land Subject to Flooding (BLSF), Land Under Water and Inland Bank,

and within the 100-foot Buffer Zone of BVW and Bank. A portion of the MCRT path will pass through two Zone IIs in Hudson and one Zone II in Sudbury. In addition, approximately 16 vernal pools are located within the Eversource Right of Way that extends through the project site. As the MCRT path will be paved, it will be required to meet stormwater management standards under 310 CMR 10.05(6)(k) of the Wetlands Protection Act Regulations. Bike paths, footpaths, bikepaths and other paths for pedestrian and/or non-motorized vehicle access are required to meet the stormwater management standards to the maximum extent practicable (MEP).

Wetlands

The FEIR does not include calculations demonstrating compliance with Stormwater Standard 2. Standard 2 requires that the post-development peak discharge rates be equal to or less than the pre-development discharge rate from the 2-year and the 10-year 24-hour storms. This information, along with calculations showing pre vs post construction discharge rates, and an evaluation of the 10-year storm event, should be submitted with the NOIs for the project. MassDEP notes that, based on the detail in the project plans, the "swale" proposed to be utilized to convey stormwater run-off appears to be constructed as a Grass Channel or Drainage Channel. Neither of these BMPs provides peak flow attenuation.

The FEIR also does not include calculations to demonstrate compliance with Stormwater Standard 3. Standard 3 requires that the annual recharge from the post-development site must approximate the annual recharge from the pre-development site. Grass Channels or Drainage Channels cannot be utilized to meet Standard 3.

The FEIR states that sections of the MCRT path will run within two Zone IIs in Hudson, and one in Sudbury. There are also approximately 16 Vernal Pools adjacent to the MCRT path located within BVW. It is unclear how stormwater from the MCRT path in these critical areas will be managed, but this information should be provided in the NOIs.

Wetland resource areas should be delineated under the state regulations for permitting under the Wetlands Protection Act. Delineations under local bylaws should be shown and accounted for separately. MassDEP notes that the boundary of Riverfront Area is not shown on the project plans.

The FEIR indicates that the project will not require a 401 Water Quality Certification because proposed wetland fill is less than 5000 s.f. MassDEP concurs with this, provided that none of the thresholds under 314 CMR 9.04 trigger the need for an application.

MassDEP anticipates that any other issues relevant to the Wetlands Protection Act Regulations will be addressed as part of the permitting process.

The MassDEP appreciates the opportunity to comment on this proposed project. Please contact Rachel.Freed@state.ma.us at (978) 694-3258 for further information on wetland issues. If you have any general questions regarding these comments, please contact me at John.D.Viola@state.ma.us or at (978) 694-3304.

Sincerely,

This final document copy is being provided to you electronically by the Department of Environmental Protection. A signed copy of this document is on file at the DEP office listed on the letterhead.

John D. Viola
Deputy Regional Director

cc: Brona Simon, Massachusetts Historical Commission
Rachel Freed, Eric Worrall, MassDEP-NERO

PC

The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

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MEPA

August 31, 2018

Secretary Matthew A. Beaton
Executive Office of Energy & Environmental Affairs
Attn: Page Czepiga, MEPA Unit
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Sudbury-Hudson Transmission Reliability Project, Sudbury, Marlborough, Stow and Hudson, MA.
MHC # RC.62384. EEA # 15703.

Dear Secretary Beaton:

Staff of the Massachusetts Historical Commission (MHC) have reviewed the Final Environmental Impact Report for the project referenced above.

The MHC will continue to review the project under Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800) and looks forward to consultation with the US Army Corps of Engineers. The MHC will continue to coordinate the MHC's state historic preservation review for the state agency permitting and funding, and for the MEPA review (950 CMR 71.04 (2) & (3)).

A summary of MHC consultation to date is included in Sections 2.3.2.1 and 10. The MHC looks forward to reviewing the draft technical report summarizing the results of the intensive (locational) archaeological survey (950 CMR 70) from Commonwealth Heritage Group. The results of the surveys will be used in consultation to avoid, minimize or mitigate adverse effects to significant historic and archaeological resources.

These comments are offered to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800), M.G.L Chapter 9, Sections 26-27C (950 CMR 70-71) and MEPA (301 CMR 11). If you have any questions or require additional information, please contact Jonathan K. Patton at this office.

Sincerely,

Brona Simon

Brona Simon
State Historic Preservation Officer
Executive Director
State Archaeologist
Massachusetts Historical Commission

xc: Denise Bartone, Eversource
Barbara Newman, USACOE-NED
Kate Atwood, USACOE-NED
Vivian Kimball, VHB, Inc.
Marty Dudek, Commonwealth Heritage Group

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