



The Commonwealth of Massachusetts
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November 21, 2018

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

PROJECT NAME : New Salem Broadband Fiber Installation Project
PROJECT MUNICIPALITY : New Salem
PROJECT WATERSHED : Chicopee
EEA NUMBER : 15927
PROJECT PROPONENT : New Salem Municipal Light Plant
DATE NOTICED IN MONITOR : October 23, 2018

Pursuant to the Massachusetts Environmental Policy Act (M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project **does not require** an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF), the project consists of the installation of broadband infrastructure in the Town of New Salem (Town) with the goal of reaching every property in the Town. Approximately 40 miles of fiber cable will be installed on 1,225 existing utility poles and 57 new poles, including 28 poles on public ways and 29 poles along private ways.

Fifteen new utility poles will be installed in three discrete areas on land owned by the Department of Conservation and Recreation (DCR). Four poles will be installed along a 950-foot (ft) long portion of Michael Lane, five poles along a 1,350-ft section of North Spectacle Pond Road near its intersection with Blackinton Road and six poles along a 1,000-ft long

segment of North Spectacle Pond Road approximately 2,000 ft southeast of Blackinton Road. The utility poles will be within 20 ft of the roadways and will be installed in holes excavated by a truck-mounted auger. Screw anchors will be used to support guy-lines attached to the poles. Any disturbed soils will be regraded and seeded with a soil conservation seed mix.

Project Site

Michael Lane and North Spectacle Pond Road are located in the northeastern corner of New Salem. The area includes low-density residential uses but is largely wooded and undeveloped. Michael Lane is located in DCR's New Salem State Forest and North Spectacle Pond Road runs through land owned by DCR's Division of Water Supply. According to the Town, there do not appear to be formal easements associated with either road. The DCR property is subject to protection under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts (Article 97). Use of the land for purposes other than recreation and watershed protection requires legislative authority.

Michael Lane is located within the watershed of the Quabbin Reservoir, a drinking water supply designated as an Outstanding Resource Water (ORW). It extends east from Blackinton Road and terminates at a group of residences located on the shore of Lake Rohunta. The site of utility pole installation on Michael Lane is within the Buffer Zone of wetlands to the north and south, including a Certified Vernal Pool located approximately 200 ft to the south, and in an area mapped as Priority and Estimated Habitat for State-listed rare species. On November 15, 2018, the Natural Heritage and Endangered Species Program (NHESP) determined that the project will not result in a take of rare species. North Spectacle Pond Road runs east from Blackinton Road before turning south and ending at the north side of North Spectacle Pond.

Portions of the project outside of the three areas described in the ENF may be located within Primary and Secondary Protection Zones designated by DCR pursuant to the Watershed Protection Act (WsPA). According to DCR, the project may be exempt from WsPA permitting requirements as a public utility. The Town should consult with DCR to determine whether a permit is required.

Environmental Impacts and Mitigation

The project will require the use of 1.5 acres of DCR land protected by Article 97. It will remove five trees and require trimming of other trees and woody vegetation. Installation of utility poles will directly impact approximately 30 sf of land.

The Town will provide mitigation to compensate for the use of Article 97 land, including providing land or a monetary payment equal to or greater than full and fair market value of the easement area. The impacts of utility pole installation will be minimized by using an auger to drill the holes for the utility poles and restoring any disturbed land.

Jurisdiction and Permitting

The project is undergoing MEPA review and requires preparation of an ENF pursuant to 301 CMR 11.03(1)(b)(3), because it requires State Agency Actions and consists of conversion of land held for natural resources purposes in accordance with Article 97 to any purpose not in accordance with Article 97. The project requires a Construction and Access Permit, easements and potentially a WsPA permit from DCR.

The project received a negative Determination of Applicability from the New Salem Conservation Commission on October 23, 2018 that was not appealed.

The Town has received funding for the project from the Executive Office of Housing and Economic Development (EOHED) and the project involves a potential transfer of Article 97 land. 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.

Review of the ENF

The ENF described existing site conditions and provided maps of environmental resources and constraints. It described the purpose of the project, analyzed alternatives and identified construction methods and mitigation measures.

Alternatives Analysis

The ENF reviewed three alternatives to the Preferred Alternative. The No Build alternative would not require the use of DCR land, but it would not achieve the project's goal of providing broadband service to all properties in New Salem. Because the project sites are near the New Salem boundary with Athol, the Town considered routing the broadband fiber cables on existing poles in Athol to Michael Lane and North Spectacle Pond Road. This alternative would avoid the use of DCR land, but is not feasible for the following reasons:

- The Town's grant from EOHED requires total coverage of the Town by the New Salem Municipal Light Plant, which would not be the case if an Athol-based utility were to provide service to this part of New Salem;
- It would require installation of more new utility poles along a much longer route, resulting in increased costs and potential impacts; and,
- It would result in greater environmental impacts associated with crossings of Lake Rohunta and North Spectacle Pond.

The Preferred Alternative will minimize the use of DCR land and impacts to wetland resources by using existing utility poles to the maximum extent possible. New utility poles on DCR property will be installed within 20 ft of roadways. Impacts will be minimized by using an auger to drill holes for new utility poles and by providing compensation to DCR for the easements.

Article 97

The ENF included a copy of House Bill No. 4760, which was signed into law by Governor Baker on August 9, 2018 as Chapter 181 of the Acts of 2018 (the Act). The Act authorizes the Division of Capital Asset Management and Maintenance (DCAMM), acting on behalf of DCR, to convey easements on Michael Lane and North Spectacle Pond Road to the Town for the purpose of installing utility poles and overhead wires. The Act requires DCAMM to determine the precise boundaries of the easements and to arrange for an appraisal of the value of the easements. The Town is required to compensate the Commonwealth through a transfer of land to DCR with a full and fair market value equal to or greater than that of the easements, a monetary payment equal to the value of the easements or a combination of both.

As described above, alternative routes to avoid DCR land are not feasible due to costs and environmental impacts. Comments from DCR indicate that it supports the project and will work with the Town to finalize the easements. The Town and DCR should review other components of the project, including the use of existing poles or roadways, to determine whether any additional easements or agreements are required.

Conclusion

The ENF has sufficiently defined the nature and general elements of the project for the purposes of MEPA review and demonstrated that the project's environmental impacts will be avoided, minimized and/or mitigated to the extent practicable. Based on review of the ENF and comments received, and in consultation with State Agencies, I have determined that no further MEPA review is required.

November 21, 2018

Date



Matthew A. Beaton

Comments Received:

10/26/2018	Natural Heritage and Endangered Species Program (NHESP)
11/13/2018	Massachusetts Department of Environmental Protection (MassDEP)/Western Regional Office (WERO)
11/13/2018	Department of Conservation and Recreation (DCR)

MAB/AJS/ajs

Strysky, Alexander (EEA)

From: Glorioso, Lauren (FWE)
Sent: Friday, October 26, 2018 3:05 PM
To: Strysky, Alexander (EEA); maryellenkennedy@gmail.com
Cc: Cheeseman, Melany (FWE)
Subject: EEA 15927, New Salem Broadband, NHESP 18381555

Secretary Matthew Beaton
Executive Office of Environmental Affairs
Attention: MEPA Office
Alex Strysky, EEA No. 15927
100 Cambridge St. Suite 900
Boston, Massachusetts 02114

Project Name New Salem Broadband Fiber Installation
Proponent New Salem Municipal Light/ Town of New Salem
Document Reviewed: Environmental Notification Form
EEA No.: 15927
NHESP No: 18-38155

Dear Secretary Beaton:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the Environmental Notification Form (ENF) for the proposed "*New Salem Broadband Fiber Installation*" and would like to offer the following comments regarding state-listed rare species and their habitats.

The project site, or a portion thereof, is mapped as Priority and Estimated Habitat for State-listed rare species therefore the above reference project will need to file project pursuant to the Massachusetts Endangered Species Act (MESA 321 CMR 10.00). The Division would like to note that we do not anticipate significant concerns for State-listed species.

We appreciate the opportunity to comment on this project. If you have any questions about this letter, please contact our office.

Lauren Glorioso
Endangered Species Review Biologist
Natural Heritage & Endangered Species Program
Division of Fisheries & Wildlife
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Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

November 13, 2018

Matthew A. Beaton., Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Alex Strycky, EEA No. 15927
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: ENF - New Salem Broadband Fiber
Installation Project – New Salem

Dear Secretary Beaton,

The Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO) appreciates the opportunity to comment on the Environmental Notification Form (ENF) submitted for the New Salem Broadband Fiber Installation Project (EEA #15927). The applicable MassDEP regulatory and permitting considerations regarding air pollution, solid waste, wetlands and waste site cleanup, are discussed.

I. Project Description

The New Salem Municipal Light Plant (Proponent) proposes installation of overhead broadband fiber cable in New Salem. The bulk of the project is to hang cable from existing utility poles. The new work includes removal and trimming of existing trees and the installation of 11 new poles. Work will also be conducted on State owned land involving Article 97 and within portions of the Quabbin Watershed. Work is proposed to be conducted within the Buffer Zone of Bordering Vegetated Wetland.

Potential environmental impacts associated with this project include:

- 1.5 acres of total work area.

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands

310 CMR 10.000

Watershed Protection

313 CMR 11.00

Air Pollution

310 CMR 7.00

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Solid Waste
310 CMR 16.00
Bureau of Waste Site Cleanup
310 CMR 40.000

III. Permit Discussion

Bureau of Water Resources

Wetlands & Waterways

Based on the information provided, this project may or may not be subject to the Wetlands Protection Act (WPA) and the associated regulations.

The Proponent intends to file a Request for Determination of Applicability with the New Salem Conservation Commission. If a Positive Determination is issued by the Commission, MassDEP will provide comments on the Notice of Intent, as applicable. MassDEP staff are available to provide guidance to the Proponent and the Commission.

Drinking Water

The Proponent is advised to review if there are any requirements for conducting this work under the Massachusetts Watershed Protection Act.

Bureau of Air and Waste

Air Quality

Construction and Demolition Activities

Any construction activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Waste Prevention Regulations 310 CMR 7.01, 7.09, and 7.10.

Construction Period Air Quality Mitigation Measures

MassDEP recommends that the project Proponent participate in the MassDEP Diesel Retrofit Program. In addition, all non-road engines shall be operated using only ultra low sulfur diesel (ULSD) with a sulfur content of 15 ppm pursuant to 40 CFR 80.510.

Solid Waste

The Proponent is advised to properly manage and dispose of all solid waste generated by this proposed project pursuant to 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban).

The BUD regulations at 310 CMR 19.060 establish levels of assessment for four categories of beneficial use. These regulations would be applicable to reuse of any materials generated by this project that would otherwise be considered solid waste.

Asphalt, brick and concrete (ABC) generated through crushing and reuse on-site must be handled in accordance with regulation and policy. Otherwise, the proponent would need to obtain a site assignment and facility permit for the crushing activity and a

Beneficial Use Determination for the reuse of the crushed material. More information regarding the handling of ABC, and a copy of the 30-day notification form may be found at the following website:

<http://www.mass.gov/eea/docs/dep/recycle/approvals/swnotify.pdf>.

If the Proponent determines that the nature of any soils excavated require management as a hazardous or solid waste, please refer to COMM-97-001 *"Reuse and Disposal of Contaminated Soil at Massachusetts Landfills"*

The project proponent should be advised that construction activity at the site comply with Solid Waste provisions including M.G.L. Chapter 40, Section 54.

Hazardous Waste

If any hazardous waste, including waste oil, is generated at the site, the Proponent must ensure that such generation is properly registered; any hazardous wastes generated must be properly managed in accordance with 310 CMR 30.0000.

Bureau of Waste Site Cleanup

Excavation (auguring) to install the utility poles will generate soils which may or may not be contaminated with a variety of known and unknown hazards.

If soil and/or groundwater contamination is encountered during excavation activities; the MCP details procedures to follow for the parties conducting work. Under the MCP, a Licensed Site Professional is required to oversee assessment of the impacts to the site and work conducted. MassDEP staff are available for guidance.

Spills Prevention

A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential future on-site activity releases. Due to the sensitive nature of the work area, contractors should consider use of non-petroleum based fluids in equipment, as feasible.

IV. Other Comments/Guidance

If you have any questions regarding this comment letter or pre-permitting, please do not hesitate to contact Catherine Skiba at (413) 755-2119.

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.

Michael Gorski
Regional Director

cc: MEPA File



November 13, 2018

Secretary Matthew A. Beaton
Executive Office of Energy and Environmental Affairs
Attn: Alex Strysky
100 Cambridge Street, Suite 900
Boston, Massachusetts 02114

RE: MEPA File No. 15927 – New Salem Broadband Installation Project

Dear Secretary Beaton:

The Department of Conservation and Recreation (“DCR” or “the Department”) is pleased to submit the following comments in response to the Environmental Notification Form (“ENF”) filed on behalf of the New Salem Broadband Installation Project by Haines Hydrologic Consulting for the installation of utility poles to install overhead fiber optic cables. As proposed, the project involves installation of utility poles as well as tree removal and trimming, some of which will occur on DCR property.

DCR is supportive of this initiative to bring broadband service to the region. The pole installation, however, requires the granting of permanent easements on DCR property that, under Article 97 of the Amendments to the Massachusetts Constitution, require legislative authority. Chapter 181 of the Acts of 2018 authorizes the Division of Capital Asset Management and Maintenance (“DCAMM”) to transfer the necessary property rights. DCR will work with DCAMM and the Town of New Salem on preparation of easement-granting documents, which will likely include requirements that any work be protective of the water supply resources. Based on additional information provided by the Proponent, the easement area will consist of a 20 foot wide corridor along Michael Lane and North Spectacle Pond Road. The easements will occupy approximately 19,000 square feet along Michael Lane, and 47,000 square feet along North Spectacle Pond Road to accommodate poles, supporting guy wires, and the fiber optic line. As specified in the legislation, the exact boundaries of the easement area will be determined by DCAMM, in consultation with the Department.

DCR’s Division of Water Supply Protection has done a preliminary review of the proposal as described in the ENF relative to the Watershed Protection Act (“WsPA”) (M.G.L. c. 92A ½ sec. 1 *et. seq.*) and applicable regulations (313 CMR 11.00). Based upon review of the submitted ENF and plans, DCR believes this project may meet the criteria for an exemption as stated in 313 CMR 11.05(11) for “Maintenance of Public Utilities.” DCR suggests the applicant contact Rebecca Faucher at the Quabbin/Ware Region to discuss the filing of either an Advisory Ruling or a Request for Watershed Determination of Applicability.

Thank you for the opportunity to comment on the Environmental Notification Form. Should you have any questions, please do not hesitate to contact Deputy General Counsel Tom LaRosa regarding the legal requirements for a permanent easement, or Dan Clark, Quabbin/Ware Regional Director regarding watershed management issues.

Sincerely,

Leo Roy
Commissioner

COMMONWEALTH OF MASSACHUSETTS · EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

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Leo Roy, Commissioner
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