

July 2, 2020

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Hudson Conservation Commission
78 Main Street
Hudson, MA 01740

Re: Joint NOI No. 190-0647 filed by
Eversource for Sudbury-Hudson Transmission Reliability Project
and MassDCR for Mass Central Rail Trail

Dear Hudson Conservation Commissioners:

During the Wetlands Protection Act hearing of June 17, 2020, on the above Notice of Intent, I had some trouble with the Zoom Webinar audio echoing despite having turned on my computer mike and turned my phone off. In any event, as I advised you that evening, I would submit written questions and comments, this is that promised writing. First, however, I want to take this opportunity to thank all of you and Conservation Agent, Pam Helinek, for your perseverance, patience, and the level of review you have applied to this project. I very much appreciate the talent being applied here. This is particularly true when obtaining facts from the applicants is such a moving target, a situation I find makes a complex project even more complicated.

That said, I hope you will consider the following comments, observations and questions in the spirit in which they are tendered, as an offer of information that will assist you in your deliberations. I have tried to follow your subject areas in my comments. But before that, I have one procedural request regarding the Zoom format (and I know it has been a trial) which is that while participants can see the Commissioners and the Applicants' representatives (at least when they speak) we cannot see everyone who is on the call. I believe that the Zoom format allows for a listing of participants (this would include representatives and participants who are not speaking and would be more akin to an in-person hearing (sign-in sheets etc). As it is now the Zoom format is not quite a public hearing because although you and the applicants can see each other and the participants, the participants are at a distinct disadvantage because they cannot see all of the representatives (those who are not speaking) or any of the other participants. I respectfully submit that this be changed so that the virtual hearings are not defective as public hearings.

As the June 17th hearing followed the format of the Commission's questions/VHB responses thereto, so will these comments reference the topics in order and refer to the questions as numbered under each.

Stormwater

1. The MassDEP technical comments on the Joint NOI are not posted on the Commission's website and might be useful to commenters. I have attached a copy of those comments and ask that they be made public. I do not think they were available to the peer reviewers at the time of their analysis. I mention the technical comments as the VHB response to them and the Commission's question #1, is fairly unresponsive and deflective; perhaps they did not see them?

In particular, the tech comments note stormwater **direct discharges** to Vernal Pool 1, Fort Pond Brook, Stream 1 and/or Stream 3 (a trib to Lake Boon) and ask if these particular design points can be examined for TSS removal. The Commission included this as Stormwater question 2. VHB's response is: "The design minimizes direct discharges to wetland resource areas..." and in question 2 states: "the disruption... is not justified by the nominal TSS removal that might be gained." This does not address the Mass DEP design points.

Instead, VHB refers to the fact that the Assabet River Rail Trail "has long stretches with limited or no stormwater management...that discharge directly into wetlands." The fact that another rail trail doesn't meet stormwater standards either is a non-answer and amounts to a lack of information since it provides no analysis only a conclusory statement. There is also no discussion of recharge. Direct discharges to Vernal Pools should be prohibited; the pools have been a DEP concern throughout the MEPA process and now again in more detail in the tech comments. The applicants are required by DEP to fully comply with the stormwater standards. 3. Provision of a draft SWPP is inadequate especially in light of the foregoing deflections, non-answers and spotty compliance. A Final SWPP or draft final should be required so that its provisions can be incorporated into the Order of Conditions.

Wildlife Habitat Questions

1. Because this question appears to pertain to SVT property and a meeting held June 5th, it would be useful to consult directly with the conservation property owners in order to collaborate on conditioning the work. The VHB response does not answer the question directly regarding replication, referring only to planting within "the limit of work". Apparently, the answer to replication for lost habitat is "No"? One hopes that this can be explored further.

3 / 4. The proximity of the work to within a few feet of the Vernal Pools has been a long-standing concern of commenters starting with the MEPA reviews including MassDEP's comments (which the applicants have placed in the record). The DEP tech comments continue to express concern for "leaving erosion controls in place" during migration periods and ask that erosion control plans allow movement, restrict construction periods and suggests that "erosion control removal and re-establishment may be required,..." As I have commented before, plastic netting has been toxic to reptiles (snakes) as it cuts through scales. It can therefore be no less harmful and is likely much more toxic to amphibians. The so-called "syncopated" erosion control barriers will still be a significant barrier to migration and should not be allowed during the migration period. Construction should also be halted during this sensitive time period. DEP recommends consultation with a wetland/vernal pool specialist for inspections of the pools and notes that no debris should be blown by DCR or others towards them during trail maintenance. These seem to be reasonable conditions at a minimum for work in such close proximity is

certain to have impacts despite the applicants' repeated statements that they are not working in the pools themselves. For those who have observed the passage of turtles and salamanders over the existing rails and ties for years, the statement that they pose a barrier is not factually based. In fact the leaf litter and established forest floor that currently collars and covers the bed and shoulders is a vast improvement over the original railbed and is now, after 50 years of deposition, easily traversed by these species in shade, protected from the sun. It offers clear proof that the installation of the transmission line and rail trail cannot constitute an improvement over existing conditions as the regulations dictate.

The applicants' offer to extend the Vernal Pool TOY to June 1st is welcome. However, the turtle nesting periods should be extended also as numerous species continue to nest into late June all dependent on the vagaries of temperatures whether cool late or early warm. In my observations, the older turtles tend to nest late almost running into early July.

Plantings and Veg Management (invasives, herbicides)

1. The applicants' response that "surface vegetation ...will be substantially restored" is not credible especially in light of their repeated resistance to providing anything other than a "seed mix". They have now added woody seeds to the mix but the success rate, as the Commission pointed out in the hearing, is not provided and is likely to be much lower than plantings. As the Commissioners noted at the hearing actual plantings as well as plugs are sparse at best and should be increased. The objection to plantings on slopes is also easily overcome by the use of best available methods such as straw baffles (terracing) and fiber mats with cuts for plantings. As noted at the hearing, the applicants' resistance to such practical restoration renders their credibility suspect.

In the second paragraph of the response to this question the applicants propose to "include[s] a variety of strategies" dependent upon site conditions. This is logical but no detailed description of the "strategies" is provided for the particular and sensitive settings involved (proximity to the transmission line/rail trail, "perennial water bodies" and endangered habitat). Note the limitation to perennial water bodies. It remains unclear how seeding the "temporarily disturbed areas" will be an improvement over existing conditions when canopy is removed and pavement applied. Pervious material would be advisable especially where the utility access road is to be gravel.

In paragraph 4 of this response the applicants promote the "creation of snags and brush piles". While standing dead wood (if that is what it meant by snags) can provide shelter, brush piles can harbor or permit invasives and invite wildlife into a dangerous human passage way. In the studies of wildlife impacts of rail trails done for the Bruce Freeman Trail, it is clear that rail trails are part of habitat fragmentation, an increasing issue for wildlife and unfortunate in this area with established undisturbed wildlife conservation areas (Assabet River NWR, SVT's Memorial Forest).

2. The applicants' statement that any delay between Phase 1 and 2 "will not have an adverse impact on wildlife because there is substantial comparable wildlife habitat throughout the rest of the Project Locus" ignores the permanent and substantial opening of a corridor traversed by what is likely to be more people, possibly dogs (prohibited at Assabet River NWR) constituting a loss and an interruption to wildlife habitat. Removal of habitat is not mitigated by pointing out

that what remains is substantial; this is an unfortunate and disingenuous theme found throughout the applicants' wildlife evaluation and in its final conclusions.

3. A note on the proposal to chip woody debris on the ROW. This is a bad idea since chippers invariably toss woody debris including seeds (buckthorn, poison ivy, bittersweet, etc.) around the use area. It is therefore advisable to remove debris to be chipped to an off-site staging area.

The promise to use only "certified weed free clean fill/loam" is meaningless unless the source and substance of that certification is identified. Reuse of onsite soils and duff should be required and should not be difficult; there will no doubt be plenty of it that can be stockpiled onsite where can easily be replaced.

4. The applicants' response to this question is another non-answer. The MOU should have been finalized long ago; it was a draft during the MEPA process. There is little excuse for it not being made final save that the parties to it do not wish to make it public. If it is not available and will govern vegetation and ROW management by the applicants any conditions of the Order of Conditions may be rendered meaningless or, worse, be undermined. The Order should govern and the terms of the MOU be integrated into it. Failure to provide the final MOU is another missing piece of key information pointing to another insufficiency in the application. Both the MEPA Certificate and the decision of the Energy Facilities Siting Board anticipated that the MOU would be integrated to the permitting process. If this is not done, it undermines the ability to issue the permits.

Soil & Groundwater Contamination

1. What is meant by "native soil" that the applicants say "will be below the duct bank"? Do they mean railbed soils or soils imported from offsite? If the former, these are not "native" but introduced rail bed fill introduced when the railroad was built. Such soils under the DEP BMPs are presumed contaminated with typical railbed contaminants such as arsenic, petroleum and polyaromatic hydrocarbons (PAHs). While arsenic is known to be relatively inert, there has been no information proffered by the applicants regarding what happens to typical railbed soils when excavated, stock piled and used for backfill (nor have fill locations been identified other than perhaps to Sudbury). This is untenable. At the hearing Eversource stated that its project in Hudson alone would result in 18,800 cubic yards of **excess** railbed soils. Eversource has repeatedly stated that it has no plans for any further testing of these soils. It has not identified where they will be placed or how long they will be stockpiled on the ROW although Ms. Bartone has stated in hearing that this will only be overnight so that characterization can be done and management on or off site determined. If railbed soils will be used for backfill where and how will they be located? Erosion into wetlands may occur and clearly they should not be used off the bed.

It should be noted that the "residential" classification along the ROW passes by several known and suspected 21E sites including Boyd/Precision and the Fort Devens Annex. Simply because an area is wooded does not mean that its soils and groundwater are not contaminated. This point is particularly key where Eversource did not conduct any "due diligence" sampling in either of these known locations contrary to what it told DEP.

Field detection of contaminated soils and groundwater by visual or olfactory clues is not effective where contaminants are not either easily seen as for petroleum spills or off-gassing.

PFAS for example present in parts per trillion will not be detectable by sight or smell; these methods are not appropriate and put the environment, construction workers and residents at risk.

In response to questions from the Commission at the hearing, Mr. Hager, the Eversource construction manager “was not aware”, unable to say whether the “fluidized thermal backfill” would have impacts to wetlands. He said it was ok to use on roadways. This is not a roadway and the response reveals another key piece of missing information.

It is also clear that the splice vaults being 15 feet into the bed will frequently encounter groundwater and that the ROW passes through the Boyd/Precision plume as well as the PFAS contaminated groundwater of the Chestnut Street and Kane wellfield. Yet, there is no information that is correlated so that the Commission can determine where such excavations will be located in these areas or the depth to groundwater. More missing information.

Further, the applicants’ descriptions of how they will “manage” groundwater are vague as to locations where they anticipate needing to “dewater”. The methods and the particular locations must be identified now so that the work can be properly conditioned by the Order. The soil and groundwater management plan needs to be developed now so that the Commission can assess how best to protect the wetlands interests and ensure performance standards are met.

The applicants have said that they did not test for PFAS because they were not aware of the contamination. This position is difficult to credit as the facts are that the contamination has been known since at least 2017/2018 and emergency remedial actions were taken by DEP in mid- 2019 to protect Hudson’s residents from the contamination. The Eversource LSP is charged with knowing about such risks. The fact that Boyd had an RAO some years ago does not cover the newly discovered contamination from PFAS and is irrelevant to the present threat.

While we can appreciate that the applicants wish to obtain “Downgradient Property Status” this does not obviate the need for their project to ensure that it can meet the requisite permit standards.

My thanks for your consideration once again. I very much appreciate the opportunities you have afforded me to comment and your patience with my audio difficulties with the Zoom format. I conclude thus far, based on the answers to the questions posed by the Commission at the June hearing that there is a great deal of key information that is not yet available and many unresolved issues germane to wetlands protection as well as some unusual circumstances arising out of the contamination questions and answers. Unfortunately, the applicants’ deflective and non-responsive answers lead me to conclude that the record contains such insufficiencies that an Order will not serve the statutory interests of the Wetland Protection Act and we haven’t completed the review of the questions the Commission sought to have answered.

Sincerely,

Rebecca Cutting, Sudbury Resident

