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(617) 951-1400

CATHERINE J. KEUTHEN
E-mail: ckeuthen@keeganwerlin.com

June 8, 2022

Joan Foster Evans, Esq.
Energy Facilities Siting Board
One South Station
Boston, MA 02110

Re: NSTAR Electric Company d/b/a Eversource Energy, EFSB 17-02/ D.P.U. 17-82/17-83

Dear Ms. Evans:

On December 18, 2019, the Energy Facilities Siting Board (the “Siting Board”) issued a Final Decision approving, with conditions, the petition of NSTAR Electric Company d/b/a Eversource Energy (the “Company”) to construct, operate and maintain a new, approximately nine-mile-long, 115-kilovolt underground transmission line in Sudbury, Hudson, Stow, and Marlborough and to make the necessary modifications for interconnection at the Sudbury Substation (the “Project”).

Based upon the information provided below, the Company has satisfied the requirements contained in Conditions A, D, E, F, I, L, and R for steps that the Company must take prior to the commencement of construction. With this filing, the Company has met all the pre-construction condition requirements necessary to begin construction of the Project. Duct bank installation within Hudson roadways and Sudbury substation upgrades is expected to begin in June 2022. The Company will commence other construction of the Project once all necessary permits and approvals have been obtained.

Condition A

The Company shall file, prior to construction, the executed MOU between DCR that outlines vegetation management along the MBTA ROW.

Final Decision at 234. Provided as Attachment 1 is a copy of the executed MOU between DCR and Company, dated March 24, 2022. Sections 8.0 and 9.0 address vegetation management along the MBTA ROW, which is discussed further below in response to Condition F.

Condition D

The Company shall file the following documents applicable to a particular community prior to the start of construction in that community: final mitigation plans for wetland replication and compensatory flood storage; completed wildlife habitat assessments;

final avoidance and mitigation plans; and each Order of Conditions from the local conservation commissions.

Final Decision at 234. Provided in Attachment 2 are copies of the Orders of Conditions (“OOC”) issued by the Sudbury, Hudson and Stow Conservation Commissions that set forth the final mitigation plans for wetland replication and compensatory flood storage, completed wildlife habitat assessments, and final avoidance and mitigation plans for wildlife habitat.

Condition E

The Siting Board directs the Company to report on any future consultations with MassDFW and provide any additional mitigation or best practices that will be implemented prior to construction of the Project.

Final Decision at 234.

Since the close of the evidentiary hearings, the Company continued to consult with the Massachusetts Division of Fisheries and Wildlife (“MassDFW”) to finalize the mitigation and best practices that will be implemented for the Project with regard to state-listed species. The Company has developed a Turtle Protection Plan, which was approved by MassDFW on August 2, 2021. This protection plan outlines the specific measures to be implemented to protect state-listed turtle species during the construction phase of the Project (see Attachment 3). In addition, MassDFW has directed the Company to implement time-of-year restrictions for active construction with regard to other state-listed species known to occur along certain segments of the Project. All of these mitigation requirements were communicated to the Sudbury, Hudson and Stow Conservation Commissions during their review processes and the Orders of Conditions received for the Project are consistent with and include the MassDFW requirements outlined herein.

Condition F

The Siting Board directs Eversource to utilize mechanical vegetation management along the MBTA ROW. Further, if Eversource finalizes an MOU with DCR for vegetation management along the MCRT, Eversource shall incorporate the same provision in the MOU. If DCR does not agree to the inclusion of this provision in the MOU, Eversource shall submit a report to the Siting Board describing DCR’s objections for the Board’s consideration.

Final Decision at 235. Eversource agrees to utilize mechanical vegetation management along the MBTA ROW. While DCR did not agree to the exclusive use of mechanical means for vegetative management in the MOU, invasive species removal by DCR will be by mechanical means whenever possible. Per Section 9.0 of the MOU (see Attachment 1), DCR will follow its best management practices for managing invasive plants, which include: (1) prevention, i.e., eliminating new infestations of invasive species using hand pulling or weed wrenches when feasible; (2) management planning, i.e., prioritize populations of invasive species for

management based on significance of the resource, aggressiveness of the species, and potential for long-term control; and (3) mechanical control, i.e., hand pulling young plants and small populations, and repeated cutting or mowing.

DCR has reserved the option to use herbicides as a tool of last resort for plant infestations that cannot be controlled by mechanical means or that represent a significant risk for maintenance staff and users of the MCRT (Mass Central Rail Trail). For example, control of certain species, such as Japanese knotweed (*Polygonum cuspidatum*) can effectively be controlled only by use of herbicides. If DCR finds it necessary to use chemical treatment, this work will be done in compliance with the Massachusetts Department of Agricultural Resources regulations at 333 CMR 11.00. Moreover, DCR will be required to comply with conditions in the Sudbury, Hudson and Stow Orders of Conditions (see Attachment 2), which provide that DCR must notify the Conservation Commissions in advance if herbicides are to be used for vegetation control within wetland jurisdictional areas (see Sudbury OOC, Part VI. d at 27; Hudson OOC, Special Condition 47; and Stow OOC, paragraph 41, at 19).

Condition I

Eversource shall provide a filing with the Siting Board describing nighttime construction noise mitigation measures that will be implemented during Project construction.

Final Decision at 235. The Company plans to construct the Project during daytime hours, except in cases where a community would require work to be performed at nighttime. For example, Hudson has requested that work conducted at the intersection of Wilkins and Main Street be performed at nighttime due to heavy daytime traffic. The Company will implement nighttime construction noise mitigation measures such as using the quietest generators reasonably available and locating noisy equipment as far away as possible from nearby residences, where flexibility exists to do so. The Company will also consider the use of portable noise barriers, when feasible and appropriate, in locations where there are residences, commercial businesses, and other sensitive receptors within 100 feet of the work.

Condition L

The Company shall provide a Project-specific phone number, staffed during all daytime construction hours, for the public to raise concerns with respect to Project construction impacts. Further, the Company shall develop a Project-specific website, which should at a minimum contain contact information for Company public affairs personnel, the Project-specific phone number, all communications regarding local construction impacts, a Project map, traffic management plans, and a construction timeline. The Company shall provide the Siting Board with the phone number and website address when created.

Final Decision at 236. The Project-specific phone number for the Sudbury-Hudson Reliability Project, which is staffed during daytime construction hours, is 800-793-2202. The Project-

specific website, which contains contact information for Company public affairs personnel, the Project-specific phone number, all communications regarding local construction impacts, a Project map, traffic management plans, and a construction timeline is www.eversource.com/content/sudbury-hudson-project.

Condition R

The Siting Board directs the Company to submit to the Board an updated and certified cost estimate for the Project prior to the commencement of construction. Additionally, the Siting Board directs the Company to file semi-annual compliance reports with the Siting Board starting within 180 days of the commencement of construction, that include projected and actual construction costs and explanations for any discrepancies between projected and actual costs and completion dates, and an explanation of the Company's internal capital authorization approval process.

Final Decision at 236-237. Provided as Attachment 4 is the Company's updated and certified cost estimate for the Project. As shown therein, the certified Project cost estimate, with an accuracy level of $\pm 10\%$, is \$105.44 million. Note that this estimate excludes the approximately \$5 million cost estimate for the necessary modifications at the Hudson Substation, which work will be performed by the Hudson Light & Power Department. The primary drivers for the approximately \$14 million estimated cost increase are increased material and labor costs and other increased costs associated with delays from appeals and a lengthier than anticipated permitting process. The attached affidavit of Ayo Osimboni, provided herewith as Attachment 5, certifies this updated project cost estimate.

Please contact me if you have any questions regarding this filing. Thank you for your attention to this matter.

Very truly yours,



Catherine Keuthen

Enclosures

cc: Service List by email


**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

<hr/>)	
NSTAR Electric Company)	
d/b/a Eversource Energy)	EFSB 17-02/ D.P.U. 17-82/17-83
<hr/>)	

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 980 C.M.R. 1.03(4), I have on or before this day served a true copy of the enclosed documents, electronically, upon all parties of record in this proceeding.

Dated at Boston, Massachusetts this 8th day of June, 2022.



Catherine J. Keuthen
Keegan Werlin LLP
99 High Street Suite 2900
Boston, MA 02110
(617) 951-1400

MEMORANDUM OF UNDERSTANDING

AGREEMENT made this 3/24 day of 2022 ("Agreement"), by and between **NSTAR ELECTRIC COMPANY**, d/b/a Eversource Energy a corporation and public utility, having its principal place of business at One NSTAR Way, Westwood, Massachusetts 02090("Eversource"), and the **DEPARTMENT OF CONSERVATION AND RECREATION**, a state agency of the Commonwealth of Massachusetts, with a principal address at 251 Causeway Street, Suite 600, Boston, Massachusetts 02114 ("DCR").

RECITALS:

WHEREAS, on December 24, 1976, the Boston and Maine Corporation ("B&M") conveyed to the Massachusetts Bay Transportation Authority ("MBTA") certain property owned by the B&M (the "Massachusetts Central Rail Line" or the "Property"), by an indenture recorded in the Registry in Book 13117, Page 113. On February 6, 1977, the MBTA adopted an order of taking, recorded on March 17, 1977, in Book 13156, Page 34; and

WHEREAS, The MBTA as the fee owner of the property, entered into a 99 year lease with the DCR on December 30, 2010, for the construction and maintenance of a Rail Trail known as the Massachusetts Central Rail Trail ("MCRT") along the leased portion of the property ("MCRT Leased Premises"), as a recreational and alternative transportation corridor through the Towns of Sudbury, Stow, Marlborough and Hudson; and

WHEREAS, Eversource Energy entered into an Option Agreement (the "Option") on June 9, 2017, for a permanent and perpetual Easement subject to the Massachusetts Energy and Facility Siting Board ("EFSB") approval to construct a 115 KV Transmission Line Facility ("Transmission Project" per specifications attached hereto and incorporated herein as Exhibit B) on the MBTA's Massachusetts Central Rail Line.

WHEREAS, the DCR and Eversource seek to memorialize agreement concerning the construction of the DCR's MCRT Project within its MCRT Leased Premises and Eversource Energy's Transmission Project within the MCRT Leased Premises and the Massachusetts Central Rail Line right of way.

NOW, THEREFORE, in consideration of mutual covenants herein contained, the parties agree as follows:

1.0 Upon (a) EFSB project approval, (b) a final certificate under the Massachusetts Environmental Policy Act and (c) receipt of an executed easement from the MBTA and (c) a fully-executed original of this Agreement, Eversource agrees to design and construct in conjunction with the construction of its Transmission Project, a gravel H20-rated road base, within a portion of the MCRT leased premises as approved by DCR and the MBTA. The road base will extend along the MCRT Leased Premises off of Boston Post Road, in Sudbury near

Eversource's substation through the towns of Sudbury, Stow, Marlborough and Hudson. (see specifications attached hereto and incorporated herein as Exhibit A).

2.0 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 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.

3.0 Eversource agrees to allow herbaceous vegetation to be added as shoulders to the gravel base, and a binder and top coat or other surface to be installed on top of Eversource's H20 loading gravel roadbed/ trail sub-base at the expense of the DCR and/or its municipal partners for uses authorized under and in accordance with the lease between DCR and the MBTA.

4.0 DCR and /or its municipal partners agree to design, permit and construct an ADA-accessible rail trail surface, up to 10-feet wide, constructed to withstand H20 loading on top of the roadbed / trail sub-base that Eversource will have constructed. DCR's obligations under this agreement shall be subject to availability of funds and appropriation as made by the Legislature. DCR will not authorize public access to the MCRT Leased Premises until such time that the rail trail surface, as described in this paragraph, is constructed pursuant to the lease between the MBTA and the DCR.

5.0 Eversource shall design, permit, and construct rehabilitate two (2) bridges (Bridge 128, Sudbury and Bridge 130, Hudson) and one (1) bridge replacement (Bridge 127, Sudbury) within the MCRT leased premises. Eversource agrees these improvements can be used and improved upon by the DCR for the uses authorized under and in accordance with the lease between DCR and the MBTA. Eversource agrees to make improvements on those bridges which includes the construction of an ADA-compliant wood decked surface and safety railing that provides a 12-foot clear width and also includes the work necessary to ensure H10 loading for those bridges. In addition, Eversource shall design, permit, and construct a box culvert under Chestnut Street in Hudson that provides a 12-foot clear width and a 10-foot vertical clear height.

6.0 Once constructed, pursuant to the MCRT 99-year Alternative Transportation Corridor Lease Agreement between the MBTA and the DCR, the gravel base, the bridges, the box culvert, the bridge decking and railings and all trail related fixtures and appurtenances will be under the care and control of the DCR. Once constructed, Eversource will not be responsible for maintenance or capital repairs of the MCRT trail including the gravel base, bridges, box culvert, surface, shoulders, road crossings, landscaping, snow plowing for public access, safety signage, guardrails, bridge decking, railings and road crossing equipment, or any other trail way related equipment, appurtenances, plantings or utilities. Eversource shall remain responsible for the maintenance and repair of its electric transmission facilities and related electric transmission appurtenances. The DCR agrees to abide by applicable state and federal permitting conditions and landscaping requirements as set forth by the state or local authorities as outlined in the conditions issued for permitting the MCRT gravel base. Any vegetation removal would be conducted in accordance with DCR's Trail Guidelines and Best Practices Manual where

applicable, and all applicable laws. The DCR further agrees that any DCR improvements constructed will not obstruct, impede or unreasonably interfere with Eversource's access to its Transmission Facilities or the right of way corridor. DCR and Eversource agree that DCR shall have no duty, obligation or liability to Eversource to operate, maintain or make capital repairs to the MCRT, including without limitation or personal injury or property damage arising from Eversource's use of the improvements.

7.0 The DCR plans to install recreational trail improvements in accordance with the lease between DCR and the MBTA. The DCR agrees all proposed improvements, including landscaping within Eversource's easement must be reviewed by Eversource in advance to make sure they are compatible with Eversource's facilities and comply with Eversource's standards for improvements allowed within high-voltage electric transmission corridors.

8.0 Ground Maintenance: DCR agrees to maintain the improved portion of the MCRT leased corridor in accordance with the DCR's lease between the DCR and the MBTA and the DCR's trail way BMP's. The DCR further agrees to incorporate annual mowing over Eversource's manhole and duct bank.

9.0 Invasive Management: Should DCR find it necessary to control invasive plants along the corridor in order to protect the health and safety of the public, the infrastructure of the trail, and / or the habitat values, DCR will follow its BMPs for managing invasive plants as resources and priorities allow. The BMPs include the following guidelines:

- Prevention: Monitor properties annually for potential introductions, especially near boundaries and disturbed areas (e.g., roadsides, trailheads). Eliminate new infestations using hand pulling or weed wrenches when feasible.
- Management Planning: Identify population sizes and locations. Prioritize populations for management based on significance of the resource, aggressiveness of the species, and potential for long-term control.
- Mechanical Control: Hand pulling recommended for young plants and small populations. Cutting or mowing, repeatedly through the season before plants flower, can be good for large monocultures or when root systems are extensive.
- The DCR reserves the option to use herbicides as a tool of last resort for plant infestations that cannot be controlled by mechanical means or represents a risk for maintenance staff. Control of certain species, such as Japanese knotweed (*Polygonum cuspidatum*) can only effectively be controlled by use of herbicides. If DCR finds it necessary to use chemical treatment, this work will be done in compliance with the Massachusetts Department of Agricultural Resources regulations at 333 CMR 11.00.

10.00 Emergencies excepted, Eversource agrees to provide notice to the DCR and affected municipalities five (5) days prior to any scheduled maintenance of the transmission facilities in accordance with the notice provisions outlined in Section 16 of this Agreement. In the case of emergency, Eversource agrees to provide such notification as soon as practicable. The parties understand that the corridor will be occupied by subsurface utility infrastructure, and is being proposed to be used as a public trail way; as such, the parties agree that Eversource is required to maintain 24/7 unobstructed access, and that to ensure public safety, Eversource may from time to time require that portions of the trail way be blocked from public use for a temporary period

which will be dictated by the work that is required to be done, which Eversource shall diligently pursue to minimize any disruption to the MCRT. The expected timeframe for scheduled work will be communicated to the DCR in advance of such work commencing. Eversource and the DCR agree to work together to provide information to the public on any anticipated trail closures via sign postings, municipal notifications and via their respective web sites.

11.0 Emergencies excepted, Eversource agrees to use diligent efforts to minimize disruption to trail users, and, where possible, Eversource agrees to minimize potential damage to the trail surface and shoulders during construction, maintenance and access activities, and agrees to diligently pursue and repair any damage to the MCRT caused by its construction, access, maintenance, and repair of its transmission project, normal wear and tear excepted, provided DCR's pavement or other trail surface was constructed originally to comply with H20 loading. The DCR understands the use that Eversource contemplates under this Agreement and the DCR agrees to construct the paving, or other surface shoulders and aprons to withstand H20 loading to ensure it can accommodate the weight of Eversource's equipment.

12.0 Eversource does not represent or warrant the reasonableness or appropriateness of the public's use of the property, or assume the liability for personal injury or property damage, except for claims arising from or in connection with the negligence or willful misconduct of Eversource, its officers, directors, employees, contractors and consultants.

13. DCR understands and agrees that only grass, gravel or herbaceous vegetation can be placed or planted on top of Eversource's conduit and spaced manholes. No trees or woody shrubs or plantings can be planted within the estimated 22-foot wide footprint cleared for the MCRT and Eversource's Transmission Facilities. No buildings or structures can be placed on top of Eversource's Transmission Facilities. DCR agrees that prior to undertaking any new construction within the Eversource easement area, excluding maintenance and repair of existing facilities, DCR agrees to provide Eversource with project plans that can be reviewed and approved by Eversource, said approval to be not unreasonably withheld, prior to the DCR advancing its work. Eversource agrees that prior to undertaking any new construction within the Eversource easement area, excluding maintenance and repair of existing facilities, Eversource shall provide DCR with project plans that can be reviewed and approved by DCR, said approval to be not unreasonably withheld, prior to Eversource advancing its work.

14.0 The DCR and its employees, agents and contractors shall comply at all times and under all circumstances with all Massachusetts General Laws (M.G.L. c. 166, s. 21A et seq.), OSHA, dig safe and any other applicable requirements regarding work or activity in the proximity of energized electric lines.

15.0 Except to the extent specifically provided herein, Eversource does not relinquish, diminish, waive, abandon or lessen its right to construct, install, upgrade, reconstruct, relocate and maintain existing or new electric transmission or distribution line or lines within the Property, at any time and from time to time, nor in any other manner modify or relinquish any of its rights acquired under its Easement. The DCR agrees not to interfere unreasonably with Eversource's right and easement to be granted and further agrees not to interfere unreasonably with Eversource's efforts to patrol and inspect to ensure DCR's compliance with the terms and

conditions herein agreed. Eversource agrees not to interfere unreasonably with DCR's rights and interest in the MCRT Leased Premises under DCR's lease with the MBTA, and nothing herein shall be considered a waiver or modification of any rights of DCR under the lease.

16.0 This Agreement shall be binding on the parties and their respective successors and assigns, and successors in title. This Agreement can be modified only by an instrument in writing signed by both parties. Each party may terminate the Agreement upon written notice for breach of the agreement not cured within 180 days. Each party may terminate the agreement without cause upon 180 days written notice. In the unlikely event of termination, the parties acknowledge that following termination: (1) Eversource will have no right or obligation to maintain, repair or operate the gravel base constructed under this Agreement or the planned DCR trail-related improvements; (2) such termination will not affect, and the parties will retain their respective separate property rights on the Property, and acknowledge the need to work cooperatively from time to time; and (3) the parties will need to respect public safety standards applicable to both the DCR and Eversource property interests and infrastructure on the Property, including without limitation those pertaining to work or activity in the proximity of energized electric lines.

17.0 DCR shall not endanger, damage or unreasonably interfere with any Eversource facilities located on or within the Easement, including without limitation, any buried ground wires or equipment. In the event of any damage to any of the facilities, DCR shall immediately notify Eversource by telephoning system control 844-855-1010 and subsequent notice to Manager Field Transmission whose telephone number is 781-441-3541, and the Supervisor of T&D Rights and Survey, whose telephone number is 781-441-8277, so that repairs can be made without delay. Any claims for damage asserted against DCR, including for personal injury or property damage, are governed by Chapter 258 of the General Laws. Eversource shall not endanger, damage or unreasonably interfere with any DCR facilities located on or within the MCRT leased Premises.

18.0 Notices under this Agreement shall be in writing and sufficient if sent by (a) U.S. Postal Service, first class mail, postage prepaid or by (b) by hand delivery or overnight courier delivery, in either case with written confirmation of delivery, to the following addresses:

If to Eversource Energy:

Eversource Energy
One NSTAR Way, SE 210
Westwood, Massachusetts 02090
Attn: Supervisor T&D Rights and Survey

If to Department of Conservation and Recreation:

Department of Conservation and Recreation
Attn: Director, Greenways and Trails Program
136 Damon Road,
Northampton, MA 01060

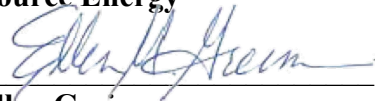
And

Department of Conservation and Recreation
Attn: General Counsel
251 Causeway Street, Suite 600
Boston, MA 02130

Such notices shall be deemed delivered when received or when delivery is refused.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as an instrument under seal by their respective duly authorized representatives as of the date and year first above written.

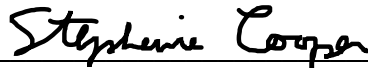
**NSTAR ELECTRIC COMPANY, d/b/a
Eversource Energy**



By: Ellen Greim

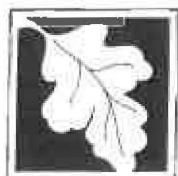
Title: VP Supply Chain and Property Management

Department of Conservation and Recreation



By: Stephanie C. Cooper

Title: Acting Commissioner



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

299-677

MassDEP File #

eDEP Transaction #

Stow

City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

1. From: Stow
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions
3. To: Applicant:

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor – do
not use the
return key.



a. First Name Eversource / MA DCR b. Last Name _____

c. Organization NSTAR Electric Company d/b/a Eversource Energy, 247 Station Drive /
Massachusetts Department of Conservation and Recreation, 251 Causeway St, 9th Floor

d. Mailing Address Westwood / Boston e. City/Town MA / MA f. State 02090/02114 g. Zip Code

4. Property Owner (if different from applicant):

a. First Name Massachusetts Bay Transportation Authority b. Last Name _____

c. Organization 10 Park Plaza

d. Mailing Address Boston e. City/Town MA f. State 02116 g. Zip Code

5. Project Location:

MBTA ROW/Central Mass Line Railroad a. Street Address Stow b. City/Town

U7 c. Assessors Map/Plat Number 3 d. Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

299-677

MassDEP File #

eDEP Transaction #

Stow

City/Town

Latitude and Longitude, if known:

d m s
d. Latitude

d m s
e. Longitude

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Middlesex South : N/A ROW

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates:

2-3-2020

6-2-2020

7-10-2020

a. Date Notice of Intent Filed

b. Date Public Hearing Closed

c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Eversource Sudbury-Hudson Transmission Reliability Project Stow Notice of Intent Plans

a. Plan Title

Vanasse Hangen Brustlin, Inc.

Mark Edward Shamon

b. Prepared By

c. Signed and Stamped by

March 4, 2020

Varies

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

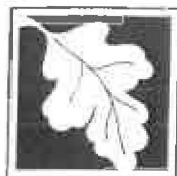
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

299-677

MassDEP File #

eDEP Transaction #

Stow

City/Town

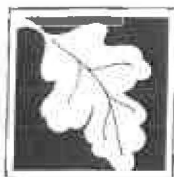
B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) >35
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	5,111	5,111		
	a. total sq. feet	b. total sq. feet		
	0	0		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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Sq ft between 100-
200 ft

3.240
temp/1,751

3.240
temp/1,751

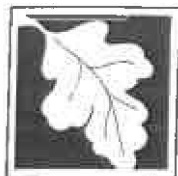
1,489
i. square feet

1,489
j. square feet

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 7/10/2023 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



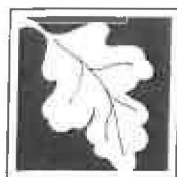
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 299-677 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation



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Commission.

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1) ☒ is not (2) ☐ subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

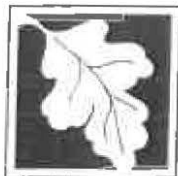
j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

see attached



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Stow hereby finds (check one that applies):

Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Stow Wetlands Bylaw

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions *modify or differ from the plans, specifications, or other proposals* submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

see attached

ORDER OF CONDITIONS #299-677
Massachusetts Wetlands Protection Act and Town of Stow Wetland Bylaw
Off Marlboro Road, Stow, MA
Assessors Map U7, Parcel 3

List of Submittals for the Record

From the Applicant:

- Notice of Intent with Stormwater Management Report
- Mass Central Rail Trail Plans, last revised 3/4/20, 9 sheets
- Transmission Line Plans along MTBA Right of Way, last revised 3/4/20, 19 sheets
- Cover Letter and Supplemental Riverfront Area Narrative Submitted for Eversource by VHB dated 3/4/20
- Memo from VHB re: Sudbury-Hudson Soil and Groundwater Analytical Results, dated 3/18/20
- Email from VHB re Soil and Groundwater Sampling Results dated 3/23/20
- Response to Questions about Soil and Groundwater Sampling Results, dated 3/30/20

From Members of the Public, Organizations and Officials

- Email from Laurel Cohen dated 2/28/20 re project concerns
- Email from Laurel and Steve Cohen dated 4/7/20 re project concerns
- Email from Margaret Costello with attached public hearing statement dated 3/6/20
- Email from Rebecca Cutting (Sudbury) dated 3/5/20
- Email from David Gray regarding project hearing dated 3/4/20
- Email with letter from Bhaird Campbell dated 4/6/20 re procedural questions
- Copy of Letter from Sen. James Eldridge, Rep. Kate Hogan, Rep Carmine Gentile to Jim Montgomery, Commission of Department of Conservation and Recreation re project concerns, dated 5/14/20 and email transmitting letter
- Email/Letter from Bhaird Campbell dated 4/6/20 re procedural concerns.
- Letter from Sudbury Valley Trustees dated 4/2/20 re project concerns
- Letter from Protect Sudbury Inc. dated 4/2/20 re project concerns with seven attachments
- Email from Gleasondale Steering Committee dated 5/28/20 re project concerns
- Statement from Margaret Costello for the record, dated 6/2/20
- Email and List of Questions from Rebecca Cutting of Sudbury dated 6/2/20

From Regional Conservation Commissions

- Peer Review for the Town of Hudson Conservation Commission by WDA Design Group, dated 3/11/20
- Letter from VHB responding to Hudson Peer Review on behalf of Applicants, dated 3/13/20
- Follow up Peer Review Letter from the Town of Hudson Conservation Commission by WDA Design Group, dated 4/9/20
- Peer Review for the Town of Sudbury Conservation Commission by BETA, dated 5/11/20

- "Conservation Commission and Public Comments on the Eversource/DCR Notice of Intent Application", undated, from the Sudbury Conservation Commission

Other Materials

- DEP Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails, undated.
- Energy Facilities Siting Board Decision, dated 12/18/19
- Letter from Mass DEP to MEPA Commenting on Draft EIR, dated 12/8/17

Conservation Commission Findings:

1. The applicants have filed a Notice of Intent for work proposed within an area subject to regulation under the Massachusetts Wetlands Protection Act and the Town of Stow Wetlands Protection Bylaw and Regulations.
2. NSTAR Electric Company d/b/a Eversource Energy ("Eversource") and the Mass Department of Conservation and Recreation ("DCR") are applying jointly for Eversource to install a 115 kV underground electric transmission line and for DCR to complete construction of a 10 foot wide multi-use path along a portion of the Massachusetts Bay Transportation Authority right-of-way, an inactive railroad right of way. The stated goal of the transmission line is to improve reliability of electric service in the region and the goal of the multi-use path is to advance a regional multi-use trail project. The construction would extend from Sudbury, through Stow and Marlboro and into Hudson. The portion of the project in Stow is approximately 350 feet long and entirely within the railroad right of way between Wilkins Street and Chestnut Street.
3. The project will be built in two phases: Phase 1 will be completed by Eversource and will entail vegetation clearing, installation of erosion controls, removal of existing railroad track and ties, site preparation, installation of the underground transmission line, grading, stormwater controls, installation of a final gravel base and site stabilization. Eversource will be responsible for the property until Phase 2 commences. Phase 2 will be completed by the MA Department of Conservation and Recreation and would entail paving of the multi-use recreational path, grading, final seeding, signage and access controls. The timing of commencement of both phases is unclear at this time, given pending appeals and funding issues.
4. The Eversource portion of the project has received approval from the Energy Facilities Siting Board in a decision dated 12/18/19.
5. Riverfront Area Impacts: Portions of the proposed work are within the Riverfront Area to an unnamed perennial stream which flows into the Assabet River, the 100' buffer zone to Bordering Vegetated Wetlands (BVW), and within the 100' buffer zone to Bordering Land Subject to Flooding under the Town of Stow Wetlands Protection Bylaw. The total Riverfront Area alteration is 5,111 square feet, all of which is in the Outer Riparian Zone. Of this, 1,751 sq. ft. is permanent disturbance and 3,360 sq. ft. is temporary disturbance. There is a total of 13,925 square feet of Riverfront Area on the property. This means that the amount of total alteration (and permanent alteration) is greater than the 10% performance standard in the Wetlands Protection Act.

6. **Buffer Zone Impacts:** The amount of disturbance to the 100' buffer to BVW is a total of 3,602 sq. ft. of which 1,357 sq. ft. is permanent disturbance and 2,245 sq. ft. is temporary disturbance.
7. **BLSF Buffer Zone Impacts (Bylaw):** The amount of disturbance to the 100' buffer to BLSF is a total of 9,246 sq. ft., of which 3,399 sq.ft. is permanent disturbance and 5,847 sq. ft. is temporary disturbance. The Town of Stow Wetlands Bylaw and Regulations contain no performance standards for this resource area. No work will occur within Bordering Land Subject to Flooding.
8. Both the underground transmission line and the rail trail qualify as limited projects under the Wetlands Protection Act Regulations. Reference is made to Sections 310 CMR 10.53(3)(d) [Construction of underground and overhead public utilities] and 10.53 (6) [bikepaths to or along Riverfront Areas]. The Commission has the authority to waive strict compliance with the performance standards and require compliance to the maximum extent feasible for such limited projects.
9. The Commission finds that the two phases of the project as proposed are limited projects and that the applicant has complied with the Riverfront Area performance standards to the maximum extent feasible.
10. The applicant has also argued that portions of the Riverfront Area are previously developed pursuant to the meaning of that term in 310 CMR 10.58(5) of the Wetlands Protection Act regulations. The Commission makes no finding as to whether the Riverfront Area on the project site is "previously developed" within the meaning of the regulations, as no such finding is needed to allow the project to proceed in Stow given the previous finding relative to limited projects.
11. There is no Estimated Habitat of Rare Species within the project locus in Stow and no certified or potential vernal pools.
12. No work will occur within the 35' undisturbed buffer area required by the Town of Stow Wetlands Protection Bylaw and Regulations.
13. Concern was expressed at the public hearing by members of the public that contaminated soils may be disturbed during project construction. No documentation was provided as to actual contamination at the project locus and none are listed on DEP's online inventory of waste sites in Massachusetts. Eversource performed limited soil testing, however none of this testing was completed in Stow. The applicant is required to comply with DEP's Massachusetts Contingency Plan requirements, where applicable, as well as DEP Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails (undated).
14. Information submitted by the applicant indicates that groundwater flow in the area is roughly from north to south. No evidence was provided at the public hearings to the contrary.

15. Concern has been expressed by some members of the public about the use of herbicides for vegetation management along the right of way. In Phase 1, and until the initiation of Phase 2, no herbicides will be used, and all vegetation removal will be strictly mechanical. The Department of Conservation and Recreation will be responsible for long-term vegetation management along the rail trail right of way following the Completion of Phase 2. They have indicated that most vegetation management along the right of way will be done mechanically, but are seeking to use herbicides selectively, as a tool of last resort to address difficult to manage species such as bittersweet in tree canopies, poison ivy and Japanese knotweed. All herbicide application would be by a licensed pesticide applicator using commonly available general (not restricted) use pesticides and in accordance with a Vegetation Management Plan.
16. The Commission held a duly noticed public hearing on March 4, 2020 at which testimony was taken on the project. The hearing was subsequently continued without further testimony to April 7, 2020, April 21, 2020, and May 19, 2020. On May 19, 2020, the hearing was continued to June 2, 2020 at which time a second public hearing was held. The hearing was held by remote participation pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, Chapter 53 of the Acts of 2020, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place. The hearing was closed on June 2, 2020. Interested parties were given ample opportunities for written and verbal comments on the project.
17. The Commission has voted to issue an Order of Conditions with the above findings and the following special conditions, together with DEP's general conditions, all of which are necessary to enable the project to be in compliance with the Wetlands Protection Act and regulations and the Town of Stow Wetlands Bylaw and regulations.

Special Conditions for Phases 1 and 2

Pre-Construction Conditions – Phases 1 and 2

21. The form provided at the end of this Order shall be completed and stamped at the Middlesex Registry of Deeds. This form shall be returned to the Commission in accordance with General Condition #8, and prior to the commencement of Phase 1.
22. All work shall be performed in accordance with the final plans as described in the Notice of Intent or as specified in this Order of Conditions. No filling or excavating of land beyond the limits or above the grades on the submitted plans is authorized. Any deviation from the approved plans shall require prior approval from the Stow Conservation Commission. This may require resubmission or modification of the Notice of Intent.
23. At least 45 days prior to the anticipated start of Phase 1 construction, the following final documents shall be provided for review and approval of the Stow Conservation Commission or their designee:

a) Two copies of the final dated and stamped construction plans (all pages shall be stamped) for the Stow portion of the Eversource transmission line with the following revisions made to the plans:

i) The location of any construction stockpiles shall be shown on the plans along with a detail for protecting stockpiles from erosion by water and wind at the end of each workday. All stockpiles shall be within the limit of work.

ii) A note shall be added to the dewatering detail indicating that the Conservation Commission shall be notified in advance of any planned dewatering and must approve this work in the field prior to commencing dewatering.

iii) Erosion control barriers shall either be shown as continuous, with straw wattle used to demarcate the limit of work in all areas where the plans do not show erosion controls, or plastic construction fencing shall be used to mark the limit of work in these areas. The plans shall show a continuous physical barrier along the right of way which shall serve as a limit of work.

iv) A note shall be added indicating that the Conservation Commission shall be notified in the event that dust controls beyond water spraying is required on the project site.

b) Two copies of the final stamped plans (all pages shall be stamped) of the DCR Rail Trail construction plans. If these plans are subsequently modified, updated plans shall be provided at least 45 days prior to the start of Phase 2 for the Commission's review and approval.

i) The location of any construction stockpiles shall be shown on the plans along with a spec for stockpile management.

ii) Erosion control barriers shall either be continuous, with straw wattle used to demarcate the limit of work in all areas where the plans do not show erosion controls or plastic construction fencing shall be used to mark the limit of work in these areas.

c) A copy of the final Stormwater O&M Plan.

d) A copy of the final Soil and Groundwater Management Plan.

e) A copy of the MOU between Eversource and DCR on Corridor Maintenance and Management.

The review of these plans and documents shall be limited to a determination of consistency with prior submittals and the conditions of this decision.

24. At least one week prior to the anticipated start of Phase 1 construction by Eversource, the Stow Conservation Commission shall be notified and given the opportunity to inspect the erosion controls and participate in a pre-construction site meeting. The following shall be provided at or prior to the pre-construction meeting:

a) The applicant shall advise the Commission of the name(s) and contact numbers(s) of the person(s) responsible on site for compliance with this Order, including the on-site Environmental Monitor.

b) A copy of this Order including final plans shall be on the site upon commencement and during any site work for contractors to view and adhere to.

- c) The Certificate of Understanding for this project must be signed by Eversource and the on-site supervisor responsible for the project(s).
 - d) A project schedule must be provided to the Commission.
 - e) If wetland flagging is no longer obvious in the field, these flags shall be replaced prior to the pre-construction site meeting.
 - f) The DEP file number sign shall be posted as required by the general conditions.
25. **At least one week prior to the anticipated start of Phase 2 construction by the Department of Conservation and Recreation (DCR), the Stow Conservation Commission shall be notified and given the opportunity to inspect the erosion controls and participate in a Phase 2 pre-construction site meeting. The following shall be provided at or prior to the pre-construction meeting:**
- a) The applicant shall advise the Commission of the name(s) and contact numbers(s) of the person(s) responsible on site for compliance with this Order, including the on-site Environmental Monitor.
 - b) A copy of this Order including final plans shall be on the site upon commencement and during any site work for contractors to view and adhere to.
 - c) The Certificate of Understanding for this project must be signed by DCR and the on-site supervisor responsible for the project(s).
 - d) A project schedule must be provided to the Commission.
 - e) If wetland flagging is no longer obvious in the field, these flags shall be replaced prior to the pre-construction site meeting.
 - f) The DEP file number sign shall be posted as required by the general conditions.

During Construction Conditions – Phases 1 and 2

26. The Stow Conservation Commission shall be notified of the time and location of regular project meetings relative to construction within the Town of Stow and provided with copies of meeting notes as applicable.
27. Sediment and erosion control devices shall be installed in accordance with the final plan by Eversource prior to the beginning of Phase 1 construction, and shall be maintained for the duration of construction on the site. **If there is a gap between Phase 1 and Phase 2, Eversource shall be responsible for monitoring and maintaining erosion controls and site stabilization until Phase 2 commences or until a Partial Certificate of Compliance is issued for Phase 1 in accordance with the condition below. A second erosion control barrier inspection shall be required prior to the commencement of Phase 2, and the Commission may require that erosion controls be replaced or repaired by the Department of Conservation and Recreation at this time in order to maintain their full functionality.**
28. The erosion controls shall serve as a limit of work and no activity, including stockpiling or storage of material, is permitted beyond the sediment controls. The sediment and erosion control specifications in this Order and on the final plans will be the minimum standards for this project; the Commission may require additional measures. These will be maintained in good repair until the disturbed area is re-vegetated and stabilized to the

satisfaction of the Stow Conservation Commission at which time they must be removed. **The Stow Conservation Commission shall be contacted and approval obtained prior to removal of sediment and erosion controls.**

29. The areas of construction shall remain in a stable condition at the close of each construction day. All trenches shall be backfilled or secured at the completion of each work day. Sediment and erosion controls shall be inspected daily and repaired or reinforced or replaced as necessary, with any accumulated sediments removed as needed. A stockpile of additional sediment and erosion controls shall be maintained on the site for this purpose.
30. The Commission shall be notified if dewatering is deemed necessary during construction activities and given an opportunity to review the proposed location and method of dewatering prior to the commencement of dewatering activities. No direct discharge to a waterbody is permitted. No overland discharge of water is allowed within 100 feet of vegetated wetlands.
31. Concrete wash-out water shall not be discarded within the 100' buffer or within 100' of any drainage system that may discharge to wetlands or outside of the limit of work. All washout materials will be managed with an appropriate BMP. If concrete is spilled during construction, spilled materials shall be removed from the buffer zone and disposed of properly.
32. SWPPP Inspection reports shall be provided to the Commission electronically within 48 hours of completion. The Commission shall be kept apprised of any corrective actions needed and taken.
33. If on-site excavation or other site work during Phase 1 or Phase 2 reveals any soil contamination in reportable concentrations or quantities, the Stow Conservation Commission shall received notification concurrent with Mass DEP and shall be copied on all correspondence relating to site investigation and remedial actions. Remedial activities may require filing of an additional Notice of Intent in accordance with the Wetlands Protection Act and Stow Wetlands Bylaw.
34. If disturbed areas are not permanently stabilized by the end of the growing season, the owner must monitor the area and install or repair sediment and erosion controls to protect the resource area until the site is stabilized.
35. There shall be no outside storage of chemicals, oil, fuel, fertilizer, or other potentially hazardous materials within the limit of work. No refueling shall occur within the 100' buffer. A spill containment kit shall be kept on site at all times.
36. All waste and excavated material including railroad ties and tracks shall be disposed of in accordance with applicable laws. Any fill or borrow material brought onto the project site in Stow from outside of Stow shall be 1) re-located from qualified immediately adjacent residential areas per DEP's *Best Management Practices for Controlling Exposure to soil during the Development of Rail Trails*; 2) certified as clean fill by the supplier; or 3) subject to analytical testing.

37. All imported soils shall be clean and reasonably free of invasive species. No soil contaminated with Japanese knotweed and/or knotweed rhizomes may be reused in Stow. The Environmental Monitor shall identify and document any areas contaminated with Japanese knotweed within 500' of the eastern and western Town of Stow line prior to commencing construction.

Closing the Project

38. Eversource shall notify the Commission upon the completion of the work in Phase 1. Eversource shall be required to maintain erosion controls and site stabilization until a Phase 1 Partial Certificate of Compliance is received by Eversource or the Conservation Commission receives formal notification via DCR that they are commencing Phase 2 and a Certificate of Understanding is received from DCR per Condition #25.

39. **Certificates of Compliance:**

Phase 1:

If Eversource desires a Partial Certificate of Compliance, it may submit the following to the Stow Conservation Commission:

- a. A letter from the applicant requesting a Partial Certificate of Compliance.
- b. A written statement from a registered professional engineer of the Commonwealth and as-built plan signed and stamped by a registered professional engineer or land surveyor certifying that the project has been constructed as shown on the plan(s) and documents referenced above, and as conditioned by the Commission.
- c. A letter from the Department of Conservation and Recreation assuming responsibility for the management of the site beginning on the date of issuance of the Partial Certificate of Compliance.

Phase 2:

At time that the Department of Conservation and Recreation desires to receive a final Certificate of Compliance, the following must be submitted:

- a. A letter from the applicant requesting a Final Certificate of Compliance.
- b. A written statement from a registered professional engineer of the Commonwealth and as-built plan signed and stamped by a registered professional engineer or land surveyor certifying that the project has been constructed as shown on the plan(s) and documents referenced above, and as conditioned by the Commission.
- c. A plan for the long-term maintenance and vegetation management of the project site consistent with the Perpetual Conditions in this Order of Conditions.

Alternatively, if Phase 2 is abandoned, and the site is fully stabilized, Eversource may submit a request for a Final Certificate of Compliance at the conclusion of Phase 1 with the following:

- a. A letter from the Department of Conservation and Recreation indicating that Phase 2 has been abandoned
- b. A plan for the long-term maintenance and vegetation management of the project site consistent with the Perpetual Conditions in this Order of Conditions and any other restrictions applicable.

Perpetual Conditions

The following conditions will be included in the Certificate of Compliance and will continue in perpetuity:

40. No dumping of leaves, woody debris, dog waste, excessive snow and any other materials is permitted in or within 100' of wetland resource areas, including the Riverfront Area.

41. Herbicide may be applied by the owner/operator or its agents and contractors under an approved Vegetation Management Plan and annual Yearly Operating Plan authorized by the Massachusetts Department of Agricultural Resources. The Stow Conservation Commission shall be provided a copy of these Plans. Mechanical treatment shall be preferred with herbicide used only to control difficult species such as bittersweet, Japanese knotweed, poison ivy or other similar species which may occur along the recreational trail. Any herbicide use shall be limited to general use herbicides applied by a licensed pesticide applicator. If the Town of Hudson restricts the use of herbicides within the Zone 2 of the Cranberry water supply well, these restrictions shall also apply within the Stow portion of the Zone 2.



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

7/10/2020

1. Date of Issuance

Please indicate the number of members who will sign this form.

4

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

[Handwritten signatures]
Thomas Spickard
Thomas Spickard
Andres H. Snow

[Handwritten signature]
Thomas Spickard

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

7-10-2020

Date

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal



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ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Stow

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Stow

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

N/A MBTA ROW/Central Mass Line
Railroad

299-677

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex
County

NA
Book

NA
Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

7-10-2020
Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

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Provided by MassDEP:
MassDEP File #:190-0647
eDEP Transaction #:1218293
City/Town:HUDSON

A. General Information

1. Conservation Commission HUDSON
2. Issuance a. ☒ OOC b. ☐ Amended OOC
3. Applicant Details
a. First Name N/A b. Last Name N/A
c. Organization NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY AND DEPT OF
CONSERVATION AND RECREATION
d. Mailing Address SEE ATTACHED
e. City/Town f. State MA g. Zip Code
4. Property Owner
a. First Name N/A b. Last Name
c. Organization MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
d. Mailing Address 10 PARK PLAZA
e. City/Town BOSTON f. State MA g. Zip Code 02116
5. Project Location
a. Street Address N/A MBTA ROW/CENTRAL MASS LINE RAILROAD
b. City/Town HUDSON c. Zip Code 01749
d. Assessors 16-23 e. Parcel/Lot# MULTIPLE
Map/Plat#
f. Latitude 42.39629N g. Longitude 71.52249W
6. Property recorded at the Registry of Deed for:
a. County b. Certificate c. Book d. Page
SOUTHERN MIDDLESEX 13156 34
7. Dates
a. Date NOI Filed : 1/2/2020 b. Date Public Hearing Closed: 8/6/2020 c. Date Of Issuance: 8/24/2020
8. Final Approved Plans and Other Documents
a. Plan Title: b. Plan Prepared by: c. Plan Signed/Stamped by: d. Revised Final Date: e. Scale:
SEE ATTACHED

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act

Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

a. <input checked="" type="checkbox"/> Public Water Supply	b. <input checked="" type="checkbox"/> Land Containing Shellfish	c. <input checked="" type="checkbox"/> Prevention of Pollution
d. <input checked="" type="checkbox"/> Private Water Supply	e. <input checked="" type="checkbox"/> Fisheries	f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat
g. <input checked="" type="checkbox"/> Ground Water Supply	h. <input checked="" type="checkbox"/> Storm Damage Prevention	i. <input checked="" type="checkbox"/> Flood Control

2. Commission hereby finds the project, as proposed, is:

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Approved subject to:

- a. ☒ The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- b. ☐ The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached to this Order.
- c. ☐ The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a).

a. linear feet

Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	1936		1936	
	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	16400		11208	
Cubic Feet Flood Storage	a. square feet	b. square feet	c. square feet	d. square feet
	0		435.5	
	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input checked="" type="checkbox"/> Isolated Land Subject to Flooding	760			
Cubic Feet Flood Storage	a. square feet	b. square feet		
	0		99.07	
	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	64790			

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	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	<u> </u>	<u> </u>		
	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	g. square feet	h. square feet	i. square feet	j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. c/y nourishment	d. c/y nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u>	<u> </u>		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u>	<u> </u>		
	a. square feet	b. square feet		
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u>	<u> </u>	<u> </u>	<u> </u>
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u>	<u> </u>		
	c. c/y dredged	d. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u>	<u> </u>		
	a. square feet	b. square feet		

22.

☐ Restoration/Enhancement (For Approvals Only)

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If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c & d or B.17.c & d above, please enter the additional amount here.

a. square feet of BVW

b. square feet of Salt Marsh

23.

Streams Crossing(s)

If the project involves Stream Crossings, please enter the number of new stream crossings/number of replacement stream crossings.

a. number of new stream crossings

b. number of replacement stream
crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"

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[or "MassDEP"]
File Number : "190-0647"

11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) ☒ is not (2) ☐ subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per

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the requirements of Stormwater Standard 10; iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as

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defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

- 1) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:
SEE ATTACHED

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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☐ Yes ☒ No

2. The Conservation Commission hereby (check one that applies):

a. ☐ DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____

2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. ☐ APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or Bylaw _____

2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
190-0647
MassDEP File #
1218293
eDEP Transaction #
H205011
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

8/24/2020

1. Date of Issuance

Please indicate the number of members who will sign this form.

5

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

By vote on April 2, 2020 the individuals listed below have authorized the Conservation Agent to sign on their behalf pursuant to the signature authorization recorded with the Middlesex South Registry of Deeds Book 74456 Page 40. They also intend for the typed names below to serve as their electronic signature for any entity (MassDEP) that accepts electronic signatures.

Signatures:

James Martin

David Mercer

Debbi Edelstein

Emilie Wilder

Brandon Parker

☐ by hand delivery on

☒ by certified mail, return receipt requested, on
8/24/2020

Date

Date

[Handwritten signatures]
8/24/2020



Massachusetts Department of Environmental Protection
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Provided by MassDEP:
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1218293
eDEP Transaction #
HUDSON
City/Town

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

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Provided by MassDEP:
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City/Town:HUDSON

(M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

HUDSON

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

HUDSON

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

N/A MBTA ROW/CENTRAL MASS LINE RAILROAD

Project Location

190-0647

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner N/A

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

**Massachusetts Department of Environmental
Protection**

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Signature of Applicant

Rev. 4/1/2010

MBTA ROW/Central Mass Line Railroad
MassDEP File #190-0647
Applicants and Property Owners

Applicants:

Denise Bartone
NSTAR Electric Company d/b/a Eversource Energy
247 Station Drive, SE270
Westwood MA 02090

Priscilla Geigis
Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston MA 02114

Property Owners:

Massachusetts Bay Transit Authority
10 Park Plaza
Boston MA 02116

Town of Hudson
78 Main Street
Hudson MA 01749

Special Conditions Under Massachusetts Wetlands Protection Act
MBTA ROW/Central Mass Line Railroad
MassDEP File #190-0647

Findings of Fact

Existing Conditions

The Project extends from Sudbury, through small portions of Stow and Marlborough, and into Hudson. The site within Hudson is 4.7 miles in length, of which 3.3 miles is along the existing inactive MBTA ROW from the Hudson/Sudbury municipal border to Wilkins Street. Crossing Wilkins Street, it continues within Town of Hudson-owned property for approximately 230 feet, to connect to the existing Assabet River Rail Trail (ARRT). It also continues southwest within Wilkins Street and Forest Avenue for approximately 1.4 miles to the Hudson Light and Power Substation, which is exempt pursuant to 310 CMR 10.02(2)(b)1.

The following freshwater wetland resource areas are present within or proximate to the Project Site: Bank, LUWW, BVW, BLSF, ILSF, and RFA. Major features consist of wetlands associated with the Assabet River and Fort Meadow Brook. In addition, there are two certified vernal pools within the site and the project passes through a Zone II Wellhead Protection Area associated with Hudson's public water supply. A portion of the Project Site within the MBTA ROW east of White Pond Road to the Hudson/Sudbury town line is within Priority and Estimated Habitat of rare species.

All wetland resource areas within the Project Site, except for the MCRT Connection to the ARRT, were reviewed and approved in an ORAD, 190-0611, issued February 6, 2018. The additional Resource Areas near the MCRT Connection to the ARRT are approved as part of this Order of Conditions.

The bridge spanning Fort Meadow Brook within the Project Site is severely damaged and is a historic location of beaver dams. Two streams, one perennial (Stream 1) and one intermittent (Stream 3), cross beneath the Project Site through stone and clay culverts, both of which are over 100 years old.

Proposed Conditions

The Project includes installation of a 115 kilovolt underground electric transmission line (Phase 1), followed by completion of a portion of the regional Massachusetts Central Rail Trail (MCRT) (Phase 2) in the same footprint. In addition to the work in the MBTA ROW, the project will include a connection to the existing ARRT alongside the existing parking lot on Wilkins Street and installation of underground transmission line within public roadways for connection to the Hudson Light and Power substation.

Phase 1 of the Project will be implemented by Eversource and will include all major earthwork, bridge reconstruction, construction of the Chestnut Street underpass, installation of the underground transmission line, and the majority of the restoration work. Phase 2 of the Project will be under the control and responsibility of DCR and will include installation of road crossings, paving the MCRT, and final restoration. Long-term, ongoing maintenance shall be the responsibility of DCR.

The limits of work will mostly be 22 feet in width. The final paved bike path will be 10 feet wide. The graded platform will also contain a 5-foot corridor that contains the

Special Conditions Under Massachusetts Wetlands Protection Act**MBTA ROW/Central Mass Line Railroad****MassDEP File #190-0647**

underground duct bank. Two-foot shoulders on either side of the path will be loamed and seeded. The remainder of the 22-foot work area will be restored to a naturally vegetated state. In some sensitive environmental areas the work area will be reduced to 18 feet in width, with the duct bank beneath the paved bike path. There will be an access manhole approximately every 1500 feet, which will require a work area 40 feet wide by 50 feet in length. There will be ten such manholes in Hudson, three of which are in jurisdictional areas: one in River Front Area and two in Buffer Zone.

The only BVW disturbance will be at Fort Meadow Brook. The existing bridge is burned and badly damaged and must be replaced. Crane mats will be used to allow cranes to remove the old bridge and install a new single span bridge in its place. Areas disturbed by the crane mats will be restored.

There are some Time-Of-Year (TOY) restrictions set by Natural Heritage and Endangered Species Program (NHESP). Wildlife habitat in critical areas will be restored by replacing dead snags and brush piles that are removed for construction and revegetating the areas. TOY restrictions within Vernal Pool migration areas have been extended to include March 1 through June 1.

Storm water management on the bike path will mostly rely on sheet flow through a vegetated filter strip. There will be some drainage swales with check dams, one leaching catch basin and an infiltration basin at the ARRT trail head.

Maintenance of the bike path will include mowing or weed-whacking the 2-foot shoulders biweekly during the growing season, or as needed, and mowing the 5-foot corridor over the duct bank once a year. Invasive species removal will be by mechanical means when possible and spot treatments of herbicide by a licensed applicator when other approaches are not effective. Trash on the bike path shall be removed and disposed of. Natural debris such as leaves and twigs may be blown off the sides of the bike path except in areas near vernal pools.

Mitigation Plantings

There will be significant reseedling of disturbed Riverfront Area with a seed mix containing both herbaceous and woody vegetation. In addition, 600 woody plantings shall be installed in five areas along the Project corridor. In the Riverfront Area associated with Fort Meadow Brook, approximately 19 trees and 122 shrubs shall be planted in addition to the seed mix, and 40 aquatic plugs shall be installed in the area of BVW disturbed by the crane mats. Shrubs shall also be planted along the 2500 linear feet of Priority Habitat Areas.

Compliance with Applicable Performance Standards:

Both the transmission line and the rail trail qualify as Limited Projects under the Wetlands Protection Act Regulations. The Project complies with all applicable performance standards for BVW, BLSF, and ILSF, but exceeds the 10 percent threshold in the RFA performance standards due to the long, linear nature of the project and disturbs vegetation within the inner 100-foot RFA. This is permitted for Limited Projects if the applicant meets the Performance Standards to the maximum extent practicable. The Commission

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was satisfied that this requirement has been met and that mitigation has been provided in the form of restoration plantings in Riverfront Area. There will be no permanent impact to BVW and there will be a minimal increase in flood storage area.

Documents:

- Notice of Intent: Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, Hudson, MA; prepared by VHB; dated January 2020
- Stormwater Report: Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, Hudson, MA; prepared by VHB; dated January 2020
- Wildlife Habitat Evaluation: Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, Hudson, MA; prepared by VHB; dated January 2020
- Eversource Sudbury-Hudson Transmission Reliability Project: Hudson Notice of Intent Plans; prepared by VHB; dated January 2020; revised July 24, 2020; signed and stamped by Mark Edward Shamon, PE# 35329; scale 1"=20'
- Commonwealth of Massachusetts Department of Conservation and Recreation, Division of Planning and Engineering; Mass Central Rail Trail in the towns of Hudson, Stow, Marlborough & Sudbury; prepared by VHB; dated Jan 2020; signed and stamped by Trace A. Lenhardt, PE# 47612; scale 1"=20'
- NSTAR Electric Company d/b/a Eversource Energy Sudbury to Hudson 115kV Underground Transmission Line; prepared by Power Engineers; dated 12/30/2020; signed and stamped by Todd S. Goyette PE#45181; scale 1"=20'
- Wetland Peer Review – Notice of Intent Sudbury-Hudson Transmission Reliability and MA Central Rail Trail Project; prepared by WDA Design Group; dated 3/11/2020
- Questions for Hearing on 6-4; submitted by Hudson Conservation Commission
- Hudson ConCom_RTC_6-11-20; submitted by VHB Associates
- Letter from WDA Design Group dated July 14, 2020
- WDA Design Group Peer Review – Applicants' Response to Additional Comments Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project; prepared by VHB; dated July 27, 2020
- Peer Review – Notice of Intent (DEP File #190-0647) Sudbury-Hudson Transmission Reliability and MA Central Rail Trail Project Eversource and DCR - Hudson, Massachusetts; prepared by WDA; dated 8/3/2020
- Corridor Management Plan for Massachusetts Central Rail Trail-Wayside Section and Sudbury-Hudson Transmission Reliability Project

Special Conditions

GENERAL:

19. The Findings of Fact are incorporated as a special condition and given equal status as a special condition of this Order.

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20. No excavated material shall be disposed of in violation of any local, state, or federal laws. All stumps must be removed from the site; no burying of stumps on site is permitted.
21. Plantings must be native plants or substitutions only as identified on the approved plans. No invasive vegetation shall be planted.

PRECONSTRUCTION:

22. Within thirty (30) days of the issuance of this Order of Conditions, the applicant, property owner, project representative, or other applicable party must record the original copy of the Order with the Registry of Deeds. Proof of recording is required to be submitted to the Commission or Conservation Agent prior to the pre-construction site visit and commencement of work.
23. Erosion controls shall consist of (a) silt fence or (b) silt fence with compost filter tubes, double-staked straw bales, or wattles, as shown on the plans. Only invasive seed free erosion controls shall be used. Syncopated fencing shall be used within 450 feet of vernal pools. A silt curtain shall be used in Fort Meadow Brook near the bridge if conditions warrant.
24. Prior to the beginning of each Phase, the applicant shall:
 - a. Provide the Conservation Commission with the name and telephone number in writing, of the person who will be immediately responsible for supervision of all work on the project site and compliance with this Order of Conditions. The Conservation Commission shall be notified in the event that the site supervisor or contractor is changed.
 - b. Clearly mark the limits of work in the field and instruct all workers not to work beyond the limits.
 - c. Notify Conservation Commission of the date upon which work will commence and provide the commission with the most up-to-date project timeline and project workflow.
 - d. Properly install all siltation controls according to the plans approved by the Conservation Commission and arrange with the Commission to have a site visit after installation, before work begins.
25. Environmental Monitoring:
 - a. Resumes of Environmental Monitors being considered for the project shall be submitted to the Commission for review.
 - b. If the chosen Environmental Monitor does not have a qualified Vernal Pool Biologist or equivalent, a separate Vernal Pool Specialist shall be hired by the applicant to approve and supervise work within 450 feet of Vernal Pools during the TOY restriction of March 1 to June 1. A qualified Vernal Pool Specialist will have at least three years of experience

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conducting vernal pool assessments or surveys in the northeastern United States.

26. A structural engineer shall inspect the culverts conveying Streams 1 and 3 beneath the MBTA ROW within the Project Site to determine whether they are structurally sound to (a) function hydrologically and (b) withstand the planned construction activities, and shall provide a report of the findings to the Commission. If either culvert does not meet these requirements or is damaged during construction, it shall be replaced with a culvert that meets current MA Stream Crossing Standards to the maximum extent practicable, as determined by the Commission or its Agent, during construction.
27. The following final documents shall be provided for review and comment by the Conservation Commission:
 - a. Final Stormwater O&M Plan
 - b. Final Stormwater Pollution Prevention Plan
 - c. Final MOU between Eversource and DCR on Corridor Maintenance and Management
 - d. Soil and Groundwater Management Plan
 - e. Structural Engineer report on culvert conditions

DURING CONSTRUCTION

28. All Time-Of-Year (TOY) construction restrictions and sweeps required by the Natural Heritage and Endangered Species Program shall be followed. Time-of-Year restrictions for work within 450 feet of vernal pools shall be March 1 through June 1. Between March 1 and June 1, the Environmental Monitor shall conduct sweeps prior to vehicles traveling down the Project Site within vernal pool buffers. Between April 1 and Oct 31, the Environmental Monitor shall conduct turtle sweeps prior to initiating work in, or prior to vehicles traveling through, the Box Turtle Protection Area.
29. There shall be a qualified Environmental Monitor on site at all times that work is being performed in jurisdictional wetland areas. The Environmental Monitor shall send weekly reports and reports following any storm events of ½ inch or greater electronically to the Conservation Agent.
30. Detailed construction sequencing and schedules shall be submitted to the Commission electronically, as they are completed or whenever they are revised.
31. The applicant shall endeavor to locate a supplier of pesticide-free seed mixes. All restoration seed mixes shall be pesticide-free if practicable. Documentation of seed sources shall be provided to the Commission, prior to purchase if practicable.
32. Detailed sequencing of the bridge removal work based on water levels and other conditions at the time of removal shall be provided to the Commission prior to commencement of work in this area. A silt curtain shall be used if conditions

Special Conditions Under Massachusetts Wetlands Protection Act**MBTA ROW/Central Mass Line Railroad****MassDEP File #190-0647**

warrant. The Conservation Agent shall be notified when bridge removal is to begin and perform a site inspection before work commences. The Conservation Agent shall be kept informed on a daily basis of bridge work to be performed and when the work is complete, and shall perform site inspections before any phase of work as the Commission or Agent deems appropriate.

33. Trash removal shall be performed along the ROW, even outside the limits of work, as practicable. Locations of trash removal shall be determined by a site walk of the applicant and Conservation Agent and/or Commissioner.
34. If dewatering is necessary, water will not be discharged directly into any waterbodies, BVW, or inner 100' of RFA. The Conservation Commission shall be notified in advance if dewatering is required within jurisdictional areas and shall inspect the work site before dewatering commences if such inspection can occur within 24 hours of notification.
35. If on-site excavation or other work reveals any soil contamination in reportable concentrations or quantities, the Conservation Commission shall be notified and shall be copied on all related correspondence.
36. The Conservation Commission shall be notified of any remedial activities or changes to the work plans required due to the potential presence of PFAS in the Zone II wellhead area or other jurisdictional areas.
37. The catch basin at stations 119 shall be a leaching catch basin.
38. All equipment and timber mats shall be cleaned prior to use on the site to prevent the introduction of invasive species. If it is necessary to clean construction equipment while on site, it must be cleaned outside of the 100-foot Buffer Zone, Riverfront Area, or any other Resource Area.

CONSTRUCTION GAP BETWEEN PHASE 1 PHASE II

39. If there is a gap between Phase 1 and Phase 2, erosion controls shall be maintained by Eversource. Erosion control in Priority and Estimated Habitat of Rare Species and within 450 feet of Vernal Pools may require removal. This shall be determined by a site walk with the applicant and Conservation Agent.
40. If there is a gap between Phase 1 and Phase 2, Eversource shall be responsible for the health of the restoration areas and the control of invasive species in these areas.

POSTCONSTRUCTION

41. Prior to the issuance of a Certificate of Compliance the site shall be stabilized with vegetation or other measures approved by the Conservation Commission.
42. Prior to the issuance of a Certificate of Compliance and after the site has been stabilized, all erosion controls shall be removed from the site.
43. Two (2) full growing seasons shall be required to determine that any plantings within buffer zones and/or resource areas or as part of any mitigation plan have successfully

Special Conditions Under Massachusetts Wetlands Protection Act**MBTA ROW/Central Mass Line Railroad****MassDEP File #190-0647**

established or may require replanting in case of significant failure.

- a. During this 2-year period, the applicant/property owner shall submit a report from a qualified wetlands scientist or landscape specialist at the end of each growing season describing the condition of the plantings following installation. If greater than 25% of plantings are not in good health then replacement plantings are required.
 - b. The consultant shall prepare a final report on the status of the plantings as part of the Request for a Certificate of Compliance. Successful establishment of the plantings will mean that at least 75% of the plantings have survived and are in good health and that the planting is free of invasive species. Successful establishment is a requirement for the issuance of a Certificate of Compliance.
44. Prior to the issuance of a Certificate of Compliance, the applicant shall submit to the Conservation Commission for review and approval an as-built plan and a letter of compliance stamped by a registered professional engineer. Said plan and letter shall show that all conditions of this Order have been complied with in substantial compliance with the Order and explain any differences from the approved plans.

CONDITIONS IN PERPETUITY

45. When maintaining the path, no debris including natural debris such as leaves and twigs shall be blown or swept from the bike path into areas within 25 feet of vernal pools. The boundaries of these areas shall be indicated with a method to be determined before the Certificate of Compliance is granted. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
46. The culverts beneath the ROW shall be inspected and cleared of debris at least annually. If the culverts become damaged or no longer function as required, they shall be replaced according to the most current MA Stream Crossing Standards. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
47. DCR shall notify the Commission in advance if herbicides are to be used for vegetation control within wetland jurisdictional areas, indicating the target control species, the type(s) of herbicide to be used, and the on-going maintenance plan for the targeted area. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.

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Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
MassDEP File #:301-1287
eDEP Transaction #:1188427
City/Town:SUDBURY

A. General Information

1. Conservation Commission SUDBURY
2. Issuance a. ☒ OOC b. ☐ Amended OOC
3. Applicant Details
- a. First Name b. Last Name
- c. Organization NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY / DEPARTMENT OF CONSERVATION AND RECREATION
- d. Mailing Address 247 STATION DRIVE, SE270 / 251 CAUSEWAY STREET, SUITE 600
- e. City/Town WESTWOOD/ BOSTON f. State MA g. Zip Code 02090/02114
4. Property Owner
- a. First Name b. Last Name
- c. Organization MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
- d. Mailing Address 10 PARK PLAZA
- e. City/Town BOSTON f. State MA g. Zip Code 02116
5. Project Location
- a. Street Address MBTA ROW FROM TOWN OF HUDSON TO 183 BOSTON POST ROAD (SUDBURY SUBSTATION)
- b. City/Town SUDBURY c. Zip Code 01776
- d. Assessors H03, J05, J06, K07, K08, K09 K11; K08; K10; K11 e. Parcel/Lot#5100;
- f. Latitude 42.36001N g. Longitude 71.39733W
6. Property recorded at the Registry of Deed for:
- | a. County | b. Certificate | c. Book | d. Page |
|--------------------|----------------|--------------|-----------|
| SOUTHERN MIDDLESEX | | 11317 / 7734 | 113 / 426 |
7. Dates
- a. Date NOI Filed : 3/9/2020 b. Date Public Hearing Closed: 2/3/2021 c. Date Of Issuance: 2/4/2021
8. Final Approved Plans and Other Documents
- a. Plan Title: EVERSOURCE
SUDBURY-HUDSON
TRANSMISSION
RELIABILITY
PROJECT SUDBURY
NOTICE OF INTENT
PLANS (205 PAGES)
- b. Plan Prepared by: VANASSE HANGEN
BRUSTLIN, INC.
- c. Plan Signed/Stamped by: KENNETH STAFFIER, P.E. JAN 2021
- d. Revised Final Date:
- e. Scale: 1 INCH = 20 FEET

**Massachusetts Department of Environmental
 Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

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Provided by MassDEP:

MassDEP File #:301-1287

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City/Town:SUDBURY

MASS CENTRAL RAIL TRAIL IN THE TOWNS OF HUDSON, STOW, MARLBOROUGH & SUDBURY (41 PAGES)	VANASSE HANGEN BRUSTLIN, INC.	JOSHUA C. CONE- RODDY P.E.	JANUARY 7, 2021	1 INCH = 20 FEET
DRAFT SUDBURY- HUDSON TRANSMISSION RELIABILITY PROJECT STORMWATER POLLUTION PREVENTION PLAN	VANASSE HANGEN BRUSTLIN, INC.		MAY 2020	N/A
DRAFT MASSCENTRALRAIL TRAIL - WAYSIDE STORMWATER POLLUTION PREVENTION PLAN	VANASSE HANGEN BRUSTLIN, INC.		MAY 2020	N/A
TIME OF YEAR (TOY)RESTRICTIONS AND GUIDELINES FIGURES (SHEETS 1- 10)	VANASSE HANGEN BRUSTLIN, INC.		OCTOBER 14, 2020	1 INCH = 200 FEET
EASTERN BOX TURTLE PROTECTION PLAN	VANASSE HANGEN BRUSTLIN, INC.		Undated	N/A
DRAFT CORRIDOR MANAGEMENT PLAN FOR MASS CENTRAL RAIL TRAIL - WAYSIDE SECTION AND THE SUDBURY-HUDSON TRANSMISSION RELIABILITY PROJECT	DEPARTMENT OF CONSERVATION AND RECREATION		AUGUST 7, 2020	N/A

Massachusetts Department of Environmental**Protection**

Bureau of Resource Protection - Wetlands

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Provided by MassDEP:

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MASSCENTRAL RAIL**TRAIL (MCRT) -****WAYSIDE SECTION****STORMWATER****MANAGEMENT****SYSTEM OPERATION****AND MAINTENANCE****PLAN**DEPARTMENT OF
CONSERVATION
AND RECREATION

JUNE 2020

N/A

LONG TERM**POLLUTION****PREVENTION PLAN**DEPARTMENT OF
CONSERVATION
AND RECREATION

JUNE 2020

N/A

B. Findings**1. Findings pursuant to the Massachusetts Wetlands Protection Act**

Following the review of the the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act.

Check all that apply:

- | | | |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Ground Water Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. Commission hereby finds the project, as proposed, is:**Approved subject to:**

- a. ☒ The following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- b. ☐ The proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ The information submitted by the applicant is not sufficient to describe the site, the work or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**

3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310CMR10.02(1)(a).

a. linear feet

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Inland Resource Area Impacts:(For Approvals Only):

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	<u>246</u> a. linear feet	<u>246</u> b. linear feet	<u>246</u> c. linear feet	<u>246</u> d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>613</u> a. square feet	<u>613</u> b. square feet	<u>784</u> c. square feet	<u>784</u> d. square feet
6. <input checked="" type="checkbox"/> Land under Waterbodies and Waterways	<u>1146</u> a. square feet <u>0</u> e. c/y dredged	<u>1146</u> b. square feet <u>0</u> f. c/y dredged	<u>1146</u> c. square feet	<u>1146</u> d. square feet
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	<u>10435</u> a. square feet	<u>10435</u> b. square feet	<u>7749</u> c. square feet	<u>7749</u> d. square feet
Cubic Feet Flood Storage	<u>54.43</u> e. cubic feet	<u>54.43</u> f. cubic feet	<u>136.88</u> g. cubic feet	<u>136.88</u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>235668</u> a. total sq. feet	<u>235668</u> b. total sq. feet		
Sq ft within 100 ft	<u>181600</u> c. square feet	<u>181600</u> d. square feet	<u>110020</u> e. square feet	<u>110020</u> f. square feet
Sq ft between 100-200 ft	<u>54054</u> g. square feet	<u>54054</u> h. square feet	<u>32385</u> i. square feet	<u>32385</u> j. square feet

Coastal Resource Area Impacts:

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. c/y nourishment	<u> </u> d. c/y nourishment

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

City/Town: SUDBURY

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**Massachusetts Department of Environmental
Protection**

Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #:301-1287

eDEP Transaction #:1188427

City/Town:SUDBURY

- a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
 6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not exceed the issuance date of the original Final Order of Conditions.
 7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
 8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
 9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work..
 10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

" Massachusetts Department of Environmental Protection"
[or 'MassDEP']
File Number : "301-1287"
 11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before Mass DEP.
 12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
 13. The work shall conform to the plans and special conditions referenced in this order.
 14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
 15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
 16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
 17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
 18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During

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construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order(the "Project") is (1) ☒ is not (2) ☐ subject to the Massachusetts Stormwater Standards. If the work is subject to Stormwater Standards, then the project is subject to the following conditions;
- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Construction General Permit as required by Stormwater Standard 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that: *i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures; *ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized; *iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10; *iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition; *v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
 - c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 19(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
 - d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollutant Discharge Elimination System Multi-Sector General Permit.
 - e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the

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proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 19(f) through 19(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 19(f) through 19(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.
- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions:

SEE ATTACHED

**Massachusetts Department of Environmental
Protection**
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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No

2. The Conservation Commission hereby (check one that applies):

a. ☐ DENIES the proposed work which cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order or Conditions is issued. Which are necessary to comply with a municipal ordinance or bylaw:

b. ☒ APPROVES the proposed work, subject to the following additional conditions.

1. Municipal Ordinance or
Bylaw

SUDBURY
ADMINISTRATIVE
WETLAND BYLAW

2. Citation XXII

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows:
SEE ATTACHED

Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

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E. Signatures

This Order is valid for three years from the date of issuance, unless otherwise specified pursuant to General Condition #4. If this is an Amended Order of Conditions, the Amended Order expires on the same date as the original Order of Conditions.

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

February 4, 2021

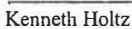
1. Date of Original Order

4
2. Number of Signers

Signatures:


Thomas R. Friedlander-Chairman


Dave Henkens- Vice Chairman


Kenneth Holtz


Richard Morse


Bruce Porter


Kasey Rogers


Mark Sevier

☐ by hand delivery on

☒ by certified mail, return receipt requested, on


Date

February 4, 2021
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

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(M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

G. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

SUDBURY

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

SUDBURY

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

MBTA ROW FROM TOWN OF HUDSON TO 183
BOSTON POST ROAD (SUDBURY SUBSTATION)

Project Location

301-1287

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

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Document Number

Signature of Applicant

Rev. 4/1/2010



**ORDER OF CONDITIONS
State Wetlands Protection Act &
Sudbury Wetlands Administration Bylaw**

DEP FILE #301-1287

Address: MBTA ROW and 183 Boston Post Road

Applicants: Eversource and Department of Conservation and Recreation

Issued: February 4, 2021

The Sudbury Conservation Commission hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the Wetlands Protection Act, its corresponding regulations, and the Sudbury Wetlands Administration Bylaw to protect those interests checked above. To aid in implementation, compliance, and enforcement the specific conditions are divided into several broad categories for reference.

The Sudbury Conservation Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

This Decision of the Sudbury Conservation Commission under the Wetlands Protection Act may be appealed to the MA Department of Environmental Protection, Northeast Region.

This Decision of the Sudbury Conservation Commission under the Sudbury Wetlands Administrative Bylaw may be appealed to the Superior Court in accordance with G.L. Ch. 249 §4.

Findings:

The Notice of Intent was filed for the installation of a new 115kV underground electrical transmission line and the construction of a portion of the Mass Central Rail Trail, from the existing Sudbury Substation to the Hudson town line, along the inactive Massachusetts Bay Transportation Authority Right-of-Way, in Sudbury, MA, under the State Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw.

The Commission finds that portions of the project, as designed and mitigated for, qualifies as a limited project under 310CMR 10.53(3)(d) for Phase I and under 310CMR 10.53(6) for Phase II.

The Commission finds that the stormwater management has been designed in accordance with 310CMR 10.05 (m), as the end use is a non-motorized multi-use trail and Eversource inspection vehicles only need to access the transmission line facility once every three years.

The Commission finds that alternative routes with fewer adverse environmental impacts may exist. However, given the Energy Facilities Siting Board (EFSB) Decision (EFSB 17-02/D.P.U. 17/82/17/83) the Commission was not permitted to evaluate alternative routes under the Wetlands Protection Act. Since this EFSB Decision is currently under Appeal by the Town of Sudbury, if there is a change in the route for the Eversource transmission line as a result of the appeal process, the Applicants shall return to the Commission for further review of any changes to either phase of the project and a determination of the need for potential modifications of this Order.

All wetland resource areas within the Project Locus were reviewed and approved as part of the Abbreviated Notice of Resource Area Delineation (ANRAD) process with the Sudbury Conservation Commission in 2018 through the Order of Resource Area Delineation (ORAD) issued on August 27, 2018. The ORAD included Bordering Vegetated Wetland (BVW), Bank, Land Under Water Bodies and Waterways (LUWW), Bordering Land Subject to Flooding (BLSF), Riverfront Area (RA), and vernal pools, in



ORDER OF CONDITIONS

State Wetlands Protection Act & Sudbury Wetlands Administration Bylaw

accordance with Wetlands Protection Act and Sudbury Wetland Bylaw definitions. During the ANRAD review process, the BLSF boundary was established in the field by ground survey by using the 100-year floodplain (i.e., BLSF) base flood elevation. Under the Act, Hop Brook and Dudley Brook are considered perennial and have an associated 200-foot Riverfront Areas. Under the Sudbury Bylaw, all remaining streams on the Project Locus are defined to be perennial and their associated 200-foot Riverfront Area are jurisdictional under the Bylaw Regulations only. In addition, the Sudbury Bylaw regulates activities within the Adjacent Upland Resource Area (AURA), which generally consists of land within 100 feet of wetland resource areas and land within 200 feet from the top of bank of perennial streams and rivers. The AURA for vernal pools, or Vernal Pool Habitat, extends 100 feet from the mean annual high-water line defining the depression. There are also isolated wetlands on the Project Locus that are subject to local and federal jurisdiction. Portions of the project site are also located within Estimated and Priority Habitat for Rare Species, within Coldwater Fishery Resources, and within a Zone II Wellhead Protection Zone. There are 13 wetland areas that would qualify as vernal pools under the state regulations (one is currently certified and 12 contain biological criteria for certification). There are an additional seven wetland areas that are presumed to be vernal pools under the local bylaw only.

The project and conditions and requirements set forth in this Order of Conditions are specific for each phase of construction: Phase I being under the responsibility of Eversource for the installation of the underground transmission line, all major earthwork, installation of the stormwater management system, construction of a 14-foot gravel road, construction/renovation of Bridges 128 and 127, site restoration, and implementation of all mitigation; and Phase II being under the responsibility of the Department of Conservation and Recreation for the paving of the Mass Central Rail Trail, installation of safety plantings and other trail amenities, and long-term maintenance of the corridor, including culverts and drainage structures.

The project proposes disturbance to four acres of land within estimated and priority habitat for four species: Eastern Box Turtle, Eastern Whip-poor-will, Gerhard's Underwing Moth, and Coastal Swamp Metarranthus Moth. As such, the Natural Heritage and Endangered Species Program has reviewed the project and imposed conditions to prevent the "take" of state-listed species in determination letters to the Applicants dated October 19, 2018, and May 17, 2019. These conditions are incorporated herewith.

The Commission finds that this project is designed to meet the performance standards of the Wetlands Protection Act and the Sudbury Wetlands Administration Bylaw. Mitigation under the Bylaw for the proposed project actions within the locally regulated Adjacent Upland Resource Area, will be achieved by installation of restoration and mitigation plantings within the limits of work (total of 0.9 acres), debris removal outside the limit of work, creation of strategic brush piles for wildlife habitat, installation of an osprey platform at the existing substation off Boston Post Road, and implementation of a 3.3-acre invasive species management program within the MBTA ROW but outside the limits of work proposed for the Project. The Commission finds the Project, as conditioned in this Order is sufficient to meet the requirements of the state and local wetland regulations.

Final Record Documents:

1. Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project Notice of Intent dated March 2020.
2. Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project Wildlife Habitat Evaluation, dated March 2020, with supplemental Wildlife Habitat Evaluation Summary dated October 15, 2020.
3. Eversource Sudbury Notice of Intent Plans March 5, 2020, as revised through January 2021
4. Mass Central Rail Trail Notice of Intent Plan March 5, 2020, as revised through January 7, 2021
5. Draft Eversource Stormwater Pollution Prevention Plan dated May 2020
6. Draft DCR Stormwater Pollution Prevention Plan dated May 2020
7. Sudbury – Soil and Groundwater Analytical Memo dated June 12, 2020



ORDER OF CONDITIONS
State Wetlands Protection Act &
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8. Time of Year Restrictions Figures June 24, 2020
9. Draft Turtle Protection Plan (undated)
10. Draft Corridor Management Plan dated August 7, 2020
11. MCRT Operation and Maintenance June 2020
12. Long Term Pollution Prevention Plan June 2020

All work must conform to the plans referenced, the Notice of Intent, and this Order. In case of conflict, the requirements in this Order shall prevail. By accepting this Order, the Applicants confirms submission all relevant documentation, reports, and information available to Applicants, in the application submitted and that this information is true and valid to the best of the Applicants' knowledge.

SPECIAL CONDITIONS:

PART I: GENERAL PROJECT CONDITIONS:

For Phase I and Phase II

These conditions apply to all projects permitted by the Sudbury Conservation Commission. They shall remain in force until issuance of a Certificate of Compliance by the Commission. A violation of any of these conditions shall constitute reason for enforcement action by the issuing authority:

- a. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
- b. This Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
- c. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, by-laws, or regulations.
- d. The work authorized hereunder, except for that work which has specific timeframes indicated, shall be completed within three years from the date of issuance of this Order unless either of the following apply:
 - 1) the work is a maintenance dredging project as provided for in the Act; or
 - 2) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance and both that date and the special circumstances warranting the extended time period are set forth in this Order.
- e. This Order may be extended by the issuing authority for one or more periods of up to one year upon application to the issuing authority at least thirty days prior to the expiration date of this Order. In determining whether or not to grant an Extension Permit, the Sudbury Conservation Commission shall review and apply the criteria for extensions of time as set forth in the Regulations.
- f. No work shall be undertaken until all administrative appeal periods from the date of issuance of this Order have elapsed or, if such an appeal has been filed, until all proceedings have been completed.
- g. **No work shall be undertaken until the Final Order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property.** In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor index under the name of the owner of the land upon which the proposed



ORDER OF CONDITIONS
State Wetlands Protection Act &
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work is to be done. In the case of registered land, the final Order shall also be noted on the Land Court Certificate of title of the owner of the land upon which the proposed work is to be done.

- h. The recording information shall be submitted to the Commission on the form at the end of the Order, or other form acceptable to the Commission, within thirty days of the issuance of this Order or prior to the start of construction, whichever is sooner.
- i. Where the Department of Environmental Protection is requested to make a determination and to issue a Superseding Order, the Sudbury Conservation Commission shall be party to all agency proceedings and hearings before the Department.
- j. The work shall conform to the plans and special conditions incorporated in this document.
- k. The project engineer, contractors, and all subcontractors must be informed of the conditions in this Order.
- l. The Applicants are held responsible for compliance with this Order of Conditions. The Sudbury Conservation Commission shall be notified, in writing, within forty-eight hours of any transfers of title on this property.
- m. This Order of Conditions shall apply to any successor in control, or successor in interest, of the property described in the Notice of Intent and accompanying plans.
- n. Members and agents of the Sudbury Conservation Commission shall have the right to enter and inspect the property to evaluate compliance with the conditions stated in this Order. When possible prior to project site access, reasonable advance notice will be made. Compliance with health and safety protocols for the project site will be followed.
- o. Prior to commencement of work, the Applicants shall provide the executed Memorandum of Understanding between Eversource and the Department of Conservation and Recreation and the agreements between the Massachusetts Bay Transportation Authority and the Applicants, to ensure the obligations of the project are fulfilled.
- p. All Time-of-Year restrictions and sweeps required by the Natural Heritage and Endangered Species Program shall be followed. Time-of-Year restrictions for work within 450 feet of all vernal pools shall be March 1 through June 1. Between March 1 and June 1, the Applicants' Environmental Monitor shall conduct sweeps prior to vehicles traveling down the project site within vernal pool buffers (including certified, certifiable, and presumed vernal pools). Between April 1 and October 31, the Applicants' environmental monitor shall conduct turtle sweeps prior to initiation of work each day, or prior to vehicles travelling through the Box Turtle Protection Area.
- q. The baseflow and baseline water quality of all Cold Water Fisheries shall be established pre-construction. Baseline monitoring shall be accomplished to ensure there is no degradation of water quality over time from this project. The Applicants shall submit a detailed plan, subject to the Commission's approval, to specify water quality monitoring parameters, including times, methodology, analyses and reporting. Post construction, monitoring may be required and may continue in the Certificate of Compliance based on monitoring result up to that time.
- r. Prior to commencement of each Phase, the Conservation Commission or its Agent shall map the corridor for the presence of invasive species within and adjacent to the limit of work. The



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information generated from this mapping shall be used to identify any new invasive species populations or significant expansions of invasive species that are a direct result from the Project. Mapping shall be used by the Applicants to implement a program to control invasive species populations to ensure the functions of wetland resource areas in the limits of work that have been restored with native vegetation are not subject to degradation by expansion of invasive species. If the Commission or its agent determines that the Project resulted in new or significantly expanded invasive populations, the Applicants shall implement a program to control these populations to ensure the project does not result in additional degradation of wetland resource areas.

- s. The site shall be accessed predominantly from public ways. If alternative access points are needed, the Applicants will first direct the contractor to use previously disturbed areas outside wetlands jurisdiction. If alternative access is found to be needed within wetlands jurisdiction, access may be permitted within previously disturbed areas that will not require additional vegetation removal or additional impacts to wetland resource areas, with approval from the Commission's representative. No equipment turnaround locations outside the limit of work are permitted.
- t. Laydown areas shall be located predominantly outside resource areas subject to the Commission's jurisdiction. If any construction laydown area is proposed outside of the currently proposed work limits and in an area subject to the Commission's jurisdiction, an erosion control plan shall be submitted in advance to the Commission's representative for review and approval.
- u. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
- v. No equipment cleaning or refueling may occur within a wetland or upland resource area, with the exception of the crane. For cranes positioned within wetland jurisdiction for more than one day, the Applicant shall provide secondary containment to contain any leaks that may emanate from equipment.
- w. All equipment, including timber mats, shall be cleaned and certified invasive species free, prior to entering the site. Such certification shall be provided to the Commission prior to commencement of mobilization into the site and when remobilized within the project site.
- x. Heavy mechanical equipment (exerting a ground pressure of 3 psi or greater) will not be allowed in areas where final grading, aeration, and vegetation restoration/mitigation have been completed, including restored and replicated wetland resource areas. Following completion of restoration areas, erosion controls or other method of demarcation shall be implemented to prevent further alteration of restoration areas.
- y. All areas of disturbance shall be monitored for invasive species, which shall be manually removed if encountered, for the duration of the project and until such time as a minimum of 90% native vegetative cover is established.
- z. The wetland replication area and land adjacent thereto shall be monitored for invasive species, and manually removed when found, for the life of the Order. The wetland replication area shall be considered substantially restored when it contains a minimum of 90% cover with native species. Replications that do not properly restore the functions and values of altered resource areas will not be deemed acceptable no matter how closely they adhere to approved engineered plans.



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- aa. There shall be no drafting of water from wetland resource areas for dust control, for watering plantings, or any other activity.
- bb. Every effort shall be made to reduce soil compaction. Compacted soils shall be aerated prior to being revegetated.
- cc. Upon completion of the work associated within each phase, the Applicants shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed and clearly documenting any deviations or deficiencies from the approved plans.

CONDITIONS RELATED TO ENDANGERED SPECIES MANAGEMENT
For Phase I and Phase II

- a. Prior to implementation, the Final Corridor Management Plan for Massachusetts Central Rail Trail and Sudbury-Hudson Transmission Reliability Project that will be provided to the Division of the Fisheries and Wildlife ("the Division") shall be provided to the Commission for review and approval and must be implemented as approved. If changes to said Plan are proposed, the revised Plan to be submitted to the Division shall be submitted to the Commission for review and approval. Vegetated areas over the duct bank and water quality swales (within wetland jurisdictional areas) shall not be mown between April 1 and November 1, unless needed for safety purposes, without prior approval of the Conservation Commission.
- b. Prior to the start of work, the Applicants must submit to the Division and the Commission, for review and approval, a signage plan for the shoulder and duct bank mowing areas, which must describe sensitive dates for the Eastern Box Turtle.
- c. Measures shall be implemented to protect Eastern Box Turtles during construction. Prior to the start of work, a final Eastern Box Turtle Protection Plan must be submitted to the Division and Commission for review and approval, and must be implemented as approved. Said Plan must include detailed turtle protection measures to be implemented by the Applicants. If changes to said Plan are proposed, a revised Plan must be submitted to the Division for review and prior written approval. The Commission shall be provided a copy of the final Eastern Box Turtle Protection Plan along with any modifications thereto.
- d. Prior to the start of work, the Applicants must submit to the Division and Commission, for review and approval, a native seed mix proposed for any planting or loam and seed activities.
- e. Unless otherwise approved by the Division and Commission, proposed wood railings must leave, at a minimum, a 10-inch space beneath the lowest rail for wildlife passage.
- f. Unless otherwise approved by the Division, construction activities within Priority Habitat must not occur during the Eastern Whip-poor-will breeding season (May 1 – August 1), as proposed. The Applicants shall endeavor to refrain from construction activities within Priority Habitat from April 15 to August 1.
- g. Within thirty (30) days of the completion of work, or as otherwise approved by the Division, the Applicants shall submit a compliance report to the Division and Commission documenting the completion of the project and compliance with all conditions herein, including a summary of construction timelines and photographs.



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- h. Work within 450 feet of vernal pools is prohibited between March 1 and June 1. The Applicants shall have a qualified Environmental Monitor on site to monitor vehicular traffic during this Time of Year restriction, should a suitable alternative route not be available.

PART II: CONDITIONS SPECIFIC TO

Phase I: Eversource Underground Transmission Line

- a. An independent Environmental Monitor, hired by the Conservation Commission and paid for by the Applicant, shall be provided to oversee the following activities:
1. Review the erosion control barrier following installation but prior to any land disturbance and each year prior to vernal pool species migration. Conduct spot inspections of vernal pools during construction and/or review reports provided by the Applicant's environmental monitor to ensure no negative impact to vernal pools during construction.
 2. Be on site during initial tree removal and invasive species clearing activities, within the limit of work.
 3. Review and ensure appropriate reporting of all activities associated with construction scheduling, erosion control monitoring, compliance with the project's SWPPP, and environmental monitoring activities including ensuring adherence to time of year restrictions.
 4. Be on site during bridge platform installation and spot inspections during bridge construction.
 5. Be notified of all dewatering activities and be on site during dewatering in sensitive locations, i.e. whenever excavation is proposed within 50 feet of a wetland, or when extensive dewatering will be needed. Specific oversight locations will be determined with the contractor, prior to commencement of work.
 6. Review restoration/mitigation areas including being on site during the construction of the wetland replication area.
 7. Be on site to oversee excavation/construction activities over culverts and drainage structures.
 8. Be available to respond to emergency situations, should they arise.
- b. At least four weeks prior to any land disturbance, an Invasive Species Management Plan shall be developed and submitted to the Conservation Commission for review and approval. Said Management Plan shall involve removal of invasive species and revegetation with native species for a period of five (5) years from a minimum of 3.3 acres of land within the MBTA Right-of-Way, but outside the proposed limit of work, and shall focus efforts on improving wildlife habitat in areas identified through the Wildlife Habitat Evaluation and peer review thereof as being most impacted from proposed work. Following implementation, the Invasive Species Management Area shall be managed in accordance with Perpetual Condition b. contained within this Order.
- c. At least two weeks prior to any land disturbance, a Soil and Groundwater Management Plan (SGMP) prepared in conjunction with the selected contractor shall be submitted to the Conservation Commission for review and comment. The Applicant shall give due consideration to address comments received from the Commission that are needed to protect wetland resource areas functions and values. The SGMP will develop means and methods to manage soils and groundwater encountered during project construction activities including soil excavation, groundwater dewatering, and railroad tie and track removal. If conditions are encountered that suggest soil may require additional evaluation or special handling based on visual, olfactory, or field screening results, excavation activities in that area will immediately be stopped and Eversource, their Licensed Site Professional, and the Conservation Commission will be contacted immediately to evaluate the observations and recommend requirements for proper handling. The Commission shall be copied on all related correspondence.



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- d. At least two weeks prior to any land disturbance, a structural engineer and wildlife biologist shall inspect the culverts and drainage structures within the Project Site to determine whether they are structurally sound to (a) function hydrologically, (b) withstand the planned construction activities, and (c) evaluate their wildlife migration functions, and shall provide a report of the finding to the Commission. If any culverts do not meet these requirements or is damaged during construction, it shall be repaired or replaced with a culvert that meets current MA Stream Crossing Standards to the maximum extent practicable, as determined by the Commission or its Agent. Any recommended improvements to these structures, not included in this Notice, shall be required to submit a separate Notice of Intent and/or an Amendment to this Order to the Commission for further evaluation. Following completion of Phase I and Phase II a similar structural evaluation shall be conducted to confirm work did not affect culverts and drainage structures.
- e. At least three weeks prior to any land disturbance, a Project Compliance Manual that includes the requirements from compliance from the various permits for the Project, including this Order and Conditions herein, shall be submitted to the Conservation Commission for review to confirm that the requirements of this Order are accurately stated.
- f. At least two weeks prior to the start of Phase I, the Applicant shall provide a construction schedule detailing construction activities and sequencing. This shall be amended as necessary throughout construction. Weekly reports shall be submitted to the Commission that details work completed each week and anticipated work for the coming week, including identifying when work is located in areas of potential elevated levels of soil and groundwater contamination. These reports shall include anticipated dewatering activities so that oversight can be provided by the Commission or its Agent, if found necessary, and include the location of active stockpiles with confirmation that appropriate erosion control measures are being implemented.
- g. At least two weeks prior to the start of Phase I, the Applicant shall provide the final Stormwater Pollution Prevention Plan (SWPPP) to the Commission for review and approval. Any use of permanent infiltration BMPs for temporary construction-related stormwater management shall be specifically addressed in the SWPPP and protocol for removal of fine silt and sediment from these BMPs shall be conducted at the completion of Phase I. If a response is not received by the Conservation Commission within 10 days of receipt, the SWPPP shall be deemed approved. Any changes made to the SWPPP during the course of the project shall be submitted and approved by the Commission prior to implementation.
- h. Prior to land disturbance, the Applicant shall provide a signed illicit discharge statement.
- i. The Applicant shall ensure there is a qualified Environmental Monitor(s) on site at all times overseeing work that is subject to this Order. The Environmental Monitor(s) shall send weekly erosion control inspection reports and reports following any storm event of ½ inch of rain or greater, to the Conservation Commission.
- j. The Limit of Work/erosion control location shall be survey located in the field and certified by a Mass Registered Professional Land Surveyor, installed under the oversight of the Applicant's Environmental Monitor, and reviewed by the Commission and/or its Agent prior to commencement of any site work.
- k. Prior to any site disturbance, with the exception of the installation of the erosion control barrier, the Applicant shall schedule a pre-construction site visit with the Conservation Coordinator as least one week prior to commencement of work. At a minimum, those in attendance at this site visit should include the Applicant, construction supervisor, and environmental monitors involved in the project.



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- l. The Applicant's wildlife biologist or other qualified individual shall document the location of all important habitat features that will be removed (such as brush piles, snags, overhanging trees, logs within or near the water, large woody debris, etc.) to quantify the number of features removed and provide confirmation that work did not result in the loss of important wildlife habitat features. Brush, large woody debris, and logs shall be replaced within or near the water, generally in the location of where they were removed. Reports shall be provided to the Conservation Commission at least every six (6) months, for the life of the Order, documenting wildlife habitat removal and restoration efforts implemented, including monitoring of vernal pools.
- m. During initial vegetation removal, trunks shall be retained but cut as close to the ground as possible. Following installation and approval of erosion controls, stumps and roots may be grubbed, if necessary. Stumping and grubbing activities shall not adversely affect woody vegetation or soils outside the erosion control barrier. Logs, stumps, and other large woody debris in and/or overhanging the resource areas shall be left undisturbed to maximize food source and habitat.
- n. Tree/limb clearing shall be minimized to only that which is required to access the project site with equipment and to conduct the approved work. Equipment shall be chosen which minimizes required clearing to the maximum extent practicable. The Applicant shall retain as many limbs overhanging the limit of work as possible. Prior to tree felling, the Applicant shall walk the corridor with the Commission or its Agent to determine the extent of canopy that can be retained.
- o. Vegetation removed from the site shall be chipped directly into a truck and removed from the project site. Woody material for reuse on site for the creation of wildlife habitat features shall be identified and retained.
- p. The contractor shall provide detailed plans of the crane mat location and installation a minimum of one week prior to installation. All work and impacts associated with installation, removal, and stabilization of the crane areas shall be conducted in strict compliance with the Project Plans and Details and shall be reviewed and approved by the Commission and/or its Agent prior to installation and shall be installed under the supervision of the independent Environmental Monitor.
- q. Dewatering activities shall be located as far as possible from wetland resource areas and shall be prohibited from discharging to Bordering Vegetated Wetlands, Isolated Vegetated Wetlands, Land Under Water Bodies and Waterways, or within the inner Riverfront Area. Dewatering may only occur in other upland resource areas provided adequate control measures are implemented and locations are identified by the contractor and review and approved by the Commission and/or its agent prior to implementation.
- r. The Conservation Commission and their representative shall be notified at least three (3) business days in advance of the removal of the crane mats at Bridge 127.
- s. Other than the grading of minor amounts of soil within the immediate vicinity of the Hudson/Sudbury town boundary, no soil excavated from Hudson may be used in Sudbury. The Sudbury Conservation Commission shall be copied if the Hudson Conservation Commission is notified of any remedial activities or changes to the work plans required due to the potential presence of PFAS in jurisdictional areas in Hudson.
- t. The Applicant shall ensure that any reuse of on-site soils shall not result in the degradation of soil or groundwater in the area.



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- u. Stockpiling of materials within the ROW shall be limited in size and duration (one-week maximum) and shall be located as far from sensitive areas as possible. Soil stockpiles shall be covered with tarp or plastic sheet and surrounded by erosion controls. Excess soil not reused within the Project site shall be stockpiled outside the ROW and wetland jurisdiction. Weekly reports prepared by the Environmental Monitors throughout construction will identify the locations of active stockpiles and will confirm that the appropriate erosion control measures are being implemented
- v. Additional test pits/borings at the location of each proposed “area of increase infiltration” shall be conducted during construction to verify soil conditions, infiltration rates, and groundwater levels, and provided to the Conservation Commission for review. At a minimum, soil tests shall be conducted in the vicinity of Stations 502+00, 511+00, 570+00, and 579+00. A report of the findings, comparison with expectations, and a statement on the appropriateness of the design shall be provided to the Conservation Commission for review. If findings are not consistent with the assumptions made for the stormwater management design, revisions to the design and approval of modifications to the Plan may be required.
- w. Infiltration basins shall not be used as sediment basins during construction. Additional erosion controls shall be installed to protect infiltration basins from sedimentation until contributing areas are stable.
- x. The Conservation Commission and/or their agent shall inspect all permanent stormwater infiltration BMPs for acceptance prior to construction demobilization to a new location within the ROW.
- y. Mitigation, and restoration efforts within the limit of work, shall be implemented during the first growing season following commencement of work. Written reports shall be submitted by December 1 of each year the Order is active that details mitigation efforts that have been implemented, success of implementation, and anticipated activities the following growing season. Mitigation and Restoration areas shall be deemed substantially in compliance when there is a minimum of 90% cover with native species and free of invasive species.
- z. Areas adjacent to vernal pools shall be revegetated immediately following the completion of all necessary grading in these area, and the revegetation in these areas shall be monitored so erosion controls can be removed as soon as field conditions allow. Mitigation plantings around the vernal pool margins shall be monitored for successful establishment for a minimum of two growing seasons and annual reports documenting establishment shall be submitted to the Commission.
- aa. Prior to planting, the Applicant’s Environmental Monitor shall inspect, approve, and provide photo documentation of all plant stock. Any species substitutions must be provided to the Commission, in writing, including a justification for substitution, for review and approval prior to implementation.
- bb. The wetland replication area shall be constructed during vegetation removal in the vicinity of the replication area and prior to the construction of structures in that vicinity.
- cc. All plantings must survive for at least two growing seasons or be replaced at the expense of the Applicant.
- dd. Loam borrow brought to the site to stabilize the work area after completing Phase 1 shall be sourced appropriately. Use of impacted soils (from contamination or invasive seed) shall be prohibited.
- ee. No spoils of construction, construction material, or equipment shall be stored, placed or operated in the wetland resource areas or the wetland buffer zone except as may be permitted by this Order for



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work in the riverfront and upland resource area. These activities may not occur within the bordering vegetated wetland or within bordering land subject to flooding.

- ff. In any part of the Project work limits within 200 feet of a road crossing where the MBTA ROW crosses a Zone II for the Sudbury Water District supply wells, if a clay layer is encountered in the excavation for the transmission line and the excavation will extend below the bottom of the clay layer, the clay shall be stockpiled and reused to backfill and line the excavation before the transmission line duct bank is placed in that location.
- gg. There shall be no disturbance beyond the limits of activities permitted as part of this Order.
- hh. Every effort shall be made to restore disturbed area with a similar soil composition to that which is was removed.
- ii. No deicing products shall be used within the project site. Snow may be stockpiled within the limit of work only or shall be removed from the site to an appropriate facility outside wetlands resource areas.
- jj. Should Phase II not commence within three years of completion of Phase I, the Applicant shall file an Amendment to bring the stormwater management into full compliance with the Town of Sudbury Stormwater Regulations.
- kk. All wildlife habitat replication and restoration shall be completed during the first growing season of Phase I to avoid a significant adverse project/site-specific impact or an adverse cumulative impact on wildlife for more than two growing seasons. Should Phase II not commence within two years of completion of Phase I, erosion controls or other methods of demarcation shall be implemented to prevent further alteration of restored areas. No important wildlife habitat features restored during Phase I shall be removed during Phase II.

PART II CONDITIONS SPECIFIC TO

Phase II: DCR Mass Central Rail Trail

- a. Prior to commencement of Phase II, erosion controls shall be inspected. Erosion controls shall be removed from all areas that have stabilized from Phase I and will not be re-disturbed as part of Phase II. All degraded erosion controls shall be replaced. Areas requiring re-installation of erosion controls for Phase II shall be installed at the limit of work for Phase II.
- b. At least two weeks prior to the start of Phase II, the Applicant shall provide a construction schedule detailing construction activities and sequencing. This shall be amended as necessary throughout construction. Weekly reports shall be submitted to the Commission that details work completed each week and anticipated work for the coming week.
- c. At least two weeks prior to the start of Phase II, the Applicant shall provide the final Stormwater Pollution Prevention Plan (SWPPP) to the Commission for review and approval. Any changes made to the SWPPP during the course of the project shall be submitted and approved by the Commission prior to implementation. If a response is not received by the Conservation Commission within 10 days of receipt, the SWPPP shall be deemed approved.
- d. The Applicant shall ensure there is a qualified Environmental Monitor(s) on site at all times overseeing work that is subject to this Order. The Environmental Monitor(s) shall send weekly erosion control reports and reports following any storm event of ½ inch of rain or greater, to the Conservation Commission.



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- e. The Phase II limit of work/erosion control location shall be located in the field with survey grade equipment that produces sub-foot accuracy installed under the oversight of the Applicant's Environmental Monitor, and reviewed by the Commission and/or its Agent prior to commencement of any site work.
- f. Prior to any site disturbance, with the exception of the installation of the erosion control barrier, the Applicant shall schedule a pre-construction site visit with the Conservation Coordinator as least one week prior to commencement of work. At a minimum, those in attendance at this site visit should include the Applicant, construction supervisor, and environmental monitors involved in the project.
- g. There shall be no disturbance beyond the limits of activities permitted as part of this Order.
- h. Other than road crossings and pullouts, the paved multi-use trail shall not exceed ten (10) feet in width. Any pavement that exceed 10 feet in width shall be required to be removed.
- i. Stockpiling of materials shall be within the Phase II limit of work and shall be located as far from sensitive areas as possible.
- j. No spoils of construction, construction material, or equipment shall be stored, placed or operated in the wetland resource areas or the wetland buffer zone except as may be permitted by this Order for work in the riverfront and upland resource area. These activities may not occur within the bordering vegetated wetland or within bordering land subject to flooding.
- k. The corridor shall be maintained in compliance with the MassCentral Rail Trail (MCRT) – Wayside Section Stormwater Management System Operation and Maintenance Plan (O&M) and the Long Term Pollution Prevention Plan.
- l. Japanese knotweed shall be managed within the limit of work. Chemical treatment, via spot treatment, may be permitted as a last measure to manage knotweed. Herbicide use shall be prohibited within any certified, certifiable, or presumed vernal pool, vegetated wetlands or waterways.
- m. DCR shall notify the Commission in advance if herbicides are to be used for vegetation control within jurisdictional areas, indicating the target control species, the type(s) of herbicide to be used, the proposed application rate, and the on-going maintenance plan for the targeted area for review and approval. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.

PART III: EROSION, SEDIMENTATION, STABILIZATION CONDITIONS
For Phase I and Phase II

- a. Erosion control shall be installed per the approved plan and maintained as necessary to prevent erosion and sedimentation from entering the resource areas. It is the Applicants' responsibility to take appropriate measures to control sedimentation into the wetland resource areas.
- b. Perimeter erosion controls shall be installed along the down gradient side of disturbed areas where topography is directed towards other portions of the existing/proposed trail work area.
- c. Stabilization of slopes shall be accomplished as soon as possible. Biodegradable jute netting shall be properly anchored in place, secured with non-chemically treated biodegradable materials. Should non-biodegradable fasteners be needed, with prior approval by the Commission and/or its agent, the



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Applicants may use non-biodegradable fasteners with the condition that the Applicants shall provide confirmation that all fasteners have been removed once the area is deemed fully stabilized by the Commission and/or its representative.

- d. Appropriate netting shall be installed under the bridge 128 during bridge work to prevent debris from entering the stream. The Applicants shall contact the Conservation Office once installed for review prior to commencement of bridge work.
- e. Following Land Under Water Restoration, erosion controls shall be removed once fully stabilized and the Conservation Commission or its representative has confirmed stabilization, to protect the long-term water quality of the adjacent wetland waterways.
- f. During Phase I, Eversource shall be responsible for installing and maintaining erosion controls within the project site. Following completion of Phase I, Eversource shall continue to maintain erosion controls until DCR commences Phase II, provided that Eversource shall remove erosion controls from areas stabilized at the completion of Phase I, as confirmed by the Commission or its agent. Every effort shall be made during Phase I to stabilize areas within vernal pool habitat immediately following final grade.
- g. During Phase II, DCR shall be responsible for installing and maintaining erosion controls on the project site. Following completion of Phase II and inspection by the Commission or its Agent, DCR shall be responsible to remove all erosion control barriers.
- h. Should the time between Phase I and Phase II exceed one year, the site shall be assessed every six months, in the presence of the Commission or its Agent, to determine if erosion controls containing areas that are stable which will not be destabilized during Phase II, can be removed.

PART IV: PLAN MODIFICATIONS:

- a. Any changes during construction due to soil types found or other conditions discovered during construction shall require immediate notification of the Conservation Commission for a determination if the changes require revisions to this Order or the filing of a new Notice of Intent. Any modifications or revisions to the plans referenced, or any new plans, must be submitted to the Commission for review and a determination as to whether a new Notice of Intent is required. If this procedure is not followed, this Order may not be amended. No additional work not specifically allowed by this Order shall be accomplished on the site without the approval of the Sudbury Conservation Commission and the appropriate new filings or amendment requests are approved. Amendment procedures as described in the Wetlands Protection Act, the regulations, and the Department of Environmental Protection's Wetlands Program Policies shall be followed.
- b. No additional new construction or disturbance of a wetland resource area, as defined in the Wetlands Protection Act and its regulations, or within the 100' wetland resource area buffer zone, not covered by this Order of Conditions, shall be permitted on this site until a determination has been made by the Commission as to whether a new Notice of Intent is required, and the new work or disturbance is incorporated into a new or amended Order of Conditions. An adequate stockpile of unused erosion controls shall be available at or near the site.
- c. Should the Sudbury Conservation Commission become aware of work on site being accomplished that was not approved as part of the Order of Conditions or subsequent amendments, the Commission reserves the right to require a new Notice of Intent. The plan filed with the new Notice of Intent must be based on an interim as-built plan prepared by a registered engineer. The new Notice must provide



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a detailed description of the discrepancies between the approved plan and the site conditions to date. The Commission reserves the right to require as part of the interim as-built plan, but not be limited to requiring, new topography survey, new drainage calculations, and details or all disturbance within the wetland resource and the 100' wetland buffer zone.

PART V: CERTIFICATE OF COMPLIANCE REQUIREMENTS:

- a. Following completion of Phase I, Eversource shall request a Partial Certificate of Compliance. This Request shall be accompanied by as-built plans, stamped by a professional land surveyor or other qualified professional, detailing all elements of Phase I including all restoration plantings, wetlands replication, all stormwater management elements, post construction structural report, provide a cut/fill analysis for the project by stream reach and elevations to confirm adequate compensatory storage is provided and affidavit from all site professionals that all aspects of this Order were adhered to, along with reports associated with mitigation activities. Any deviations from the approved plans shall be specifically called out on the as-built plan. A report on the restoration/mitigation plantings and invasive species management program shall be provided that includes an assessment of the plant community composition in the context of the wildlife habitat restoration. Vegetation outside the limit of work shall also be evaluated to confirm no negative impacts occurred outside the limit of work.
- b. Following completion of Phase II and full stabilization of the site, a full Certificate of Compliance shall be requested, accompanied by an as-built plan of Phase II elements overlain the Phase I as-built plan, final report on restoration/mitigation efforts, and post construction structural report. Any deviations from the approved plans shall be specifically called out on the as-built plan.

PART VI: CONDITIONS IN PERPETUITY:

The following conditions shall be recorded at the Registry of Deeds as part of this Order of Conditions and shall continue in perpetuity and be included on the Certificate of Compliance. Owners of this property shall be made aware of restrictions in perpetuity on the activities allowed on this property. If the property owner has good cause to request an amendment to the conditions in perpetuity, he/she shall have the right to make a request for an amendment to the issuing authority. If, in the judgment of the issuing authority, the proposed activities will not detrimentally impact the wetland resource area functions, this Order, or the Certificate of Compliance shall be amended.

- a. Wetlands are located on this property that are subject of the Massachusetts Protection Act (Chapter 131, section 40) and the Sudbury Wetlands Administration Bylaw. Any work within a wetland resource area (including the 200' riverfront area) or within 100' of a wetland resource area requires review and approval by the Sudbury Conservation Commission prior to the commencement of such work.
- b. To ensure the environmental integrity of the site is maintained to offset the permitted activity, after the initial management period of five (5) years, the 3.3-acre invasive species management areas shall be monitored annually for the presence of invasive species and annual reports shall be submitted to the Conservation Office. Any areas found to contain concentrations of invasive species and/or should the plant community within the management area exceed 10% invasive species, the management area shall be managed by DCR in accordance with a program developed in consultation with the Commission's representative.
- c. Fertilizers shall not be used within jurisdictional areas.



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- d. No pesticides or herbicides are allowed within a wetland resource area, including the 200-foot riverfront area, or within 100-foot of a wetland resource area (the adjacent upland resource area under the local bylaw), except for spot treatment of Japanese knotweed, without additional review by the Conservation Commission.
 - e. Underground storage of petroleum products is prohibited within a wetland resource area and within the 100' buffer zone of a wetland resource area.
 - f. No coal tar-based sealants may be applied to any area draining into the upland or wetland resource areas of the property.
 - g. All components of the stormwater management system shall be maintained in accordance with the MassCentral Rail Trail (MCRT) – Wayside Section Stormwater Management System Operation and Maintenance Plan (O&M) and the Long Term Pollution Prevention Plan, and as necessary to function as designed. Inspection checklists shall be maintained and be made available for review by the Conservation Commission or staff on request.
 - h. There shall be no snow removal activities or de-icing products used on site, except as required for emergency situations.
 - i. The five-foot maintained area over the transmission line, outside the two-foot shoulders that will be regularly maintained, may be mown once per year, before April 1 or after November 1. Mowing outside this timeframe may be allowed in accordance with the Final Corridor Management Plan, with the objective of allowing vegetation to go to seed and propagate.
 - j. When maintaining the rail trail, no debris, including natural debris such as leaves, shall be blown or swept into areas within 25 feet of vernal pools. Signage or other means of demarcating this management requirement shall be provided to and approved by the Conservation Commission prior to issuance of a Certificate of Compliance.
 - k. The culverts and drainage structures shall be inspected at least annually and cleared of debris as needed. If culverts become damaged or no longer function as required, they shall be repaired or replaced according to most current MA Stream Crossing Standards. This work will require review and approval by the Conservation Commission under a Notice of Intent.
 - l. If herbicide use by DCR is permitted under a future Vegetation Management Plan, as approved by the Department of Agricultural Resources, herbicide use shall be prohibited within any certified or certifiable vernal pool, vegetated wetlands or waterways. Invasive species removal by DCR will be by mechanical means when possible and spot treatment of herbicide by a licensed herbicide applicator when other approaches are ineffective. DCR shall notify the Commission in advance, if herbicides are to be used within wetland jurisdictional areas, indicating the target control species, the type(s) of herbicide to be used, and the on-going maintenance plan for the targeted area.
 - m. All trail amenities, such as benches and kiosks, shall be located outside wetland jurisdictional areas, except as shown on the approved plans.

Turtle Protection Plan
Sudbury-Hudson Transmission Reliability Project
NHESP File No. 15-34327
August 2, 2021

Project Overview/Background

The Massachusetts Department of Conservation and Recreation (“DCR”) and NSTAR Electric Company d/b/a Eversource Energy (“Eversource”) will be constructing a portion of the Massachusetts Central Rail Trail (“MCRT”) and installing an underground electric transmission line within an inactive Massachusetts Bay Transportation Authority (“MBTA”) railroad right-of-way (“ROW”) within the limits of the towns of Sudbury, Marlborough, Stow, and Hudson, Massachusetts. As proposed, the MCRT and the underground electric transmission line, referred to as “the Sudbury-Hudson Transmission Reliability Project” is a joint project (the “Project”) to be constructed in a two-phased approach. Phase 1 of the Project will be under the control and responsibility of Eversource and will include vegetation removal, all major earthwork, bridge reconstruction, installation of the underground electric transmission line, upgrades at the existing Sudbury substation, installation of stormwater management features, creation of a gravel-based access road to be used for installation of the MCRT, and revegetation of disturbed areas. Phase 2 of the Project will be under the control of DCR and will include installation of facilities at road crossings, paving the MCRT and final restoration.

Both phases of this Project are associated with NHESP File No. 15-34327, however, each phase of the Project was issued a separate No Take Determination letter from the Natural Heritage & Endangered Species Program (“NHESP”) of the Massachusetts Division of Fisheries & Wildlife (the “Division”). Eversource received a No Take Determination letter for the Sudbury-Hudson Transmission Reliability Project on October 19, 2018. DCR received a No Take Determination letter for the MCRT on May 17, 2019.

Condition 1 of the No Take Determination letter for the Sudbury-Hudson Transmission Reliability Project identified that the Eastern Box Turtle Protection Plan (“TPP”), dated 5/31/2018 must be implemented as proposed. The 2018 TPP was developed to protect both Eastern Box Turtle (EBT: *Terrapene Carolina*) and Wood Turtle (WT: *Glyptemys insculpta*) and was based upon field data collected through 2018.

Since the approval of the 2018 TPP, Eversource has continued to collect field data related to the presence and movement of EBT and WT and has developed specific contractor training and responsibilities throughout the permitting phase for the Project. Eversource is submitting this updated TPP to NHESP for their review and approval. This updated TPP contains all the same elements approved in the 2018 TPP, but, is updated with the most current field data and expectations for Contractor Training and environmental monitor oversight during the construction of Phase 1 of the Project.

EBT and WT are listed and protected by the NHESP as “Species of Special Concern”. Both EBT and WT are known to occur in Priority Habitat 1040 / Estimated Habitat 1440 (PH 1040 / EH 1440) in Hudson, Marlborough, and Sudbury generally located between Dutton Road in Sudbury and White Pond Road in Hudson. Since 2017 and up to the present, an ongoing field survey for EBT and WT has been completed on the MBTA corridor in Sudbury, Marlborough and Hudson and lands adjacent to it within the mapped

Priority Habitat. As part of this survey, a number of EBT and one WT have been captured and fitted with radio transmitters. Using radio telemetry techniques, the movements of these animals have been closely followed during their active periods. Based on the observations made during this survey, it is now known that there are turtle movements beyond the mapped Priority Habitat. **Based on survey efforts, the TPP applies to areas along and within the construction corridor between Dutton Road in Sudbury, west to Parmenter Road in Hudson.**

The TPP consists of rigorous measures that will be taken to protect turtles from unintentional injury or death during the construction of Eversource's portion of the Project (Phase 1). The TPP also describes measures that are intended to protect their nests and overwintering locations. DCR will develop a TPP specific to Phase 2 of the project through discussions with the NHESP.

Following construction, rare turtle protective measures will be implemented by Eversource as part of their yearly Operation and Maintenance Plan (OMP) for maintenance and operational work on electric transmission line rights-of-way (ROW). Similarly, DCR will follow their trail Guidelines and Best Management Practices Manual.

The TPP consists of several important components that will work effectively to protect EBT, WT, and other turtle species that may be encountered during construction both within Priority Habitat and elsewhere on the project corridor.

It is the intent that this TPP not be a static document. As construction and on-going turtle survey efforts proceed beyond the construction corridor, changes may be made to the TPP. These changes will be made should new information regarding turtle movements and / or behavior indicate necessary changes to protect turtles during construction activities.

Protective measures that Eversource will follow during construction are as follows:

Pre-Construction

Contractor Education and Awareness Program

Prior to construction, Project construction plans will be developed clearly identifying the locations of sensitive rare turtle habitats. These plans will clearly and concisely identify rare turtle work restrictions and requirements that will be implemented while working within rare turtle habitat.

Prior to construction, all workers who will be working on the Project will be required to attend a rare turtle training session. The session will be conducted by a qualified biologist knowledgeable with EBT and WT biology and behavior. The session will include discussions on rare turtle identification, biology, habitat preferences, natural history, and mandatory work requirements and practices within designated rare turtle habitats. The session will make use of a PowerPoint presentation and handout materials that workers can refer to while working on the Project Site. All attendees of the training session will be required to sign an attendance sheet. **Following completion on the training session, all workers in attendance will be provided a hard hat sticker. While working on the Project Site, workers will be required to display this sticker on their hard hats to clearly identify trained workers while on site. Workers not trained or trained workers not displaying a sticker on their hard hats will not be allowed on the Project ROW in areas identified as turtle habitat in this TPP (i.e., from Dutton Road to Parmenter Road).** Additional training sessions will be given as new contractors or crews are added to the workforce.

Refresher training sessions will be given on as need basis should non-compliance activities occur on the Project site.

Environmental Inspectors

Qualified Environmental Inspectors (EI) assigned to the section of the construction corridor where the TPP applies, should be familiar with the biology, behavior and radio telemetry tracking of rare turtles and the measures that are necessary to protect them during construction. The EI(s) shall also be required to either obtain a Scientific Collection or be listed as a subpermittees on such a permit obtained for the Project by a qualified individual.

During Construction

Construction Inspections and Treatment of Animals

Prior to daily work activities within rare turtle habitat between April 1 and October 31, a qualified EI will visibly search (sweep) access roads, work areas in the construction corridor and occasionally in areas adjacent to the construction corridor on the MBTA corridor for rare turtles. Additionally, radio telemetry scans will be made from the construction corridor to locate turtles previously fitted with radio transmitters (as part of ongoing rare turtle survey efforts) near work areas. Pinpoint locations of turtles fitted with radio transmitters outside of the MBTA corridor is not needed, but daily telemetry will be used to determine if their general location(s) are near or within the construction corridor. **Both visible searches and telemetry scans are required. While a number of turtles have been fitted with radio transmitters it must be assumed that all rare turtles in the area of the Project may not have been captured and fitted with transmitters.**

Any rare turtles without previously fitted radio transmitters that are encountered will be fitted with radio transmitters (to make it easier to relocate them during subsequent work excursions into the area). Turtles captured within the Limits of Work will be relocated greater than 500 horizontal feet from their capture points. Attempts will be made to relocate turtles in their perceived direction of travel, avoiding areas of private/no-access properties. In some circumstances it may be necessary to temporarily detain captured turtles and relocate them at the end of the workday. **Should any rare turtle be located within the construction corridor or the MBTA ROW, proper handling, care, and relocation must follow the "Rare Turtle Capture and Handling Protocol" provided in Attachment A.**

While work is occurring, the area surrounding the work area will also be inspected periodically to ensure that any turtle(s) that may wander into the area will be located and properly moved from harm. If a contractor employee locates a rare turtle in the absence of an EI, he or she will be required to notify the EI as soon as possible for directions on how to proceed.

Rare turtle sweeps and construction oversight for rare turtles will not be required during the dormant season, between November 1 and March 31, when turtles are presumed to be hibernating in locations away from the work area (see particular circumstances described below in "Protection of Turtle Hibernacula" for exceptions to this). However, other wildlife time of year restrictions may apply.

Coordination with Ongoing Turtle Survey

Since 2017, a rare turtle survey has been ongoing in areas that include the MBTA corridor located in Priority Habitat and some of the lands adjacent to it. Because the EI will be responsible for implementing the TPP on the construction corridor only, the inspector will be responsible for direct communications with the biologists completing that study. Information that will be provided to the EI shall include an update on turtle movements of those turtles previously fitted with radio transmitters near the construction corridor. The EI will also be responsible for reporting all rare turtle observations to the survey biologists made during construction and any rare turtles fitted with a radio transmitter (including radio frequency of the transmitter).

The tentative schedule for tracking efforts by the survey biologists is as follows.

- April 15th to May 15, every 10 days.
- Every 7 days during nesting season (May 15 to July 1).
- July to August, every 10 days.
- September to October 15 every 7 days.
- One day at the end of October.
- Hibernacula confirmation in December.

Protection of Turtle Hibernacula

Based on the current data for known hibernacula, since 2017 no tracked rare turtle has hibernated within 100 feet of the Project Site. If, based on ongoing studies, a hibernaculum is identified within 50 feet of the Project Limit of Work for any Project related activities (e.g., tree clearing and/or trenching), NHESP will be contacted to schedule a site visit. During the site visit, potential risks to the hibernaculum and turtle will be determined and if necessary protective measures to be followed during construction will be established. If a hibernaculum is located between 30 and 50 feet of the Limits of Work and Project activities are allowed to continue following NHESP site walk, regular radio checks for turtle movements beyond the hibernaculum will be required especially during periods of unusually warm weather during the typical overwintering period (October 31 through April 1). Special attention needs to be paid to hibernacula relatively close to the construction Limit of Work during the month of March. If a hibernaculum is located closer than 30 feet from the Construction Limit of Work during the overwintering period, construction activity may be limited to only of driving equipment along the construction corridor. If this situation occurs, special attention must be paid to monitoring possible turtle movements from their hibernaculum. If a turtle is found overwintering within 30 feet of the Construction Limits of Work, under limited and rare circumstances, it may be relocated from its hibernaculum but only with direct input from NHESP.

Protection of Turtle Nests

Rare turtles typically nest within well-drained, open areas during evening hours typically between May 25 and July 5. Turtle nests incubate through the summer and hatchlings typically emerge and migrate away from the nest by early October. Based on rare turtle survey efforts completed to date, there have been no turtle nesting areas identified within the project construction corridor. If, based on the ongoing rare turtle survey, work will occur within potential nesting habitat in June through early July, the following protection measures will be implemented.

Survey biologists will conduct evening surveys as part of ongoing turtle tracking studies independent of construction oversight. If there appears to be a rare turtle nesting conflict during construction, the EI will be notified. Searches will be completed within the identified potential nesting habitat areas between May 25 and July 5 to locate females in search of suitable nest locations. Observed state-listed female turtles will be watched from a distance or tracked using thread bobbins to identify nest locations. After females have completed nesting, the nest locations will be flagged for avoidance to prevent destruction of incubating eggs. Efforts will be made to pinpoint the precise nest location.

If nest avoidance is not possible during construction, nests may be excavated by the survey biologists and relocated to a suitable incubation area beyond the limits of work. The biologist will confer with NHESP prior to relocating state-listed turtle nests. All identified state-listed turtle nests will be equipped with predator excluding hardware cloth and treated with cayenne pepper. The nest enclosures will be removed during early September to allow unhindered hatchling egress unless directed otherwise by NHESP.

Other Protective Measures

Erosion control barriers and soil erosion blankets containing plastic or wire mesh can ensnare turtles and other animals resulting in mortality. Therefore, erosion control and stabilization measures containing such mesh (straw wattles, mesh-backed silt fence, and open mesh blankets) will be prohibited within mapped rare turtle habitat. As such, syncopated erosion control barriers and other erosion control devices that will be used within Priority Habitat areas as shown on Project plans and designed to allow for the passage certain wildlife species across the corridor, will not contain plastic or wire mesh as part of their installation. Any area containing erosion control protective measures or syncopated barriers should be inspected regularly for any turtle that may have entered the construction corridor and detained within it. Any turtle found in any such area should be relocated or handled as prescribed in the "Rare Turtle Capture and Handling Protocol" provided in Attachment A. Materials used for erosion barriers or soil erosion blankets within turtle habitat areas must be approved by the EI. Any such measure that is employed within mapped rare turtle habitat will be removed as soon as site stabilization has occurred.

EIs will coordinate with contractors in the field to effectively prevent turtles from falling into open trenches or newly excavated areas. The EI will be responsible for approving and inspecting protective measures designed to prevent turtles from falling into them during non-work hours. During the rare turtle active season (April 1 through October 31), protective measures that may be applied daily may include surrounding open trenches with barriers at the end of each day or covering them with iron plates. Other measures may be acceptable if approved by the EI. At the end of each workday any open trench that is protected in such a manner will be inspected for approval by the EI.

Within the area covered by this TPP, signs shall be placed in strategic locations notifying contractors that the area they are entering and/or working in is subject to special requirements designed to protect wildlife. Any such sign shall meet the requirements of the NHESP.

Post Construction

Following construction of the Eversource underground transmission line, DCR will construct the MCRT. Rare turtle protection measures that will be implemented as part of that construction will follow a TPP specifically developed for work that will be completed by DCR.

As is typical with other Eversource ROW facilities, the company will submit to NHESP an Operations and Maintenance Plan (OMP) on an annual basis for review and approval under the utility maintenance exemption section of the Massachusetts Endangered Species Act (MESA) implementing regulations (321 CMR 10.14 (11)). Rare turtle protective measures that will be adhered to shall follow those typically included in the Company's annual OMP.

Alteration of Turtle Protection Plan Elements

The TPP detailed above is designed to avoid direct mortality to any turtles that are known to use the work area or by chance are found during construction activities. Because work plans may change or weather conditions may necessitate changes in schedules, the TPP offers a certain amount of flexibility to accommodate any such schedule or program change. It is the intention of the TPP to respond to any such change to assure that resident turtles in the planned work area will not be directly harmed by construction equipment or activities. If it is necessary to modify the protective approaches detailed herein, NHESP Staff will be consulted in the development of a modified protective approach.

Data Recording and Reporting

All rare turtle observations will be reported online using the NHESP's Heritage Hub reporting portal. An annual summary report will be submitted to NHESP at the end of each year during construction. The report will include sections on turtle demographics, morphometric data, locational data, movement data and the results of mortality avoidance measures. Additionally, a separate report will be submitted to NHESP detailing rare turtle survey efforts and observations as part of the ongoing rare turtle survey beyond the limits of the Eversource underground transmission line / MCRT construction corridor. That report will include a summary of turtle observation made by the EI for completeness of annual rare turtle observations as part of the overall survey.

Attachment A

Rare Turtle Handling Procedures

Rare turtle Capture and Handling Protocol

Purpose

Eastern Box Turtle (EBT) (*Terrapene carolina*) and the Wood Turtle (WT) (*Glyptemys insculpta*) are state listed in Massachusetts as Species Special Concern. As such, they are protected against direct harm to the individual and protected against destruction or disturbance of their habitats. The purpose of this document is to provide construction personnel with important information that will help reduce the potential for direct harm to individual turtles should they be encountered during construction activities. This document includes information about general habitat use, proper turtle handling procedures, relocation information, contact information of qualified Environmental Inspectors (EI) / Biologists, and representative photographs of both species to assist in proper identification.

General Overview of Eastern Box Turtle Habitat Use

EBTs in the northeast use a variety of habitats over the course of the year based on seasonal availability of food items, life cycle requirements (e.g., nesting and hibernating) and body temperature regulation. A generalized breakdown of this seasonal habitat use is provided below to give contractors an idea of where chance encounters are most likely given the time of year.

- *April through June.* EBTs are typically observed in open fields, early successional scrub-shrub/sapling areas and forest-field edges but may be observed in forested habitats as well. In June, female box turtle may be in open sandy areas with sparse vegetation for nesting.
- *July through September.* EBTs are typically observed in forested uplands and forested wetlands but will sometimes use forest-field edges or dense shrubby areas.
- *October through March.* EBTs use forested habitats almost exclusively but are difficult or impossible to find because they are buried under root/duff layer of the forest floor.

General Overview of Wood Turtle Habitat Use

WT preferred habitat is riparian areas that include slow moving mid-sized streams with sandy bottoms and densely vegetated banks. When not located in riparian habitats they can be found in forests, early successional fields and/or hayfields sometimes great distances from streams.

- *April through June.* WT are found either within slow moving stream or within several hundred meters of them in dense vegetation. They are sometimes found basking in sunlight on stream banks or in areas nearby. In June, female WT may be in open sandy areas with sparse vegetation for nesting.
- *June through early to mid-September.* WT move from riparian habitats into forests, early successional fields and/or hayfields to feed.
- *Mid-September to March.* WT move back into streams or stream banks where they will overwinter.

Methods

Below is a step-by-step process that shall be followed in the event of a rare turtle observation.

- 1) If an EBT or WT is observed, first determine if the individual is within harm's way. If the individual is observed outside of the exclusion zones (i.e., outside of the work area), then it should not be

handled to minimize disturbance and prevent altering their behavior. Report the observation to the EI as soon as possible. If the EI is not immediately available report the observation to a Biologist.

- 2) When an EBT or WT is determined to be within harm's way, it should be captured and temporarily detained until the designated EI, or Biologist has been notified and can arrive onsite to perform standard data collection and turtle relocation. Contact the EI or as soon as possible. If the EI is not immediately available report the observation to a Biologist.
- 3) To properly detain a turtle, place the turtle into a plastic tub. Turtles can easily die from overheating. Therefore, this tub **MUST** be placed in a cool shaded area out of direct sunlight, indoors or out. Outdoor shaded areas must be persistent, that is, make sure that the tub is not in an area that will BECOME sunny later in the day. In addition, fresh vegetation (e.g., leaves, tall grass cuttings) and water **SHALL** be placed into the tub for cover and hydration.
- 4) When handling an EBT or WT grasp it firmly by the sides of the carapace (top shell). These turtles are typically very shy and will usually retract their head and legs into the shell. If the turtle does not retreat into its shell, be cautious of the turtle's head, mouth, and feet. Although these turtles typically do not bite, they are certainly capable of doing so. In addition, they have very sharp claws and powerful legs for digging, which can scratch the skin.
- 5) As soon as possible an no greater than one (1) hour of either observing or capturing an EBT or WT, contact the EI for direction. If the EI is not present, contact one of the qualified biologists listed below. Turtles shall not be detained for more than four hours at any time.
- 6) If an injured EBT or WT is seen or captured, contact the EI or a Biologist as soon as possible. If it is possible to detain the injured turtle, detain it as described in item 3 above.

Contact Information for Environmental Inspectors

Name:	TBI	Name:	TBI
Cell No:	TBI	Cell No:	TBI
Email:	TBI	Email:	TBI

Contact Information for Qualified Biologists

Name:	TBI	Name:	TBI
Cell No:	TBI	Cell No:	TBI
Email:	TBI	Email:	TBI

Eastern Box Turtle Photographs



Plastron of female



Plastron of male



Variation in turtle carapace patterns



Turtle under old hay bale



Partially buried turtle in forested area



2-year old juvenile

Wood Turtle Photographs



Wood Turtle Plastron (bottom shell)



Wood Turtle Carapace (top shell)



Wood Turtle Front View (note bright orange limbs)

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

Sudbury - Hudson Transmission Reliability Project

Pre-Construction Certified Cost Estimate (+/-10%) (\$ in millions)

	NEW LINE	SUDBURY SUBSTATION MODIFICATIONS	TOTALS
Total	\$101.21	\$4.23	\$105.44

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

NSTAR Electric Company)
d/b/a Eversource Energy)
_____)

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

AFFIDAVIT OF AYO OSIMBONI

Ayo Osimboni does hereby depose and say as follows:

I, Ayo Osimboni, Manager, Project Management & Construction for Eversource Energy, certify that the updated cost estimate for the Project provided as Attachment 4 was prepared by me or under my supervision and is true and accurate to the best of my knowledge and belief.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 22nd DAY
OF APRIL, 2022.**



Ayo Osimboni