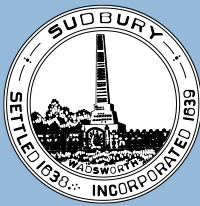


SUDBURY SELECT BOARD  
TUESDAY MAY 10, 2022  
7:00 PM, ZOOM

Item #	Time	Action	Item
	7:00 PM		CALL TO ORDER
<b>EXECUTIVE SESSION</b>			
1.		<i>VOTE</i>	Vote to enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(paragraph 2).
2.		<i>VOTE</i>	Vote to close executive session and resume open session
	7:45 PM		Opening remarks by Chair
			Reports from Town Manager
			Reports from Select Board
			Citizen's comments on items not on agenda
<b>MISCELLANEOUS</b>			
3.			Discussion on Historical Commission's request for Select Board action related to historical preservation of artifacts on former Mass Central Rail Corridor. (~20 min.)
4.		<i>VOTE</i>	Vote to elect a new Chair and Vice-chair and reappoint Town Manager Henry Hayes as Clerk to the Select Board. This will take effect at the close of tonight's meeting. (~15 min.)
5.		<i>VOTE</i>	Vote to review and possibly approve the open session minutes of 3/24/22 and 4/12/22.
6.			Upcoming agenda items

*These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Some items may be taken out of order or not be taken up at all. The Chair will strive to honor timed items as best as possible, however, the estimated timing may occasionally be inaccurate.*



SUDBURY SELECT BOARD

Tuesday, May 10, 2022

**EXECUTIVE SESSION**

**1: Executive session re: contract negotiation Town Mgr**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(paragraph 2).

Recommendations/Suggested Motion/Vote: Vote to enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(paragraph 2).

Background Information:

Financial impact expected:

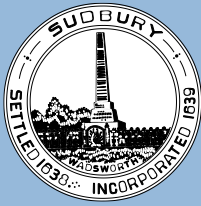
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, May 10, 2022

**EXECUTIVE SESSION**

**2: Close executive session and resume open session**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to close executive session and resume open session

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

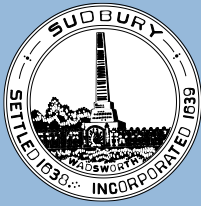
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, May 10, 2022

**MISCELLANEOUS (UNTIMED)**

**3: Discussion with Historical Commission reps re: historical resource preservation**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Discussion on Historical Commission's request for Select Board action related to historical preservation of artifacts on former Mass Central Rail Corridor. (~20 min.)

Recommendations/Suggested Motion/Vote: Discussion on Historical Commission's request for Select Board action related to historical preservation of artifacts on former Mass Central Rail Corridor. (~20 min.)

Background Information:

Financial impact expected:

Approximate agenda time requested: 20 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM



April 30, 2021

Ms. Tammy R. Turley  
 Chief, Regulatory Division  
 Corps of Engineers, New England District  
 696 Virginia Road  
 Concord, MA 01742-2751

Ref: *Eversource / MA DCR Electric Line (Phase I)/Rail Trail (Phase II)*  
*Application No. NAE-2017-01406*  
*Towns of Sudbury, Hudson, Marlborough and Stow, Middlesex County, Massachusetts*  
*ACHP Case Number: 016522*

Dear Ms. Turley:

On February 5, 2021, the Advisory Council on Historic Preservation (ACHP) received notification from the U.S. Army Corps of Engineers, New England District (Corps) regarding the referenced undertaking's potential adverse effect on a property eligible for listing in the National Register of Historic Places. The Corps provided its notification in compliance with Section 106 (54 U.S.C. § 306108) of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. Part 800). Since that notification, we have also been copied on correspondence and received communications from consulting parties and stakeholders with expressions of concern regarding the Section 106 review being carried out by the Corps. Those concerns focus on the Corps' definition of the undertaking subject to review, its delineation of the Area of Potential Effect (APE), the sufficiency of its effort to identify and consider effects to historic properties that may be affected by the undertaking, and the identification and acknowledgement of important stakeholders to include in the Section 106 review as consulting parties. To assist the Corps in meeting the statutory requirements of Section 106, we offer the following comments pursuant to 36 C.F.R § 800.9(a).

Based on the information provided, it is our understanding that Eversource Energy is proposing to install a new electrical transmission line, approximately nine miles in length, between its Sudbury Substation in the Town of Sudbury and the Town of Hudson. The transmission line will be placed, for the most part, underground along 7.6 miles of an inactive railroad corridor. The project includes the clearing of trees and shrubs in the ROW, construction of a 14-foot-wide access road, excavation for burial of the transmission line, the rehabilitation or replacement of three bridges, and post-construction revegetation in the right-of-way (ROW). The Corps is reviewing a pre-construction notification (PCN) for components of the undertaking requiring authorization under a Nationwide Permit for temporary impacts to wetlands in the ROW. No detailed information was provided for the Rail Trail Phase II cited in the project name, though it is our understanding that it will be sponsored by the Massachusetts Department of Conservation and Recreation (DCR), which was listed as a co-applicant under the PCN for the project.

As noted, consulting parties have expressed concern about the Corps' refusal to consider effects to historic properties in other portions of the ROW beyond the permit areas associated with modification or replacement of several bridges to enable attachment of the transmission line for crossing waterbodies in

the ROW. Cultural resource surveys carried out along the entire ROW by consultants for the project proponent have identified a number of historic properties that might be affected by the undertaking, and suggested that the project corridor has the potential for unrecorded structures and/or features associated with the 17th through 19th century development of both Sudbury and Hudson, and archaeological sites associated with the railroad as well as the pre-contact period. However, the Corps has declined to consider effects to historic properties beyond those occurring in or adjacent to its permit areas, citing Appendix C (“Procedures for the Protection of Historic Properties”) of 33 C.F.R. 325 (“Processing of Department of the Army Permits”) as the basis for that minimization of its responsibilities.

As you are aware, the ACHP has never approved Appendix C as an alternative to the Section 106 implementing regulations as required by Section 110(a)(2)(E) (now 54 U.S.C. § 306102(b)(5)(A)) of the NHPA, because it differs from the Section 106 regulations in many fundamental ways, including the definition of undertaking, the delineation of the APE, and the nature of consultation during the Section 106 review. Under the Section 106 regulations, the undertaking is not solely the federal issuance of a permit or a grant or the specific activity that requires a permit or grant. Rather, the undertaking is the overall project, parts of which may require the issuance of a permit and/or that benefit from federal assistance. The NHPA specifically and explicitly defines “direct or indirect jurisdiction” in the context of “undertakings” as “projects ... including— (1) those carried out by or on behalf of the federal agency; (2) those carried out with federal financial assistance; (3) those requiring a federal permit, license, or approval ...” (54 U.S.C. § 300320). The “jurisdiction” needed for a project to fall within the scope of a Section 106 review does not entail a high level of federal agency control. Rather, when a federal agency’s involvement in an otherwise non-federal undertaking is limited to an associated approval, as in this case, the entire project is still considered as falling within the federal agency’s “direct or indirect jurisdiction” for Section 106 purposes. The APE is defined as the geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist” (36 C.F.R. § 800.16(d)).

The ACHP recognizes that a federal agency may face challenges in identifying and resolving adverse effects to historic properties in the portions of an APE that are outside those areas associated with activities requiring federal authorization or assistance. The Section 106 process provides federal agencies the authority to determine, in the context of such challenges, appropriate levels of effort for the identification and consideration of effects to historic properties that can qualify as meeting the reasonable and good faith standard set out in the regulations. In establishing a reasonable and good faith effort to identify and consider effects to historic properties from an undertaking, the federal agency should consider past planning, research and studies, the magnitude and nature of the undertaking and the degree of Federal involvement, the nature and extent of potential effects on historic properties, and the likely nature and location of historic properties within the area of potential effects (36 C.F.R. § 800.4(b)(1)). Thus, in a case such as this, it is appropriate for the Corps to consider the nature of the authorization or assistance it will be providing, the components of the larger undertaking the federal action focuses on, the location of those components, and the relationship of those components to the larger undertaking. In such cases, the federal agency has an obligation to consider not only the effects on historic properties from the components requiring authorization or assistance, but also those aspects of the larger project without which the specifically authorized or assisted activity would not serve a rational need. In situations where the federal agency has a “small federal handle,” the concept of independent utility is useful in determining the extent of a federal agency’s responsibilities to “take into account” the effects of the undertaking on historic properties under Section 106.

As noted, stakeholders have also expressed concerns about the Corps efforts to identify and invite appropriate stakeholders to be consulting parties in the Section 106 review and provide them with the documentation and information necessary to inform their participation in the Section 106 review.

According to the Corps' submission, in 2019, it notified and invited comment from the Mashpee Wampanoag Tribe and the Wampanoag Tribe of Gay Head (Aquinnah), two federally recognized tribes that ascribe significance to properties in the project area. However, we understand that the Corps did not notify the Narragansett Indian Tribe (Narragansett Tribe) in Rhode Island, a federally recognized tribe that also ascribes religious and cultural significance to properties in Massachusetts. The Corps was subsequently contacted by the Tribal Historic Preservation Officer (THPO) of the Narragansett Tribe who expressed concerns regarding the potential for effects to archaeological sites and possibly associated burials, which could be encountered and disturbed along the project ROW. By letter dated March 31, 2021, the Corps acknowledged the Narragansett THPO's notification and invited comment on a draft Memorandum of Agreement (MOA). The Corps is aware that Section 101(d)(6)(B) (now 54 U.S.C. § 302706(b)) of the NHPA as well as the Section 106 implementing regulations require that federal agencies consult with any federally recognized Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. This requirement applies regardless of the location of the historic property. It is important for federal agencies to make a good faith effort to identify such tribes and initiate consultation early in the review process.

We also understand that the Sudbury Historical Commission had initially been corresponding with the Corps and requesting information about the undertaking and then formally requested to participate as a consulting party in the Corps' Section 106 review in September 2020. Though continuing to communicate with the Corps, the Historical Commission did not receive formal recognition of its consulting party status for some time. The ACHP wishes to remind the Corps that local governments with jurisdiction over the area where an undertaking is proposed or where it will affect historic properties are by-right consulting parties in the 106 review. To the extent that such commissions represent the views of the local government and the community, they are important consulting parties. Further, the Section 800.2(c)(5) of the Section 106 implementing regulations clarifies that "Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties". The Historical Commission has a well-informed interest in the effects of the undertaking on historic properties. The Section 106 regulations direct the federal agency to carry out the effort to identify historic properties in a way that is informed by the information gathered from tribes, consulting parties, and other individuals and organizations likely to have knowledge of, or concerns with, historic properties in the project area (36 CFR § 800.4(b)). Further, the Section 106 consultation process is intended to enable members of communities and other knowledgeable and concerned stakeholders to participate actively in the federal decision making process as it relates to effects on historic properties. By denying or delaying consulting party status to organizations like the Historical Commission, the Corps would be failing to avail itself of the established expertise in the community to address issues of importance to the Section 106 review.

Therefore, it is the ACHP's advisory opinion that the Corps should fully engage with the Massachusetts State Historic Preservation Officer, the federally recognized tribes, and other appropriate consulting parties, including the Historic Commission, to consider the effects of the entire undertaking on historic properties. As the transmission line ROW is less than ten miles in length, it appears the transmission line could not be built along the selected railroad corridor without the modification or replacement of the bridges to enable passage of the transmission line across waterbodies in the corridor. Work on several of the bridges will include activities requiring Corps permits. Thus, it appears that the undertaking as designed, planned, funded, and scheduled could not be built but for the activities requiring a Corps permit. The ACHP believes that, in this case, the activity requiring Corps authorization represents a sufficient level of federal involvement that the Corps is obligated to actively take into account effects to historic properties throughout the entire ROW for the project. This is reinforced by the fact that the components of the project associated with the Corps authorization, the rehabilitation and modification or replacement of bridges to facilitate passage of the transmission line across waterbodies, have no

independent utility separate from the larger undertaking. The Corps should consider the results and recommendations of the cultural resource surveys carried out by consultants for the proponent, in consultation with the consulting parties, and require additional identification work as necessary to complete the identification of historic properties and the assessment of effects and adverse effects.

The ACHP also wishes to remind the Corps that the ACHP, in accordance with 54 U.S.C. § 304108(a), is the only federal agency authorized to promulgate regulations to implement Section 106 in its entirety. As previously noted, the ACHP has never approved Appendix C as an alternative to the Section 106 implementing regulations as required by 54 U.S.C. § 306102(b)(5)(A)). Therefore, relying on Appendix C as a basis for making findings and determinations in the Section 106 review will leave the Corps' compliance with Section 106 subject to challenge due to fundamental inconsistencies between Appendix C and the Section 106 implementing regulations.

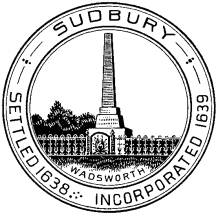
We have provided these advisory comments to assist the Corps in concluding the Section 106 review for the referenced undertaking. If you have any questions or require further assistance, please contact Dr. John Eddins at (202) 517-0211 or via email at [jeddins@achp.gov](mailto:jeddins@achp.gov).

Sincerely,



Jaime Loichinger  
Assistant Director  
Office of Federal Agency Programs  
Federal Permitting, Licensing and Assistance Section





# Town of Sudbury

## Historical Commission

historical@sudbury.ma.us

Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776  
978-639-3387  
Fax: 978-639-3314  
www.sudbury.ma.us/historicalcommission

January 14, 2022

Paul Maniccia, Chief  
Permits & Enforcement Branch A  
Regulatory Division  
US Army Corps of Engineers, New England Division  
696 Virginia Road  
Concord, MA 01742-2751

Re: Section 106 Consultation: Eversource Sudbury-Hudson Transmission Reliability Project, USACE NAE-2017-01406, MHC #RC.62384, ACHP Case 016522

Dear Mr. Maniccia,

The Sudbury Historical Commission (SHC) received the US Army Corps of Engineers (Corps) December 17, 2021 letter regarding its Determination of Effect (DOE) Finding and Revised Permit Area of Potential Effect (APE) Boundaries for the above named project with the following attachments: (1) VHB Eversource Energy (Sudbury-Hudson Transmission Reliability Project) *Updated Plans* with Permit Area & Area of Potential Effects Boundaries, (2) MHC *Inventory Form A (Area)* for Central Massachusetts Railroad Corridor Historic District (CMRRCHD) in Hudson, MA dated October 2021, (3) *Updated Project Impacts* to (Sudbury) Railroad Features listing dated November 11, 2021, and (4) *Post Review Discoveries Plan* dated November 17, 2021.

The Historical Commission has reviewed the Corps' December 17<sup>th</sup> letter and the attachments and is responding to the Corps' December 17<sup>th</sup> request that the Commission make formal comments to the Corps on the information contained in and attached to its letter within 30 days. The SHC appreciates the opportunity to provide further comment as a Consulting Party during the ongoing consultation process and review concerning the above-named undertaking under Section 106 of the NHPA of 1966, as amended.

### SHC Requests Section 106 Consultation Meeting with the Corps

**The Historical Commission requests a consultation meeting with the Corps as soon as possible to consult prior to the release of a revised draft MOA for comment.**

The Commission appreciates the comment made by Regulatory Division Chief, Ms. Tammy Turley, during the October 14, 2021 consultation meeting suggesting that a follow-up consultation meeting be held. The Commission agrees with this idea to hold a follow up consultation meeting and therefore requests a consultation meeting with the Corps as soon as possible prior to the distribution of a revised MOA. Since the October 14<sup>th</sup> meeting, the Corps has made a determination of adverse effect and a determination that the CMRRC is NR-eligible as a Historic District, So the Commission seeks to meet with the Corps at this next stage in the Section 106 process to consult for the purpose of seeking solutions to preferably avoid or minimize the undertaking's adverse effect on the NR-eligible CMRRCHD including consulting about Bridges 127 and 128 and the Section Tool House, and any historic properties/cultural resources that may have been identified with the assistance of the Narragansett THPO.

We suggest that the MA SHPO, THPOs, project proponents and other Section 106 consulting parties be included. The SHC can host a virtual Commission meeting with a Corps facilitator leading the meeting as was done at the SHC October 14, 2021 meeting or the Commission could attend a Corps' hosted virtual meeting like the Corps hosted group consultation meeting on September 28, 2021.

## Memorandum of Agreement

The Corps' December 17, 2022 letter states, "*The District is located both within the permit area as well as the surrounding area of potential effect (APE) that the Corps **must** consider for known properties outside the permit area.*"

**Therefore, it is the Commission's expectation that the MOA stipulations will address solutions to the undertaking's adverse effects on all the NR-eligible historic properties (all 70+ railroad features and structures in Sudbury) of the CMRRCHD in the entire APE as defined under 36 CFR 800. The Sudbury Historical Commission would like confirmation from the Corps on this expectation.**

Those railroad structures to be addressed in the MOA should include Bridges 127 and 128, and the Section Tool House which are railroad features the SHC is most concerned about and seeks solutions to avoid or minimize the undertaking's adverse effect. The SHC's October 25, 2021 letter outlines the Commission's thinking about these and other railroad features of the CMRRCHD.

## Determination of National Register Eligible Historic Properties

According to the Corps' December 17, 2021 letter the Corps has "determined that the CMRRC Historic District in Sudbury and Hudson is eligible for listing as a National Register-eligible District that encompasses the rail right-of-way as well as extant railroad structures and objects along this corridor." **The Sudbury Historical Commission supports this important determination made by the Corps.**

The Commission notes that the December 17<sup>th</sup> letter describes the CMRRC NR-eligible Historic District to be comprised of "the railroad corridor and bed, the track structure, bridges, culverts, Section Tool House, South Sudbury Station Building, signals, whistle posts, mile posts, rail rests, switch stands, telegraph poles, concrete sign posts, concrete foundations and archaeological sites (East Sudbury Station Site, Section Tool House Site, South Sudbury Station Site, and the Wayside Inn Station Site)." **The Commission notes that the Diamond Junction and the railroad battery wells are also extant railroad features of the CMRRCHD but were not mentioned and should be included in a description of the CMRRCHD as they are included in the Updated Projects Impacts Listing of railroad features.** The SHC also notes that the Section Tool House and bridges are included in the defined NR-eligible CMRRC Historic District and that the reference to bridges refers to Bridges 127 and 128.

The SHC concurs with the Corps that the Central Massachusetts Railroad Corridor (CMRRC) in Sudbury extending into Hudson (to include newly identified railroad features described in the October 2021 MHC Form A inventory) is eligible for listing in the National Register of Historic Places (NR) as a Historic District. **The SHC also understands that although three individual historic properties in Sudbury – the Section Tool House and Bridges 127 and 128 – are contributing elements to the NR CMRRC Historic District – additionally these resources should also be determined by the Corps for purposes under Section 106 regulations to be NR eligible for individual listing, not just considered as contributing elements to the NR Historic District.**

The individual MHC Form F Structure inventories for Bridges 127 and 128 (attached) indicate that both bridges are NR individually eligible under criteria A and C because they are rare plate girder design construction, are historically significant and retain their integrity having not been substantially altered. On the contrary, the MHC MACRIS Historic Structure Inventory Form (attached) for Bridge 130 (Fort Meadow Brook) – a timber pile trestle construction design - indicates that this bridge is not NR eligible because it is a modern example of a common form widely used throughout the region. The bridge's integrity has been impacted - having been significantly modified and rebuilt. The bridge appears to be a *non-contributing* element to the NR-eligible CMRRC Historic District.

The SHC notes that the Hudson Planning and Community Development Director's September 4, 2019 letter<sup>1</sup>, on behalf of the Hudson Historical Commission (HHC), commented on the Commission's August 15, 2019 meeting

<sup>1</sup> Correspondence, Jack Hunter, Director, Town of Hudson, MA Planning Department, to Michael S. Weirbonics, Chief Regulatory Division, US Army Corps of Engineers, New England Division, September 4, 2019.

with the project proponent when visual renderings for the replacement of the proposed Fort Meadow Brook Bridge (#130) project design were presented. The letter states that the Hudson Historical Commission concurred with the proposed design to replace, rather than restore or rehabilitate, Bridge 130. And the Hudson's April 13, 2021 letter<sup>2</sup> to the MA DEP Waterways Regulatory Program stated that the HHC "does not think the bridge should be preserved" and "...is in support of plans to remove the remnants of the bridge... and replace it" Therefore, because the HHC does not object to replacement of Bridge 130 and it is a non-contributing element of the CMRRHD it would not be subject to the MOA.

### Determination of Adverse Effects

The December 17, 2021 Corps letter states, "In accordance with the NHPA, implementing regulations 36 CFR 800; and 33 CFR 325, Appendix C, we have determined that the *proposed project will have an adverse effect on historic properties* due to the removal, replacement, and rehabilitation of contributing resources within the CMRRCHD.

The SHC concurs with the Corps that "the impacts to the CMRRCHD as a whole would be detrimental to the integrity of design, materials, setting, feeling, association, workmanship, and location of the District."

If the Corps defines the "proposed project" as both the Eversource transmission line project and the DCR MCRT project, the Commission asks the Corps to explain how DCR project activities will impact the historic resources by removal, replacement, and rehabilitation. SHC understands that Eversource and only Eversource will (during Phase I) engage in activities for the removal, replacement, and rehabilitation of contributing resources that will adversely impact (by alteration in the character or use of) the historic properties. Further, it is SHC's understanding that the DRC project (Phase II) will *not* engage in activities that will have an adverse effect on historic properties because Eversource, not DCR, will remove, replace, and rehabilitate NRHD contributing resources. Information the SHC has received indicates that the impacts of the Eversource transmission line installation and associated activities during Phase I (not during DCR Phase II) will be detrimental and cause the adverse effects.

**The SHC requests the Corps confirm whether the DCR project activities will have an adverse effect on historic properties. And if so, how?**

### Appendix C (33 CFR 325)

The SHC notes that the Corps December 17<sup>th</sup> letter refers to 33 CFR 325, Appendix C as implementing regulations of the NHPA. However, as the Advisory Council on Historic Preservation (ACHP) stated in its April 30, 2021 letter<sup>3</sup> to the Corps, the Corps' "relying on Appendix C as a basis for making findings and determinations in the Section 106 review will leave the Corps' compliance with Section 106 subject to challenge due to fundamental inconsistencies between Appendix C and the Section 106 implementing regulations (36 CFR 800)." The ACHP's letter comments further that it "has never approved Appendix C as an alternative to the Section 106 implementing regulations as required by Section 110 (a)(2)(E) (now U.S.C. 306102(b)(5)(A)) of the NHPA, because it differs from the Section 106 regulations in many fundamental ways, including the definition of undertaking, the delineation of APE, and the nature of consultation during the Section 106 review."

### Identification of Historic Properties

**As the SHC has stated in prior letters to the Corps including our October 25, 2021 letter<sup>4</sup>, the Commission has been and continues to be concerned that the Section 106 identification of historic properties has not been completed. The reason Historic Properties' Identification is not complete – is because efforts to identify potential Native-American cultural properties – including a field site visit of the project area with the**

<sup>2</sup> Correspondence, Peter Breton, Chair, Town of Hudson Historical Commission to Daniel Padien, Program Chief, MA DEP, Waterways Regulatory Program, April 13, 2021.

<sup>3</sup> Correspondence, Jaime Loichinger, Asst. Director, Advisory Council on Historic Preservation, to Tammy Turley, Chief Regulatory Division, US Army Corps of Engineers, New England District, April 30, 2021.

<sup>4</sup> Correspondence, Sudbury Historical Commission to Tammy Turley, Us Army Corps of Engineers, October 25, 2021.

**Narragansett Tribe THPO as had been requested in early 2021 has not, to our knowledge, happened.** Native-American cultural resource identification is required under 36 CFR 800 to determine NR-eligible historic properties (Traditional Cultural Properties/TCP) and for determination of the extent of the APE.

**The SHC would appreciate an update about the status of the Corps' consultation process with the Narragansett THPO and if any site visit with the Narragansett Tribe has taken place, and if it has occurred, if any Native-American cultural resources have been identified.** The SHC appreciates and respects the confidentiality issue concerning the identification and location of TCP's but seeks assurance that a site visit to identify Native-American cultural resources has occurred. It is the opinion of the SHC that a site visit between the Corps and the Narragansett THPO is required for there to have been a reasonable and good faith effort to identify historic properties under 36 CFR 800 NHPA Section 106 process.

**The SHC's opinion is that it is premature to sign off on determination of the APE, determination of eligibility of resources within the APE for listing in the NR and determination of effect/adverse effect until a good faith effort to identify potential Native-American cultural resources has been completed.**

### **Area of Potential Effect - Scope of the Undertaking**

The ACHP April 30, 2021 letter commented that "The APE is defined as the geographic areas within which the undertaking may *directly or indirectly* cause alterations in the character or use of the historic properties." **Has the Corps made a determination of not only the areas in which the undertaking may directly cause alterations in the character or use of the historic properties, but also determined indirect impacts as well?** Will this undertaking cause any indirect impacts including any to traditional cultural properties? If so, what indirect impacts would be caused?

### **DCR's Standing Under NHPA Section 106/ Clean Water Act Section 404**

The SHC commented on the matter of DCR's standing in our October 25, 2021 letter to the Corps and would appreciate the Corps reviewing those comments again.

The Commission notes that the USACE December 17, 2021 letter states: "Corps involvement pertains to the discharge of fill into waters of the United States (WOTUS) under Section 404 of the Clean Water Act (CWA)", but the letter does *not* identify and affirmatively state who the project proponents are – Eversource and/or the MA Department of Conservation and Recreation (DCR) – *who will engage in activities that will result in such discharge/fill*, and therefore be entitled to be granted a CWA General Permit and be party to the Section 106 Memorandum of Agreement (MOA).

The SHC understands the activities Eversource will engage in to install the transmission line (based on the current proposed project design choices) that will result in discharge/fill into the WOTUS, and therefore understands why Eversource is subject to Section 404 of the CWA and a Section 106 review and MOA. However, it appears that DCR's activities do not result in *any* discharge/fill into the WOTUS. **The Commission would appreciate and requests a written explanation from the Corps explaining the exact activities DCR will engage in that will result in discharge/fill into the WOTUS.** The Commission would also appreciate clarification from the Corps explaining the legality of DCR's standing under Section 404 of the CWA, of the Corp's issuance of any General Permit to DCR and of DCR being a signatory to the Section 106 Memorandum of Agreement (MOA).

### **Updated Plans for Permit Area and Area of Potential Effects Boundaries**

The SHC notes that all 31 Sheets of the documents (referred to in the December 17, 2021 Corps' letter as Updated Plans) are labeled Eversource Energy Sudbury-Hudson Transmission Reliability Project. None of the Sheets indicate that they include information about impacts from the MA Department of Conservation and Recreation (DCR) Mass Central Rail Trail (MCRT) project.

For clarification, the SHC would like the Corps to confirm that the date of the Updated (Sheet) Plans is November 18, 2021 to not confuse these revised plans with prior updated plans referenced in the 2020 Pre-Construction Notification.

### **Inventory for Central MA Railroad Corridor (CMRRC) in Hudson, MA.**

The SHC is pleased that an MHC Inventory has been completed to identify additional railroad elements of the CMRRCHD located in Hudson, MA. The Commission suggests that a combined comprehensive listing be compiled of all identified CMRRC railroad elements located in Sudbury and Hudson for reference during the Section 106 consultation process and for inclusion and reference in the Section 106 Memorandum of Agreement (MOA) and Archaeological Site Avoidance and Protection Plan (ASAPP). The Updated Projects Impacts Listing provided to the SHC does not list CMRRC resources in Hudson that contribute to the National Register of Historic Places (NR) eligible CMRRC Historic District.

### **Updated Project Impacts Listing of (CMRRCHD) Railroad Features in Sudbury**

As the SHC October 25, 2021 letter discussed, the 2010 Lease Agreement that DCR has with the Massachusetts Bay Transportation Authority (MBTA) allows DCR to remove and dispose of *any* railroad infrastructure in the CMRRC right-of-way. The Updated Project Impacts List provides information about what the proposed activity will be for each of the 74 identified railroad features which have been listed but does specify whether Eversource or DCR will be engaged in the activity impacting each feature. The Commission would like a separate column added to the Updated Impacts listing to indicate who (Eversource or DCR) will perform the impact activity and when it will occur - in either Phase I or Phase II of the project. If DCR will not perform any activity in Phase II that will impact any of the 74 features (by removal, replacement, or rehabilitation), then the Commission wants the document to reflect that fact. **The Commission requests that the Corps provide confirmation in writing to the Commission that DCR will not remove any of the identified railroad features/infrastructure during Phase II.**

The list includes the Diamond Junction (SUD.956, Milepost 20.02) and also indicates that the Proposed Project Activity for the Diamond is Remove and Reset. Who will remove the Diamond and when, and who will reset it and when? The SHC requests that the Corps provide the Commission with a copy of the sheet plan and other project information it has about the Diamond Junction.

The Updated Impacts listing indicates that approximately 30 of the railroad features are outside the limit of work (LOW). **Since these 30 railroad features are contributing elements of the CMRRCHD, and within the APE, how will the Corps assure that adverse impacts will not happen to railroad features that lie outside the LOW?** How far outside the LOW is each railroad feature that is so indicated on the list? Railroad features and structures are not shown on the Updated Eversource Sheet Plans to be able to determine and understand where the features are located relative to the delineated APE.

**A Table listing all identified CMRRC features and structures and indicating the impacts to each and which project proponent will undertake the activity related to each railroad feature should be made an attachment to the Memorandum of Agreement (MOA).**

### **Post Review Discoveries Plan (PRDP)**

**The SHC will have additional comment after the MHC has reviewed and commented on the PRDP.** The Commission notes that the provisions of the PRDP (Section 1.0) only apply to areas within the so-called “limit of work.” **Does the LOW correspond to the APE?** If the LOW does not correspond to the APE, the Commission questions this narrow area scope whereas the Section 106 regulations pertain to the entire APE (per 36 CMR 800). **Is the LOW shown on the PRDP the same LOW for both Eversource’s activities during Phase I and DCR’s activities during Phase II?**

The SHC offers these additional comments:

- Section 2.1, Unanticipated Discoveries of Archaeological Resources: **The SHC notes that contrary to the statement below, it appears that discoveries of precontact and archaeological resources may likely be**

**found especially during excavation of the Splice Vaults areas.** Section 2.1 states, “The Nature of the cut-and-fill railroad bed construction within the Project’s Limit of Work makes it likely that most precontact and earlier historic archaeological sites were removed during the historic excavation of the railroad bed cuts, while raised railroad beds were built through low areas and wetlands that were less likely to contain such sites.” This statement underestimates the potential for discoveries because it does not take into account that: there are long stretches in the railroad right-of-way where no berm was needed for the build out of the railroad as they were naturally flat runs, berms where needed were created from fill from the area placed on top of the natural ground level, the bridge areas and Hop Brook as likely Native fishing and canoe landing sites (potential Native cultural resources), and do not consider the project’s excavation activities to construct the Splice Vaults at a depth of approximately 15 feet in an area approximately 8 feet wide by 40 feet. The depth of the field work test pits for the Archaeological Intensive (Locational) Survey were less than a depth of 15 feet.

- Section 2.1.2 Notification Procedures: explicitly state that discovery memorandums will be submitted to the Sudbury Historical Commission, and to the THPOs as well, including the Narragansett THPO, e
- Section 3.5: confirm with the Narragansett THPO what the correct mailing address is, and
- Section 3.6: correct the mailing address of the Sudbury Historical Commission to **Flynn Building, 279 Old Sudbury Road, Sudbury, MA 01776.**
- The PRDP contains no Figures for the route of the DCR MCRT project.

### **Archaeological Site Avoidance and Protection Plan (ASAPP)**

The SHC understands that the Corps will provide the Commission with a copy of the revised ASAPP after the Corps has received SHC comments concerning the December 17, 2021 letter. **The SHC intends to provide comments on the revised ASAPP to both the Corps and MHC.**

The October 27, 2020 ASAPP draft version the SHC has previously reviewed was prepared (only) for Eversource Energy. Eversource and DCR representatives have informed the SHC that DCR would not draft a ASAPP for Phase II and therefore this is another indication that the undertaking is not a joint project. The only common aspect between the two projects is that the Eversource project and the DCR project will occur within the same railroad right-of-way footprint and at different times.

The 2020 draft ASAPP states that the Archaeological Site Avoidance and Protection Plan is to protect significant historic and archaeological resources in proximity to the (Eversource) Project’s Limit of Work. Thus, DCR is not subject to the Plan according to this draft, but DCR should be subject to the provisions of a Site Avoidance and Protection Plan if the undertaking is a legitimately a joint project. On page five, Railroad Features, of the 2020 draft is listed various railroad features, but the Plan does not contain a list describing each specific feature or structure and avoidance and protection measures that will be implemented to protect each of them. The revised ASAPP should include and reference a comprehensive railroad features/structures list, the avoidance and protection measures for each, and site location identification reference for each feature/structure. The Commission expects the ASAPP will be revised to be reflect all the railroad features in the CMRRC which are contributing elements to the NR-eligible Historic District. Like the draft PRDP, the 2020 draft ASAPP limits its scope to the area within the LOW.

**Please see the SHC October 25, 2021 letter to the Corps for additional comments and requests for changes and modifications to the wording and provisions of the ASAPP including the SHC’s request that a representative of the Commission’s choosing be onsite to monitor during construction and removal.**

### **Conclusion**

To summarize, the main concerns, issues and requests the Commission has commented upon in this letter are:

- The SHC seeks to meet with the Corps as soon as possible – to consult about solutions to avoid, minimize or mitigate adverse effects of the undertaking.
- Inclusion of MOA stipulations covering **all** railroad features of the entire NR-eligible CMRCHD in Sudbury and other NR-eligible historic resources in the entire APE as defined under 36 CFR 800 including those which may be identified though consultation with the THPO’s including the Narragansett THPO.

- The SHC supports the determination made by the Corps determining that the CMRRC Historic District in Sudbury and Hudson is eligible for listing in the National Register-eligible District that encompasses the rail right-of-way as well as extant railroad structures and objects along this corridor.
- The SHC notes that the Diamond Junction and railroad battery wells are also extant railroad features of the CMRRC Historic District but were not mentioned and should be included in a description of the CMRRC Historic District as they are included in the Updated Projects Impacts Listing of railroad features.
- Three historic properties – Bridges 127 and 128 and the Section Tool House should also be determined by the Corps for purposes of Section 106 to be NR-eligible for **individual** listing, not just determined as contributing elements to the NR-eligible CMRRC Historic District.
- The SHC requests the Corps confirm whether the DCR project will have an adverse effect on historic properties.
- The SHC continues to be concerned that the Identification of Historic Properties has not been completed because efforts to identify potential Native-American cultural properties or to hold a site visit with the Narragansett THPO has not, to our knowledge, happened.
- The SHC requests an update about the status of the Corps' consultation process with the Narragansett THPO, and whether a site visit has taken place, and if any cultural resources have been identified.
- 36 CFR 800 are the NHPA Section 106 implementing regulations.
- It is the SHC's opinion that it is premature to sign off on: determination of APE, determination of eligibility of resources within the APE for listing in the NR, and determination of effect/adverse effect until a good faith effort to identify potential Native-American cultural resources has been completed.
- The SHC seeks information about what if any assessment of undertakings indirect impacts has occurred and the results.
- Explanation and identification of what, if any, adverse effects DCR project activities will cause to NR-eligible historic resources
- DCR standing under Clean Water Act Section 404/NHPA Section 106: The SHC requests written explanation from the Corps explaining the **exact** activities DCR will engage in that will result in discharge/fill in the WOTUS.
- Updated (Sheet) Plans for Permit Area and APE: inclusion on sheet plans of impacts, if any, from DCR's Massachusetts Central Rail Trail (MCRT) project.
- The SHC requests that the Corps provide confirmation in writing to the Commission that DCR **will not remove any** of the railroad features/structures/infrastructures in the CMRRC Historic District during Phase II
- A Table listing should be compiled of all identified CMRRC Historic District features and structures, indicating the impacts to each and which project proponent will undertake the activity that impacts the railroad feature, and that the Table be made an attachment to and referenced in the MOA.
- The SHC notes that, contrary to the Post Review Discoveries Plan, discoveries of precontact and archaeological resources may likely be found during excavation of the Splice Vault areas in Phase I and construction activities associated with the rail bed and berm.
- The SHC likely will provide additional comments on the PRDP and the ASAPP.
- SHC lists changes to Post Review Discoveries Plan
- Applicability of Archaeological Site Avoidance and Protection Plan to DCR Project Phase II
- The SHC asks the Corps to respond to the requests for information and answer the questions in SHC October 25, 2021 letter to the Corps.

The Commission respectfully requests that the Corps respond to the requests for information and provide answers to the questions posed in the SHCs October 25, 2021 letter that were not subjects covered in the Corps' December 17, 2020 letter. The SHC is concerned that it still lacks important information about the DCR MCRT project to assist the Commission in its Section 106 review and to find solutions to avoid or minimize the undertaking's adverse effect on the CMRRC Historic District and Bridges 127 and 128 and the Section Tool House. Therefore, the SHC would like a response to our previous request for copies of all the information (including structural engineering analysis, if any) that VHB, Eversource or DCR has provided to the Corps concerning project design alternatives. The Commission has enclosed as an Attachment A - is a summary of the SHC's questions contained in this letter.

The SHC looks forward to continuing the consultation process with the Corps at this next stage in the Section 106 process. This next stage is for consultation about an assessment of alternatives and solutions to avoid, minimize or

mitigate the adverse effect of the proposed undertaking on the NR-eligible CMRRCHD and other potential NR eligible historic properties, an assessment of alternatives to removal and replacement of Bridge 127 and partial removal of Bridge 128, and avoidance of adverse effects to the Section Tool House, and other railroad features of the NR-eligible CMRRCHD.

Please direct future email correspondence to the Historical Commission through Mr. Adam Duchesneau, Town of Sudbury Planning Director, Planning and Community Development Department, at [DuchesneauA@sudbury.ma.us](mailto:DuchesneauA@sudbury.ma.us) (978-636-3387). Thank you. Also, please note that the correct mailing address for the Commission is not 299 Old Sudbury Road, but rather the address on this letter's letterhead.

The Commission looks forward to a consultation meeting with the Corps and continuing the NHPA Section 106 process. Please contact Mr. Duchesneau to facilitate arrangements for setting up the consultation meeting. Thank you.

Sincerely,



Chris Hagger  
Chair  
Sudbury Historical Commission



Diana Warren  
Vice Chair  
Sudbury Historical Commission

Enclosures: Attachment A  
MHC Inventory Bridge 127  
MHC Inventory Bridge 128  
MHC Bridge 130

CC (without enclosures):  
Brona Simon, MHC SHPO, 220 Morrissey Boulevard, Boston, MA 02125  
Tammy Turley, USACE  
Marc Paiva, USACE  
John T. Eddins, ACHP  
Jamie Loichinger, ACHP  
John Brown III, THPO Narragansett Indian Tribe  
John Brown IV, Narragansett Indian Tribe  
Cora Pierce, Narragansett Indian Tribe  
Bettina Washington, THPO Wampanoag Tribe of Gay Head (Aquinnah)  
David Weeden, THPO Mashpee Wampanoag Tribe  
Peter Breton, Hudson Historical Commission  
Daniel Elliot  
Vivian Kimball, VHB  
Sudbury Select Board  
Sudbury Town Manager  
Sudbury Town Counsel  
Adam Duchesneau, Director Town of Sudbury PCDD





February 10, 2022

**The Commonwealth of Massachusetts**  
 William Francis Galvin, Secretary of the Commonwealth  
 Massachusetts Historical Commission

Paul M. Maniccia  
 Chief, Permits & Enforcement  
 Regulatory Division  
 New England District  
 US Army Corps of Engineers  
 696 Virginia Road  
 Concord, MA 01742-2751

**RECEIVED**  
**FEB 14 2022**

Attn: Katelyn Rainville

RE: Eversource Sudbury-Hudson Transmission Reliability Project, DCR Mass Central Rail Trail, Sudbury, Marlborough, Stow and Hudson, MA. MHC #RC.62384. EEA #15703. ACHP #016522. **NAE-217-01406.**

Dear Mr. Maniccia:

Staff of the Massachusetts Historical Commission (MHC), office of the Massachusetts State Historic Preservation Officer, have reviewed the US Army Corps' revised definition of the area of project effect, determination of adverse effect, and Post-Review Discoveries Plan dated December 17, 2021, which was received at this office on January 4, 2022.

The MHC is also in receipt of comments dated January 14, 2022 from the Sudbury Historical Commission to you. The MHC would appreciate receiving a copy of your response to their comments.

The MHC concurs with your agency's determination of the full extent of the area of potential effects (36 CFR 800.16(d)) and your opinion that the Central Massachusetts Railroad Corridor Historic District (CMRCHD) meets the criteria of eligibility for listing in the National Register of Historic Places (36 CFR 800.4), consistent with MHC's previous comments of May 18, 2021. This historic district includes the Massachusetts Central Railroad Bridges #127 (MHC #SUD.901) and #128 (SUD.900) in Sudbury, and the Fort Meadow Brook Railroad Bridge/Bridge 130 (MHC #HUD.908) in Hudson as contributing historic properties to the Central Massachusetts/Boston & Maine Railroad Corridor Historic District. The CMRCHD includes other contributing historic and archaeological resources noted in the MHC Area Inventory Forms for the CMRCHD in Sudbury and in Hudson.

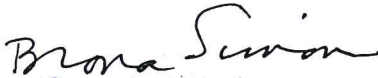
The MHC concurs with your finding of "adverse effect" (36 CFR 800.5) and looks forward to further consultation to resolve the adverse effects and to review a revised draft Memorandum of Agreement.

The MHC has no comments on the Post-Review Discoveries Plan.

These comments are provided to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800), M.G.L. Chapter 9, sections 26-27C (950 CMR 70-71), and MEPA (301 CMR 11).

If you have any questions, please contact me.

Sincerely,



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

xc: Denise Bartone, Eversource  
Brooke Kenline-Nyman, Eversource  
Patrice Kish, DCR, Attn: Jeffrey Harris  
Marcos Paiva, Army Corps of Engineers  
John Eddins, ACHP  
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah)  
David Weeden, Mashpee Wampanoag Tribe  
Secretary Kathleen A. Theoharides, EEA, Attn: Purvi Patel, MEPA Unit  
Local Historical Commissions: Towns of Sudbury and Hudson  
Vivian Kimball, VHB, Inc.  
Marty Dudek, Commonwealth Heritage Group

**MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS  
AND THE MASSACHUSETTS HISTORICAL COMMISSION  
REGARDING THE SUDBURY-HUDSON TRANSMISSION RELIABILITY AND MASS  
CENTRAL RAIL TRAIL PROJECT, HUDSON, STOW, MARLBOROUGH, AND  
SUDBURY, MASSACHUSETTS**

**WHEREAS** the U.S. Army Corps of Engineers (Corps) plans to issue a Department of the Army Permit to NSTAR d/b/a Eversource Energy (Eversource) and the Massachusetts Department of Conservation and Recreation (DCR) for the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project (File No. NAE-2017-01406) in Hudson, Stow, Marlborough, and Sudbury, Massachusetts, (“the undertaking”) pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344); and

**WHEREAS**, the undertaking consists of the discharge of fill material in order to install a new electric transmission line and construct a rail trail within an existing inactive railroad right-of-way, including the removal of the rails and wood ties, the modification of two culverts, and the replacement of one bridge that meet the criteria of eligibility for individual listing in the National Register of Historic Places as contributing historic properties to the Central Massachusetts Railroad Corridor Historic District; and

**WHEREAS**, the Corps has defined the scope of the undertaking to include the permit area as shown in the figures submitted to the Corps on November 8, 2018, under a Request for Permit Area Determination and the Area of Potential Effects encompassing the Central Massachusetts Railroad Corridor Historic District; and

**WHEREAS**, the Corps issuance of a Section 404 permit is subject to review under Section 106 of the National Historic Preservation Act (NHPA), as amended (54 U.S.C. 306108), which requires federal agencies to take into account the effects of their undertakings on historic properties listed in or eligible for inclusion in the National Register of Historic Places and afford the Advisory Council on Historic Preservation (“ACHP”) a reasonable opportunity to comment; and

**WHEREAS**, the Corps has determined that the undertaking shall have an adverse effect on the Central Massachusetts Railroad Corridor Historic District, a property eligible for listing in the National Register of Historic Places, and has consulted with the Massachusetts Historical Commission (MHC) pursuant to 36 CFR Part 800; and

**WHEREAS**, the Corps has consulted with NSTAR d/b/a Eversource Energy and the Massachusetts Department of Conservation and Recreation regarding the effects of the undertaking on the Sudbury – Hudson electric utility line/rail trail and has invited them to sign this MOA as invited signatories pursuant to 36 CFR §800.6(c)(2); and

**WHEREAS**, the Corps has consulted with the Wampanoag Tribe of Gay Head/Aquinnah, the Mashpee Wampanoag Tribe and the Narragansett Indian Tribe, for which the historic properties may have religious and cultural significance and has invited them the to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

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**WHEREAS**, the Corps has consulted with the Sudbury Historic Commission and the Hudson Historic Commission regarding the effects of the undertaking on the Sudbury – Hudson electric utility line and rail trail and has invited them to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the Corps has notified the ACHP by letter dated [DATE], of its adverse effect determination with specified documentation, and the ACHP has chosen *not* to participate in the consultation pursuant to 36 CFR §800.6(a)(1)(iii);

**NOW, THEREFORE**, the Corps, MHC, Eversource, and DCR agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties. The Corps will incorporate the following stipulations as conditions to any Section 404 permit issued to Eversource and DCR for this project.

**STIPULATIONS**

The Corps shall ensure that the following measures are carried out in consultation with the MHC. Eversource and DCR shall provide proof of compliance with such measures to the Corps and MHC:

**I. Historic Properties Avoidance and Protection Measures**

A. Eversource and the DCR shall implement the “Historic Properties Avoidance and Protection Plan” (HPAPP), attached to this MOA as Exhibit 1. The HPAPP outlines specific measures to be taken prior to, during, and after construction activities of Eversource Phase I and DCR Phase II to protect, avoid, and/or minimize impacts to National Register eligible identified historic properties and their contributing resources located in the Area of Potential Effects such as archaeological sites and railroad-related features.

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**II. Central Massachusetts Railroad Corridor Historic District**

A. Eversource and the DCR shall produce updated MHC Inventory Forms for Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) in Sudbury and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Hudson.

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B. Eversource and the DCR shall be responsible for the production of Historic American Engineering Record (HAER) Documentation of Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) to be undertaken by an Architectural Historian qualified under 36 CFR 61. The HAER Documentation shall consist of a structure report to include large format photographs, photo key and index, measured drawings, site plan, and an architectural/historical narrative (“Level II documentation”).

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A digital draft HAER Document will be submitted to the MHC for one round of review and comment; any comments should be received within 30 days of submittal. If no comments are received from the MHC within 30 days of submittal, the project proponents will be free to proceed. One draft copy shall then be provided by Eversource Energy and the DCR on behalf of USACE to NPS for review and comment. Removal, rehabilitation and construction of Bridges #127 and #128 will not commence until NPS comments or a conditional letter of

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approval is received; however, construction on the remaining portions of the project will not be delayed by this activity. A copy of the final HAER Documentation shall be provided to the Hudson and Sudbury Historical Commissions.

- C. Photo documentation by Eversource and DCR of the Massachusetts Central Railroad Bridge #130/Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Hudson, and Bridges #127 and #128 (MHC# SUD.901 and SUD.900, respectively) shall comply with the Historic American Building Survey (HABS)/HAER standards.
- D. Development and installation by DCR, in consultation with the Hudson and Sudbury Historical Commissions, shall consist of four 24" x 36" interpretive panels that describes the history of the Central Massachusetts Railroad bridges #127, #128, and #130, the Section Tool House, with one panel each to be located at Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively), Section Tool House (MHC# SUD.282) and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Sudbury and Hudson.
- E. Development, placement and installation by DCR, in consultation with the Sudbury Historical Commission, of one 24" x 36" interpretive panel that describes the history of the diamond junction between the Central Massachusetts Railroad and the Framingham & Lowell Railroad.
- F. Development and installation by DCR, in consultation with the Hudson and Sudbury Historical Commissions, of two 24" x 36" interpretive panels that describes the general history of the Central Massachusetts Railroad, with one panel each to be located in Hudson and in Sudbury.
- G. Development and installation of up to 15 railroad feature markers by DCR consisting of approximately 18" square signs on granite posts, including markers for railroad features to be removed, in consultation with the Sudbury Historical Commissions; and development and installation of up to 15 railroad feature markers by DCR consisting of approximately 18" square signs on granite posts, including markers for railroad markers to be removed, in consultation with the Hudson historical Commission.
- H. Rehabilitation of the Massachusetts Central Railroad Bridge #128 (MHC# SUD.900) in Sudbury by Eversource that is consistent with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation*, as follows: the existing steel girders, timber piers, cross-frames, and X (specify number here) number of the granite block abutments will be retained in place and reused. The existing timber ties, steel rails, timber deck (non-historic), and timber handrail (non-historic) are to be removed and replaced. The new handrail will be made of timber and will be clearly identifiable as a new bridge element but will also be compatible with the existing historic fabric.
- I. Eversource and DCR create a viewing area adjacent to Bridge 128 where the public may view the Bridge's Plate Girders.
- J. The retention of the two Bridge #128 plate girders, to be removed, saved and placed by Eversource at a location to be determined, in consultation with the Sudbury Historical Commission.
- K. Installation of granite markers (6-foot-tall 8" x 8" pillars, lettered on two sides with 2.5"-high lettering) by DCR in the vicinity of the East Sudbury Station Archaeological Site (SUD.HA.39), South Sudbury Station Archaeological Site (SUD.HA.26), Wayside Inn Station Archaeological Site (SUD.HA.38), Gleasondale Station Archaeological Site (HUD.HA.8), and the Ordway Station Archaeological Site (HUD.HA.9).

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L. The retention of representative sections of rail, pairs each of two different rail lengths, to be removed at the bolts, one pair each placed by Eversource, in consultation with the Sudbury Historical Commission, at the Section Tool House and at two rail rests locations, such rails to be donated to the Sudbury Historical Commission.

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**III. UNANTICIPATED DISCOVERIES**

If previously unidentified historic properties are discovered during Project construction Phases I and II that may be affected by the undertaking, Eversource and DCR shall notify the signatories and the Hudson and Sudbury Historical Commissions of the discovery and cease all work at that location until the requirements of 36 CFR 800.13 and 33 CFR 325, Appendix C have been satisfied.

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**IV. DURATION**

This MOA shall be null and void if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, USACE may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V, below.

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**V. MONITORING AND REPORTING**

Each year following the execution of this MOA until the work is complete, the permit expires or is terminated, Eversource and DCR shall provide all parties to this MOA and the Hudson and Sudbury Historical Commissions a summary letter report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received by USACE in its efforts to carry out the terms of this MOA.

**VI. DISPUTE RESOLUTION**

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised by a signatory or the Hudson and Sudbury Historical Commission, the Corps will notify all signatories to the agreement, take the objection into account, and work as needed to resolve the objection. The disputing signatory Parties and the Hudson and Sudbury Historical Commissions will first strive to resolve matters informally. If the signatories and Hudson and Sudbury Historical Commissions cannot agree regarding the dispute, the Corps shall then initiate appropriate actions in accordance with the applicable provisions of 36 CFR 800.

**VII. AMENDMENTS**

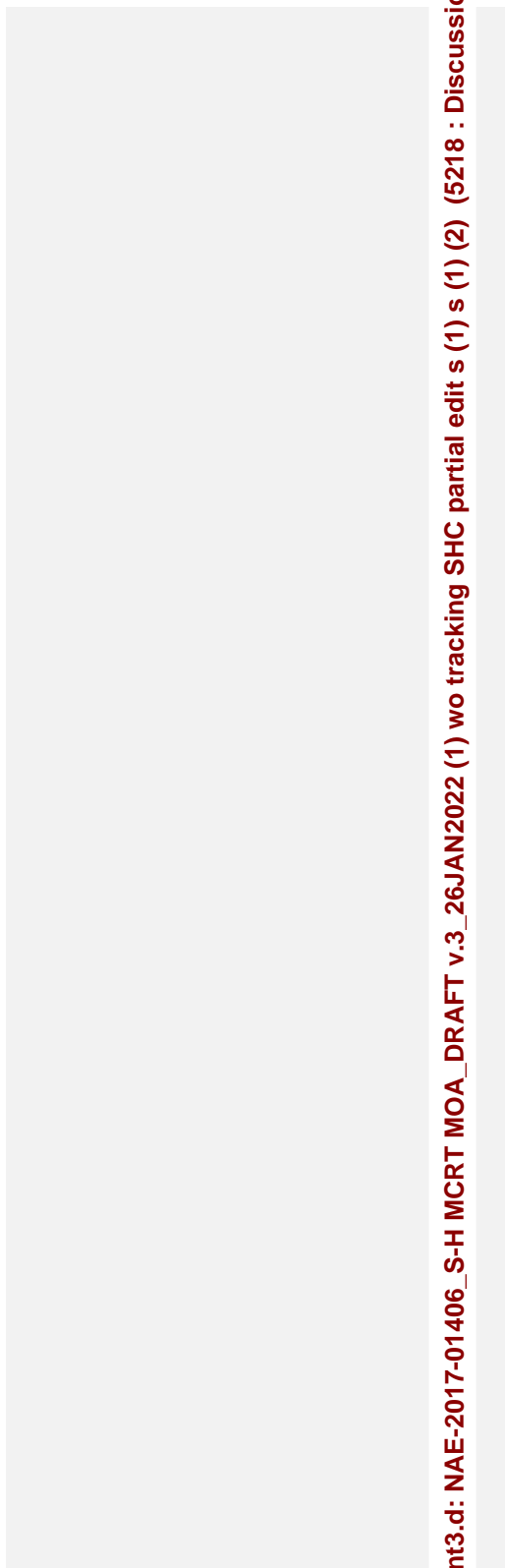
This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment shall be effective on the date a copy signed by all of the signatories is filed with the ACHP.

**VIII. TERMINATION**

Attachment3.d: NAE-2017-01406\_S-H MCRT MOA\_DRAFT v.3\_26JAN2022 (1) wo tracking SHC partial edit s (1) s (1) (2) (5218 : Discussion with

If any signatory to this MOA determines that its terms shall not or cannot be carried out, that

DRAFT



party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it shall pursue.

Execution of this MOA by the Corps, MHC, Eversource, and DCR, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and satisfied its obligations under Section 106 of the NHPA.

**SIGNATORIES:**

\_\_\_\_\_  
[REGULATORY DIVISION CHIEF NAME] Date  
Chief, Regulatory Division  
U.S. Army Corps of Engineers

\_\_\_\_\_  
Brona Simon, title Date  
Massachusetts Historical Commission

**INVITED SIGNATORIES:**

\_\_\_\_\_  
NSTAR d/b/a Eversource Energy name, title Date

\_\_\_\_\_  
Department of Conservation and Recreation Date  
name, title

**CONCURRING:**

\_\_\_\_\_  
Hudson Historical Commission Date  
name, title

\_\_\_\_\_

Attachment3.d: NAE-2017-01406\_S-H MCRT MOA\_DRAFT v.3\_26JAN2022 (1) wo tracking SHC partial edit s (1) s (1) (2) (5218 : Discussion with



Sudbury Historical Commission  
\_\_\_\_\_ name, title

Date

Aquinnah Wampanoag Tribe  
\_\_\_\_\_ name, title

Date

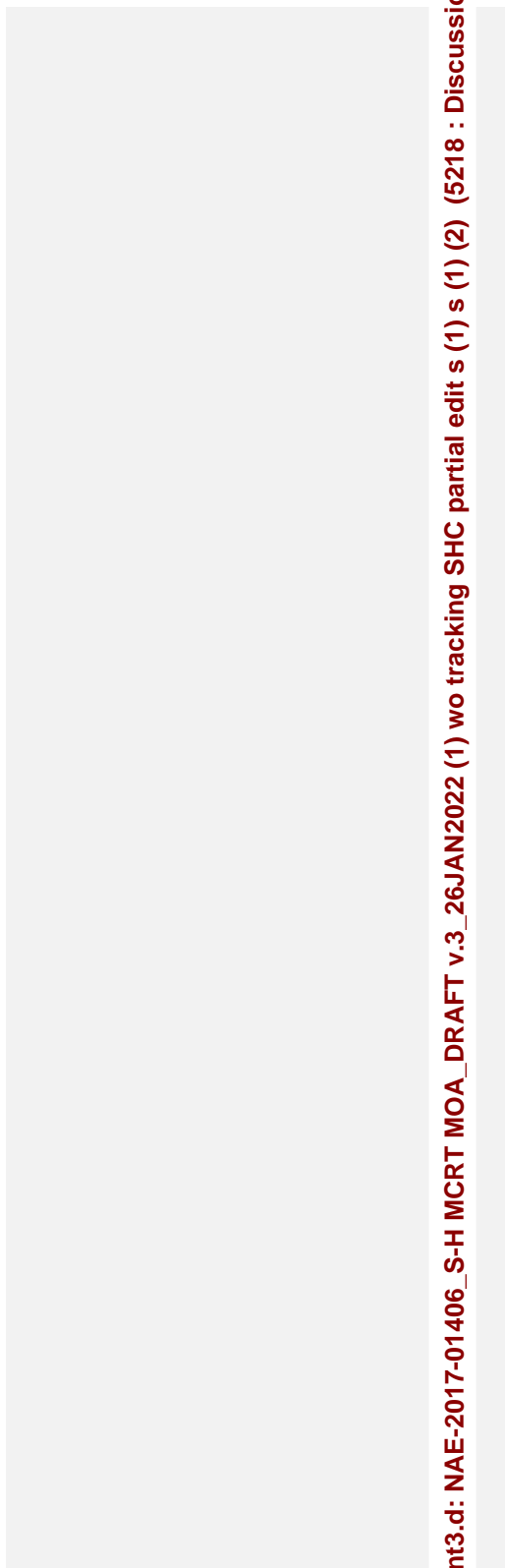
Mashpee Wampanoag Tribe  
\_\_\_\_\_ name, title

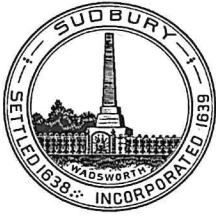
Date

Narragansett Tribe  
\_\_\_\_\_ name, title

Date

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# Town of Sudbury

## Historical Commission

historical@sudbury.ma.us

www.sudbury.ma.us/historicalcommission

Flynn Building  
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March 15, 2022

Tammy R, Turley  
Chief, Regulatory Division  
US Army Corps of Engineers, New England District  
696 Virginia Road  
Concord, MA 01742-2751

By email

RE: Section 106 Review Sudbury-Hudson Reliability Transmission Line and MA Department of Conservation Projects: USACE NAE-2017-01406. MHC #RC.62384, ACHP Case #016522

Dear Ms. Turley,

The Sudbury Historical Commission (SHC) thanks and acknowledges receipt of the US Army Corps of Engineers (USACE) February 16 and 17, 2022 emails from Mr. Marc Paiva and the following documents:

MA Department of Conservation and Recreation Mass Central Rail Trail Plan Set  
Eversource Sudbury-Hudson Reliability Transmission Line Project Plan Set - Part I  
Eversource Sudbury-Hudson Reliability Transmission Line Project Plan Set – Part II  
Update Projects' Impacts to Railroad Features Spreadsheet dated February 11, 2022  
Historic Properties Avoidance and Protection Plan dated February 11, 2022  
Post-Review Discoveries Plan for Eversource and DCR dated February 11, 2022  
Revised Memorandum of Agreement (third revision)  
USACE Response to SHC Letters dated October 25, 2021 and January 14, 2022  
USACE February 15, 2022 Letter to Massachusetts Historical Commission  
USACE Michael Wierbonics 2018 email to VHB Vivian Kimball (received February 22<sup>nd</sup>)

Unfortunately, the SHC still has many pending concerns. Thus, the SHC offers the following comments regarding the above referenced documents as well as the Section 106 review and consultation to date with the USACE regarding the above-name undertakings.

### DCR and DCR Plan Set

Other than DCR Sheets C- 38 and 40, the SHC has never seen the 54 paged DCR Sheet Plan Set. We note that cover sheet G-04 (Title Sheet & Index) dated January 2021 states that the plan information is “not approved for construction”, and other pages are dated one and two years ago - February 2021 and July 2020. Therefore, contrary to statements in the USACE Response to Comments that the design plans provided to the SHC on February 17<sup>th</sup> are “final”, these DCR

Sheet Plans are not finalized and therefore cannot be relied upon. Also, the diagram information on sheet GW-05 for the Diamond Junction does not correlate with the colored diagram provided to the SHC by DCR in November 2021.

The DCR renderings of Bridges 127 and 128 provided to the SHC in 2020 (which we believe were those which were referenced in the USACE March 10<sup>th</sup> email and the February 15, 2022 Response to Comments) are printed with the statement: “The bridge and transmission conduits shown are not final as-builts and are subject to change.” Here again, the SHC has been provided with information about the DCR project that is not final plan information. How can the SHC or the USACE make judgements based on project information that has not been finalized? Further, information provided to the SHC in 2019 and 2020 did not include any specific information about the abutments for either bridge.

The SHC has repeatedly pointed out that DCR and Eversource sheet plans fail to correctly outline and represent the true footprint of the Section Tool House. DCR Sheet Plan C-40 fails to outline the loading platform in the same manner with cross lines as the main part of the Section Tool House structure has been identified. This minimizes the fact that the entirety of the Section Tool House is inches away from the limit of work but is within the APE. The SHC is concerned that the loading platform will be damaged during construction because of its very close proximity to construction activities. We request that protective barriers be erected at the Section Tool House prior to the commencement of construction.

The SHC notes that the February 2021 DCR Plan Sheets, unlike the Eversource Plan Sets, do identify the location of the railroad features within and outside of the limits of work.

### **Eversource Plan Sets I and II Dated December 2021**

As mentioned above about DCR sheet C-40, on Eversource’s pages - plan 63 and 17, the loading platform of the Section Tool House is not clearly identified as a part of the Section Tool House. On plan 17 the faint outline is barely visible.

Diagrams on pages 89 and 97 show the abutment elevations for Bridges 127 and 128. The SHC assumes there are construction plans which indicate how many and which abutments will be removed, therefore, the MOA should state the exact number of abutments that will be retained and the exact number that will be removed.

These Eversource Plan Sets do not show or name the railroad features. This information should be included on those Plan Sets.

### **Updated Project Impacts to (Central Mass Railroad Corridor) Railroad Features**

At this time, it still has not been clarified what if any railroad features will be removed by either Eversource, DCR or the Massachusetts Bay Transportation Authority (MBTA) - other than that Eversource will remove the railroad tracks.

The USACE Response to Comments C.18 acknowledges that “the diamond crossing would be removed during Phase I construction activities and would be set aside for resetting as part of Phase II.” Since Eversource is conducting Phase I and DCR is conducting Phase II each will be involved with the Diamond. Appendix I of the Historic Properties Avoidance and Protection should include this information. Also, the MOA should stipulate who will be responsible for resetting the diamond if the Massachusetts Central Rail Trail is not funded and Phase II is constructed.

Section 13 of the 2010 Lease Agreement between DCR and the MBTA provides that both DCR and MBTA may remove and sell the railroad infrastructure. The SHC requests written confirmation that the impacts to all railroad features listed in the Updated Project’s Impacts to Railroad Features Spreadsheet is accurate because neither DCR nor the MBTA will exercise their rights under the 2010 Agreement to remove *any* railroad infrastructure in the Central Massachusetts Railroad Corridor National Register Historic District (CMRRCHD).

### **Historic Properties Avoidance and Protection Plan (formerly Archaeological Site Avoidance and Protection Plan)**

The HPAPP is dated February 11, 2022, but the attached Figure 1 Locust Map is dated 12/23/2019, the Figure 2 Locust Map is dated 1/9/20, and Construction Plans sheets 28, 35, 37 43, and 63 of 320 are dated August 2020, sheets 44 and 49 of 316 are dated July 2020, and sheets 47, 61 and 68 of 320 are dated July 2020. However, the Eversource Plan Sets I and II are dated December 2021. So, it appears the attachments to the HPAPP are not current – at least not to December 2021. Therefore, it is difficult, if not impossible, to know which documents are final documents. The SHC needs confirmation in writing that these documents are the final.

Appendix I, CMRRCHD Contributing Resources and Proposed Project Impacts Spreadsheet (SS) does not indicate which entity will engage in activities that will impact each resource. The SHC requests that a column be added to the Impacts Spreadsheet which indicates for each railroad feature whether Eversource or DCR will engage in the activity.

The Sheet Plans (labeled Construction Plans) attached to the HPAPP do not indicate the locations of the 70+ railroad features or show an outline of the Section Tool House which includes the loading platform. The HPAPP should include the final Sheet Plans that identify and show the railroad features.

### **Post-Review Discoveries Plan**

The Introduction on page three refers to the Archaeological Site Avoidance and Protection Plan instead of the newly titled Historic Properties Avoidance and Protection Plan.

2.1 The Plan focuses on “site” or “sites” vs. the discovery of individual artifacts. This section states: “The nature of the cut-and-fill railroad bed construction within the Project’s Limit of Work makes it likely that most precontact and earlier historic archaeological beds were built through low areas and wetlands that were less likely to contain such sites.” What happens if an artifact is found? What happens to the artifact? Who would retain it? Construction of Splice

Vaults will be at depths lower than the test pits explored during the field work for the Archaeological Intensive Locational Survey in 2019.

2.1.2 The phase “significant archaeological site” needs to be defined to avoid being subjective. What constitutes “significant”? Also, the Plan focuses on sites vs. the discovery of individual artifacts. Last paragraph states: “The Project Team will notify the USACE, the MHC, and any other consulting party as directed by the USACE (e.g., Tribal Historic Preservation Officers) of the discovery. The SHC would like the THPOs to be notified.

The SHC believes that the On-Call Archaeologist for Phase II should be an independent consultant, not a DCR staff member, as should the Environmental Project Leads (EPL). The Plan should specifically state who the EPL will be throughout the project.

### **USACE Notification to Advisory Council on Historic Preservation**

Has the USACE notified the ACHP that the USACE has made a determination of adverse effect for this undertaking? Notification to the ACHP typically occurs earlier in the Section 106 consultation comment process. The SHC requests a copy of the notification and accompanying specific documentation. Has the USACE been informed by the ACHP that the ACHP has chosen not to participate in the Section 106 consultation? If so, the SHC requests a copy.

### **Tribal Section 106 Consultation**

As the SHC has previously indicated to the USACE and the Narragansett THPO – the Commission intends to participate in the Narragansett Tribe site visit. The Commission continues to believe that it is premature to close the Section 106 consultation process before a site visit has occurred. The SHC understands that the USACE engages in a government-to-government consultation with this federally recognized Tribe. However, it is the SHC’s responsibility under M.G.L Chapter 40 Section 8D to protect all the historical and archaeological resources within the boundaries of Sudbury – including Native-American traditional cultural resources and properties. Therefore, the SHC is also communicating with the Narragansett THPO Office.

It is unfortunate that the THPO site visit did not occur in 2021 after the SHC informed the USACE by letter in December 2020 that the Narragansett THPO had not been notified by the USACE about the undertaking until the Commission informed the THPO on December 9, 2020.

If the NIT identifies religious and cultural properties what will be the next step in the Section 106 process and how would such identified properties be reflected in the determination of the APE, and MOA stipulations under 36 CFR 800?

Mr. Paiva’s March 11<sup>th</sup> email stated that “We are working with the applicants to present more detailed information found in the archaeological survey reports...” The SHC already has a copy of the 2018 Archaeological Reconnaissance Survey and an unredacted copy of the 2019 Archaeological Intensive (Locational) Survey. Is there any new information that is not contained in the 2018 and 2019 Surveys? Since archaeological findings are confidential and may not be

divulged to the public it is not apparent to the SHC what information the applicants, or their representatives could provide at a SHC Zoom public open meeting. However, if there is additional information the SHC requests that the USACE provide it to the SHC in writing.

Mr. Paiva in his March 11, 2022 email to the SHC stated, “We are confident that all archaeological resources in the permit area and the area of potential effect have been thoroughly investigated and that there are no areas or sites of significance.” The SHC is concerned that the USACE has reached this conclusion before the Narragansett THPO has conducted a field site investigation.

### **Revised Memorandum of Agreement**

The SHC has reviewed the revised MOA and has attached the SHC edited version. The edits are self-explanatory. In addition, the SHC has these further comments.

The MOA claims that the USACE “has notified the ACHP by letter... of its adverse effect determination...and the ACHP has chosen not to participate in the consultation...”, but no date of notification is provided. As the SHC is not aware of this fact, please provide the SHC with copies of the notification and the “specified documentation” accompanying the letter.

The MOA is silent on and does not specify which party – Eversource or DCR - is responsible for which provisions of the stipulations. Please remedy this omission

The wording of the third paragraph which references “defining the scope of the undertaking to include (only) the permit area...”, invoking Appendix C, is not consistent with the USACE December 17, 2021 letter to the SHC nor the USACE Response to Comments C.8 both state, “The District is located both within the permit area **as well as the surrounding Area of Potential Effect (APE)** that the Corps must consider for known properties outside the permit area.”

The SHC would like to consult with the USACE about the provisions of Stipulation I.J. concerning the rail track section, their retention and placement, and consult with Eversource prior to placement about where to appropriately locate the track sections. In addition to a set being placed “at the Section Tool House”, the SHC would like additional sets of tracks saved and permanently placed and attached to a set of rail rests in the CMRRCHD – either the rail rest set west of the Diamond crossing or on another set west of Dutton Road. The SHC understands that the rail track lengths are 35 and 39 feet and that the appropriate lengths for each rail rest set should be taken into consideration for fit.

When the track sections are removed, the SHC requests that the bolts for the joint bars be cut at the ends, so the entire length of each rail is saved including the bolt holes at each end. The SHC requests that torches not be used to cut the rail, but that the bolts be cut so the full length of the rail is saved. Also, the SHC would like to have at least two rails saved for placing at a rail rest.

Hop Brook Bridge 127 has guard rails inside the running rails which are older and likely historic originals to when the railroad was first built. These railings have markings on the side that

identify the steel mill that made the rails, the date of manufacture, and the weight of the rail (typically 75 pounds per yard). The SHC would like these guard rails saved and, in consultation with the SHC, located appropriately with the CMRRCHD after they are removed.

As the SHC has previously mentioned, the Commission requests that Eversource and DCR create a viewing area adjacent to Bridge 128 where the public may clearly view the Bridge's plate girders.

### **Appendix C (33 CFR 325)**

The SHC notes that the fifth paragraph of the MOA cites Appendix C, 33 CFR 325 and we reiterate that as the Advisory Council on Historic Preservation (ACHP) stated in its April 30, 2021 letter to the USACE that the ACHP "has never approved Appendix C" and that the USACE "relying on Appendix C...will leave the Corps' compliance with Section 106 subject to challenge..."

### **Outcomes of Section 106 Process on the Features of the CMRRCHD**

The SHC has hoped that the proponents of these projects as well as the USACE would find a balance between the preservation (by avoidance of adverse effects) of all the 70+ features of the CMRRCHD and other archaeological and cultural resources - and the design of the transmission line installation and MCRT. In particular, the avoidance of harm to the rare extant individually NR eligible Section Tool House and Hop Brook Bridges #127 and 128 have been of paramount concern to the SHC. It was exceedingly disappointing for the SHC to hear during the Commission's December 2020 meeting the Eversource representative state that there would be no design plan changes made to the transmission line project and they would not entertain a discussion to consider design alternatives to avoid demolishing Bridge #127. It is also disconcerting that the design of these projects was set long before the 2019 Archaeological Intensive Locational Survey was completed, and the NIT site visit conducted.

As the SHC has previously stated, the Commission has never received any evidence-based professional analyses from VHB or Eversource about any alternatives to demolition of Bridge #127. The information provided in the applicants November 14, 2019 letter to the USACE was not based upon a feasibility analysis. To the SHC's knowledge, no independent professional analysis was conducted to determine if there was a feasible alternative to demolition.

Unfortunately, the integrity of the setting and context of the Section Tool House will be compromised if, and when this undertaking is constructed. This will result in the loss or destruction of three key rare historic contributing elements of the CMRRCHD.

### **Conclusion**

Since the beginning of the Section 106 review and consultation process with the USACE, MHC and other consulting parties, as hopefully you can appreciate, the Sudbury Historical Commission's laser focused mission and aim has been to "protect, preserve and develop the historical and archaeological resources of the Town of Sudbury" (M.G.L. Chapter 40 Section

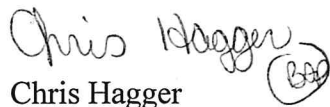
8D), and therefore be an advocate for the protection and preservation of the Central Massachusetts Railroad Corridor NR eligible Historic District and other historic properties and archaeological resources which are of may be identified. Sudbury highly values its history and heritage – to include Native-American resources within Sudbury, to keep for now and for generations to come. As an example, the SHC identified historic properties in the entire 4.62-mile Central Massachusetts Railraod Corridor Historic District and evaluated it and those contributing railroad features for eligibility in the National Register of Historic Places.

During the last several years the SHC has been very patient while we have waited months and, in some cases, a year for the USACE to respond to our letters, comments, questions and requests. The SHC understands and appreciates that the USACE has needed time to respond to SHC communications and act upon the requirements of NHPA Section 106. Then hopefully the USACE will extend the March 17<sup>th</sup> consultation and comment period deadline to allow the SHC the reasonable time it needs. Again, we ask the USACE for the opportunity to discuss our comments about the content of the MOA after the USACE receives this letter and to comment further within a reasonable amount of time after the NIT has provide its report/findings to the USACE and to us following the NITHPO site visit.

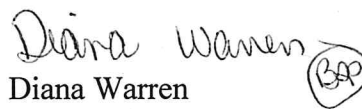
Therefore, the SHC also requests to meet with the USACE one more time following the USACE's review of this letter. The USACE has known about this undertaking since 2017. We hope that the USACE will allow for a reasonable period of time before closing the Section 106 comment and consultation period for the SJC to be able to work out the provisions of the MOA with the USACE, receive the NIHPO site visit findings/report, receive comment back from the USACE, and tie up the loose ends of this Section 106 process with the USACE. This would also provide the USACE time to review these comments to communicate back to the SHC.

The SHC looks forward to a reply from the USACE concerning our comments and requests.

Sincerely,

 (BAP)

Chris Hagger  
Chair  
Sudbury Historical Commission

 (BAP)

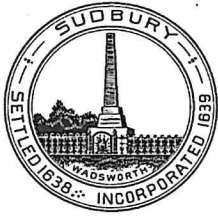
Diana Warren  
Vice Chair  
Sudbury Historical Commission

Enclosure: Draft MOA

CC (with enclosure):  
Brona Simon, MHC SHPO, 220 Morrisey Blvd, Boston, MA 02125  
Paul Maniccia, USACE  
Marcos Paiva, USACE  
John T. Eddins, ACHP  
Jamie Loichinger, ACHP  
John Brown III, Narragansett THPO  
John Brown IV, Narraganset Indian Tribe



Cora Pierce, NITHPO Principal Field Investigator  
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah) THPO  
David Weeden, Mashpee Wampanoag THPO  
Peter Breton, Hudson Historical Commission  
Daniel Elliot  
Vivian Kimball. VHB  
Sudbury Select Board  
Sudbury Town Manager  
Sudbury Town Counsel



# Town of Sudbury

## Historical Commission

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October 25, 2021

Tammy R. Turley  
Chief, Regulatory Division  
US Army Corps of Engineers, New England District  
696 Virginia Road  
Concord, MA 01742-2751

Re: Section 106 Consultation: Eversource Sudbury-Hudson Transmission Reliability Project, USACE NAE-2017-01406, MHC #RC.62384, ACHP Case 016522

By Email and USPS Registered Mail

Dear Ms. Turley,

The Sudbury Historical Commission (SHC) was established under M.G.L. Chapter 40 Section 8D for the “preservation, protection, and development of the historical and archaeological assets of the Town.” This responsibility to preserve and protect Sudbury’s heritage has been and is the Commission’s overriding focus during the consulting party review of the proposed undertaking under Section 106 of the National Historic Preservation Act of 1966, as amended.

This project, if constructed as designed, will have a devastatingly adverse effect on our rare remarkably intact National Register of Historic Places (NR) eligible Central Massachusetts Railroad (CMRR) linear corridor - essentially destroying the most significant contributing elements of the NR eligible historic district. The SHC is concerned about potential adverse effects to other historic properties including Native-American cultural resources which may be lost if they are left unidentified by an incomplete Section 106 identification process. We ask the US Army Corps of Engineers’ (USACE) assistance in finding solutions to avoid or minimize the harmful adverse effects of the undertaking – rather than mitigation measures that sacrifice our historic resources. Once NR eligible historic properties are gone, they are lost forever.

The Commission has reviewed Mr. Maniccia’s August 6, 2021, letter to the SHC, received on August 19, 2021, and the new revised Memorandum of Agreement attached to the letter.

The Commission offers the following comments with the understanding that these comments are part of a continuing Section 106 consultation process with the USACE. These comments are not the SHC’s final comments or recommendations, due to our understanding, acknowledged by the USACE on October 14, 2021, during its meeting with the SHC, that neither the USACE identification of historic properties, nor its assessment of effects or adverse effects has been completed, and therefore no official USACE finding of adverse effect for the undertaking has been made or communicated to the Advisory Council on Historic Preservation (ACHP) or to the Massachusetts Historical Commission State Historic Preservation Officer (SHPO).

Thus, the SHC looks forward to continuing the consultation process with the USACE including but not limited to an assessment of alternatives and solutions to avoid, minimize or mitigate adverse effects of the proposed Eversource undertaking on NR eligible historic properties, an assessment of alternatives to removal and replacement of Bridge 127, and avoidance of adverse effects to the B & M Railroad Section Tool House, and other NR historic properties and their contributing elements adversely effected by the undertaking in the Area of Potential Effects (APE).

The SHC thanks the USACE for its October 13, 2021, letter formally acknowledging the SHC as a consulting party.

The SHC was pleased to participate, primarily as an observer, at the USACE group consultation meeting on September 28, 2021, and to have met with the USACE on October 14, 2021. The Commission welcomes the USACE's suggestion made during the October 14th meeting that another follow-up consultation meeting be held after the USACE sends a letter to the SHPO following the USACE's completion of its identification of historic resources, assessment of effects and adverse effects, and determination of National Register of Historic Places (NR) eligibility. Although the USACE stated on October 14, 2021, that its current effort was to identify "known" historic properties, the Commission expects that the USACE will make a reasonable and full faith effort to actively seek to identify historic properties through the assistance of those with knowledge of historic properties, such as the Narragansett THPO. As stated in the opening paragraph, the Commission's mandate is for the "preservation, protection, and development of the historical and archaeological assets of the Town." This includes those that are undocumented and those that may have an overlay of cultural or spiritual significance that may now or in the future be identified as traditional cultural properties.

### Section 106 Process under 36 CFR 800

It is the understanding of the SHC, that pursuant to Section 106 of the National Historic Preservation Act's implementing regulations, 36 CFR 800:

- USACE shall make "a reasonable and good faith effort" to identify historic resources, including efforts to identify historic properties to which an Indian Tribe might attach religious or cultural significance,
- USACE shall determine the scope of the undertaking – identifying the project impacts' Area of Potential Effect, meaning the area in which the "undertaking may directly or indirectly cause alterations to the character or use of historic properties",
- USACE shall "take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register prior to the issuance of any license (in this case, a Section 404 Clean Water Act General Permit), and
- USACE shall make an "assessment of adverse effects", meaning adverse effects on historic properties by the undertaking that "alter, directly or indirectly, any characteristic of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling and association.

The process to date has been challenging for the SHC as it is not clear to the Commission whether the information we have received is correct, complete, and final for the Eversource transmission line project, as described in the paragraph below, and because we still lack detailed information about the DCR Mass Central Rail Trail (MCRT) project.

The Sudbury Historical Commission acknowledges that although Eversource's historic preservation consultant, Commonwealth Heritage Group, has identified some of the historic railroad resources, drawings provided to date to the SHC do not identify all the historic CMRR rail resources. In addition, for those railroad resources that do appear on the Vanasse Hangen Brustlin (VHB) provided plan drawings, their locations are not all accurately noted. Furthermore, the project plans made available to the SHC lack consistency between the Eversource plans and DCR's (undocumented) assurances for the MCRT project. Project impacts on some rail features are still unclear (e.g., retention of the diamond junction does not appear on the Eversource's Plans.) Therefore, the SHC has attached its spreadsheet of identified Central Massachusetts Railroad Corridor structures and features (Project Impacts on CMRR Corridor) listing what we know about the undertaking's impacts on each. We request that the USACE review our spreadsheet, provide information to identify the missing information about effects, and return an updated list to the SHC.

The SHC would be unable to sign a Memorandum of Agreement without mutual agreement between the USACE and SHC about what constitutes the full identification of affected historic resources and the effects thereupon on each.

### USACE Reliance on Appendix C – 33 CFR 325

The Sudbury Historical Commission continues to assert that Section 106 of the National Historic Preservation Act of 1966, as amended, is the appropriate federal regulation under which this project's review falls. The Commission

strongly disagrees with the USACE use of Appendix C (33 CFR 325) as an alternative to NHPA Section 106 implementing regulations (36 CFR 800). Appendix C is not recognized by, nor has it ever been approved by the Advisory Council on Historic Preservation, the federal agency whose authority it is to promulgate NHPA Section 106 regulations. The SHC agrees with the ACHP that the USACE's "relying on Appendix C as a basis for making findings and determinations in the Section 106 review will leave the Corps' compliance with Section 106 subject to challenge due to fundamental inconsistencies between Appendix C and the Section 106 implementing regulations (36 CFR 800)."

During the USACE September 28, 2021, consultation meeting, the Massachusetts Historical Commission Executive Director, State SHPO, Ms. Brona Simon unequivocally stated, "...we object strongly to the Corps of Engineers following Appendix C which are illegal regulations that do not meet the ACHP regulations. So, we are going to continue to be concerned about the lack of identification of the total project area which include the entire length..." and "...encourage the Corps of Engineers to follow Section 106 and do a legitimate 106 MOA..." The SHPO's position supports the Sudbury Historic Commission's own position.

One result of the USACE's use of Appendix C has been to completely overlook all but two of the 66+ identified railroad features of the NR eligible Central Massachusetts Railroad historic district corridor in Sudbury. The USACE's July 30, 2021, revised draft MOA's premise, stipulations, and other provisions are inadequate and non-complaint from the SHC's perspective and the requirements of Section 106 implementing regulations 36 CFR 800. The MOA stipulations applicable to Sudbury only refer to the two bridges – 127 and 128 – and the placement of new granite markers at three archaeological sites. (The SHC notes that under M.G.L. Chapter 40 Section 8D, drawing attention to archaeological sites is not allowed as "Any information received by a local historical commission with respect to the location of sites and specimens, as defined in Section twenty-six B of Chapter 9, shall not be a public record.")

*The narrow scope of the draft MOA ignores the NR status of the CMRR corridor in its totality and the unique extant individual RR structures and features already identified by cultural resources consultants throughout the entire right-of-way.* Furthermore, use of the USACE's Appendix C-generated extremely narrow Permit Area, rather than application of the APE, excludes nearly all 66+ NR eligible contributing RR features, as well as potentially other yet-to-be identified historic properties in the APE. This prevents our Commission from conducting a detailed and complete review. The SHC requests a copy of the USACE email and/or correspondence to VHB/Eversource approving the Permit Area described in the July 2020 404 Pre-Construction Notification Section 4.5.3., and mentioned in the SHC December 30, 2020, letter to the USACE.

The April 30, 2021, ACHP letter to the USACE commented that it is the "Corps' obligation to *actively* take into account effects to historic properties *throughout the entire ROW* for the project." The MOA fails to incorporate in the stipulations solutions that would avoid, minimize, or mitigate the adverse effects of the undertaking in the entire APE. For all these reasons, not only does the SHC believe that reliance on Appendix C is inappropriate, but it would prevent the SHC from being a signatory to the MOA as it is currently conceived and drafted.

The SHC strongly echoes the recommendation made during the September 28, 2021, Section 106 consultation meeting by the Massachusetts SHPO who encouraged the USACE to drop the use of Appendix C in this undertaking case, as the USACE did in the Section 106 Greenbush Line of the Old Colony Railroad case to avoid a legal challenge. During the October 14, 2021, consultation meeting with the SHC, a USACE comment was made that the Greenbush Line case was different than this undertaking case because the wetland areas for Greenbush were larger in scope, but the APE under 36 CFR 800 is not determined based on the USACE (wetlands/US Waters) permit area under Appendix C.

The ACHP April 30, 2021, letter speaks to the USACE jurisdiction under Section 106 regulations, stating, "the undertaking is not *solely* the federal issuance of a permit...or the specific activity that requires a permit. Rather *the undertaking is the overall project*, parts of which may require the issuance of a permit. The NHPA specifically and explicitly defines "direct or indirect jurisdiction" in the context of undertakings as "projects...including...those requiring a federal permit, license or approval..." The "jurisdiction needed for a project to fall within the scope of a Section 106 review does not entail a high level of federal agency control. Rather, when a federal agency's involvement in an otherwise non-federal undertaking is limited to an associated approval, as in this case, the *entire project is still considered falling within the federal agency's "direct or indirect jurisdiction" for Section 106*

*purposes.* The APE is defined as the geographic area or areas within which the undertaking may directly or *indirectly* cause alteration in the character of or use of historic properties...”

### Questions Regarding DCR’s Standing Under Section 106

The Commission seeks clarification, in writing, from the USACE as to the legality of DCR’s standing under Section 404 of the Clean Water Act (CWA), the USACE’s issuance of any USACE General Permit to DCR, and DCR being subject and signatory to the MOA. Please explain to the SHC why and how DCR is subject to the Section 404 CWA.

The VHB November 8, 2018, Request for Permit Area Determination, made “on behalf of NSTAR d/b/a/ Eversource Energy” (not DCR), was for the “Project” described as the “Sudbury-Hudson Transmission Reliability Project” that “involves the construction of a new 115-kV underground electric transmission line with paved roads and an inactive railroad right-of-way owned by the Mass Bay Transportation Authority.” The DCR MCRT project was not include in the definition of “Project.” The Table of Summary of Wetland Impacts (as of October 25, 2018) provided in the November 8, 2018, letter includes only temporary and permanent wetland impacts that would be the *result of Eversource’s conducted activities, not DCR’s.*

Furthermore, the July 2020 404 Pre-Construction Notification, Table 1, Summary of Work within Jurisdictional Waters of the US, and Table 2, Breakdown of Impacts to Waters of the US – list activities that *only* Eversource will engage in and cause, not DCR. Please refer to the SHC May 12, 2021, letter (attached) to MHC and May 20,2021, letter to the USACE (attached) for additional comments on this issue.

### Comments on the July 30, 2021, Revised Draft Memorandum of Agreement

The MOA Stipulations for the Central Mass Railroad Corridor Historic District are wholly inadequate, do not address adverse effects to all NR eligible historic properties in the APE, to include the entire project area., and do not comply with the requirements of 36 CFR 800. The MOA is silent about a Mitigation and Protection Plan (MPP) and one that would apply to adversely affected NR historic eligible properties in the entire APE which the current draft MPP, the SHC has reviewed, fails to do.

The SHC offers comments on the following paragraphs and stipulations of the revised draft MOA:

Paragraph #1 and #6: The “undertaking” is defined as the transmission line project *and* MCRT project pursuant to Section 404 of the Clean Water Act (CWA). Issue: Question, is DCR legally subject to the CWA and therefore legally subject to the Section 106 MOA?

Paragraph #2: States that *all* discharge/fill activities described here are those which will be performed by Eversource alone, not DCR. So therefore, if the DCR project activities will not result in impacts to jurisdictional US Waters and not adversely impact NR historical properties, how can DCR be subject to the CWA, an MOA, and be issued a CWA General Permit?

Reference under Paragraph #2 is also made to the modification of two culverts. The SHC has no information that any culvert will be modified. The SHC requests information about which culverts will be modified and what modifications are proposed to be made and by whom.

Paragraph #3: “scope of undertaking” is defined, not as the Area of Potential Effects (APE) under 36 CFR 800, but as the USACE “permit area” per Appendix C. This permit area is based on figures submitted with the VHB November 8, 2018, Permit Area Determination Request. Issue: Is the USACE permit area based on the November 8, 2018, figures or on updated set of plans provided in September 2019, when the Corps permit area was modified, and a subsequent Permit Area Determination modification approval made? Please explain. Issue: Application of Appendix C to determine the scope of the undertaking does not comply with 36 CFR 800, as the ACHP has commented.

Paragraph #4: As the USACE has acknowledged on October 14, 2021, the USACE has not yet taken into account the effects of the undertaking on historic properties listed in or eligible for listing in the NRHP. As the SHC commented on October 14, 2021, the CMRR corridor has been evaluated by the SHC consultant to be NR eligible as

a linear transportation historic district, and three structures, the Section Tool House, and Bridges 127 and 128 have previously been evaluated to each be individually eligible for NR listing. However, Bridge 130 has been evaluated to *not* be NR eligible, because it is a “common type of bridge design and construction widely used in the region” and has previously been replaced, and therefore would not be subject to a Section 106 MOA. Why is Bridge 130 included in the MOA stipulations?

Paragraph #5: Although reference is made to the undertaking having an adverse effect on the NR eligible CMRR Corridor Historic District – it implies application of Appendix C thereby limiting the scope of CMRR historic properties and features subject to the MOA stipulations.

Paragraph #7: Regarding the statement that the USACE has consulted with the Narragansett Indian Tribe, the SHC understands that as of October 14, 2021, a site walk had *not* been conducted yet with the Narragansett THPO as the THPO had requested earlier this year. The SHC expects that a full faith consultation with the Narragansett THPO shall be undertaken to identify historic properties in the APE, including any that may possess religious or cultural significance to the Tribe.

Paragraph #8: refers to “effects” of the undertaking “on the Sudbury-Hudson electric utility line and rail trail” instead of “*on NR eligible historic properties*”. The SHC points out “effects” on NR eligible historic properties are only those which are a result of Eversource’s activities, not DCR’s.

Paragraph #9: When the USACE notifies the ACHP of an adverse effect finding for the undertaking and provide documentation to the ACHP, the SHC requests that it be copied on the notification and be provided with copies of the documentation. The SHC notes that in 2019 the SHPO recommended that the USACE “make an adverse effect finding...”

Stipulation I.1.: The production of an updated inventory form for Bridge 127 is inappropriate should the bridge be demolished and the production of an inventory for Bridge 128 is not a sufficient mitigation measure.

Stipulation I.2.: See SHC comment below under Impact Mitigation for Railroad features.

Stipulation I.4.: The SHC cannot determine if the rehabilitation (and partial replacement) of Bridge 128 as described is consistent with the US Secretary of the Interior’s Standards and Guidelines for Rehabilitation because the SHC has not been provided with detailed information, including but not limited to, renderings of the *final* design. The SHC requests the detailed final design plans including information about which granite blocks/abutments will be removed, and which will be retained.

Stipulation I.6.: This vague stipulation does not describe the manner of location of the to-be-retained rail sections. Please explain the genesis of this stipulation.

Stipulations I. 3., 5., 7., and 8.: The project proponents have not provided the SHC with information about such granite markers or signage. Is Eversource allowed to erect markers and/or signage that is not for the purpose of installing an electric transmission line under the terms of the 2017 Option Agreement between the MBTA and Eversource? If DCR is not subject to Section 404 of the Clean Water Act, and Section 106, the SHC believes that DCR cannot be subject to any MOA stipulation. Please explain to the SHC who will be responsible for installing the granite makers and signage? Will Eversource or DCR be responsible for complying with this stipulation?

Stipulation II.: A Post-Discovery Plan (PDP), that covers the entire APE area, should be included in the MOA. The SHC requests a copy of the draft PDP and that it be submitted to the MHC for review.

### Comments on the NR Eligible Central Mass Railroad Corridor’s Structures and Features

Comments are grouped by resource type and proposed project impacts:

- **Bridge 127** – The SHC is strongly opposed to its demolition by Eversource in Phase I, as demolition is not essential to installation of the transmission line. The demolition (except for some abutments) and replacement of Bridge 127 with a new bridge almost twice as long is not driven by the transmission line

project design but by DCR rail trail design issues. Such demolition is the offered mitigation because of the DCR rail trail issues which is also the action performed by Eversource that is causing the adverse effect on Bridge 127. The SHC expects that the impacts of alternate options to demolition will be evaluated, as required under Section 106, to avoid demolition of this rare extant example of plate girder bridge and a key contributing element of the NR eligible historic district. Therefore, the SHC was pleased to hear the USACE's comment on October 14, 2021, that the USACE intends to evaluate the impacts of alternatives to demolition of Bridge 127. That evaluation should not include DCR MCRT design issues if DCR is not subject to the CWA. The SHC has not received any evidence-based professional analyses from VHB or Eversource about any alternatives and requests what, if any, information, and professional analyses USACE has detailing alternatives. The SHC would like the opportunity to discuss alternatives to demolition with the USACE and provide comments. Once demolished, Bridge 127 will be lost forever. Raising the plate girders and restoring the bridge should be an alternative that is considered based on a professional analysis. The SHC also requests that an alternative to raise and save the plate girders and incorporate them into a new bridge design as non-structural side elements be considered based on an evidence-based analysis. Please refer to the May 12, 2021, SHC letter to MHC and May 20, 2021, letter to USACE for detailed comments concerning this issue and the relevancy of whether DCR design issues can legitimately be part of an analysis of alternatives if DCR is not subject to the CWA and not legitimately subject to a Section 106 MOA. Also, if Bridge 127 were to be demolished, the SHC position is that the granite abutments/blocks be saved. We have heard conflicting information about what abutments are intended to be removed. Also, the transmission line conduit should not be installed on the outside exterior of the plate girders as this would be visible obscuring the plate girders.

- **Bridge 128** – It is the SHC's opinion that design options which will enable the public to view the plate girders should be part of the bridge's final rehabilitation design. Also, the transmission line conduit should not be installed on the outside exterior of the plate girders as this would be visible obscuring the historic plate girders. Our comment above about the abutments for Bridge 127 applies also to Bridge 129/8. The partial replacement of Bridge 128 is also being driven by DCR's rail trail design issues, not installation of the transmission line which could be attached by a conduit on a fully rehabilitated bridge.
- **Section Tool House (STH)** – VHB commented, on October 14, 2021, that the re-design of the project plan avoids adversely affecting this rare surviving NR eligible historic property because it will avoid the STH loading platform. However, the project design calls for removal of all the rail track in front of and immediately adjacent to the loading platform of the Section Tool House and will construct the project path within inches of the platform. It is appropriate that when adverse effects are assessed, consideration is given to *all* NR qualifying characteristics of a historic property (36 CFR 800.5(a)(1)). Retention of rail track at the STH is necessary for the STH to retain its integrity, association, and its ability to convey its historical significance. The SHC's position is that sections of rail track should be left in place in front of and adjacent to the loading platform of the Section Tool House structure. The preservation of lengths of rail track next to the Section Tool House would keep together those elements of the Tool House setting which tell the story of how and why section tool houses with loading platforms were located along railroad corridors and functioned. The MOA stipulations should include the STH. Here again, the proposed design plan for the Eversource project is driven by DCR design issues, and we question the need for the permanent removal (and no resetting) of the rail track to install the transmission line.
- **Railroad Diamond Crossing (at junction with the Lowell-Framingham RR Line)** – The SHC needs to receive detailed documentation and information from the USACE as to whether Eversource will remove this NR contributing element, when it will be removed, as well as information about the design of the diamond crossing when it is reset and who will reset it. The SHC supports embedding the rail track diamond crossing as an intact whole with at least 20 feet of track in each direction. The SHC requests that care be taken to protect the Diamond during its temporary removal and be removed as one intact piece. Treatment of the Diamond Crossing during and after removal should be included in the Mitigation and Protection Plan for the project.
- **Railroad Signals (Distant Approach Interlocking Signal M208 at MP20.80 and Distant Signal at MP19.26)** The SHC needs to receive detailed information about the proposed restoration/stabilization, removal, and reinstallation of these two signal RR features as well as their nearby associated battery wells. We are concerned that these signals and battery wells are in such condition that they could be damaged or lost during project construction. The SHC requests that the project proponents make a plan to stabilize/remove/reinstall these NR contributing RR features to prevent their loss or damage during removal/construction/reinstallation and that this protection is incorporated in Eversource's Mitigation and

Protection Plan which should be included in the MOA. The protection plan should require the battery well associated with each signal be removed in a pair together and reinstalled together in the same original relationship with each other. The SHC requests the project proponent who will be responsible for removal/reinstallation discuss and coordinate the removal/reinstallation with the SHC and the B & M RR Historical Society, and that their removal and reinstallation be monitored by the SHC or its designee at Eversource's expense.

- **Rail Bed** – Please refer to the MHC Area Survey (SUD.R) which describes the rail corridor and rail bed feature of the NR eligible Central Massachusetts RR historic district. The cut and fill undertaken to construct and make the railroad's grade and contours are a contributing feature of the NR historic district which currently retains a high level of integrity. Excavation and regrading of the entire length of the rail bed and removal of track for construction of the undertaking is an adverse effect adding to the loss of context, setting and integrity.
- **Rails** – The SHC requests that sections of rail track be retained and secured on two sets of rail rests selected by the SHC. See comments pertaining to rail track at Section Tool House and Diamond Crossing.
- **Telegraph Poles** – All telegraph poles are proposed to be removed during construction. The SHC proposes that three (3) replica telegraph poles with insulators and wires (dead) be installed at the Section Tool House and three (3) replica telegraph poles be installed at South Station, both at the project proponent's expense during Phase I to provide context/association for these two important NR contributing RR structures. The SHC request that the SHC or its designee determine the specifications for replica telegraph poles to be installed.
- **Features Designated "Outside the Project Limit" and "Features to be Retained"** – The SHC proposes that a chain or snow fence be installed around said features. Many of the features noted to be "outside the limit of work" are only outside by a few feet and will remain in harm's way by machinery during construction. (For example, Milepost 19.0 – orange vinyl fencing is insufficient to protect the RR feature,) Limiting protection activities to just those conducted within the "project area" or limit of work" is not acceptable; protection should be planned for all NR eligible resources in the APE.
- **Treatment of Culverts** – The SHC requests clarification as to how the culverts will be affected by the undertaking. Will excavation and construction damage or contribute to further damage of the culverts? Will all culverts be retained? The SHC requests up-to-date information and plans for the culverts including information about the two culverts to be modified according to the draft MOA paragraph #2.

**Protections for CMRR Features Designated to be "Removed and Reset" – The SHC Proposes:**

- Removal and reinstallation, including but not limited to, diamond crossing, signal, to be monitored by the SHC or its designee at Eversource's expense.
- Eversource provide details as to the method of removal: whether by hand or mechanical, and how artifacts will be transported to storage located within the Town of Sudbury.
- "Reset" locations to be determined in consultation with SHC
- Removed items be secured in a locked and weather tight container on site and SHC will be provided access to container located in Sudbury.
- The Distant Signal (MP19.26) and Distant Approach Interlocking Signal #M208 (MP20.80), and the smaller signal boxes: care should be given to sufficiently protecting them from damage during removal, and when reset. Their protection should be included in the Mitigation and Protection Plan.
- "Candlestick" Signal Relay Boxes – Those that retain their concrete bases, care should be given to sufficiently protecting them prior to moving, and their protection should be included in the Mitigation and Protection Plan. When the "candlestick" signal relay boxes are reset, the SHC wants them reset in a vertical position.

**Impact Mitigation for CMRR Features – SHC Requests the Following:**

- Documentation of CMRR Corridor to HAER Level II photographic and written documentation standards. Photographic documentation to include perspectives from 10 locations in Sudbury to be approved by the SHC.
- Documentation of CMRR Bridges 127 and 128 to HAER Level II photographic and written documentation standards to include photographic perspectives from locations approved by SHC.



- Development and installation of interpretative signage at 10 locations within the CMRR Corridor in Sudbury. Sign-off on location, interpretive text, historic photographs, and graphics to be approved by the SHC.
- Development and installation of interpretive signage at 15 locations within the CMRR Corridor in Sudbury of features to be removed, sign-off on location, interpretive text, historic photographs, and graphics to be approved by the SHC.
- Development and installation of interpretive signage at Bridges 127 and 128. Sign-off on location, interpretive text, historic photographs, and graphics to be approved by the SHC.
- Video documentation prior to dig and construction operations to document rail bed fill and cut components. (Total 3 hours, professional videographer approved by the SHC).
- Creation of educational video outlining the history of the CMRR Line. (30 minutes final, videographer approved by SHC.) Eversource to fund videographer, photographic and film video footage rights, voiceover, script writing etc.
- Development of a detailed and comprehensive Mitigation and Protection Plan (MPP) covering all areNR eligible historic properties based on Section 106 APE for this undertaking. The MPP the SHC has reviewed is too narrow in its scope as it only covers areas in the Appendix C Permit Area and not the larger APE to mitigate and protect all NR eligible historic properties to include the 66+ CMRR Corridor features. This current draft MPP is not comprehensive and appears to only apply to Eversource activities.
- Development of a detailed and comprehensive Mitigation and Protection Plan for any CMRR features and/or railroad infrastructure that DCR will remove and/or reset.
- The SHC encourages the USACE to review the MA SHPO comments that were made during September 28, 2021, USACE consultation meeting regarding the proposed Mitigation and Protection Plan.
- Development of a Post-Discovery Plan which is acceptable to MHC and SHC.

#### SHC Requests to the USACE

- Provide the Commission with a list of all historic properties the Corps has identified in the APE, provide the Corps' assessment of effects for each and adverse effects on identified NR historic properties, including on each individual contributing features of the Central Mass Railroad Historic District.
- Provide a list of those historic properties in the APE that are determined by the USACE to be eligible for listing in the NRHP.
- Provide a copy of the version of the project plans, upon which the MOA will be based with sufficient time for the SHC to review said plans prior to finalization of the MOA. The December 18, 2019, MHC letter to the USACE recommended the MOA include the most current project plans (for the Eversource transmission line project and if DCR is subject to the CWA, provide the complete MCRT project plans) as an Appendix to the MOA.
- Provide the SHC with the DCR Phase II project plans, including design plans, the USACE has, other than the 404 PCN, for the Commission to understand the details of the DCR Phase II project. As the ACHP noted, the 404 PCN lacks details about the rail trail project, only mentioning it in terms of MCRT design issues in connection to Eversource's transmission line project.
- The SHC requests to participate in a joint site walk with the Narragansett THPO or his designee, and the USACE for the SHC to understand what historic properties and traditional cultural places may be identified in the APE within Sudbury.
- Provide information and a detailed listing of what railroad infrastructure in Sudbury that Eversource, and DCR and/or the Massachusetts Bay Transportation Authority (MBTA), will remove per the terms of the 2010 MBTA/DCR Lease Agreement and 2017 MBTA/Eversource Option Agreement, and when any removal will occur whether prior to, during or after construction.
- Provide a copy of the final or draft Memorandum of Understanding between Eversource and DCR – if the Corps has such document for the SHC to understand the agreement between Eversource and DCR as to who will remove what railroad infrastructure and features, and when, and who will put the resources back, reset them and when it will be done.
- As mentioned above, provide a copy of the documentation required in 36 CFR 800.11(e) to be provided to the ACHP when the USACE notifies the ACHP of the USACE's finding of adverse effects.

### Sudbury Historical Commission's Previous Letters and Comments

The SHC request that the USACE review the SHC's previous letters to the USACE and MHC, and the issues we raised, and that this body of correspondence be made part of the legal record of this undertaking's Section 106 review by the USACE. We call your attention to the following: SHC letters to the USACE dated: August 17, 2020; September 24, 2020; December 10, 2020; December 11, 2020; December 30, 2020; May 20, 2021; August 24, 2021; and September 21, 2021; and the SHC letters to the MHC copied to the USACE dated: June 6, 2020; July 23, 2020, and May 12, 2021.

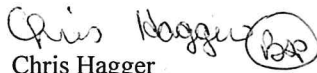
### Conclusion

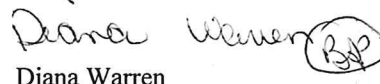
The Sudbury Historical Commission takes seriously its charge to advocate for the preservation and protection of Sudbury's historical and archaeological resources – including those which are Native-American. Sudbury and its citizens, from whom you have received comments, value our cultural heritage and seek to protect and preserve it for the enjoyment and benefit of our community today and for generations to come. The Central Massachusetts Railroad Corridor NR eligible historic district represents an important aspect of Sudbury's agricultural and economic development history and the town's evolution from a country farming community to a commuter suburb.

The SHC's goal is for the National Register linear transportation corridor historic district with its extant RR features, and any other NR eligible historic properties adversely affected, to be protected and preserved to the greatest extent possible from being adversely affected by the undertaking by being afforded a full legitimate NHPA Section 106 review process and a resulting MOA that complies with the requirements of the ACHP Section 106 regulations 36 CFR 800, not USACE's 33 CFR 325, Appendix C.

The Sudbury Historical Commission appreciates the USACE's attention to our comments, questions, and requests, looks forward to receiving a response, and to engage in a full faith consultation with the USACE about the issues and concerns we raise in this and previous letters. The SHC looks to moving ahead with the Section 106 review of the undertaking and consultation process with the USACE.

Sincerely,

  
Chris Hagger  
Chair  
Sudbury Historical Commission

  
Diana Warren  
Vice Chair  
Sudbury Historical Commission

Enclosures.

CC:

Brona Simon, MHC SHPO  
Jonathan Patton, MHC  
Paul Maniccia, USACE  
Marc Paiva, USACE  
Alan Anacheka-Nasemann, USACE  
John T. Eddins, ACHP  
Jaime Loichinger, ACHP  
John Brown, THPO Narragansett Tribe  
Bettina Washington, THPO Wampanoag Tribe of Gay Head (Aquinnah)  
David Weeden, THPO Mashpee Wampanoag Tribe  
Peter Breton, Hudson Historical Commission  
Daniel Elliot  
Vivian Kimball, VHB  
Sudbury Select Board  
Sudbury Town Manager  
Sudbury Town Counsel

MHC#	Feature	VHB STA	Milepost	Proposed Action	Proposed Project Activity				SHC Issues and Solutions (May 3, 2022)
<b>Newly identified contributing resource (not included on SUD.R inventory form)</b>							<b>Remove</b>	<b>2</b>	NOTE: MOA includes attachments: (1) Historic Properties Avoidance and Protection Plan with this Project Impacts Spreadsheet and (2) Post-Review Discoveries Plan. NOTE: Spreadsheet does not specify which project activity will be conducted by which proponent. - Eversource or DCR.
	Electric switch box	710+85	19.75	Avoid/R&R	Avoid; if not possible, remove and reset.		<b>Replace</b>	<b>3</b>	
							<b>Rehab</b>	<b>1</b>	
<b>Contributing resources on SUD.R inventory form that could not be located by SHC/Spies, but were located by Eversource/DCR</b>							<b>Extend</b>	<b>1</b>	
	Farm Crossing -- Wood Box 1' span, 3' H	761+25	18.79	Avoid	Outside limit of work		<b>Avoid</b>	<b>36</b>	Issue: 29 RR features are classified as being "outside limit of work" and therefore are excluded from protection measures. All are still within the "Area of Potential Effects" and some are near edge of construction area so concern about construction impacts if not protected. Solution: Include specific protection in Historic Properties Avoidance and Protect Plan for those RR features close to boundary.
	Culvert 125B	764+60	18.73	Extend	Extend existing pipe to maintain vernal pool hydrology.		<b>Avoid / R&amp;R</b>	<b>20</b>	
							<b>R&amp;R</b>	<b>8</b>	
<b>Contributing resources on SUD.R inventory form that were located by both SHC/Spies and Eversource/DCR</b>							<i>Total</i>	<b>71</b>	* including 4 archaeological sites, two resources included on Spies' inventory but were not located nor given MHC inventory numbers, and one new resource (electric switch box) that was identified recently by CHG/VHB. Issue: Rails – SHC has requested retention of some track at Section Tool House and other sections placed on or near rail rests. Solution: MOA Include such specifics.
SUD.933	Rails	Througho	Throughout	Remove	Remove				
SUD.934	Wood Ties	Througho	Throughout	Remove	Remove				
SUD.935	Telegraph Poles (approx. 23 in total)	Througho	Throughout	Avoid*	All outside limit of work but one. Remove 1 telegraph pole closest to diamond junction due to safety hazard.				
SUD-HA-39	East Sudbury Station Archaeological Site	758+50	18.84	Avoid & protect	Protect with geotextile fabric & fill.				
<b>Landham Road</b>									
SUD.936	Culvert 126A	752+17	18.96	Avoid	Clear out sediment				Issue: Lack of MOA provision in cases where granite culverts fail. Solution: MOA include specific provision about protecting/saving granite culverts.
SUD.937	Milepost	751+50	19.00	Avoid	Outside limit of work				
SUD.938	Culvert 126B	747+39	19.06	Avoid	Cut vegetation on northeast wingwall that is causing collapse (no grubbing).				
SUD.939	Rail Rest	743+75	19.21	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.940	Culvert 126D	738+77	19.22	Replace	Replace with 18" ductile iron pipe ("DIP") with concrete headwall to maintain drainage patterns.				
SUD.941	Distant Approach Signal	736+55	19.26	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.942	Battery Well for Distant Approach Signal	736+45	19.26	Avoid	Outside limit of work				
SUD.943	Signal Relay Box	729+60	19.37	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.901	Bridge 127	725+25	19.47	Replace	Replace superstructure (top two courses of stone abutments to be removed; other courses to remain).				Issue: Lack of professional engineering analysis to evaluate and develop alternatives or modifications to demolition of Bridge 127. Solution: Seek alternative to demolition preferably rehabilitation and restoration. See Oct. 25, 2021 SHC letter to USACE pages 5-6.
SUD.944	Poured Concrete base for Signal Relay Box/Battery Well	718+10	19.60	R&R	Remove & reset				Issue: SHC has no input on where removed RR features will be reset if reset in different location from original location. Solution Allow SHC to be involved. Also, SHC has requested independent monitors.
SUD.945	Culvert 127A	713+63	19.70	Replace	Replace with 24" ductile iron pipe ("DIP") with concrete headwall due to heavy corrosion.				
SUD.946	Whistle Post - W on east face, N of tracks	712+80	19.73	Avoid	Outside limit of work				
SUD.282	Section Tool House	712+20	19.75	Avoid	Outside limit of work				Issue: the boundary of the construction work area directly abuts within inches the edge of the Section Tool House's attached Loading Platform. It is unrealistic to claim that impacts from transmission line construction and trenching activities can be avoided. Construction work could also impact and put at risk the stability of the STH foundation. Removal of RR Tracks in front of Loading Platform will destroy context and historical purpose of Section Tool House. Solution: Retention of sections of RR track in front of Section Tool House. Redesign path of project to avoid STH or move STH to a distance away from current path of transmission line

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SUD-HA-37	Section Tool House Archaeological Site	712+20	19.75	Avoid & protect	Outside limit of work				See above.
SUD.947	Concrete base for Auto Highway Flashers	711+80	19.76	Avoid	Outside limit of work				
<b>Boston Post Road</b>									
SUD.948	Concrete base for Auto Highway Flashers	710+90	19.76	Avoid	Outside limit of work				
SUD.949	Signal Relay Box (mast only)	710+85	19.76	Avoid	Outside limit of work				
SUD.950	Culvert 127B	704+56	19.87	Avoid	Outside limit of work				
SUD.951	Concrete Bases for Highway Signal	602+45	19.97	Avoid	Outside limit of work				
<b>Union Avenue</b>									
SUD.952	Concrete Sign Post	602+10	19.98	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.396	South Sudbury Station	601+50	19.99	Avoid	Avoid				
SUD-HA-26	South Sudbury Station Archaeological Site	601+50	19.99	Avoid & protect	Outside limit of work				
SUD.953	Milepost	601+60	20.00	R&R	Remove & reset				
SUD.954	3 Switch Stands	600+60	20.00	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.955	Concrete bases & steel posts for Signal/Electrical Boxes (5)	600+60	20.00	R&R	Remove & reset				
SUD.956	Diamond junction with Framingham & Lowell RR	600+50	20.02	R&R	Remove & reset				Issue: No design plan for Junction included in either MOA or Historic Properties Avoidance and Protection Plan. No specifics on which party, Eversource or DCR, will remove and which will reset and when, and what will happen to Junction if MCRT installation is delayed. Where will Junction be stored and how protected? SHC requested lengths of track remain. See SHC Oct. 25, 2021 letter to USACE page 6. Solution: Include specifics in MOA. Embed rail track in Diamond crossing as an intact whole with at least 20 feet of track in each direction.
SUD.957	Wood whistle/stop sign post	600+80	20.02	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.958	Signal Relay Box	598+55	20.07	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.959	Concrete Base for Signal E2	598+55	20.07	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.960	Rail Rest	596+90	20.09	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.961	Signal Relay Box	594+50	20.13	Avoid	Outside limit of work				
SUD.962	Culvert 127C	593+18	20.14	Avoid	Outside limit of work				
SUD.963	Signal Relay Box	585+00	20.34	Avoid	Outside limit of work				
SUD.964	Wood Post	584+60	20.34	Avoid	Data shows outside limit of work. Could not find on 1/27/22 field visit.				
SUD.965	Tall Concrete Sign Post	581+10	20.39	Avoid/R&R	Avoid; if not possible, remove and reset.				
SUD.966	Culvert 127D	577+31	20.44	Avoid	Outside limit of work				

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MHC#	Feature	VHB STA	Milepost	Proposed Action	Proposed Project Activity			
SUD.967	Rail Rest	570+65	20.55	Avoid/R&R	Avoid; if not possible, remove and reset. Data shows on edge of work. Could not find on 1/27/22 field visit.			
SUD.968	Signal Relay Box	570+05	20.59	R&R	Remove & reset			
SUD.969	Whistle Post - westbound, N of tracks	569+15	20.63	R&R	Remove & reset			
SUD.970	Culvert 127E	560+82	20.75	Avoid	Outside limit of work			
<b>Horse Pond Road</b>								
SUD.971	Crossing Sign Base	555+65	20.79	R&R	Remove & reset			
SUD.972	Signal Relay Box	555+50	20.79	Avoid	Outside limit of work			
SUD.973	Distant Approach Interlocking Signal #M208	551+50	20.80	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.974	Battery Well for Interlocking Signal #M208	551+45	20.80	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.975	Rail Rest	549+05	20.98	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.976	Milepost B21 N83	548+80	21.00	Avoid	Outside limit of work			
SUD.977	Whistle Post - eastbound, S side of tracks	542+55	21.13	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.978	Signal Relay Box	540+85	21.16	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.979	Culvert 127F	539+40	21.18	Avoid	Outside limit of work			
SUD.980	Wood Post North Side of ROW	531+90	21.29	R&R	Remove & reset			
SUD.981	Auto Highway Flashers/Signal Relay Cabinet	530+60	21.35	Avoid/R&R	Avoid; if not possible, remove and reset.			
<b>Peakham Road</b>								
SUD.982	Wood Post, south side of ROW	529+80	21.36	Avoid	Outside limit of work			
SUD.983	Culvert 127G	527+30	21.40	Avoid	Outside limit of work			
SUD.984	Culvert 127H	521+64	21.51	Avoid	Cut two 12" trees that are causing wingwall damage (no grubbing).			
SUD.985	Culvert 127I	517+96	21.58	Avoid	Clear out debris on north end.			Issue:
SUD.986	Whistle Post (broken) - S side of tracks	517+50	21.58	Avoid	Outside limit of work			
SUD.987	Whistle Post - westbound, N of tracks	513+15	21.66	Avoid/R&R	Outside limit of work			
<b>Dutton Road</b>								
SUD-HA-38	Wayside Inn Archaeological Site	500+15	21.90	Avoid & protect	Outside limit of work			
SUD.988	Rail Rest	414+15	21.94	Avoid	Outside limit of work			
SUD.989	Milepost B22 N82	413+05	22.00	Avoid	Outside limit of work			
SUD.990	Culvert 127J	410+25	22.05	Avoid	Outside limit of work			
SUD.991	Whistle Post - W on west face, S of tracks	403+70	22.19	Avoid/R&R	Avoid; if not possible, remove and reset.			
SUD.900	Bridge #128	400+30	22.24	Rehab	Upgrade bridge deck to support trail & transmission line (removal of small portion of stone abutments on south side of both east and west abutments; other portions to remain).			
SUD.992	Culvert 129A	368+80	22.83	Avoid	Outside limit of work			
<b>Contributing resources on SUD.R inventory form that could not be located by SHC/Spies or Eversource/DCR</b>								
XXX	Signal Relay Box		18.39?					
XXX	Culvert 126C		19.28?					
XXX	Whistle Post -- W on East face N of tracks		22.?					

Attachment3.g: Updated-Project-Impacts-to-Railroad-Features-2.11.22 with SHC Issues & Suggested Alternatives (5218 : Discussion with Historical Commission re: re: historical resource preservation)

MHC#	Feature	VHB STA	Milepost	Proposed Action	Proposed Project Activity				
<b>Town Boundary</b>									
	Rails		Throughtout	Remove	Remove				
	Ties		Throughtout	Remove	Remove		Remove	3	
	Milepost	360+20	23	Avoid	Outside limit of work		Replace	1	
	Railrest	357+90	23.05	Avoid	Outside limit of work		Rehab	0	
	Telegraph Pole	357+25	23.06	Avoid	Outside limit of work		Extend	0	
	Conduit Pipe Derail Switch	343+35	23.33	R&R	Remove & reset				
	Stone wall	309+55	23.95	Remove	Remove		Avoid	10	
	Milepost	307+30	24	Avoid	Outside limit of work		Avoid / R&R	4	
	Section Post	307+30	24	Avoid/R&R	Remove & reset		R&R	10	
	Railrest	302+60	24.09	Avoid/R&R	Remove & reset		Total	28	* includes 2 archaeological sites
HUD.HA-9	Ordway Archaeological Site	214+00	24.1	Avoid & protect	Outside limit of work				
<b>Parmenter Road</b>									
	Culvert 129C	206+15	24.3	Avoid	Remove tree on northeast corner; stabilize bank				
	Concrete base well	201+10	24.36	R&R	Remove & reset				
	Whistle post (S)	200+10	24.4	Avoid/R&R	Avoid; if not possible, remove and reset.				
	Whistle post (N)	195+75	24.5	R&R	Remove & reset				
	Wood Post	183+55	24.72	R&R	Remove & reset				
	Utility Pole	182+20	24.76	R&R	Remove & reset				
<b>Main Street</b>									
	Wood Post	180+80	24.78	Avoid/R&R	Avoid; if not possible, remove and reset.				
	Track Switch Stand with Electrical Box	179+15	24.8	R&R	Remove & reset				
	Concrete Box	174+90	24.89	R&R	Remove & reset				
	Milepost	167+75	25	R&R	Remove & reset				
	Railrest	167+55	25	R&R	Remove & reset				
HUD.908	Bridge #130	148+75	25.37	Replace	Replace superstructure (no existing abutments)				
<b>Fort Meadow Brook</b>									
HUD.HA-8	Gleasondale Station Archeological Site	132+95	25.64	Avoid & protect	Protect with geotextile fabric & fill.				
<b>Chestnut Street</b>									
	Cattle pass	124+90	25.83	Avoid	Remove rails and ties on top of cattle pass				
	Railrest	114+60	26	R&R	Remove & reset				
	Milepost	114+25	26	Avoid	Outside limit of work				
	Culvert 132A	107+90	26.12	Avoid	Outside limit of work				
<b>Wilkins Street</b>									

**From:** diana warren  
**Sent:** Sunday, May 8, 2022 1:08 PM  
**To:** Roberts, Jennifer  
**Subject:** Army Corps

Hello Jen,

I appreciate that you have posted a SB meeting for May 10th and have the issue on the agenda.

Thank you for the discussion with me last week. I offer the enclosed draft letter based on the wording I think I heard you describe during our conversation, as well as to provide contact info for the Regulatory Chief at the Corps' New England District office in Concord and cc names. I provided the MHC mailing address because Brona Simon does not correspond by email. The MHC letter to which the draft refers should have been included with the documents provided to the SB but I have also attached a copy.

Thank you,

Diana Warren  
32 Old Framingham Road #30  
978-443-2880

Tammy R. Turley  
 Chief, Regulatory Division  
 US Army Corps of Engineers, New England District  
 696 Virginia Road  
 Concord, MA 01742-2751  
[Tammy.r.turley@usace.army.mil](mailto:Tammy.r.turley@usace.army.mil)

May XX, 2022

RE: USACE NAE-2017-01406, ACHP Case 016522, MHC RC.62384

Dear Ms. Turley,

The Town of Sudbury and its residents highly value our cultural heritage. We care about our unique historical and archaeological resources and over many decades have actively worked to preserve and protect them.

The Select Board has met with the Sudbury Historical Commission (SHC) and shares the concerns of the SHC that the Central Massachusetts Railroad Corridor (CMRC) in Sudbury will be negatively impacted by the undertaking which is currently under Section 106 review by the US Army Corps of Engineers (Corps). The Massachusetts Historical Commission concurred with the Corps' determination finding<sup>1</sup> that the proposed undertaking will have an adverse effect on historic properties eligible for National Register listing. Some key resources of concern to the Select Board and the SHC are the 1881 Section Tool House, 1890 Hop Brook Bridges 127 and 128, the Railroad Diamond Junction, and CMRC features as a whole railroad collection.

We do not think that the Town of Sudbury has reached a point in the Section 106 consultation process to have had the undertaking's adverse impacts on these historic resources fully addressed and therefore we request that the Corps come back to the consultation table to have further discussions with the SHC and the Town.

Sincerely,

Sudbury Select Board

cc:

Brona Simon, MHC SHPO, 220 Morrissey Boulevard, Boston, MA 02125  
 John T. Eddins, ACHP: [jeddins@achp.gov](mailto:jeddins@achp.gov)  
 Edward Markey, US Senator, Massachusetts  
 Sudbury Historical Commission

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<sup>1</sup> Correspondence, Brona Simon, SHPO and Executive Director, MHC to Paul M. Maniccia, Chief, Permits and Enforcement, Regulatory Division, USACE-NED, February 10, 2022.



**MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS  
AND THE MASSACHUSETTS HISTORICAL COMMISSION  
REGARDING THE SUDBURY-HUDSON TRANSMISSION RELIABILITY AND MASS  
CENTRAL RAIL TRAIL PROJECT, HUDSON, STOW, MARLBOROUGH, AND  
SUDBURY, MASSACHUSETTS**

**WHEREAS** the U.S. Army Corps of Engineers (Corps) plans to issue a Department of the Army Permit to NSTAR d/b/a Eversource Energy (Eversource) and the Massachusetts Department of Conservation and Recreation (DCR) for the Sudbury-Hudson Transmission Reliability and Mass. Central Rail Trail Project (File No. NAE-2017-01406) in Hudson, Stow, Marlborough, and Sudbury, Massachusetts, (“the undertaking”) pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344); and

**WHEREAS**, the undertaking consists of the discharge of fill material in order to install a new electric transmission line and construct a rail trail within an existing inactive railroad right-of-way, including the removal of the rails and wood ties, the modification of two culverts, and the replacement of one bridge that meet the criteria of eligibility for listing in the National Register of Historic Places as contributing historic properties to the Central Massachusetts Railroad Corridor Historic District; and

**WHEREAS**, the Corps has defined the scope of the undertaking to include the permit area as shown in the figures submitted to the Corps on November 8, 2018, under a Request for Permit Area Determination; and

**WHEREAS**, the Corps issuance of a Section 404 permit is subject to review under Section 106 of the National Historic Preservation Act (NHPA), as amended (54 U.S.C. 306108), which requires federal agencies to take into account the effects of their undertakings on historic properties listed in or eligible for inclusion in the National Register of Historic Places and afford the Advisory Council on Historic Preservation (“ACHP”) a reasonable opportunity to comment; and

**WHEREAS**, the Corps has determined that the undertaking shall have an adverse effect on the Central Massachusetts Railroad Corridor Historic District, a property eligible for listing in the National Register of Historic Places, and has consulted with the Massachusetts Historical Commission (MHC) pursuant to 36 CFR Part 800, and 33 CFR Part 325, Appendix C, the regulations implementing Section 106 of the NHPA; and

**WHEREAS**, the Corps has consulted with NSTAR d/b/a Eversource Energy and the Massachusetts Department of Conservation and Recreation regarding the effects of the undertaking on the Sudbury – Hudson electric utility line/rail trail and has invited them to sign this MOA as invited signatories pursuant to 36 CFR §800.6(c)(2); and

**WHEREAS**, the Corps has consulted with the Wampanoag Tribe of Gay Head/Aquinnah, the Mashpee Wampanoag Tribe and the Narragansett Indian Tribe, for which the historic properties may have religious and cultural significance and has invited them to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, the Corps has consulted with the Sudbury Historic Commission and the Hudson Historic Commission regarding the effects of the undertaking on the Sudbury – Hudson electric utility line and rail trail and has invited them to sign this Memorandum of Agreement (MOA) as concurring parties pursuant to 36 CFR §800.6(c)(3); and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the Corps has notified the ACHP by letter dated [DATE], of its adverse effect determination with specified documentation, and the ACHP has chosen *not* to participate in the consultation pursuant to 36 CFR §800.6(a)(1)(iii);

**NOW, THEREFORE**, the Corps, MHC, Eversource, and DCR agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties. The Corps will incorporate the following stipulations as conditions to any Section 404 permit issued to Eversource and DCR for this project.

### STIPULATIONS

The Corps shall ensure that the following measures are carried out in consultation with the MHC. Eversource and DCR shall provide proof of compliance with such measures to the Corps and MHC:

#### I. Central Massachusetts Railroad Corridor Historic District

1. The production of updated MHC Inventory forms for Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Sudbury and Hudson.
2. Photodocumentation to HABS/HAER standards of the Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Sudbury and Hudson.
3. Development and installation of interpretive signage at Massachusetts Central Railroad Bridges #127 and #128 (MHC#s SUD.901 and SUD.900, respectively) and Fort Meadow Brook Railroad Bridge #130 (MHC# HUD.908) in Sudbury and Hudson that describe the history of the bridges and Massachusetts Central Railroad.
4. Rehabilitation of the Massachusetts Central Railroad Bridge #128 (MHC# SUD.900) in Sudbury that is consistent with the *Secretary of the Interior's Standards and Guidelines for Rehabilitation*, as follows: the existing steel girders, timber piers, cross-frames and the majority of the granite block abutments will be retained and reused. The existing timber ties, steel rails, timber deck (non-historic), and timber handrail (non-historic) are to be removed and replaced. The new handrail will be made of timber and will be clearly identifiable as a new bridge element but will also be compatible with the existing historic fabric.
5. Installation of granite markers at the East Sudbury Station Archaeological Site (SUD.HA.39), South Sudbury Station Archaeological Site (SUD.HA.26), Wayside Inn Station Archaeological Site (SUD.HA.38), Gleasondale Station Archaeological Site (HUD.HA.8), and the Ordway Station Archaeological Site (HUD.HA.9).

6. The retention of representative sections of rail to be donated to the Sudbury Historical Commission.
7. Signage conveying the historical significance of the Massachusetts Central Railroad's track system to accompany the *in situ* preservation of a section of the spur-track.
8. Signage conveying the historical significance of the Massachusetts Central Railroad's diamond junction to accompany the Project's design feature containing the diamond junction.

## II. UNANTICIPATED DISCOVERIES

If previously unidentified historic properties are discovered during Project construction that may be affected by the undertaking, Eversource and DCR shall notify the signatories of the discovery and cease all work at that location until the requirements of 36 CFR 800.13 and 33 CFR 325, Appendix C have been satisfied.

## III. DURATION

This MOA shall be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, USACE may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V, below.

## IV. MONITORING AND REPORTING

Each year following the execution of this MOA until the work is complete, the permit expires or is terminated, Eversource and DCR shall provide all parties to this MOA a summary letter report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received by USACE in its efforts to carry out the terms of this MOA.

## V. DISPUTE RESOLUTION

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised by a signatory, the Corps will notify all signatories to the agreement, take the objection into account, and work as needed to resolve the objection. The disputing signatory Parties will first strive to resolve matters informally. If the signatories cannot agree regarding the dispute, the Corps shall then initiate appropriate actions in accordance with the applicable provisions of 36 CFR 800.

## VI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment shall be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## VII. TERMINATION

If any signatory to this MOA determines that its terms shall not or cannot be carried out, that

party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it shall pursue.

Execution of this MOA by the Corps, MHC, Eversource, and DCR, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and satisfied its obligations under Section 106 of the NHPA.

**SIGNATORIES:**

_____	_____
<b>[REGULATORY DIVISION CHIEF NAME]</b>	Date
Chief, Regulatory Division	
U.S. Army Corps of Engineers	

_____	_____
Brona Simon, title	Date
Massachusetts Historical Commission	

**INVITED SIGNATORIES:**

_____	_____
NSTAR d/b/a Eversource Energy	Date
_____ name, title	

_____	_____
Department of Conservation and Recreation	Date
_____ name, title	

**CONCURRING:**

_____	_____
Hudson Historical Commission	Date
_____ name, title	

_____	_____
-------	-------

Attachment3.i: NAE-2017-01406\_2021-07-30\_S-H MCRT MOA\_DRAFT v.2 For All parties (5218 : Discussion with Historical Commission reps re:

Sudbury Historical Commission  
\_\_\_\_\_ name, title

Date

\_\_\_\_\_ Aquinnah Wampanoag Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_ Date

\_\_\_\_\_ Mashpee Wampanoag Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_ Date

\_\_\_\_\_ Narragansett Tribe  
\_\_\_\_\_ name, title

\_\_\_\_\_ Date

DRAFT



DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NEW ENGLAND DISTRICT  
696 VIRGINIA ROAD  
CONCORD MA 01742-2751

August 6, 2021

Regulatory Division  
File No. NAE-2017-01406  
ACHP Case Number 016522

Ms. Diana Warren, Vice Chair  
Sudbury Historical Commission  
299 Old Sudbury Rd.  
Sudbury, MA 01776

Dear Ms. Warren:

This letter is in reference to the proposed Eversource / MA DCR Electric Line (Phase I)/Rail Trail (Phase II) in the Towns of Sudbury, Hudson, Marlborough and Stow, Middlesex County, Massachusetts.

The U.S. Army Corps of Engineers (USACE) regulates certain activities in waters of the United States under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. The applicants are proposing to discharge fill material into waters of the United States along a paved public roadway, and within an existing, inactive railroad right-of-way, within Sudbury, Marlborough, Stow and Hudson, Massachusetts. In previous correspondence, we attached updated plans provided by the applicant that showed reduced impacts to wetlands and waters that we regulate. In April 2021, we provided a draft Memorandum of Agreement (MOA) for the installation of the proposed 115kV underground electric transmission line project within the towns of Sudbury, Marlborough, Stow, and Hudson by Eversource Energy (Eversource). We also notified the Advisory Council of Historic Preservation, providing an opportunity for their participation.

We recently learned of the effort to establish a Historic District involving approximately 73 contributing features along this corridor. These sites consist of telegraph poles, wood ties, culverts, mileposts, distant approach signals, battery wells, signal relay boxes, tool houses, and other such facilities, as well as the previously identified river crossings (bridges 128 and 130). We are reaching out to obtain information regarding the potential effects to these contributing features associated with the USACE undertaking. We are also including a copy of a REVISED draft MOA and are requesting your comments and participation as a signatory. We would like to engage in discussion with your office so that we may obtain your office's recommendations regarding the assessment of adverse effects and ultimate mitigation for any adverse effects associated with the USACE undertaking.

If you have any questions or wish to discuss this matter, please contact Alan R. Anacheka-Nasemann, SPWS of my staff at (978) 318-8214, or via e-mail at: [alan.r.anacheka-nasemann@usace.army.mil](mailto:alan.r.anacheka-nasemann@usace.army.mil).

-2-

Sincerely,

*Paul Maniccia*

Paul Maniccia  
Chief, Permits & Enforcement Branch A  
Regulatory Division

#### Attachments

cc:

Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah), Aquinnah, MA;

[bettina@wampanoagtribe.net](mailto:bettina@wampanoagtribe.net)

David Weeden, Mashpee Wampanoag Tribe, Mashpee, MA; [David.Weeden@mwtribe-nsn.gov](mailto:David.Weeden@mwtribe-nsn.gov)

John Brown, Narragansett Indian Tribe, Charlestown, RI; [tashtesook@aol.com](mailto:tashtesook@aol.com)

Diana Warren, Sudbury Historical Commission, Sudbury, MA; [dewwarren@gmail.com](mailto:dewwarren@gmail.com)

Peter Breton, Hudson Historical Commission, Hudson, MA; [pbreton@yahoo.com](mailto:pbreton@yahoo.com)

Vivian Kimball, VHB, Watertown, MA; [VKimball@VHB.com](mailto:VKimball@VHB.com)

John Eddins, ACHP; [jeddins@achp.gov](mailto:jeddins@achp.gov)

## CERTIFIED VIA E-MAIL



DEPARTMENT OF THE ARMY  
US ARMY CORPS OF ENGINEERS  
NEW ENGLAND DISTRICT  
696 VIRGINIA ROAD  
CONCORD MA 01742-2751

December 17, 2021

**EMAIL READ RETURN RECEIPT REQUESTED**

Regulatory Division  
File No. NAE-2017-01406

Mr. David Weeden  
Mashpee Wampanoag Tribe  
483 Great Neck Road South  
Mashpee, Massachusetts 02649  
[David.Weeden@mwtribe-nsn.gov](mailto:David.Weeden@mwtribe-nsn.gov)

**Subject: Determination of Effect (DOE) Finding and Revised Permit Area and Area of Potential Effect (APE) Boundaries for the Sudbury-Hudson Transmission Reliability and Massachusetts Central Rail Trail Project**

Dear Mr. Weeden:

The U.S. Army Corps of Engineers (Corps), New England District, has been consulting with your office and other consulting parties on the above referenced permit application for the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project in the communities of Hudson, Marlborough, Sudbury, and Stow, Massachusetts. Corps involvement pertains to the discharge of fill material into waters of the United States (WOTUS) under Section 404 of the Clean Water Act (CWA). In accordance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, we would like your formal comments on the following information.

The Corps recently held a meeting on September 28, 2021 with the consulting parties and another meeting on October 14, 2021 with the Sudbury Historical Commission (SHC). We received comments verbally during both meetings, and by letter shortly thereafter. These comments will be used as we continue to assess impacts to historic properties and revise our draft Memorandum of Agreement (MOA) to mitigate for adverse effects upon these properties. Additionally, we will continue to engage the Massachusetts Historical Commission, Hudson Historical Commission, Sudbury Historical Commission, Wampanoag Tribe of Gay Head (Aquinnah), and Narragansett Indian Tribes and factor any comments into the decision-making process and the MOA.

Since the initiation of this project, there have been changes to the boundaries of the permit area designation from which the Corps is required to consider impacts to historic properties. Originally, only two bridges (#127 and #130) were considered as known historic properties. However, since that time we have compiled information on the identification of additional historic properties.



-2-

The Corps, project applicants, and the Sudbury Historical Commission have conducted and provided the following historic and archaeological surveys and studies of the project area:

Reconnaissance Level Historic Properties Survey, Sudbury Hudson Transmission Reliability Project, Town of Sudbury, City of Marlborough, Town of Stow, and Town of Hudson, Middlesex County, Massachusetts, Prepared by Commonwealth Heritage Group, Inc. Littleton, Massachusetts, December 2017.

Archaeological Reconnaissance Survey for the Sudbury-Hudson Transmission Reliability Project, Towns of Sudbury, Hudson, Marlborough, and Stow, Middlesex County, Massachusetts, Prepared by Commonwealth Heritage Group, Inc. Littleton, Massachusetts, February 2018.

Archaeological Intensive (Locational) Survey for the Sudbury-Hudson Transmission Reliability Project, Towns of Sudbury, Hudson, Marlborough, and Stow, Middlesex County, Massachusetts, Prepared by Commonwealth Heritage Group, Inc. Littleton, Massachusetts, May 2019.

Form A – Area – Massachusetts Historical Commission, Central Massachusetts Railroad Corridor (Boston & Maine Railroad Corridor), Recorded by: Stacy E. Spies for the Sudbury Historical Commission, December 2020.

For your consideration and review, we are enclosing the MHC Form A (Area) Inventory form for the expansion of the Central Massachusetts Railroad Corridor Historic District (CMRRCHD) into the Town of Hudson, prepared by VHB and the Commonwealth Heritage Group, along with a spreadsheet outlining project impacts to the railroad features.

In assessing the complete inventory of historic properties both within the Corps permit area and within the surrounding APE, the CMRRCHD in Sudbury is comprised of the railroad corridor and bed, the track structure, bridges, culverts, Section Tool House, South Sudbury Station Building, signals, whistle posts, mile posts, rail rests, switch stands, telegraph poles, concrete sign posts, concrete foundations, and archaeological sites (East Sudbury Station Site, Section Tool House Site, South Sudbury Station Site, and the Wayside Inn Station Site). In Hudson, many of these same features are present along with miscellaneous structures and features, and two archaeological sites (Ordway Station Site and the Gleasondale Station Site). Please refer to the respective inventory forms for detailed information on these features. Three bridges (No. 127, 128, and 130) are each considered contributing elements to the District.

We have determined that the CMRRCHD in Sudbury and Hudson is eligible for listing as a National Register-eligible District that encompasses the rail right-of-way as well as extant railroad structures and objects along this corridor. The CMRRCHD is eligible for listing on the National Register under Criteria A and D of the National Register Criteria (36 CFR 67). The District is located both within the permit area as well as the surrounding area of potential effect (APE) that the Corps must consider for known historic properties outside the permit area.

-3-

Revised project plans that depict the Permit Areas, and when combined with those known historic properties, encompass the APE, are enclosed.

In accordance with the NHPA, implementing regulations 36 CFR 800; and 33 CFR 325, Appendix C, we have determined that the proposed project will have an adverse effect on historic properties due to the removal, replacement, and rehabilitation of contributing resources within the CMRRCHD (see enclosed project impact spreadsheet). Overall, the impacts to the CMRRCHD as a whole would be detrimental to the integrity of design, materials, setting, feeling, association, workmanship, and location of the District. The Corps has requested that MHC provide their concurrence with our determination of eligibility of resources within the APE for listing in the National Register of Historic Places and our determination of adverse effect. If you have any concerns about the enclosed information, please respond within 30 days of receiving this letter.

In response to your comments on the original draft MOA, we are also providing you with a Post Review Discoveries Plan. Following your review of this information and any comments, under separate cover we will then transmit our revised MOA with revised mitigation measures and the updated Archaeological Site Avoidance and Protection Plan.

If you have any questions, please contact Marc Paiva, our New England District Archaeologist/Tribal Liaison at 978-318-8796 or by email at [marcos.a.paiva@usace.army.mil](mailto:marcos.a.paiva@usace.army.mil). You may also contact the Corps Regulatory Project Manager, Katelyn M. Rainville at 978-318-8677 or by email at: [katelyn.m.rainville@usace.army.mil](mailto:katelyn.m.rainville@usace.army.mil) or me at 978-318-8515 or by email at: [paul.m.maniccia@usace.army.mil](mailto:paul.m.maniccia@usace.army.mil).

Sincerely,

*for* Paul M. Maniccia  
Chief, Permits & Enforcement Branch A  
Regulatory Division

Enclosures:

Updated Plans with Permit Area & Area of Potential Effect Boundaries  
MHC Inventory Form A (Area) for CMRRCHD in Hudson  
Updated Project Impacts to Railroad Features  
Post Review Discoveries Plan

cc:

John Brown IV, Narragansett Indian Tribe; [jbnithpo@gmail.com](mailto:jbnithpo@gmail.com)  
Cora Pierce, Narragansett Indian Tribe, [coradot@gmail.com](mailto:coradot@gmail.com); [coradot@yahoo.com](mailto:coradot@yahoo.com)

Attachment3.k: NAE-2017-01406-20211217-DOE\_Letter-MW (5218 : Discussion with Historical Commission re: historical resource

-4-

Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah), Aquinnah, MA;

[bettina@wampanoagtribe.net](mailto:bettina@wampanoagtribe.net)

Brona Simon, SHPO, MA Historical Commission, 220 Morrissey Blvd., Boston, MA 02125

Chris Hagger, Sudbury Historical Commission, Sudbury, MA; [cldh7@aol.com](mailto:cldh7@aol.com)

Diana Warren, Sudbury Historical Commission, Sudbury, MA; [dewwarren@gmail.com](mailto:dewwarren@gmail.com)

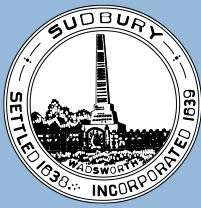
Peter Breton, Hudson Historical Commission, Hudson, MA; [pbreton@yahoo.com](mailto:pbreton@yahoo.com);

[petebreton@gmail.com](mailto:petebreton@gmail.com)

Denise Bartone, Eversource Energy; [denise.bartone@eversource.com](mailto:denise.bartone@eversource.com)

Paul Jahnige, DCR; [paul.jahnige@state.ma.us](mailto:paul.jahnige@state.ma.us)

Vivian Kimball, VHB, Watertown, MA; [VKimball@VHB.com](mailto:VKimball@VHB.com)



SUDBURY SELECT BOARD

Tuesday, May 10, 2022

**MISCELLANEOUS (UNTIMED)**

**4: Vote select board chair and vice chair**

REQUESTOR SECTION

Date of request:

Requestor: Chair Roberts

Formal Title: Vote to elect a new Chair and Vice-chair and reappoint Town Manager Henry Hayes as Clerk to the Select Board. This will take effect at the close of tonight's meeting. (~15 min.)

Recommendations/Suggested Motion/Vote: Vote to elect a new Chair and Vice-chair and reappoint Town Manager Henry Hayes as Clerk to the Select Board. This will take effect at the close of tonight's meeting. (~15 min.)

Background Information:

Financial impact expected:

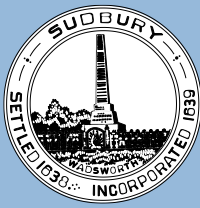
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM



SUDBURY SELECT BOARD  
Tuesday, May 10, 2022

**MISCELLANEOUS (UNTIMED)**

**5: Minutes Review**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to review and possibly approve the open session minutes of 3/24/22 and 4/12/22.

Recommendations/Suggested Motion/Vote: Vote to review and possibly approve the open session minutes of 3/24/22 and 4/12/22.

Background Information:  
attached draft minutes

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM

## SUDBURY SELECT BOARD

THURSDAY, MARCH 24, 2022

(Meeting can be viewed at [www.sudburytv.org](http://www.sudburytv.org))

Present: Chair Jennifer Roberts, Vice-Chair Charles Russo, Select Board Member Daniel Carty, Select Board Member William Schineller, Select Board Member Janie Dretler, Town Manager Henry Hayes, Jr.

The statutory requirements as to notice having been compiled with, the meeting was convened at 7:06 PM, via Zoom telecommunication mode.

Chair Roberts announced the recording of the meeting and other procedural aspects included in the meeting.

**Call to Order/Roll Call**

Select Board Roll Call: Russo-present, Carty-present, Schineller-present, Dretler-present, Roberts-present

**American Rescue Plan Act (ARPA) public Listening Session; Select Board discussion on ARPA submissions/decision process.**

Chair Roberts provided detail regarding ARPA funding for Sudbury.

Chair Roberts stated that all ARPA requests would be reviewed in consideration of specified criteria:

- Public Health
- Economic Insecurities due to COVID-19
- Inequities Exacerbated due to COVID-19
- Education Impacts due to COVID-19
- Long-Term Infrastructure
- Other

**Dennis Mannone – Sudbury Park & Recreation**

Mr. Mannone presented request for \$100,000 to purchase a vehicle in order to transport Sudbury Public School students from school to Sudbury after-school recreation programs.

Vice-Chair Russo asked if Park & Recreation currently had any such vehicles. Mr. Mannone responded not. Mr. Mannone mentioned the requested vehicle could be used in summer months as well, and could be shared with other Town Departments.

Mr. Mannone confirmed the subject vehicle would accommodate fifteen students.

Board Member Schineller noted that Wild Wednesday transportation was currently supplied by school buses, and suggested that such proposed transportation might be redundant. Mr. Mannone noted that there is a current shortage of bus drivers, and scheduling was problematic.

Board Member Carty asked if the proposed vehicle would be considered a special-rank vehicle. Mr. Mannone responded not, because the vehicle was not classified as a school bus. Board Member Carty asked if existing staff

would be able to drive the subject vehicle. Mr. Mannone detailed that the vehicle would be driven by full-time staff initially; likely himself.

Chair Roberts opined about potential financial shortfall, if proposed transportation was not in place. Mr. Mannone said a new vehicle would be of particular benefit on Wild Wednesdays, and would certainly play a major role with increased participation in afterschool recreation programs.

Vice-Chair Russo asked about a planned vehicle replacement fund. Mr. Mannone confirmed a designated percentage of funds would be saved for maintenance and eventual replacement. Mr. Mannone indicated that the new recreation site at the Fairbank Center would likely increase student participation.

Kay Bell - COD (Commission on Disability) Chair, 348 Old Lancaster Road

Ms. Bell requested ADA website accessibility in the amount of \$35,000 for the scanning of related documents, and \$40,000 for a web developer

Chair Roberts asked if funding in the amount of \$35,000 might make a significant contribution on the proposed project. Ms. Bell responded that \$35,000 would not satisfy a great amount of documentation, and the ADA Transition Plan for Sudbury, recommended the project be completed within five years, and not ten years.

Vice-Chair Russo noted that over 60% of HTML (HyperText Markup Language) documents were currently accessible.

Chair Roberts asked if Mark Thompson, IT Director, had confidence that the proposed project was feasible. Ms. Bell responded in the affirmative.

Laura Howrey, 55 Old Post Road – Sudbury Food Pantry Administrator

Ms. Howrey requested two amounts of ARPA funding; \$100,000 for additional food provisions, and \$1 million in order to lease or construct a new facility.

Ms. Howrey mentioned the unprecedented increase in food-challenged families, and negative effects of the inflationary cost of food. She stated the Boston Food Bank has decreased allocations. Ms. Howrey noted that 30% of recipients of the Food Pantry are Sudbury residents.

Ms. Howrey explained that 5,000 square feet of pantry-related space was the ask. Vice-Chair Russo if other pantry sites could share resources/space. Ms. Howrey responded that the mixing of bulk food supplies would be problematic.

Chair Roberts asked about an alternate plan. Ms. Howrey replied that the Pantry could stay in the basement of the existing site, but a sense of dignity and supply was the goal for recipients.

Lisa West, 42 Hawes Road, Hope Sudbury Vice President

Ms. West requested ARPA funding in the amount of \$50,000 to help with services in such unprecedented times, and \$25,000 for gift cards. Ms. West confirmed that Hope Sudbury currently helps some 60 to 70 Sudbury families.

Ms. West confirmed as of March, Hope Sudbury has used over half of the yearly stipend to serve recipients.

Board Member Schineller inquired about the relationship between Hope Sudbury and Town Social Worker, who also requested gift cards. Ms. West replied that out of district students, and employees are unable to receive any associated help from the Town, so this funding helps.

Board Member Dretler asked if \$65,000 for the Hope Sudbury Fund and \$15,000 for gift cards would be sufficient. Ms. West responded in the affirmative.

Chair Roberts inquired about primary reasons for increased need. Ms. West responded the summary from Town Social Worker attributes evictions and inflationary rates as significant factors.

John Riordan, 12 Pendleton Road – Sudbury Housing Authority

Mr. Riordan requested ARPA funding in the amount of \$300,00 for the emergency rental and mortgage program, which would meet the ARPA guidelines. He stressed the severe housing shortage in Sudbury, the State, and the Nation.

Board Member Carty asked if this request was the same request made by in the Housing Authority in October, 2021. Mr. Riordan responded affirmatively. Board Member Carty requested funding request breakdown. Mr. Riordan highlighted; rental assistance - \$125,000; \$75,000 - grant program funding (deferred home maintenance needs); \$75,000 - Mortgage Assistance Program; \$25,000 – consulting services from RHSO (Regional Housing Services Office).

Nuha Muntasser, 193 Dutton Road - Sudbury DEI Co-Chair

Ms. Muntasser requested \$15,000 for needed training of DEI members and the greater community. Ms. Muntasser confirmed this allocation would be a one-time funding allocation.

Town Manager Hayes reminded Select Board Members to consider the value of competing ARPA interests/requests, as well as the immediacy need factor.

Chair Roberts confirmed such DEI request had been an expressed need for some time, and hoped that the Board could make a decision within the month.

William Schineller, 37 Jarman Road

Mr. Schineller (presenting as resident, and not Select Board Member) requested ARPA funding in the amount of \$15,000 for an RFP to initiate a program to continue with the progressive removal of utility/electric overhead wiring and poles.

Board Member Carty thanked Mr. Schineller for bringing this request back to the Board.

Chair Roberts stated the Board would address this proposal further. She expressed her hope that ARPA decisions would be made in the month of April. Town Manager Hayes requested that the Select Board look closely at the opportunity, not only to help right now with requests received, but to advance the end result to provide long-term benefit, long after the persistence of COVID.

Recess

Chair Roberts read in the words of the motion. Vice-Chair Russo moved in the words of the Chair. Board Member Schineller seconded the motion.



It was on motion 5-0; Dretler-aye, Carty-aye, Russo-aye, Schineller-aye, Roberts-aye

VOTED: To recess for five minutes

**Discussion and possible vote regarding Sewataro/Liberty Ledge Property Manager/Camp Operator Agreement Negotiation Update**

Vice-Chair Russo detailed progress made with the Camp Operator Agreement Negotiations. Vice-Chair Russo referred to various aspects presented within the “Proposed Contract Adjustment For Camp Sewataro Operator Agreement – Contract Renewal,” dated 3/24/2022.

Vice-Chair Russo provided updates regarding important factors associated with the “Proposed Contract Adjustments for Camp Sewataro Operator Agreement Contract Renewal:”

- Minimum Payment
- Term Length
- Revenue Share
- Number of Campers
- Public Access
- Public Access/ADA Access Improvements
- Full Staff Accounting
- Water Quality Enhancements
- Public Events
- Public Swimming
- Intellectual Property

Chair Roberts indicated she that she would like to see additional financial incentives for the Town, and expressed interest in learning more about the proposed ADA Access Improvement plan.

Chair Roberts suggested the right upper corner of the Sewataro property be made available to residents when Camp is not in session and during the evenings.

Board Member Dretler inquired about aspects identified by the Health Department, and comments from Park & Recreation, as well. Ms. Dretler agreed that resident access to the upper portion of the site would be beneficial, and suggested that dogs being allowed on the property.

Board Member Schineller motioned to fix the term of the Sewataro contract to a five-year term, and to continue negotiations under that assumption. Board Member Carty seconded the motion.

It was on motion 3-2; Carty-aye, Dretler-no, Russo-no, Schineller-aye, Roberts-no

VOTED: To delay determination regarding term of Sewataro Agreement Contract

Mr. Brody explained the IP (Intellectual Property) Proposal.

Resident Daniel Brock, 380 Willis Road, expressed his desire to complete related negotiations by April. He stressed the Town should honor what was agreed to. He explained that Camp management worked to continue

programming for campers and the community, during a most difficult time. He noted that the Camp Operator was also able to conduct food pantry activities, and movie nights.

Resident Len Simon, 40 Meadowbrook Circle, stated the first thing to remember was this property is town-owned land, and residents should be able to vote to research the best use for the site. He noted the NOI (Notice of Intent) issued by the Conservation Commission, could take up to six months to complete.

Resident Bob May, 98 Maynard Farm Road, noted that support of the agreement was reflected by a small number of Sudbury families, who take advantage of the site. He suggested that more families should be able to use the property.

**Discussion and possible votes on 2022 Annual Town Meeting items: logistics, order and consent calendar; positions on articles; Select Board reports, review draft Annual Town Meeting warrant. Final warrant version to be approved no later than the 4/5/22 meeting.**

Chair Roberts motioned to accept edits made to the May 2022 Annual Town Meeting Warrant. Vice-Chair Russo seconded the motion.

It was on motion 5-0; Dretler-aye, Carty-aye, Schineller-aye, Russo-aye, Roberts-aye

VOTED: To accept edits made to the May 2022 Annual Town Meeting Warrant

Board Members agreed to wait on Article #15 – Funding of Operations for Passive Recreation Requirements of the Sewataro/Liberty Ledge Property, and Article #16 – Funding of a Land Use Consultant for the Sewataro/Liberty Ledge Property.

Board Members expressed preference to wait for Finance Committee votes on Article #22 – Fairbank Community Center Audio-Visual Equipment Funding, Article #23 – Fairbank Community Center Furniture, Fixtures, Equipment Funding (FF&E), and Article #24 - Additional Funding: Construction of Fire Station No. 2 Housing/Living/Office Area.

**Article #35 – Authorization to Proceed with DPW Facility Solar Project**

Board Member Dretler motioned to support Article #35 – Authorization to Proceed with DPW Facility Solar Project. Vice-Chair Russo seconded the motion.

It was on motion 3-2; Schineller-no, Carty-no, Russo-aye, Dretler-no, Roberts-aye

VOTED: No to support Article #35 – Authorization to Proceed with DPW Facility Solar Project

The majority indicated the preference to receive more information regarding this project, when a Facilities Director would be in place.

**Article #42 – Town-wide Drainage and Roadway Reconstruction**

Chair Roberts read in the words of the motion. Board Member Carty moved in the words of the Chair. Vice-Chair Russo seconded the motion.

It was on motion 4-0-1; Dretler-abstain, Russo-aye, Schineller-aye, Carty-aye, Roberts-aye

**Citizen's Comments on items not on agenda**

No comments

**Consent Calendar:**

**Vote to accept a COVID-19 test kits grant from the MetroWest Foundation in the amount of \$50,000.**

Chair Roberts read in the words of the motion. Board Member Dretler moved in the words of the Chair. Vice-Chair Russo seconded the motion.

It was on motion 5-0; Carty-aye, Schineller-aye, Russo-aye, Dretler-aye, Roberts-aye

VOTED: To accept a COVID-19 test kits grant from the MetroWest Foundation in the amount of \$50,000

**Adjourn**

Chair Roberts read in the words of the motion. Board Member Carty moved in the words of the Chair. Board Member Dretler seconded the motion.

It was on motion 5-0; Carty-aye, Dretler-aye, Schineller-aye, Russo-aye, Roberts-aye

VOTED: To adjourn the meeting

There being no further business, the meeting adjourned at 11:42 PM.

SUDBURY SELECT BOARD

TUESDAY, APRIL 12, 2022

(Meeting can be viewed at [www.sudburytv.org](http://www.sudburytv.org))

Present: Chair Jennifer Roberts, Vice-Chair Charles Russo, Select Board Member Daniel Carty, Select Board Member William Schineller, Select Board Member Janie Dretler, Town Manager Henry Haynes, Jr.

Also Present: Town Counsel Lee S. Smith

The statutory requirements as to notice having been compiled with, the meeting was convened at 7:02 PM., via Zoom telecommunication mode.

Chair Roberts announced the recording of the meeting and other procedural aspects included in the meeting.

**Call to Order/Roll Call**

Select Board Roll Call: Russo-present, Dretler-present, Schineller-present, Carty-present, Roberts-present

**Opening Remarks by Chair**

- Chair Roberts welcomed all to the Sewataro/Liberty Ledge Discussion
- In recognition of the importance of tonight's agenda item, Chair Roberts stated all discussion would be kept respectful

**Reports from Town Manager**

- Many Board and Committee openings; encouraged residents to volunteer
- Goodnow Library and Health Department were proudly recognized last week

**Reports from Select Board**

Vice-Chair Russo:

- The beginning of tick season
- Happy Birthday wishes to Chair Roberts
- Tonight's agenda item has reflected much work from all, thanked everyone involved

Board Member Schineller:

- Thanked all citizens/concerned individuals who contributed to the future of Sewataro
- Thanked all who provided input regarding the Eversource Transmission Line project

Board Member Carty:

- Recognized the two-year anniversary for Town Manager Hayes, and his service with the Town
- Congratulated the LSRHS theatre group, and the recent presentation of "Sense and Sensibility"

Board Member Dretler:

- Last night's Conservation Commission commenced the NOI (Notice of Intent) process for Liberty Ledge/Sewataro, regarding the fishing pond and swimming pond
- NOI decision for Liberty Ledge/Sewataro, likely to be finalized by early May

### **Citizen's comments on items not on agenda**

Resident Rebecca Cutting, 381 Maynard Road, stated that she supports the Sudbury Historical Commission's efforts in maintaining historical character, as well as efforts brought forth by Vice-Chair Russo. She provided detail regarding the National Water Act and Tribal Resources. She stated that proponents of the Eversource project have made it difficult for the Town; and if the Memorandum of Agreement (MOA), is finalized, as is, many existing historical features would be compromised. She suggested that the Select Board join with Sudbury Historical Commission (SHC), and decide how to best to go forward.

Resident Len Simon, 40 Meadowbrook Circle, announced Town Meeting will take place on May 2; plenty of seating will be provided, and a designated room for those wearing masks will be assigned.

Resident Chris Hagger, Chair of SHC, 233 Nobscot Road, detailed that the United States Army Corp of Engineers (USACE) meet with Commission regarding the MOA, indicating they would not agree to any of the revisions as presented by the SHC. Mr. Hagger requested that the Select Board to further explore this aspect, and review the matter with Town Counsel.

Resident Jim Gish, 35 Rolling Lane, directed the Boards attention to correspondence from Ms. Cutting. He stressed that USACE does not want to negotiate with the Town regarding the MOA. He emphasized the urgency of the Select Board working with SHC, to strategize on this aspect. He suggested possible coordination with the Hudson Select Board, who expressed interest with working with the Sudbury Select Board, regarding this issue.

### **Discussion and possible vote regarding Sewataro/Liberty Ledge Property Manager/Camp Operator Agreement Negotiation Update**

Chair Roberts confirmed the Select Board had been involved in Agreement Negotiations with the Camp Operator for a couple of months; under the negotiation leadership of Vice-Chair Russo. She explained that the current Agreement being considered tonight, reflected the third amendment to the Agreement.

Chair Roberts noted the Board received extensive communication from the public, regarding this topic. She confirmed that all communications had been reviewed by the Select Board.

Board Member Carty commented that the majority of Sewataro-related communications to the Board, were in favor of the extension to the camp agreement extension. Chair Carty opined about public comment being included in the record, and asked if the Board could vote on this aspect at some time. Chair Roberts suggested that such consideration be included as an upcoming agenda item.

Board Member Dretler asked if the lead paint aspect at Sewataro could be addressed. Town Manager Hayes confirmed the Sewataro team was exploring various removal options, and there would be no expense to the Town. Chair Roberts added that lead paint was found in one of the homes on the Sewataro/Liberty Ledge site.

Board Member Dretler requested the legal opinion regarding "Extension of the Camp Sewataro Contract for Day Camp Operator and Management of Real Property," dated April 12, 2022; be released to the public, per resident request.

Vice-Chair Russo motioned to release Town Counsel opinion regarding “Extension of the Camp Sewataro Contract for Day Camp Operator and Management of Real Property,” dated April 12, 2022. Board Member Dretler seconded the motion.

It was on motion 5-0; Schineller-aye, Carty-aye, Russo-aye, Dretler-aye, Roberts-aye

VOTED: To release Town Counsel opinion regarding “Extension of the Camp Sewataro Contract for Day Camp Operator and Management of Real Property,” dated April 12, 2022.

Attorney Smith stressed the Agreement was a contract, and not a lease; lacking the sole right of possession, which a lease would include.

Attorney Smith provided summary of amendment/s made to the presented contract, highlighting several amendments agreed to:

- Increase in revenue share payment/s to the Town
- Increase in number of campers from 650 to 700, contingent upon Special Permitting per the Planning Board
- Public Access Area – for activities in the northern section of the property – to be added in Exhibit B Schedule to the Amendment
- Public Swimming – if can’t be achieved with one pool, all pools would be made available to the public/residents; likely be added to Amendment B schedule
- Public Access Disability Enhancements – does not implicate those expenses would be the sole expense of the Town, but shared; if over \$20,000, then would be discussed. To be included within Amendment C schedule
- Animals allowed on property, including service animals; no horses, nor potentially dangerous animals per Attachment B
- Intellectual Properties clause removed

Board Member Dretler inquired about a termination of convenience clause for reasons other than default. Attorney Smith confirmed the Sewataro operator, responded not.

Resident Rachael Henschel, 3 Drown Lane, acknowledged that 92 Sudbury residents sent a letter of support from the Sewataro Camp Operator. She cited three reasons why the Board should vote on extending the current contract tonight: 1. Sewataro provides reliable childcare 2. Sewataro expanded recreation options for residents (swimming, basketball, etc.) 3. The negotiated contract provides generous revenue to the Town.

Resident Donald Sherman, 42 Rainer Rd, asked why the Town paid so much money to purchase the property, and now an independent camp operator benefits. Vice-Chair Russo stated the Town voted for open land preservation, and this property had a strong on-going camp business before the current operator ran the property. He acknowledged a yearly maintenance cost of \$155,000 (at minimum), and such expense is covered by the camp operator.

Resident Stacy Munroe, 37 Greystone Lane, questioned why a decision made at previous Town Meeting was being discussed now.

Resident and COD (Commission on Disability) Chair Kay Bell, indicated the Sewataro land use article should be passed, in order to address ADA considerations. She recommended passage of the article to provide land use analysis, and expert analysis.

Resident Anna Newberg, 112 Longfellow Road, asked if Camp use could be increased to include all residents, including young people and senior citizens. Vice-Chair Russo responded that such use is currently being examined in order to provide investment for the future, and use by all residents.

Resident Laura Briggs, 94 Belcher Drive, commented that a completed land-use study would likely take five years to complete, and in the meantime, the Town would have five years of revenue coming in from Camp Sewataro. She encouraged the Select Board to vote for the five-year extension, tonight.

Vice-Chair Russo presented the "Planning Timelines in Sudbury," reflecting one of nine related versions, agreed to by Town Planning. He noted five years appeared to be the appropriate timeline for such analysis.

Resident Lisa Kouchakdjian, 30 Meadowbrook Circle, advised that plans for a more ADA compliant camp, be presented. She maintained Sewataro was a Title 2 property, owned by the Town, and that the Camp Operator could rebid. Vice-Chair Russo commented recent IHCD (Institute for Human Centered Design) did not include Camp Sewataro as a Title 2 property.

Resident and Hope Sudbury Board Member, Karen Walper, 128 Longfellow Road; presented a recording made by her eight-year-old son Max, who stated; "kids love Sewataro." Ms. Walper stated that Sewataro has offered many camp scholarships to the Town, and has provided many events and opportunities to the Town residents.

Resident Manish Sharma, 77 Colonial Road, stated that every Sudbury family should be involved in this process, and every child should be provided the opportunity to use the site. He thanked Vice-Chair Russo for the detailed presentations.

Resident and Finance Committee Member Eric Poch, 28 Ruddock Road, indicated that realistically the Camp could not possibly accommodate all children of Sudbury. He thanked Vice-Chair Russo for his efforts with increasing resident use at the Camp; and stated that commercial opportunities in Town must be encouraged. Mr. Poch affirmed that the contract proposal showed foresight, and improves the existing model/contract.

Resident Kay Bell, expressed concerns about recent negotiations; and confirmed she never had a direct conversation with Mr. Brody as proposed, and did not want this contract rushed through.

Camp Operator Scott Brody One liberty Ledge, apologized for any misunderstanding with Ms. Bell, and confirmed he and Ms. Bell had walked around the Sewataro Property. He indicated that he would look forward to further discussions with COD and Ms. Bell.

Resident Robert Stein, 7 Thompson Drive, stated that Vice-Chair Russo did not have related experience with camp negotiations.

Resident Len Simon, 40 Meadowbrook Circle, stated that many Town residents feel they have been "shut out of the site," and 70% of Sewataro campers are not Sudbury residents.

Resident Stacy Monroe, indicated that recent comments have been unjust; and this topic is about the amendment to the lease contract, which the Town voted on years ago. As a corporate attorney, she reviewed the amended

contract, adding this would be the best option for the Town. Ms. Monroe acknowledged that presently, the Town did not have a plan, and needed time to effectively review all options.

Resident William Stevenson, 135 Greystone Lane, thanked Vice-Chair Russo for all the work done with Sewataro, and acknowledged that Town open space was not present in this area of Town, before Camp Sewataro. He confirmed the importance of COD planning be incorporated at the Camp.

Chair Roberts ended the public comment session.

Attorney Smith motioned that the Select Board vote to accept the clean version of the five-year Camp Sewataro extended contract, as presented to date; subject to one revision regarding “unleased animals,” and to authorize that Town Counsel approve the clean contract. Vice-Chair Russo moved in the words of Attorney Smith. Board Member Schineller seconded the motion.

It was on motion 4-1; Carty-aye, Schineller-aye, Dretler-no, Russo-aye, Roberts-aye

VOTED: To accept the clean version of the five-year Camp Sewataro extended contract, as presented to date; subject to one revision regarding “unleased animals,” and to authorize that Town Counsel approve the clean contract.

Board Member Dretler thanked Attorney Smith and Mr. Brody, for work on this contract; and stated she would support a three-year contract, but not a five-year contract.

Attorney Smith left the meeting at 10:10 PM.

#### **Citizen's Comments (cont.)**

None

#### **Upcoming Agenda Items**

##### April 26:

- Deliverables/Sustainability goals
- ARPA Listing Session debrief
- Town Manager Self-Assessment/Contract
- Town Meeting Action
- BFRT easements/property ownership aspects
- Historic Commission permitting process

##### Future:

- Status of Transportation Committee

Board Member Dretler left the meeting at approximately 10:15 PM.

Chat comment received from Lisa Kouchakdjian, noting she submitted her resignation from COD; she requested the resignation be included on the Consent Calendar agenda of April 26.

#### **Adjourn**



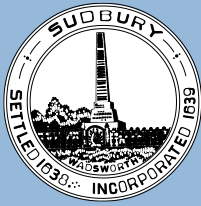
Chair Roberts read in the words of the motion. Board Member Dretler moved in the words of the Chair. Board Member Carty seconded the motion.

It was on motion 5-0; Schineller-aye, Carty-aye, Dretler-aye, Russo-aye, Roberts-aye

VOTED: To adjourn the Select Board Meeting

There being no further business, the meeting ended at 10:17 PM.

DRAFT



SUDBURY SELECT BOARD  
Tuesday, May 10, 2022

**MISCELLANEOUS (UNTIMED)**

**6: Upcoming agenda items**

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Upcoming agenda items

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Town Counsel	Pending
Jennifer Roberts	Pending
Select Board	Pending

05/10/2022 7:00 PM

## POTENTIAL UPCOMING AGENDA ITEMS/MEETINGS

MEETING/EVENT	DESCRIPTION
<b>May 17</b>	Spring Select Board Newsletter approval
	Request from Historical Commission for Sudbury to apply to become a Certified Local Government (rep from State Mass Historical Commission also to attend)
	FY21 Audit presentation
	ARPA listening session debrief and next steps
	Finalize deliverables for FY22 goals
<b>June 14</b>	2022 Annual Board & Committee Re-appointments
<b>Date to be determined</b>	By-law items to examine - Special Events & Demonstration Permits; Common Victualler License Holders (Related to Farm Act exemptions, citizen request); Nuisance/Blight Bylaw; Removal Authority of members from appointments
	Sudbury Housing Trust Bylaw
	Citizen Leadership Forum
	Discussion on Select Board meeting flow, process, efficiency, and decorum
	Discussion on potential ADA policy
	Discussion on Town Manager Task Requests
	Discussion on whether to extend DEI commission (by 9/30/22)
	Executive Session minutes to review/release
	Eversource
	Fairbank Community Center update (ongoing)
	Health/COVID-19 update
	Investment Advisory Committee
	Invite Commission on Disability Chair to discuss Minuteman High School
	Local receipts – fee schedule review (Vice-chair Russo)
	Member Carty Town Counsel Opinions: BFRT Easements, Hiring Ability according to Town Charter
	Member Russo request re: appointment process
	Quarterly review of approved Executive Session Minutes for possible release (February, May, August and November). Consider separate meeting solely for this purpose.
	Quarterly update from Diversity, Equity and Inclusion Commission (DEI) (December, March, June, September)
	Quarterly update on Bruce Freeman Rail Trail (BFRT) (March, June, September, December)
	Quarterly update on Key Performance Indicators (KPIs) projects to track (December, March, June, September)
	Route 20 empty corner lot – former gas station
	Sidewalks discussion
	Subcommittee discussion (Executive)
	Town Manager Goals and Evaluation process
	Town Manager Review and Timeline
	Town meeting recap – year in review
	Town-wide traffic assessment and improve traffic flow
	Update on crosswalks (Chief Nix/Dan Nason)
	Update on traffic policy (Chief Nix)
	Work Session with Town Counsel: Select Board/Town Manager Code of Conduct and other procedural training

Attachment 6.a: Upcoming items 05.10.22 (5224 : Upcoming agenda items)

<b>Standing Items for All Meetings</b>	Select Board requests for future agenda items at end of meeting	<b>6.a</b>
	Citizens Comments, continued (if necessary)	