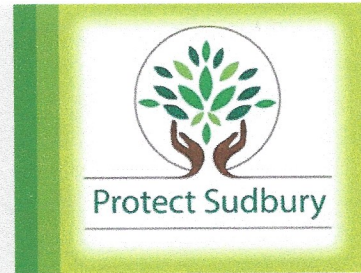


Protect Sudbury Inc.

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May 1, 2020

Sudbury Conservation Commission

275 Old Lancaster Road

Sudbury, MA 01776

Re: Joint NOI No. 301-xxxx filed by

**Eversource for Sudbury-Hudson Transmission Reliability Project
and MassDCR for Mass Central Rail Trail**

Dear Sudbury Conservation Commissioners:

As you are doubtless aware, since 2016, Protect Sudbury, a non-profit citizens' group ("PS")¹, has followed the Eversource/DCR combined proposal to install a 115-kilovolt transmission line and bike trail on the abandoned Boston & Maine RR right-of-way ("ROW"). We, like the Town of Sudbury ("the Town"), participated in several regulatory reviews: MEPA (commenting from ENF to FEIR)², as a party to the Energy Facilities Siting Board ("EFSB") hearings³, and the "Wetlands Protection Act" ("WPA") determinations (ORAD –

¹ PS members are abutters, members of conservation organizations such as the Friends of the Assabet River National Wildlife Refuge and the Sudbury Valley Trustees. Many reside in Hudson, Stow and Sudbury, some also abut or live near the project, enjoy the adjacent conservation lands and volunteer in preserving and managing them. Others live on or near Lake Boon, White Pond and the Assabet River and its tributaries such as Fort Meadow Brook. All the residents of Stow have private water supply wells as do many in Hudson on or near the ROW. Their shared objective is mitigation of environmental degradation, damage, and prevention of exacerbation of existing conditions of pollution. Their mutual hope is that your careful conditioning of the project will achieve this objective.

²The EOEEA Secretary's Certificate on the Final Env. Impact Report (copy attached) has been appealed and remains pending. The MEPA process is intended by the statute, G.L. c. 30, ss. 61-62I, to provide a clearinghouse for vetting permitting requirements from federal to municipal. MEPA also prohibits project segmentation.

³ The decision of the EFSB has been appealed by the Town of Sudbury and PS and is presently pending at the Mass. Supreme Judicial Court ("MSJC"). Also pending at the MSJC is the Town of Sudbury Land Ct. case (Town of Sudbury v. MBTA, SJ-12738) raising the doctrine of "prior public use" which could preclude use of the railbed as a utility corridor.

Sudbury, ANRAD – Hudson). PS and its members would, as interested parties, like to offer our perspectives on the unique regional issues raised by this unusual Joint Notice of Intent (“JNOI”) spanning four towns (Hudson, Marlborough, Stow and Sudbury)⁴ and two Department of Environmental Protection Regions (Northeast and Central). We offer our comments in the hope that they support and advise your review and enhance collaboration across the towns and DEP Regions. We are happy to provide any further information you might need and, as we appreciate the scope of the project before you, we hope you will find our comments helpful.

As PS has stated in its prior comments to the Stow and Hudson Conservation Commissions (copied to you), we believe the conflation of the permitting of a bike trail with a high voltage transmission line, is a mistake and runs counter to the principles of MassDEP’s “Multiple Filings Policy” (attached). There can be little doubt that the JNOI presents **two vastly different projects**; a transmission line with significant wetland alterations and a bike trail with few. All the two really have in common is the site itself. Reflective of this fact is that up to this point the two have proceeded **separately** through regulatory reviews and permitting: MEPA, EFSB, ACOE, MassWildlife (MESA)⁵ because their projects are so dissimilar. Eversource has been the sole applicant in several of these proceedings raising the question of why the other applications were not jointly filed and how DCR’s project is at all subject to the requirements of the Eversource permits. This concern is underscored by the non-committal response of DCR’s, Paul Jahnige at the April 13th hearing that the MOU regarding post-construction vegetation management practices remains unfinished. This reveals the lack of a joint intent.

Further, it is hard to conceive a joint project where DCR admits that it lacks the necessary funding to execute its portion of the work and consequently cannot even establish a schedule much less commence work (Jahnige at the January 16th Hudson hearing). Most importantly, a bike trail typically works within the rail footprint requiring only a ten to 12-foot base. Starkly contrasting with the Eversource transmission line’s need to:

1. Remove 24 acres of trees (50 yrs. of growth);

⁴ In recognition of the regional impacts of this project, PS has provided comments to the Stow and Hudson Cons. Commissions and has also copied them on this comment letter. It continues to be PS’ hope that the three Commissions will collaborate in developing their Orders of Conditions.

⁵ In fact, DCR did not participate in the EFSB and has not filed with ACOE. Its MEPA filing was made in 2013 about 3 years prior to that of Eversource and without reference to any combination with a high voltage transmission line presumably because it had not yet been proposed. Arguably that filing in 2013 little resembles the present proposal.

2. Install massive splice vault/manholes (8x8x24) twelve to fifteen feet deep in 50 linear feet (“lf”) of clearing on a 50-foot-wide base every quarter mile in contaminated soils;
3. Maintain a permanent access road (wider shoulder requiring filled wetlands);
4. Dewater and discharge on-site to “uplands”⁶; and
5. Maintain a permanent 18 - 22-foot mowed platform.

The construction impacts proposed by Eversource are staggering as demonstrated by the testimony of Beverly Schultz, Project Manager at the EFSB where she calculated removal of an estimated 50,660 tons of “excess soils” (Bev Shultz, EFSB Tr. Vol. 7, 1402-1404). As she acknowledged, the railbed soils will have to be “characterized” for contaminants⁷ prior to being disposed off-site and that, in order to do this, some may be stockpiled along the railbed. Application of MassDEP’s “BMPs for Rail Trails” soils protocol to the Eversource transmission line project thus seems completely out of scale and highly inappropriate for the extensive disturbance and permanent impacts required by the transmission line; yet another reason for separate applications.

In sum, it seems clear that the transmission line should be evaluated on its own merits. The DCR rail trail can file its NOI when it has funding sufficient to establish and maintain a timeline. In fact, Paul Jahnige, DCR’s Director of its Greenways and Trails Program, stated at the initial hearing held (virtually) on April 13, 2020, that he would like a separate Order of Conditions; a statement not made to the other Commissions. However, there is no provision in the law or regulation for the issuance of two Orders under a single filing nor is it clear how the conditions of any second Order issued to DCR can be accomplished with any certainty. As mentioned above since Mr. Jahnige was unable at the Hudson hearing in January to provide a schedule for the work or a source of funding it makes sense for DCR to refile when it can commit to a schedule.

In addition, having these two projects joined in the wetland permitting process has the potential to pose procedural and compliance issues. If DCR fails to obtain funding as seems even more likely during these times of increased fiscal constraints, it may be years before it can commence work⁸, leaving the Commission with the potential for an open-ended partial Certificate of Compliance. Compounding this disjunction are the statements

⁶ NOI, “Proposed Work”, p. 16-17.

⁷ Railbed soils typically contain: metals (barium, cadmium, lead, mercury), insecticides (lead arsenate, glyphosate, diquat, 2,4-D), creosote, petroleum products and high levels of arsenic (10x naturally occurring). MassDEP “BMPs for Rail Trails” at 2 and MassDEP “Private Well Guidance” at 116 (attached).

⁸ It is also hard to envision how DCR will connect the end of the Wayland bike trail across the extensive Sudbury River floodplain to the Sudbury Substation/Hudson section where funding for the latter isn’t on the horizon.

made by Jahnige during the first Sudbury hearing that the Memorandum of Understanding (“MOU”) between DCR and Eversource governing vegetation and other post-Phase I construction tasks remained incomplete. Post-construction management of the transmission line is further confounded by another overlapping document entitled “Corridor Management Plan” filed in draft form with Stow and not filed with Hudson or Sudbury but which appeared in final form in the FEIR as Appendix 6-1. The Hudson NOI also contains a Section 3 which differently describes vegetation management without reference to either the incomplete MOU or the draft/final? “Corridor Management Plan”. Then there are the “BMPs” developed for Eversource by Tighe & Bond filed with the NOI in Sudbury that describe standard construction practices presumably to be applied separately from the narrative. These differential filings underscore the lack of consistency by and between these two applicants. If they cannot decide on uniform conditions between their two projects, their applications should be the subject of separate NOIs providing distinct responsibilities with a definite timeline for each.

An example of the disjunction between these two projects is the fact that Eversource is subject to a mandate concerning the MOU contained in the decision of the Energy Facilities Siting Board (“EFSB”)⁹ whereas DCR, not participating or being a party, is not. One of the EFSB conditions, requested by counsel for the Town of Hudson at the hearing on the Tentative Decision, was incorporated into the Final Decision: that Eversource not use herbicides in light of the contamination of Hudson’s Cranberry Well (EFSB Final Decision at 121-122) and the fact that the railbed passes through Hudson’s Zone I and IIs for four other wells (Kane and Chestnut St. #1-#3 – Hudson NOI, Table 5)¹⁰. The EFSB Final Decision notes that Eversource and DCR stated that they were negotiating an MOU for vegetation management¹¹. The Decision requires the MOU to contain the Eversource obligation to use only mechanical controls and asks that DCR agree to this same provision. In the event that DCR refuses to agree, the Decision requires that Eversource report back to the EFSB describing DCR’s objections for the Board’s consideration. EFSB Final Decision, p. 121-122.

⁹ Final Decision, EFSB 17-02/DPU 17-82/83, dated December 18, 2019. PS directs the Commission’s attention to pages 104 (mid-page) to 113 for relevant discussion of wetland impacts and vegetation management. In this decision the EFSB notes that the All-Street alternative would be preferable in order to avoid the magnitude of environmental impacts of the railbed route, pp. 102-103 and found that the All-Street Route is the preferred route for avoidance of wetland impacts. P. 120.

¹⁰ Sudbury’s public wellfields are also along the ROW which passes through the Zone IIs for the Raymond Road Wellfield consisting of 3 Raymond Rd Wells (2A, 9 & 6), Warren Rd. Well 4 and Nobscot Rd. Well 7. The ROW also bisects the contributing aquifer itself. NOI, Attachment A, Figure 5.

¹¹ EFSB Exhibit EV-18 is Appendix 2-4 of the FEIR being a draft of the MOU dated October 2017. Why this key document remains in draft form is both telling and untenable.

In light of the fact that Mr. Jahnige stated at the April 13th hearing that the MOU remains unfinished¹², PS urges the Commission to repeat the request of the EFSB to both applicants that DCR clarify its intent and Eversource report back to the EFSB so that uniform conditions and clear responsibilities can be established in all three communities. Further, it seems ill-advised of both DCR and Eversource to leave yet another plan hanging without completion when a state agency decision directs Eversource to report back to it so that agency can deliberate further. PS is concerned that once again the cart is being placed before the horse¹³. The fact that three NOIs have been filed without compliance with the EFSB will make it difficult to develop conditions for Orders and cause unnecessary conflict between reviewing bodies.

PS also finds it contrary to DCR's avowed interest in public benefits and natural resources¹⁴ for it to refuse to relinquish herbicides on a trail that passes through Zone IIs (zones of contribution) for five wells in Sudbury and four in Hudson, Priority Habitat under MESA, through extensive Riverfront, altering and filling associated floodplain, work a few feet from 19 Vernal Pools¹⁵; all to accommodate the transmission line. Mr. Jahnige's "reservation" of herbicide use¹⁶ ignores the EFSB Decision and fails to comply with its directive to file an explanatory report for the EFSB's consideration and response. In light of

¹² Included as Appendix 2-4 of the FEIR is a draft MOU, PS notes that the FEIR is dated July 2018, nearly two years ago.

¹³ In the Sudbury NOI at Section 3.1.2 entitled "Best Management Practices", the applicants state that a "Soil and Water Management Plan" (during construction) will be developed. It should be submitted now as part of the NOI so that the Commission can develop clear conditions for any Order issued protective of statutory interests.

Further, since the NOI Section 3 also states that both DCR and Eversource will be developing their own individual "Stormwater Pollution Prevention Plans" ("SWPPPs") those should also now be provided to the Commission for the Order(s).

¹⁴ DCR's "Trails Guidelines and Best Practices Manual" contains "Principles of Ecologically Sustainable Trails" including avoidance of "Sensitive Ecological Areas", pp. 17-18.

¹⁵ NOI p. 11, twelve certified, 7 "presumed". Eversource's persistent statement that "no work will occur in Vernal Pools" is disingenuous if work on steep slopes or in associated wetlands lie within a few feet as shown on Table 5-3 of the FEIR at p. 88.

¹⁶ Section 3.1.2 of the NOI contains the following DCR intent re: herbicide use on the bike trail without distinguishing sensitive receptors such as Vernal Pools, Cold Water Fisheries or public water supply: "... if DCR finds it necessary to use chemical treatment, this work will be done in compliance with the Massachusetts Department of Agricultural Resources regulations at 333 CMR 11.00, which protect sensitive areas such as groundwater and drinking water wells."

¹⁵M.G.L. c. 131A, and 321 CMR 10.00.

DCR's position, PS believes that the unfinished MOU could conflict with any conditions under an Order of Conditions unless it contains a requirement to follow the Order as well as any MESA requirements and any other state or federal permit conditions (including historic). For example, the "Corridor Management Plan" refers to DCR "BMPs" without explaining how they conform to specific permitting conditions; it seems superfluous. It also makes sense for the Joint Applicants to provide the final MOU to the EFSB and the Conservation Commissions of all three Towns immediately so as to avoid any such confusion or conflict.

It is also reasonable to expect significant changes to the proposed DCR rail trail prior to a final design, and as such, permitting is premature. DCR has publicly stated their policy is to work closely with host communities. On July 28, 2018, in his presentation at the Golden Spike Conference, Kurt Gaertner of the Executive Office of Energy and Environmental Affairs and member of the Governor's Trails Team stated that the present administration "is not going to be advancing trails that don't have local support." He further stated that, "We're not going to be forcing a trail or a report unless it's something that municipalities voluntarily decide that they want to do." At this conference DCR presented multiple options for final trail designs including: Greenways, improved unpaved trails and unimproved natural trails. Slides from the presentation are attached. Based on its conference presentation it is reasonable to expect that DCR would solicit the input of the four municipalities involved in this section of the MCRT in order to ensure that the design is consistent with the wishes of the host communities. So far as PS can ascertain DCR has not to date sought any such input from any of the four host communities.

Another example of distinct requirements are the two sets of provisions required by MassWildlife for work in habitat of species protected under "Massachusetts Endangered Species Act" ("MESA")¹⁷. NOI - Attachment G. Eversource is subject to a "Conditional Take" decision dated October 2018 that requires an "Eastern Box Turtle Protection Plan" and a "Corridor Management Plan" both dated May 31, 2018. A year later in May 2019, DCR received an approval requiring the same "Corridor Management Plan" and a **final** "Eastern Box Turtle Protection Plan". This latter is not only confusing but inconsistent since, unlike the Eversource turtle plan it is not yet final. Moreover, neither has been filed with any of the NOIs. PS has never supported the cavalier "turtle protection" condition that simply raises the mower to ten inches. During nesting season no mowing should be done in these areas. The Eversource obligations also appear to end with the completion of construction. It seems likely that the "Corridor Management Plan" (not filed in Hudson or Sudbury) is intended to be the ongoing obligation of each but this remains unclear

¹⁷ M.G.L. c. 131A, and 321 CMR 10.00.

especially since that Plan is not available for review¹⁸. It seems advisable to integrate both into their Orders.

The foregoing discussion of unfinished plans, unmet dictates of other approvals and conflicting intentions underscores our concerns not only that the differences between the two projects warrant separating their applications and sorting out the mélange of intentions, unfinished plans and differing permit conditions but that collaborative permitting is going to be important. We believe that separate NOIs are required so that the responsibilities of each are not unfinished, obscure or conflicting. In light of the potential for disparate conditions we are very pleased that the three reviewing Conservation Commissions are consulting with each other and that information sharing was begun with Hudson's peer review. We urge the Commissions to continue this practice. Not only does a regional project such as this lend itself to collaboration, but the Wetland Regulations for "Limited Projects" at 310 CMR 10.53(6) require that Notices of Intent for projects in multiple municipalities shall each "...describe the total impacts to resource areas proposed for the entire project." This has not been done here. It thus makes sense that the three JNOIs filed in Hudson, Stow and Sudbury be reviewed by each Commission as part of a whole rather than as a separate segmented project in each town. Consistency in conditions where there are shared statutory interests such as pollution prevention and protection of public and private water supplies and groundwater should enhance performance, monitoring and compliance.

The filing omissions and differential information provided in the three NOIs also leads PS to conclude that the presumption in the Wetlands Regulations' "Limited Project" provisions at 310 CMR 10.53(3)(d)¹⁹ and 10.53(6)²⁰ for transmission lines and bike trails is not available here. The latter provision (6), governing bike paths, permits them in "Riverfront Areas" ("RFAs") where other Wetland Resource Areas are absent. Here, because the railbed was installed extensively in wetland areas (once considered "wasteland" suitable for filling), there many instances of overlapping Resource Areas notably "Bordering Land Subject to Flooding ("BLSF"), Vernal Pool habitat, Bank, Land Under Water and "Bordering Vegetated Wetland" ("BVW"). Further, the rail fencing proposed while raised high enough for turtles will impede larger wildlife such as deer, coyote, moose,

¹⁸ A "Corridor Management Plan" was filed as Appendix 6-1 with the Eversource FEIR but it is not clear that this is the plan approved by MassWildlife or that it is, in fact, final since only a "draft" was filed in Stow and none in Hudson. Both approved MassWildlife plans should have been filed with the NOIs and warrant consideration for incorporation into the Orders of Condition.

¹⁹ For construction of underground public utilities.

²⁰ Allowing bike trails in "Riverfront Areas" ("RFA") but not where other Wetland Resource Areas are present.

bear²¹ and intimidate others. Further, although the railbed may be described as “previously developed” it has, in the fifty years since the last train ran, devolved to a typical regrowth forest with mature trees, understory and a remarkable population of wildlife. It may be suitable for a trail, but this proposal is a utility ROW which will substantially and permanently alter the existing habitat. PS supports the interest of the Sudbury Conservation Commission reflected in its questions at the April 13th hearing, that Eversource make a much better showing, under the RFA regulation for “previously developed” areas, of how its installation constitutes an “improvement” over existing conditions. 10.58(5)(1). In fact, viewed in the perspective of the ROW’s evolution from active rail bed to nearly 50 years of inactivity, the provisions of this regulation point to a determination that the RFA here is no longer degraded and should be subject to the entirety of 10.58(4).

The RFA and “Limited Project” sections of the “Wetland Protection Act Regulations” (“the Regulations”) both require consideration of project alternatives which are distinct from those required by MEPA²². While Eversource has scaled down its initial project in several ways since its MEPA filing²³, it has not scrutinized any alternatives since. PS is hopeful that the reviews of the three NOIs will elicit improvements over what is currently proposed. An example, is that the MEPA Certificate (copy attached) does, as did many commenters, recognize that unidirectional drilling would avoid the bridge crossing impacts, a suggestion that Eversource has apparently continued to reject. On the wildlife evaluations which are admittedly extensive and detailed, the conclusions are all that due to the extensive adjacent habitats, the project’s impacts are less consequential. This self-serving conclusion does not display any inclination to reduce the considerable interruption to wildlife habitat and to wildlife itself that the extensive clearing and grubbing as well as fill will cause, never mind the permanent swath it will leave behind. Several wildlife experts have advised Sudbury on the impacts of the Bruce Freeman Rail Trail which, like MCRT, passes through extensive woodland and wetland. They have concluded, especially Susan Morse of Keeping Track (a nationally/internationally recognized wildlife biologist), that the project is a major fragmentation of what has been a large contiguous area of preserved wildlife lands.

²¹While black bear are not numerous, Assabet River NWR is proposing to allow hunting of them in a recent proposal: “Black Bear Assabet River, Great Meadows, and Oxbow NWRs will be open for black bear hunting for the first time in designated units and in accordance with State regulations,” https://www.fws.gov/refuge/assabet_river/

²² See, Final Decision in No. Shore Community College, at 22 discussing the need to pursue particular wetland alternatives based on the performance standards in the Regulations beyond those of MEPA although MEPA entitled to “some weight”.

²³ E.g., reducing the cleared width from 80 to 30/50 feet, reducing tree removal by 4 acres, reducing the construction platform from 30 to 22/18 ft, 2:1 wetland replication, maximizing manhole spacing, etc.

Further, DCR's long-term plans for vegetation management submitted to MEPA and here, retain herbicide use contrary to recommendations, add impervious pavement without shade, rely heavily on seeding rather than plantings, use of leaf blowers, frequent mowing and heavy-duty fencing. This plan shows little regard for the adjacent property owners or the wildlife. The offer to place slash piles is unhelpful, cannot replace natural habitat and is likely to prompt invasives. Instead what PS suggests is that any grubbed or excavated forest floor or wetland soils and plants be stockpiled and replaced rather than importing foreign materials and a seed mix unreflective of the habitat. Woody trees and shrubs are notably missing. Deforesting steep slopes and then protesting that they cannot be replanted offers the same lack of alternatives as the rejection of unidirectional drilling. These are but a few examples of the JNOI's failure to meet the performance standards for even a Limited Project.

PS is equally troubled by Eversource's attempts to skirt full compliance with stormwater standards, contamination management and wetland mitigation by cloaking itself as a bike trail and "Limited Project" under 310 CMR 10.53(6) and (3)(d). While it is a utility transmission line, it should still be held to protective standards for stormwater management, Vernal Pools, Zone 2 wellhead protections, management of contamination and restoration of established vegetation protective of wildlife values. The MassDEP comment letter on the DEIR (attached) says as much, noting that it qualifies for limited project status but going on to require full compliance with the stormwater standards.

In light of the significant perennial streams in the Project Area, PS believes that the extensive movement of fill, excavation and fill in BLSF, Bank, Land Under Water and especially Riverfront Area ("RFA") warrant coordination of plans although the 401 Water Quality Certification appears to no longer be required. Such extensive alteration warrants evaluation under the performance standards and should disqualify the application as a "Limited Project" under 310 CMR 10.53. A c. 91 Waterways License or Minor Modification is also required for the bridges (MEPA Certificate, p. 4). PS is not aware that either of these key permits has been either discussed with, or issued by, DEP but each will contain conditions for wetland work relevant here. Also, while the "Pre-Construction Notification Form" has been filed with the Army Corps of Engineers, no "Stormwater Pollution Prevention Plan" ("SWPPP") has yet been drafted or provided; another unfinished set of relevant requirements warranting integration into any Orders of Conditions. It may be that a question raised by the State Historic Preservation Officer in an April 3, 2019 letter to the Army Corps (attached) regarding non-compliance with Section 106 of the "National Historic Preservation Act" has delayed a Corps response. The letter notes that the Mass. Historical Commission provided MEPA comments (on the ENF) on cultural resources especially the modifications/demolition plans proposed for the three plate girder rail bridges that "do not

appear to be developed in accordance with the ... Standards and Guidelines for Rehabilitation.” Section 106 review and compliance is required for applicants for Comprehensive General Permit status. Thus far, PS is not aware that the Corps has responded; yet another piece of permitting that is unfinished. We suggest that the Town of Sudbury, whose Historical Commission previously provided comments to the state Historical Commission, inquire whether the s. 106 compliance issue has been resolved and if so, how. In sum, Eversource should have, without having to be requested, provided information on the status (and copies of completed permits) of parallel permits. This is, after all, a regional and complex project that deserves a comprehensive evaluation in order for permitting to function in an integrated manner. Eversource should produce any completed parallel permits or, at the very least, explain their current status just as for the unfinished MOU with DCR. It defies logic and defeats the ability to reasonably condition the work not to do so. Eversource should have produced these parallel permits or at the very least explained their current status just as for the MOU with DCR.

Eversource and DCR have represented throughout the regulatory reviews to date the ability to apply MassDEPs guidance document “BMPs for Controlling Exposure to Soil to the Development of Rail Trails” (“the Rail Trail BMPs”) to both the rail trail and the installation and maintenance of the transmission line. They justify this by virtue of conversations they say they had with senior managers in MassDEP’s Bureau of Waste Site Cleanup. No written documentation has been provided nor have they identified the senior DEP managers involved in these discussions. As part of the MEPA review, VHB performed a desktop investigation akin to a “Phase 1” under c. 21E consisting of a listing of “Properties of Concern” along the ROW (a copy of that color chart is attached). The Secretary’s MEPA Certificate at p. 12 (copy attached) notes that the soils are to be “stockpiles ...managed in accordance with...” the Rail Trail BMPs. It goes on to note that Eversource has identified “areas of potential contamination concern and is sampling soils in areas where preliminary review indicated a need for further investigation.” Those areas are shown on the attached VHB chart but nowhere in any of the three NOIs filed does Eversource provide the results or the locations of these soil samples.

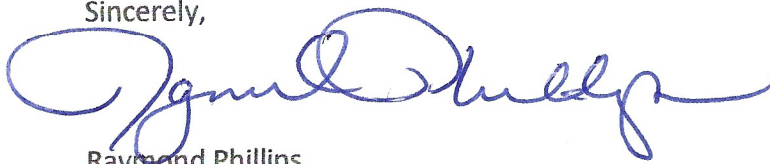
It is clear from the VHB chart that the ROW passes through areas of contaminated groundwater as well. Thus far any groundwater sampling done appears to have been minimal, not provided with the NOIs and no locations provided. Finally, the sampling whether soil or groundwater seems not to have been completed in accordance with the VHB chart leaving the wetlands reviewers without information as to the impacts of either soils or groundwater contamination on sensitive wetlands or water quality such as Zone IIs or private drinking water wells (Stow and Hudson). The sampling that Eversource represented to both MEPA and MassDEP appears not to have been done. The sampling

should be done and the results provided before any Orders issue since the Rail Trail BMPs have not been met. Therefore, contaminant concerns remain an open question.

Each of the wetland Resource Areas has a presumption of significance to the relevant statutory interests including public and private water supply and pollution prevention and groundwater protection. PS submits that these interests cannot be adequately protected if the potential exposures and proposed disposals are not properly conditioned as they are unknown; this would include workers as well as residents. Unfortunately, this proves to be yet another area where information required to be provided to permit reviewers has not been. In PS' view this precludes issuance of Orders of Condition until such time as the various missing agreements, management plans and other key information are provided.

Our comments reflect a litany of information gaps and reduced standards reflective of a lack of a coherent plan for this complex regional project. The JNOI proposes to extensively excavate a known source of contamination located in a large area of conserved open space containing multiple sensitive resources and proposes to do so with lowered protective standards and minimal investigation. Our years long experience and that of many participants including the municipalities, local non-profits, federal and state agencies and residents in the development of this project has been one of shared concerns falling on apparently deaf ears. PS believes that the NOI reviews in all three Towns are an important local and fact-based opportunity (designed into the statute by its authors) for local knowledge and concerns to be aired and information gaps to be closed in order that the appropriate protections can be applied. If we can be of assistance please do not hesitate to contact us. We appreciate your consideration of our comments and the magnitude of the task before you and thank you for both.

Sincerely,



Raymond Phillips

President

Protect Sudbury

www.protectsudbury.org

cc: Hudson Cons. Commn.
Stow Cons. Commn.
Judith Schmitz, DEP/CERO/DWW
Jill Provencal, DEP/NERO/DWW
Mark Baldi, DEP/CERO/WSC
Steve Johnson, DEP/NERO/WSC

Enc.