



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

DEP FILE #301-1287

Address: MBTA ROW and 183 Boston Post Road

Applicants: Eversource and Department of Conservation and Recreation

Issued:

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

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

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

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

Findings:

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

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

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

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

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



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

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

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

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

Final Record Documents:

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



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

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

SPECIAL CONDITIONS:

PART I: GENERAL PROJECT CONDITIONS:

For Phase I and Phase II

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

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



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work is to be done. In the case of registered land, the final Order shall also be noted on the Land Court Certificate of title of the owner of the land upon which the proposed work is to be done.

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



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

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



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

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

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



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

PART II: CONDITIONS SPECIFIC TO

Phase I: Eversource Underground Transmission Line

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



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



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



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



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

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

PART II CONDITIONS SPECIFIC TO

Phase II: DCR Mass Central Rail Trail

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



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

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

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



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

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

PART IV: PLAN MODIFICATIONS:

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



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

PART V: CERTIFICATE OF COMPLIANCE REQUIREMENTS:

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

PART VI: CONDITIONS IN PERPETUITY:

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

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



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- d. No pesticides or herbicides are allowed within a wetland resource area, including the 200' riverfront area, or within 100' of a wetland resource area (the adjacent upland resource area under the local bylaw), except as provided for Japanese knotweed management and in accordance with Perpetual Condition 1. below.
- e. Underground storage of petroleum products is prohibited within a wetland resource area and within the 100' buffer zone of a wetland resource area.
- f. No coal tar-based sealants may be applied to any area draining into the upland or wetland resource areas of the property.
- g. All components of the stormwater management system shall be maintained in accordance with the MassCentral Rail Trail (MCRT) – Wayside Section Stormwater Management System Operation and Maintenance Plan (O&M) and the Long Term Pollution Prevention Plan, and as necessary to function as designed. Inspection checklists shall be maintained and be made available for review by the Conservation Commission or staff on request.
- h. There shall be no snow removal activities or de-icing products used on site, except as required for emergency situations.
- i. The five-foot maintained area over the transmission line may be mown once per year, before April 1 or after November 1. Mowing outside this timeframe may be allowed in accordance with the Final Corridor Management Plan, with the objective of allowing vegetation to go to seed and propagate.
- j. When maintaining the rail trail, no debris, including natural debris such as leaves, shall be blown or swept into areas within 25 feet of vernal pools. Signage or other means of demarcating this management requirement shall be provided to and approved by the Conservation Commission prior to issuance of a Certificate of Compliance.
- k. The culverts and drainage structures shall be inspected at least annually and cleared of debris as needed. If culverts become damaged or no longer function as required, they shall be repaired or replaced according to most current MA Stream Crossing Standards. This work will require review and approval by the Conservation Commission under a Notice of Intent.
- l. If herbicide use is permitted under a future Vegetation Management Plan, herbicide use shall be prohibited within any certified or certifiable vernal pool, vegetated wetlands or waterways. Invasive species removal by DCR will be by mechanical means when possible and spot treatment of herbicide by a license herbicide applicator when other approaches are ineffective. DCR shall notify the Commission in advance, if herbicides are to be used within wetland jurisdictional areas, indicating the target control species, the type(s) of herbicide to be used, and the on-going maintenance plan for the targeted area.
- m. All trail amenities, such as benches and kiosks, shall be located outside wetland jurisdictional areas, except as shown on the approved plans.