

SUDBURY EARTH REMOVAL BOARD  
MINUTES  
May 17, 2021

MEETING OF THE EARTH REMOVAL BOARD

MEETING HELD VIRTUALLY

The Board consisted of Jonathan W. Patch, Chair; David Booth, William Ray, Jeffrey Rose, and Benjamin D. Stevenson.

Earth Removal Board Chair Jonathan Patch called the meeting to order at 7:01 p.m. and a roll call of the members was taken. Jonathan W. Patch, Chair; David Booth, William Ray, and Benjamin D. Stevenson were in attendance at the roll call. Jeff Rose joined the meeting at 7:07 and his presence was then announced. The Chair reminded participants of the requirements of the Earth Removal Board Permit process. On the agenda was a discussion and on a request to allow under Article V(A) of the Town Bylaws, removal of 24,123 cubic yards (“CY”) of soil for construction of a construct a new 115- kilovolt (“kV”) underground electric transmission line, access driveway, and appurtenances at Massachusetts Bay Transportation Authority (MBTA) Corridor from the Marlborough Hudson Town Line up to and including 183 Boston Post Road, Sudbury, Massachusetts and identified as Assessors Map p K10-0014, K11-5000, K09-5000, K08-5000, K07-5000, J06-5000, J05-5000 and H03-5000. The hearing was continued from April 26, 2021, 7pm.

The Chair called for a vote of the members to re-open and continue the public hearing. Such a vote allowed the utilization of new information and public comments to be made. A motion to re-open and continue the Public Hearing was made and passed unanimously by roll call.

Chair Patch requested the Applicant’s team walk through the letter they prepared in response to the discussion and requests of the Board at the April 26<sup>th</sup> meeting.

Michael Hager, Eversource, Project Manager responded to questions and presented an overview of the response letter. Also present on behalf of the applicant were Denise Bartone, Eversource, Manager Licensing & Permitting; Mike Shamon, VHB; Paul McKinley, Weston and Sampson, LSP; Dean Bebis, Eversource, Licensing & Permitting Specialist; and Barry Fogel, Keegan Werlin, Applicant’s Counsel.

The Board at the previous meeting had asked the Applicant to identify the number of truck trips and consider the possibilities for additional sampling of soil in the corridor. The number of truck trips is estimated to be 1,200, assuming 10-yard dump trucks are used to remove the excess soil from the ROW. Spread over a one-year construction period, that equates to only 4 to 5 trips per day. Route 20 will be the main corridor utilized but connector streets will also need to be utilized. In the response letter the Applicant had clarified their due diligence on soil testing already performed and their justification for the extent of sampling performed.

Board members asked a number of questions and much of the discussion focused on the potential for and benefit of additional testing of the unsampled areas of the corridor.

The appropriateness of the MassDEP “Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails” for a transmission line project was discussed. The Applicant’s indicated MassDEP was agreeable to this and it is appropriate. The Protect Sudbury LSP comment letter, submitted to the Board by Protect Sudbury with a comment letter, was discussed.

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There was significant discussion about how site sampling locations were determined and why some were excluded. The Protect Sudbury LSP letter identifies additional sites of concern that have not been sampled. Additionally, the question of whether sampling should occur in the residential area was discussed. It was noted the sampling that was performed did not sample as deep as the total area to be excavated at the trench.

The potential for soil tests to occur prior to soil being moved or at interim stockpile areas was discussed. The Board asked the Applicant what additional testing of soils would be agreeable to strike a potential compromise. Potentially testing Arsenic every 500-feet was discussed by the Board. Eversource sited concerns additional permits may be required for this effort outside of the construction phase.

The Applicant's team indicated the adjacent sites of concern had been thoroughly studied to determine if there were outstanding issues or potential for contaminants to migrate to the corridor and sampled accordingly. They also noted there will be no soil removed from some of the areas of concern identified in the Protect Sudbury memo. The evaluations and soil management under the MassDEP guidance is intended to prevent exposure.

The importance of managing dust to reduce risk of exposure to potential contaminants was discussed.

Public comments were taken.

Rebecca Cutting (Maynard Road) indicated she appreciates the Board's line of requests and points. She sees soil reuse as a concern if there is a lack of adequate testing. She does not agree the MassDEP BMPs for Rail Trails is the appropriate guidance document for the subsurface transmission line. She expressed that MassDEP may not have had the full project details when they discussed the appropriateness of this guidance for the project.

Renata Aylward offered support for the Board's requests and questions and the Protect Sudbury comments.

Chris Helon (Bulkley Road) expressed concerns from prior contaminations on adjacent properties and dust management.

There was a discussion of whether the project will involve any blasting. The Applicant indicates there is no plan for blasting, but if it is necessary, a separate permit from the Town will be required.

The Board continued to request the Applicant propose a plan for additional soil testing to address the Board's concerns.

At 8:21 pm, the Board closed the public comment and took an approximately 20-minute recess.

The meeting resumed at 8:40. The Applicant team had discussed the Board's requests during the recess and provided their response.

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The Applicant will share all the soil data and reports developed over the course of project and agree to additional shallow testing of arsenic through the corridor at the time the ties are removed.

The Applicant team identified there is a condition in the Select Board Decision for the Location Permit that mentions the requirement to coordinate with the Police and DPW on truck routes and timing. It was suggested a condition of the Earth Removal Permit be consistent with this.

The Board voted unanimously by roll call to close the hearing and deliberate. The Chair summarized the draft conditions of the draft Decision circulated to the Board. The Board additionally discussed the following special conditions—

- Tracking the soil origin for stockpile,
- Report the results of any soil evaluations performed to the Town,
- Conduct additional arsenic testing in the unsampled residential area,
- Test the additional locations indicated in the Protect Sudbury LSP letter of recommendations,
- Submit for the Boards review and approval the proposed stockpile location and a detailed soil and groundwater management plan submitted by the contractor. The Board will meet to review and discuss these items, and
- Inclusion of a condition on truck route and timing coordination with the Town that is consistent with the Location Services Permit Decision.

There being no further deliberation, a motion was made to approve with conditions as drafted and discussed at the meeting the request for the removal of up 10,453 cubic yards of earth from the MBTA corridor for the construction of a subsurface transmission line, where 24,123 cubic yards will be removed as cut and 13, 670 cubic yards of this will be used along the corridor as fill. The special conditions were reiterated and the permit will expire on May 17, 2022, in one year. The motion was seconded and unanimously approved by roll call vote.

The Board agreed and voted by roll call to have staff and the Chair finalize the draft decision and circulate it to the Board who may provide individual comments. The Chair alone will finalize and sign the Decision.

It was discussed that a brief meeting will be scheduled to consider and approve the minutes of this meeting and the previous one and the meeting was adjourned.

Respectfully submitted,  
Beth Suedmeyer,  
Environmental Planner