



Town of Sudbury

Historical Commission

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May 20, 2021

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

RE: Sudbury-Hudson Transmission Reliability Project, Sudbury, Hudson, Marlborough and Stow, Middlesex County, Massachusetts: MHC #RC.62384; USACE NAE-2017-01406; ACHP #016522

Dear Ms. Turley,

The Sudbury Historical Commission (SHC), as a consulting party, offers the following comments concerning the above-named undertaking. The SHC seeks full engagement in consultation with the United States Army Corps of Engineers (USACE) to resolve the project's adverse effects on Sudbury's historic resources eligible for listing in the National Register of Historic Places (NR), including the **sixty-six (66)** railroad features of the historic 1881 Central Massachusetts Railroad linear transportation corridor.

As the SHC May 12, 2021 letter to the Massachusetts Historical Commission (MHC) comments, the SHC expects the USACE to fulfill its obligation and responsibilities under Section 106 (36 CFR 800) to consider the effects of the undertaking on historic properties throughout the **entire** right-of-way (ROW) Area of Potential Effects (APE) for the project, not just Bridge 127, to provide the SHC with sufficient evidence and documentation regarding effects on historic properties, and to make a good faith effort to fully consult directly with the SHC to resolve adverse effects either by avoidance or mitigation to the greatest extent possible.

The SHC makes these comments with the understanding that the SHC has received no notice of the USACE's response to the Advisory Council on Historic Preservation (ACHP) concerning the ACHP April 30, 2021 letter¹ to the USACE.

The SHC is in receipt of the USACE April 21, 2021 letter requesting that we review and participate in the proposed Memorandum of Agreement (MOA) by the May 21, 2021 deadline. As the SHC stated in our May 12, 2021 letter to the MHC,² the Commission cannot sign off on the MOA as written. As written, the draft MOA omits identified historic resources that were recommended as eligible for listing on the National Register of Historic Places (NR).

¹ Jaime Loichinger, Assistant Director, Office of Federal Agency Programs, ACHP to Tammy R. Turley, Chief, Regulatory Division, USACE, April 30, 2021.

² Sudbury Historical Commission to Brona Simon, SHPO, Massachusetts Historical Commission, May 12, 2021.

Consequently, the undertaking's adverse effects on historic resources are under-reported per Section 106 of the National Historic Preservation Act (36 CFR 800) (NHPA). In addition, the SHC has concerns pertaining to the Section 106 review process that require resolution. The SHC's May 12, 2021 letter outlines procedural steps in the Section 106 review process that have not yet been satisfied: Identification of Historic Properties; Determination of Effects; and, Incomplete Consultation with Contributing and Consulting Parties. The SHC also has questions regarding the Massachusetts Department of Conservation and Recreation's (DCR) standing in the Section 106 process.

In addition to the issues and concerns expressed in the SHC May 12th letter, we offer the following additional comments.

1. Timeline of Application of Appendix C (33 CFR 325) to Undertaking

The SHC seeks clarification regarding USACE's decision to apply Appendix C (33 CFR 325) to this project and how this decision impacts the Section 106 consulting process. Based on the cultural resource reports and correspondence we have received, the Section 106 process was applied by Eversource and its consultant, Commonwealth Heritage Group. However, at some point, the Section 106 regulations were set aside in favor of Appendix C.

2. Extremely Narrow Scope of Appendix C-Generated Permit Area: Inconsistent with APE under Section 106

Out of sixty-six (66) railroad features in the 4.62 mile, National Register-eligible historic railroad corridor co-located on the project ROW, the **USACE has recognized only one** railroad feature, Bridge 127, in its Appendix C permit area and in the MOA.

As the April 30, 2021 ACHP letter states, "the Corps has declined to consider effects to historic properties beyond those occurring in or adjacent to its permit areas, citing Appendix C," and ignores the Section 106-driven APE identified by Eversource's cultural resource consultant, Commonwealth Heritage Group (CHG). As that letter states, the ACHP has never approved Appendix C as an alternate to Section 106 implementing regulations... because it differs from Section 106 regulations in many fundamental ways, including ... the delineation of the APE..." The ACHP states the "APE is defined as the geographic area or areas within which the undertaking may indirectly or indirectly cause alterations in the character or use of historic properties..." and not defined as the limited Permit Area used under Appendix C. The ACHP continues, the USACE was "obligated to actively take into account effects to historic properties throughout the **entire** ROW for the project."³

³ Commonwealth Heritage Group, Prepared for Vanasse Hangen Brustlin, Inc., "Reconnaissance-Level Historic Properties Survey: Sudbury-Hudson Transmission Reliability Project, Towns of Sudbury, Hudson, and Stow and City of Marlborough, Middlesex County, Massachusetts," October 2017, and "Commonwealth Heritage Group, Prepared for NSTAR Electric Co. d/b/a/ Eversource Energy and submitted to Massachusetts Historical Commission, "Archaeological Intensive (Locational) Survey for the Sudbury-Hudson Transmission Reliability Project, Towns of Sudbury, Hudson, Marlborough, and Stow, Middlesex County, Massachusetts," May 2019.

Thus, the SHC agrees with the ACHP's assertion USACE's reliance on Appendix C as a basis for making findings and determinations in the Section 106 review will leave the Corps' compliance with Section 106 subject to challenge. In fact, the SHC fully agrees with the ACHP's entire comment and advisory opinion in its April 30, 2021 letter to the USACE.⁴

3. Omission of Historic Properties Eligible for Listing in National Register of Historic Places

Section 106 of the NHPA requires the Federal agency having direct or indirect jurisdiction (in this case the USACE) over a proposed undertaking to **take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register** prior to the issuance of any license (in this case a Section 404 Clean Water Act General Permit).

The Central Massachusetts Railroad Corridor has been evaluated by CHG as eligible for listing in the NR as a linear historic district that includes at least **sixty-six (66)** historic railroad features (attached Table 1). Three of these 66 railroad features were previously identified as individually NR-eligible: Bridge 127, Bridge 128, and the Section Tool House. These three historic properties are key features of the Central Massachusetts Railroad Corridor. Demolition of Bridge 127, alteration of Bridge 128 and alterations to the visual and historical context and setting of the Section Tool House will have an adverse impact on the historic integrity of the individual resources as well as on the corridor as a whole.

4. Incomplete Consultation Process – Adverse Effects are Unresolved

For the reasons outlined in the SHC May 12, 2021 letter to the MHC and in this letter, and contrary to the MOA statement that the USACE has consulted with the Sudbury Historical Commission, it is the position of the SHC that there has not been a fully-engaged, direct consultation with the USACE to include discussion and consideration to resolve adverse effects of the transmission line installation on historic properties.

- Bridge 127 – Eversource has stated that Bridge 127 must be demolished as part of the project in Phase I. The SHC received descriptive information about seven alternatives for installing the transmission line in lieu of demolition of Bridge 127. However, the SHC has not received evidence-based analyses from Eversource about the alternatives, including an alternative for rehabilitation of Bridge 127, to aid the Commission in understanding why this adverse effect is considered unavoidable.
- Bridge 128 – The SHC has not been provided evidence-based information from Eversource that full rehabilitation is not possible.
- Section Tool House – The proposed undertaking will have an adverse effect on this NR-eligible historic resource by removal of its historic setting and context. The siting of the Section Tool House immediately adjacent to the rail line is integral to its historic purpose: equipment was moved from the Section Tool House to the adjacent rails via the loading

⁴ Jaime Loichinger, Assistant Director, Office of Federal Agency Programs, ACHP to Tammy T. Turley, Chief, Regulatory Division, USACE, April 30, 2021.

platform. This loading platform has been consistently omitted from Eversource plans.⁵ Eversource has offered to shift the original transmission line path to the west to avoid the Section Tool House. However, the redesign does not mitigate the adverse effect to the Tool House as the path is still within inches of the edge of the structure. (See Figure A.)

- Rail Corridor and Rail Bed – The rail corridor and rail bed, which retain a high level of integrity, are contributing elements to the NR eligible historic district. Contrary to statements made at the December 15, 2020 SHC meeting that the rail corridor and rail bed will not be substantially altered, information⁶ provided to the Town of Sudbury Earth Removal Board indicates that cut and fill will be substantially altered along the entire 4.62 mile length section of the Central Massachusetts Railroad corridor in Sudbury.
- The SHC also seeks to comment on and receipt of information about the identification of any historic properties and precontact sites provided by the Narragansett THPO to USACE. The SHC understands that the Narragansett THPO, upon learning about the undertaking for the first time in December 2020, informed⁷ (see attached) the ACHP that the tribe had determined precontact sites may be present within the APE, and in all likelihood would be impacted under the ground surface during construction of the transmission line. We await resolution of this development.

5. The Sudbury Historical Commission Intends to Sign an MOA Based on Section 106 of the National Historic Preservation Act (36 CFR 800)

From the SHC's point of view, the MOA depicts this undertaking as being driven by the design needs of the MCRT instead of being driven by the needs of the underground electric transmission line. The Sudbury Historical Commission welcomes a consultation process based on Section 106.

Using Bridge 127 as a point of reference, the SHC understands the process as follows.

- The Eversource transmission line project will require discharge of fill materials into US waterways.
- Discharge of fill into waterways requires a Federal permit from the USACE.
- A Federal permit from USACE triggers the Section 106 process.
- Eversource contracted Commonwealth Heritage Group to follow the Section 106 process, which involved identification of historic resources, evaluation of potential eligibility for the National Register of Historic Places, and a determination whether the undertaking would have an adverse on any potentially-eligible resources.
- The Section 106 process successfully identified above-ground and archaeological resources. The Section 106 process identified as National Register-eligible Central Massachusetts Railroad bridges 127 and 128, the Central Massachusetts Railroad Section

⁵ Commonwealth Heritage Group, "Archaeological Site Avoidance and Protection Plan: Eversource Energy's Sudbury-Hudson Transmission Reliability Project, Towns of Hudson and Sudbury, Middlesex County, Massachusetts," October 2020 and Eversource Notice of Intent Plans, December 2020.

⁶ Eversource Energy, Power Point, Sudbury Earth Removal Board Hearing. April 26, 2021.

⁷ John Brown, THPO, Narragansett Tribe, e106, to Advisory Council on Historic Preservation.

Tool House, numerous Central Massachusetts Railroad artifacts, and the Central Massachusetts Railroad Corridor as a whole.

- Eversource's plans require the installation of the transmission line on a conduit attached to Bridge 127.
- Carrying lines over Bridge 127 does not require removal of the bridge, as evidenced by Eversource's retention of Bridge 128.
- DCR seeks to construct the MCRT within the same ROW as Eversource's transmission line project.
- DCR's involvement requires removal of Bridge 127.
- DCR's involvement does not require a Federal permit, yet DCR's involvement requires an adverse effect on Bridge 127. The SHC believes that there are feasible options to retain and restore this bridge. However, the DCR project is proposing to demolish it, which is an adverse effect.

Conclusion

The Sudbury Historical Commission takes seriously its charge under M.G.L. Chapter 40 Section 8D to advocate for "the preservation, protection, and development of the historical and archaeological resources of the Town." Sudbury and its citizens value our cultural heritage and seek to protect and preserve it for the enjoyment and benefit of our community today and for generations to come. When National Register-eligible resources are demolished, they are lost forever.

To reiterate the Sudbury Historical Commission's May 12, 2021 comments to the MHC, the SHC expects the USACE to fulfill its obligation under Section 106 (36 CFR 800), to consider the effects of the undertaking on historic properties throughout the **entire** ROW APE for the project, not just Bridge 127, to provide the SHC with sufficient evidence and documentation regarding effects on historic properties, and to make a good faith effort to fully consult directly with the SHC to resolve adverse effects either by avoidance or mitigation to the greatest extent possible.

The Sudbury Historical Commission appreciates the USACE's attention and consideration of our comments here as well as comments in our May 12, 2021 letter to the MHC, and looks to engage in a good faith consultation with the USACE about the issues and concerns we have raised.

Sincerely,



Chris Hagger
Chair
Sudbury Historical Commission



Diana Warren
Vice Chair
Sudbury Historical Commission

Encl.

CC w/o Encl.

Brona Simon. SHPO MHC

Jonathan Patton, MHC

Jaime Loichinger, ACHP
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