

Town of Sudbury

Historical Commission

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March 15, 2022

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

By email

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

Dear Ms. Turley,

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

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

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

DCR and DCR Plan Set

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

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

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

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

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

Eversource Plan Sets I and II Dated December 2021

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

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

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

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

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

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

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

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

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

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

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

Post-Review Discoveries Plan

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

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

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

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

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

USACE Notification to Advisory Council on Historic Preservation

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

Tribal Section 106 Consultation

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

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

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

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

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

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

Revised Memorandum of Agreement

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

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

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

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

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

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

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

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

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

Appendix C (33 CFR 325)

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

Outcomes of Section 106 Process on the Features of the CMRRCHD

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

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

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

Conclusion

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

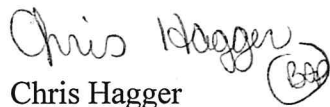
8D), and therefore be an advocate for the protection and preservation of the Central Massachusetts Railroad Corridor NR eligible Historic District and other historic properties and archaeological resources which are of may be identified. Sudbury highly values its history and heritage – to include Native-American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

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

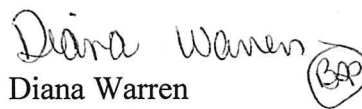
Therefore, the SHC also requests to meet with the USACE one more time following the USACE's review of this letter. The USACE has known about this undertaking since 2017. We hope that the USACE will allow for a reasonable period of time before closing the Section 106 comment and consultation period for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

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

Sincerely,

Chris Hagger

Chris Hagger
Chair
Sudbury Historical Commission

Diana Warren

Diana Warren
Vice Chair
Sudbury Historical Commission

Enclosure: Draft MOA

CC (with enclosure):

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