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January 10, 2014

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Mass Central Rail Trail – Wayside Branch
PROJECT MUNICIPALITY : Berlin, Bolton, Hudson, Stow, Sudbury, Waltham,
Wayland, and Weston
PROJECT WATERSHED : Charles, Sudbury, and Assabet Rivers
EOEA NUMBER : 15123
PROJECT PROPONENT : Massachusetts Department of Conservation and
Recreation
DATE NOTICED IN MONITOR : November 20, 2013

Pursuant to the Massachusetts Environmental Policy Act (MEPA, M.G. L. c. 30, ss. 61-62I) and Sections 11.06 and 11.11 of the MEPA regulations (301 CMR 11.00), I have reviewed this project and hereby determine that it **does not require** further MEPA review. In a separate Draft Record of Decision (DROD) also issued today, I have proposed to grant a Waiver from the requirement to prepare a mandatory Environmental Impact Report (EIR) for the project. This Certificate sets forth the issues that must be addressed by the Massachusetts Department of Conservation and Recreation (DCR) during permitting and discusses recommendations that were submitted on the project during the MEPA review period.

Project Description

As described in the Expanded Environmental Notification Form (EENF), the proposed project consists of the construction of the Mass Central Rail Trail – Wayside Branch (MCRT-WB) through the municipalities of Berlin, Bolton, Hudson, Stow, Sudbury, Wayland, Weston, and Waltham. It will consist of a 23-mile long shared-use path, 10 feet wide with two-foot vegetated shoulders. It will be constructed within a 19-foot wide corridor within the existing 50- to 100-foot wide former Massachusetts Central Railroad right-of-way (ROW) owned by the Massachusetts Bay Transportation Authority (MBTA). DCR has secured a lease with the MBTA along the ROW that allows it to construct, manage and maintain a rail trail within a 19-foot delineated corridor and develop additional amenities outside of this corridor provided they do not conflict with other MBTA uses.

The project is a priority for DCR and will contribute to the development of an extensive multi-use pathway traversing the state from west to east, specifically connecting Northampton (where the current Norwottuck Rail Trail is heavily used) to Boston. Portions of the MCRT in the central part of the corridor, between Oakham and Sterling, have already been constructed. DCR delineated the corridor within the existing ROW and received approval from the MBTA for its use for the project. This corridor largely follows and is centered on the existing single wide track, ties and ballast. Construction phasing of the various segments of the project is dependent on several factors, such as design, resolution of encroachment issues, environmental permitting, and availability of funds. Once completed, the project will be managed by DCR and maintained by either DCR, municipalities through which it crosses, or through a cooperative agreement between DCR and the municipalities.

Project Site

The project will be located within the former Massachusetts Central Railroad ROW, a passenger and freight service rail line originally extending from Boston to Northampton. The EENF describes the project alignment in each municipality.

Berlin (2.3 miles) – Beginning at Coburn Road, approximately 182 feet north of the Coburn Road/West Street intersection, extending east along the existing ROW track alignment to the Berlin/Hudson town line. The Berlin segment crosses two roads at-grade (Highland Street, and Sawyer Hill Road) and under Interstate 495 (I-495).

Bolton (100 feet) – The path crosses over the Berlin/Bolton town line for a very brief distance before crossing into Hudson. The Bolton segment crosses one road at-grade (Stone Road).

Hudson (6.9 miles) – From the Bolton/Hudson town line, extending east to the Hudson/Sudbury town line. The Hudson segment crosses 17 roads at-grade, over, or under the existing roadway. The at-grade crossing streets are: Central Street (at two locations), Cottage Street, Warner Street, Lincoln Street, Felton Street, Pope Street, Church Street, Manning Street, Priest Street, Cox Street, Main Street, Parmenter Road, and White Pond Road. The path will travel under High Street and Chestnut Street (via a box culvert underpass), and will travel over Wilkins Street and Tower Street (via a replacement bridge). The project will intersect the existing Town of Hudson segment of the Assabet River Rail Trail east of Wilkins Street.

Stow (327 feet) – The path crosses over the Hudson/Stow town line for a very brief distance before crossing back into Hudson east of Wilkins Street.

Sudbury (4.6 miles) – From the Hudson/Sudbury town line, extending east to the Sudbury/Wayland town line. The Sudbury segment crosses five roads at-grade (Dutton Road, Peakham Road, Horse Pond Road, Union Avenue, and Boston Post Road). The path will travel under (via an underpass) Landham Road.

Wayland (3.0 miles) – From the Sudbury/Wayland town line, extending east to the Wayland/Weston town line. The Wayland segment crosses six roads at-grade (Boston Post Road, Old Sudbury Road, Concord Road, Millbrook Road, Glen Road, and Plain Road).

Weston (3.0 miles) – From the Wayland/Weston town line, extending east to the Weston/Waltham town line. The Weston segment crosses Gun Club Lane at-grade, and will cross under three roads via underpasses (Concord Road, Conant Road and Church Street).

Waltham (3.0 miles) – From the Weston/Waltham town line, extending east to the end point at the intersection of Beaver Street and Waverley Oaks Road (Route 60). The Waltham segment crosses eight roads: seven at-grade, and one (I-95) along an overpass (Jones Road, Interstate 95, Stow Street, Main Street, Hillside Road, Prospect Hill Road, Hammond Street, Bacon Street, Lexington Street, Lyman Street, and Linden Street).

The rail trail will be constructed as an off-road multi-use path. As with other multi-use paths in Massachusetts, the project will have trail heads at adjacent intersecting streets and will use existing parking facilities along its corridor to the greatest extent feasible.

Environmental Impacts

Potential environmental impacts associated with the project include the creation of approximately 28 acres of new impervious surface area, the likely removal of trees of 14-inch or more diameter at breast height (DBH), and permanent and temporary wetlands impacts that include the alteration of 4,150 square feet (sf) of Bordering Vegetated Wetlands (BVW), 475,504 sf of Bordering Land Subject to Flooding (BLSF), 466,599 sf of Riverfront Area, and 2,140 linear feet (lf) of Bank. The project requires the temporary alteration of Land Under Water and Waterways (LUWW), although the EENF does not disclose the amount at this conceptual stage of project design. The project corridor contains mapped habitat for rare or endangered species and is within and near numerous National Register Historic Districts, individually listed National Register properties, and inventoried historic properties. Construction impacts will include the removal of the existing railroad ties and rails, rehabilitation or replacement of 11 bridges, paving, grading, landscaping, and installation of new stormwater drainage system.

MEPA Jurisdiction and Permitting

The project is subject to MEPA review and requires the preparation of a mandatory EIR pursuant to 301 CMR 11.03(1)(a)(2) and 11.03(3)(a)(1)(b) because it requires State Agency Actions and will result in the creation of ten or more acres of new impervious area and will alter more than ten acres of other wetlands. The project also exceeds the ENF threshold at 301 CMR 11.03(3)(b)(1)(b)(2) because it will alter 500 or more lf of inland bank. Additionally, the project will likely exceed the ENF threshold at 301 CMR 11.03(6)(b)(2)(b) because it will require the cutting of five or more living public shade trees of 14 or more inches DBH. The project will require a Chapter 91 (c.91) Waterways License from the Massachusetts Department of Environmental Protection (MassDEP), an Access Permit from the Massachusetts Department of Transportation (MassDOT), Section 106 review by the Massachusetts Historical Commission (MHC), and review under the Massachusetts Endangered Species Act (MESA) by the Natural Heritage and Endangered Species Program (NHESP). The project is also subject to the MEPA Greenhouse Gas Emissions Policy and Protocol (GHG Policy).

The project also requires: Orders of Conditions from each of the eight municipal Conservation Commissions (and, on appeal only, Superseding Orders of Conditions (SOCs) from MassDEP), a National Pollution Discharge Elimination System (NPDES) Construction General Permit (CGP) from the United States Environmental Protection Agency (EPA), and an individual Section 404 Permit from the United States Army Corps of Engineers (ACOE).

The project will be undertaken by DCR, a State Agency. Therefore, MEPA jurisdiction for this project is broad and extends to all aspects of the project that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations.

Waiver Request

In accordance with Section 11.05(7) of the MEPA regulations, DCR has submitted an EENF with a request that I grant a Waiver of the Mandatory EIR requirement. The EENF and additional information provided by DCR to the MEPA Office identifies the project's consistency with the criteria for a Waiver. The EENF was subject to an extended public comment period pursuant to Section 11.06(1) of the MEPA regulations. DCR requested a second extension which extended the comment period an additional 11 days.

I have received many comments which indicate strong support for a Waiver. While I acknowledge the comments from the Sudbury and Wayland Conservation Commissions that outline concerns regarding wetlands, stormwater and water quality, I am confident that these issues can be resolved during the state and local permitting processes. These processes provide additional avenues for public review and comment. I note that State Agencies did not identify alternatives that should be analyzed in an EIR.

I have reviewed the EENF and the Waiver request and I hereby find that the project meets the standards for a Waiver. These findings are addressed in the DROD which will be published in the January 22, 2014 edition of the Environmental Monitor. DCR submitted a letter of clarification to the MEPA Office on January 8, 2014 that responds to concerns identified in comment letter.¹

Project Alternatives

The EENF provides an analysis of the No-Build Alternative and the Preferred Alternative. The No-Build Alternative assumes that the project will not be developed and the existing MBTA-owned ROW will continue to be used as an informal trail that is not designed consistent with the Americans with Disability Act (ADA). The No-Build Alternative will not impact any environmental resources, however, it will not further state, regional, and local trail initiatives and connections, promote public health and exercise, increase recreational opportunities, provide an alternative transportation option, and improve air quality. In addition, the No-Build Alternative will not discourage unwanted activities such as dumping, all terrain vehicle (ATV) use, and encroachment of the ROW.

¹ Massachusetts Department of Conservation and Recreation Letter of Clarification submitted to the MEPA Office on January 8, 2014

According to the EENF, the Preferred Alternative is based on: connection to other trails as part of a more extensive trail network, the available space throughout the ROW, environmental resources, accessibility, and roadway crossings. The general location of the project corridor (from Berlin to Waltham) was chosen due to its potential for connections to other trails in the region, the absence of a trail traversing west to east in this vicinity, and the role the MCRT plays as a segment to enhance the statewide trail networks such as the Bay State Greenway network, East Coast Greenway System, and the overall cross-state rail trail vision.

For the majority of its alignment, the project will follow the original Massachusetts Central Railroad ROW. Since the cessation of railroad activities in the 1980s, wetlands and other environmental resources have developed in the ROW. Also, encroachments by abutters and leased development have occurred throughout the corridor. The EENF indicates that throughout the development of the Preferred Alternative, these obstructions and conflicts have been considered and environmental resources were avoided to the maximum extent possible. Wetland resource areas were avoided to the extent practicable. Access points along the proposed trail and safe roadway crossings were also considered for the development of the Preferred Alternative.

DCR identified three road crossings that may require deviations from the current alignment or use of additional ROW in Wayland at Routes 20 and 27/126; and in Waltham at Stowe Street/Route 117. The Town of Wayland has already addressed problematic crossings and developed safe bicycle and pedestrian crossings. Just east of the I-95 bridge in Waltham, a bank parking lot has been constructed entirely in the ROW (permitted by the MBTA), but the bank is obligated in its easement to allow the project to be developed through this area. The proponent of the former Polaroid Site in Waltham (1265 Main Street LLC), has satisfied the commitment identified in its Section 61 Findings (EEA#13952 Certificate on the Final EIR) to develop bicycle and pedestrian accommodations from its site entrance on Route 117 across Route 95/128 to Green Street. The proponent of the former Polaroid site intends to work with DCR to coordinate long-term development plans, alternatives, and potential off-site mitigation measures, as they relate to the project. Potential alternatives may include use of the existing ROW and railroad bridge over I-95, or working with private developers and MassDOT to add a multi-use pathway along Green Street and the Route 117 bridge to connect to the existing pathway at the Polaroid site entrance. DCR will continue to work with the bank, 1265 Main Street LLC, and MassDOT to evaluate, design and develop project connections through this area.

As described elsewhere in this Certificate, the project requires compliance with the Wetlands Protection Act (WPA) and c.91 regulations. I note that the WPA and c.91 review processes require an alternatives analysis that considers additional practicable alternatives to avoid, minimize, and mitigate impacts to wetland resource areas. I note that the project is being proposed along an existing rail corridor to provide recreational benefits and alternatives to driving. DCR indicates that it has considered practical alternatives within its project purpose. To the extent that additional analysis of alternatives is necessary to further reduce impacts, it can be addressed during permitting.

Wetlands

The project requires review by the eight Conservation Commissions with jurisdiction along the corridor for consistency with the WPA and its implementing regulations (310 CMR 10.00). The EENF describes the methodology used to estimate wetland impacts associated with the project based on a 19-foot corridor superimposed on the ROW. Wetlands impacts associated with the project include the alteration of 4,150 sf of BVW, 16.7 acres of wetlands including areas of BLSF overlapping Riverfront Area, and 2,140 lf of Bank. The EENF identifies wetland impacts by municipality. The largest impacts to BVW and Riverfront Area will occur in Hudson (1,164 sf and 148,495 sf (3.4 acres), respectively), and the largest impacts to BLSF will occur in Wayland (190,011 sf (4.3 acres). The EENF indicates that the corridor may be shifted in order to avoid potential environmental impacts. According to DCR's letter of clarification, as part of the Notice of Intent (NOI) filings, base mapping, resource area delineation, trail and bridge design will be completed to a level that supports more accurate assessment of impacts (if any) to BVW, BLSF, and Riverfront.

The EENF indicates that that project does not require a 401 Water Quality Certification (WQC) because it will alter less than 5,000 sf of BVW. Comments from MassDEP Northeast Regional Office (NERO) indicate that if there are any BVW impacts within Outstanding Resource Waters (ORW) or the total permanent or temporary impacts to BVW or LUWW exceed 5,000 sf, then a 401 WQC will be required. As described in greater detail below, DCR's letter of clarification maintains that a 401 WQC is not required. Wetlands replication and mitigation will be developed consistent with the BVW performance standards in 310 CMR 10.55(4) and the MassDEP Massachusetts Inland Wetland Replication Guidelines, March 2002.

Riverfront Area within the project corridor consists of previously-developed railroad embankment that is altered with rails and ties, other developed area and roadways, and some areas of wetland and upland vegetation. The project alignment will impact Riverfront Area resulting from path construction, grading, vegetation clearing and landscaping. The EENF indicates that the portions of the project that are in Riverfront Area alone are proposed as a limited project (310 CMR 40.53(6)). I refer DCR to MassDEP NERO's comments regarding compliance with limited project provisions.

According to the EENF, the elevated railroad embankment may indicate that the corridor is above the 100-year floodplain elevation. If subsequent analysis demonstrates flood elevations to be higher than presumed, the embankment will be kept at its current elevation to minimize any potential impacts to the 100-year floodplain and retain current floodplain storage. In addition, the affected area consists of former railroad track and ballast material, and does not provide important wildlife habitat.

DCR's letter of clarification indicates that it will work with local Conservation Commissions, MBTA and MHC to develop appropriate specifications for access and laydown areas, limits of work, and will identify sensitive areas where construction laydown and staging will not be allowed. DCR should ensure that it includes additional, if any, resource area impacts due to the construction access and staging.

While I acknowledge the issues raised by the Sudbury and Wayland Conservation Commissions, I believe that they can be addressed in the permitting processes. DCR has committed to work with various municipal boards and commissions and other key stakeholders to design the project to avoid or minimize resource area impacts and reasonably mitigate any unavoidable impacts.

Stormwater and Drainage

According to the EENF, the project will result in the creation of 28 acres of new impervious area. All stormwater design will meet the MassDEP's Stormwater guidelines to the greatest extent possible. The stormwater design for the trail will vary, depending on surrounding land uses. In more urban settings, a closed drainage system consisting of deep sump catch basins, manholes, and pipes may be used to collect stormwater from the trail and surrounding lands that may cause additional runoff and runoff sheeting along the trail or potential flooding of adjacent properties. Where applicable, the drainage will be connected to existing town or state-owned drainage systems. In more rural or undeveloped areas, country drainage will be used rather than piped drainage systems. DCR's letter of clarification indicates that the trail design will include an open stormwater system, with the use of water quality swales with checkdams adjacent to the trail in locations where warranted. Stormwater will generally be shed off the trail directly onto the adjacent vegetated shoulder and areas. A variety of native landscaping materials will be implemented into the design at road crossings, trailheads, and areas with steep embankment slopes that exceed a 3:1 slope. Shrubs will be planted at the tops of embankments, overlook areas, and stream crossings outside of the trail clear zone, to treat stormwater runoff.

I refer DCR to the comments and guidance provided by MassDEP NERO to ensure the project is designed in compliance with the Stormwater Management standards. The comments also note DCR's commitment to meet the standards in its NPDES General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer (MS4s – Permit No. MAR 43001). While I acknowledge MassDEP NERO's concerns regarding the lack of a complete evaluation of the stormwater management system and a demonstration of compliance with applicable stormwater standards in the EENF, I am confident that DCR will incorporate a high level of stormwater management along the corridor. Specifically, stormwater must be appropriately managed in sensitive environmental areas such as ORWs, vernal pools, and rare and endangered species habitat. DCR's letter of clarification indicates that because pollutants associated with vehicles, sanding, de-icing and other treatment for winter use will not be present along the corridor, the project will not result in a discharge of pollutants in stormwater. As a condition of the DROD, I am requiring DCR to provide supplemental stormwater information to MEPA and commenters by February 5, 2014.

I strongly encourage DCR to incorporate commitments to sustainable design elements such as solar powered lighting and signage. Because the project is at a conceptual design stage, there are ample opportunities to incorporate renewable energy technology, energy efficiency and Low Impact Development (LID) techniques into the site design. LID techniques incorporate stormwater best management practices (BMPs) and can reduce impacts to land and water resources by conserving natural systems and hydrologic functions. The primary tools of LID are landscaping features and naturally vegetated areas such as bioretention/raingardens, which

encourage detention, infiltration and filtration of stormwater on-site. DCR should consider measures to reduce the amount of new impervious area through the use of porous paving materials on some portions of the trail.

Bridge Rehabilitation

DCR prepared a study, the Mass Central Rail Trail Evaluation of Existing Bridges, Wayside Branch – Waltham to Berlin (2013), to determine the structural integrity of 10 existing bridges along the project corridor. Based on this evaluation, the bridges were recommended for rehabilitation or replacement. The EENF describes proposed bridge rehabilitation. The EENF indicates that five timber bridges were recommended for rehabilitation or replacement.

MassDEP NERO comments indicate that floodway and floodway encroachment, and hydraulic impacts within wetland resource areas were not considered in the EENF. DCR's letter of clarification indicates that while bridge designs have not yet been developed, the general approach for bridges over water is to replace the superstructure with a 14-foot wide deck, retaining the existing timber pilings. In some cases, individual pilings will require removal and new pilings will be driven. DCR claims that driving pilings does not constitute "fill" with respect to Sections 404 or 401 of the federal Clean Water Act and does not require Water Quality Certification. If the bridge pilings are severely deteriorated, a new bridge may be required with a clear span across the waterway. The bridges would also all require reconstruction of the backwall and wingwall of the abutments to support the new superstructure. New abutments will be set back from the edge of water and this reconstruction will not affect Bank or LUWW. During bridge design, DCR should consider the impacts of the bridges within the 100-year floodplain and regulatory floodway to address potential deficiencies and remove hydraulic restrictions.

I strongly encourage DCR to consult with MassDEP to identify mitigation measures for adverse impacts resulting from bridge-related construction activities. MassDEP NERO advises DCR that replaced stream crossings should be designed to conform to the Massachusetts Stream Crossing Standards.

Chapter 91

According to the EENF, a c.91 Waterways License is required for the rehabilitation and reuse of bridges located over navigable waters. Potential navigable waters the project will cross include: Hogg Brook in Berlin/Hudson; Assabet River and Fort Meadow Brook in Hudson; Hop Brook, Wash Brook, and Dudley Brook in Sudbury; Sudbury River, Mill Brook, and Hayward Brook in Wayland; Cherry Brook and Stony Brook in Weston; Chester Brook and Beaver Brook in Waltham. These waterways are either bridged or conveyed in a culvert beneath the existing railroad embankment. Waterways regulations (310 CMR 9.04 and 9.05) require a c.91 license for any maintenance or repair of structures, and any change in use of structures in non-tidal navigable rivers or streams. Several of the navigable river and stream crossings will require c.91 Licenses, in particular, the Sudbury and Assabet River crossings for reuse and change of use from a railroad bridge to a public rail trail use.

Public Shade Tree Removal

The project will include removal of trees that are more than 14 inches in diameter at breast height (DBH), as well as the selective removal of trees at bridge and culvert locations, and other areas along the project corridor. DCR should explore options to retain as many healthy trees as practicable. DCR should work with the MBTA and the municipalities to evaluate additional tree protection using tree wells and other protective measures. I encourage DCR to minimize vegetation removal and, where feasible, to replace trees on-site. Where mitigation on-site is not feasible, DCR should consult with the Conservation Commissions to identify other areas where tree planting may be beneficial, and identify appropriate mitigation for vegetation removal in resource areas. DCR should continue to modify the project design where feasible to maintain as many mature healthy trees as possible along the route.

DCR indicates that a Vegetation Management Plan (VMP) will be developed and implemented. The VMP should include a maintenance and monitoring plan to ensure that tree planting efforts are successful. I expect that issues relating to vegetation removal in wetlands resource area, as well as replanting and other mitigation measures will be addressed during local review and permitting by the Conservation Commissions. The VMP will discuss the control of invasive species. DCR will use only native species for revegetation and enhancement.

Rare Species

As described in the EENF, according to the most recent addition of the Massachusetts NHESP atlas (2008), segments of the project corridor are located within three areas of *Priority* and *Estimated Habitat* for eight state-listed rare species. The state-listed species known to occur in the vicinity of the project corridor include the Blandings Turtle (Threatened), Wood Turtle (Special Concern), Eastern Box Turtle (Special Concern), Blue-Spotted Salamander (Special Concern), American Bittern (Endangered bird), Common Moorhen (bird of Special Concern), Least Bittern (Endangered bird), and Pied-Billed Grebe (Endangered bird). The rare species and their habitats are regulated pursuant to the implementing regulations of MESA (MGL c131A, 321 CMR 10.00).

The EENF indicates that the project is not anticipated to affect the habitat of the four bird species, that occupy deep-water marshes and open water habitats, as the project will not alter these wetland types. The former railroad ROW has the potential to provide nesting habitat for the three listed turtle species. DCR will continue to coordinate with NHESP to avoid and minimize impacts to these habitats, and mitigate any potential unavoidable impacts during construction and operation of the project.

Comments from NHESP indicate that the project will require review for compliance with MESA and its implementing regulations (321 CMR 10.14 and 10.18) and/or the rare species provisions of the WPA regulations (310 CMR 10.37 and 10.59) for activities that are not otherwise exempt. While NHESP supports the removal and proper disposal of the existing rail road tracks and ties, it notes that the effects of increased human use, impervious surface, and potential clearing/grading of rare species habitats should also be considered during the planning process and avoided and minimized to the greatest extent possible. As a condition of the Waiver,

DCR will provide an assessment of potential impacts to state-listed species in filings for review pursuant to MESA, will initiate pre-filing consultations with NHESP as soon as possible in order to inform this assessment.

Greenhouse Gas (GHG) Emissions

The project is subject to the MEPA GHG Policy (revised May 5, 2010) because it exceeds thresholds for a mandatory EIR. The Policy contains a de minimus exemption for projects that will produce minimal amounts of GHG emissions. This is a rail trail project promoting bicycle and pedestrian uses. It does not include construction of buildings nor will it generate a significant number of vehicle trips. GHG emissions are associated primarily with the construction period of the project. Because it does not appear that this project will create a significant source of emissions, I am declining to require a quantitative GHG analysis and mitigation plan. However, I encourage DCR to incorporate measures to avoid and minimize GHG emissions (and other air pollutants) during the construction period such as limiting idling and using bio-fuels in off-road construction equipment.

Water Resources

According to comments from MassDEP NERO, the project will cross Cherry Brook in Weston and Stony Brook in Weston/Waltham which are both designated as Class A ORWs because they are tributaries to the active public water supplies of Stony Brook Reservoir and Cambridge Reservoir. The project also passes through the Zone A associated with both surface waters. DCR should ensure the project is designed to protect public water supplies and ORWs including vernal pools. Because DCR is applying for coverage under the NPDES CGP, it also requires compliance with Massachusetts' statutory and regulatory provisions that protect and control pollutant discharges to ORWs. Comments from MassDEP indicate that it must determine whether the activities taking place during construction near Cherry and Stony Brooks have adequate stormwater pollution prevention measures and controls that will avoid or minimize stormwater discharge of pollutants to the protected resources. DCR is required to submit an application of BRP WM 09 – Approval of NPDES Stormwater Pollution Prevention Plan (SWPPP) for Construction or Industrial General Permits Discharging to ORWs to MassDEP. The review of this information will assist MassDEP in determining whether additional stormwater measures will be required to protect ORWs during construction.

According to the EENF, the project will cross five impaired waterbodies listed in MassDEP's 2012 Integrated List of Waters as Category 5, which are waters where a total maximum daily load (TMDL) has been developed for listed pollutants. Phosphorus is a pollutant of concern for four of the five waterbodies including the Assabet River, Hop Brook, Hop Brook/Wash Brook, and Beaver Brook. MassDEP advises DCR to include in its SWPPP the CGP requirements for discharges of stormwater to sediment or nutrient-impaired waters.

According to comments from the MWRA, Section 8 (m) of Chapter 372 of the Acts of 1984, MWRA's Enabling Legislation, allows it to issue permits to build, construct, excavate, or cross within or near an easement or other property interest held by the MWRA. The project likely requires a Section 8 (m) Permit from the MWRA because it will cross its water line

Section W10 at Beaver Street and Linden Street in Waltham. I encourage DCR to consult with MWRA for permitting assistance early in the design process. I refer DCR to MWRA's comment letter for more permitting information on the MWRA Aqueducts Program, which is a new policy authorizing public access along certain ROW at four inactive water supply aqueducts including the Sudbury, Weston, Cochituate, and Wachusett Aqueducts.

Transportation

The project requires an Access Permit from MassDOT because it will cross state highways including Route 20, I-495, and I-95. The project will cross over 40 roadways and the Assabet River Rail Trail. The EENF describes potential improvements for the roadway crossings. DCR should work with the eight municipalities and the Metropolitan Area Planning Council (MAPC) to design these improvements and investigate additional mitigation. No parking is proposed; however, parking areas adjacent to the corridor are identified.

Historic and Archaeological Resources

According to the EENF, a cultural resources assessment (*Proposed Mass Central Rail Trail: Cultural Resources Assessment*) was performed in order to assess historic and archaeological resources within 0.25 miles of the MCRT corridor (the Area of Potential Affect (APE)). The assessment identified seven individual resources listed in the State and National Registers of Historic Places (except where noted) including: the Goodale Homestead in Hudson; the Boston and Maine (B&M) Railroad Section Tool House in Sudbury (only State Register-listed); the First Free Public Library Marker, the Wayland Railroad Station, and the Central Massachusetts Railroad Freight House (only State Register-listed) in Wayland; and the Theodore Lyman House, Vale Estate and the Linden Street Railroad Bridge in Waltham. The assessment identified 23 resources in the Inventory of Historic and Archaeological Assets of the Commonwealth including ten previously inventoried railroad bridges that will be reused by the project. Potential impacts to State Register-listed individual properties and inventoried resources are anticipated to be minimal as the construction of the project will not physically alter the resources, with the exception of the 11 bridges that are recommended for rehabilitation based on their deteriorated condition.

The assessment identified six districts listed in the State and National Registers (except where noted) including: the Wayside Inn Historic District, the Peakham-Southwest District (local historic district and State-Register listed), and the George Pitts Tavern Historic District (local historic district and State-Register listed) in Sudbury; the Wayland Center Historic District and the Wayland Center Local Historic District (local district and State-Register listed) in Wayland; and the Boston Post Road Historic District in Weston. Construction of the project is not expected to alter the historic character of the historic districts. The project will serve to educate the public about these historic districts such as the use of interpretive signage, as they are potential destinations and access points for the shared-use path.

The assessment identified 16 previously reported archaeological sites within 0.25 miles of the centerline of the ROW. DCR prepared a preliminary determination of additional areas of sensitivity for both ancient Native American and historic period archaeological sites adjacent to

the corridor. Construction of the project will not affect any identified areas of archaeological sensitivity due to the shallow depth of construction entirely within the old railroad ballast and subgrade areas.

The comment letter submitted by MHC on the EENF requested additional information to allow MHC to comment on the APE, eligibility opinions, and to determine what effect, if any, the proposed project may have on any significant historic or archaeological resources to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800) and M.G.L. c.9, Sections 26-27C (950 CMR 71.00). The MHC comment letter also provided comment and guidance to assist DCR with MHC review including the consideration of additional resources in the project APE, compliance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation as it relates to the repair/rehabilitation of significant bridges, and extant railroad-related historic archaeological resources. DCR should consult with MHC early during project design to ensure that the project does not result in adverse impacts to state-listed historic and archeological resources. Additional information should be sent concurrently to MHC, ACOE, the local historical commissions, and the local historic district commissions. DCR should coordinate with MHC to respond to its request for an archaeological reconnaissance survey and associated survey parameters as outlined in the EENF comment letter. The results of surveys and other related data should be provided in a manner consistent with the MHC comment letter.

I acknowledge comments from the Wayland Historical Commission and the Wayland Historic District Commission that outline concerns regarding the historical significance of the rails within each railroad center (historical districts). I expect DCR will consider their requests to preserve certain railroad components such as rails (e.g. side rails) and other track features, and to ensure the protection of individual items directly adjacent to the rails during project construction.

Construction Period

The project must comply with MassDEP Solid Waste and Air Pollution Control regulations, pursuant to M.G.L. c.40, s.54 during construction and demolition. All construction and demolition activities should be undertaken in compliance with the conditions of all State and local permits. DCR should evaluate construction period impacts, including erosion and sedimentation, air quality and solid waste disposal, and strive to minimize construction impacts (including but not limited to land disturbance, noise, dust, odor nuisance, vehicle emissions, construction and demolition debris, and construction-related traffic) and consider feasible measures that can be implemented to eliminate or minimize these impacts. The project requires the preparation of a SWPPP in accordance with the NPDES CGP to control erosion and sedimentation during the construction period.

DCR should seek guidance from MassDEP on how to limit the impacts of demolition and construction activities through waste management and recycling efforts. I strongly encourage DCR to consult with MassDEP and review its recommendations and adopt practices to the maximum extent practicable. The former railroad ties and rails along the majority of the alignment will be removed before trail construction. The existing steel rail will be recovered and

recycled. The ties are impregnated with creosote and cannot be recycled and will be properly disposed.

DCR construction specifications will stipulate the use the ultra-low sulfur fuel in construction equipment with necessary engine modifications in accordance with the MassCleanDiesel Program. DCR is advised that if oil and/or hazardous material are identified during the implementation of this project, notification pursuant to the Massachusetts Contingency Plan (310 CMR 40.0000) must be made to MassDEP, if necessary.

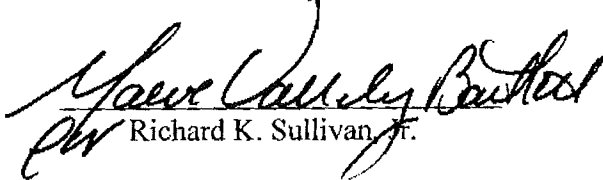
Conclusion

Based on a review of the information provided by DCR and after consultation with the relevant public agencies, I find that the potential impacts of this project do not warrant further MEPA review. Outstanding issues may be addressed during permitting.

I have also issued today a DROD proposing to grant a Waiver from the requirement to prepare an EIR for the project. The DROD will be published in the next edition of the Environmental Monitor on January 22, 2014 in accordance with 301 CMR 11.15(2), which begins the public comment period. The public comment period lasts for 14 days and will end on February 5, 2014. Based on written comments received concerning the DROD, I shall issue a Final Record of Decision or a Scope within seven days after the close of the public comment period, in accordance with 301 CMR 11.15(6). If the Waiver is not approved, based on comments received on the DROD, then this Certificate will be re-issued with a Scope for an EIR.

January 10, 2014

Date


Richard K. Sullivan, Jr.

Comments Received

12/06/2013	Massachusetts Natural Heritage and Endangered Species Program
12/06/2013	Massachusetts Historical Commission
12/13/2013	Massachusetts Department of Environmental Protection – CERO
12/31/2013	Massachusetts Department of Environmental Protection – NERO
12/20/2013	Massachusetts Water Resources Authority
12/31/2013	Metropolitan Area Planning Council
12/27/2013	Bolton Conservation Commission
12/06/2013	Stow Conservation Commission
12/17/2013	Sudbury Conservation Commission
12/17/2013	Wayland Board of Selectmen (submitted from three separate commenters)
12/26/2013	Wayland Historic District Commission
12/30/2013	Wayland Historical Commission
12/30/2013	Wayland Conservation Commission
12/27/2013	Weston Conservation Commission
12/13/2013	Larry Kiernan, Wayland Representative – Mass Central Rail Trail Coalition
12/18/2013	WalkBoston

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12/27/2013 Mass Central Rail Trail Coalition
12/31/2013 Friends of the Community Path
12/05/2013 Eli Horowitz
12/18/2013 Lydia Rogers
12/19/2013 Leonard Simon (1)
12/28/2013 Linda Segal
12/31/2013 Alice Boelter
12/31/2013 Richard Williamson
01/07/2014 Leonard Simon (2)
01/09/2014 Massachusetts Department of Conservation Letter of Clarification

RKS/PPP/ppp