



March 5, 2021

Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776
Attn: Adam Duchesneau, Director of Planning & Community Development

Re: Application for a Removal Permit under the Sudbury Earth Removal Bylaw

Dear Mr. Duchesneau:

NSTAR Electric Company d/b/a Eversource Energy ("Eversource" or the "Company") hereby submits this application for a Removal Permit from the Town of Sudbury Earth Removal Board (the "Board") under the Town of Sudbury's General Bylaws Article V(A) – Removal of Earth (the "Bylaw") in connection with the Company's proposed construction of a new 115-kilovolt ("kV") underground electric transmission line in Sudbury along a disused right-of-way owned by the Massachusetts Bay Transportation Authority (the "Project").

This application is being filed by Eversource despite our conclusion that the Bylaw is not applicable to the Project. This is based upon the language in Section 3 of Bylaw, which expressly and unambiguously states that "a Removal Permit shall be required under this bylaw . . . in the course of excavation incidental to the construction of a business, industrial, research or commercial building or facility of any kind *for which a building permit is required.*" Because a building permit is not required for the Project, the Project is not subject to the requirement to obtain a Removal Permit under the provisions of the Bylaw. In prior communications, the Company has stated this position to Town officials, but, without further explanation, we have only been informed generally that the Town's position is that a Removal Permit is required for the Project. Eversource is filing this application to avoid an assertion later by the Town that the Project may not proceed without a Removal Permit.

By making this filing, Eversource is expressly not waiving any rights to dispute the applicability of the Bylaw to the Project, and the Company is reserving all rights to challenge the Town's position if the Removal Permit is denied by the Board or there is any undue delay or imposition of unreasonable conditions in the review of this application. We request your timely review and favorable approval of this application. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ayo Osimboni", with a long horizontal flourish extending to the right.

Ayo Osimboni
Manager, Major Projects
ayo.osimboni@eversource.com

Enclosures



Application for a Removal Permit under the Sudbury Earth Removal Bylaw

NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or “the Company”) hereby submits this application for a Removal Permit from the Town of Sudbury Earth Removal Board (the “Board”) under the Town of Sudbury’s General Bylaws Article V(A) – Removal of Earth (the “Bylaw”) in connection with the Company’s proposed construction of a new 115-kilovolt (“kV”) underground electric transmission line in Sudbury along a disused right-of-way owned by the Massachusetts Bay Transportation Authority (the “Project”).

- **Project Overview**

The work proposed by the Company in the Town of Sudbury is part of a joint project involving Eversource and the Massachusetts Department of Conservation & Recreation (“DCR”) for the construction of a portion of the new line and a segment of DCR’s Massachusetts Central Rail Trail (“MCRT”). This coordinated effort combines two compatible uses within a single existing and under-utilized transportation corridor, with a proposed phased construction sequence to minimize cost, the overall construction schedule, and potential impacts to adjacent areas. The Project will serve the dual purpose of increasing the reliability of the regional electric transmission system and advancing state-wide multi-use trail network initiatives.

The underground electric transmission line is needed to ensure the safe and reliable transmission of electric power to customers. The new line will resolve thermal overloads and low voltage conditions and will support the increased demand for electricity within this portion of the transmission system. The Massachusetts Energy Facilities Siting Board (“EFSB”) has reviewed the new line and has granted approval to construct the new line based upon determinations that it is needed to ensure a reliable supply of energy, with a minimum impact on the environment and at the lowest possible cost and that it is necessary, serves the public convenience, and is consistent with the public interest.

In Massachusetts, regional trails are an important priority for increasing the number of commuters who bike and walk to work and for providing recreational opportunities. The MCRT is one of these regional commuter trails that is American Disabilities Act (“ADA”) compliant and accessible by people of all abilities. When completed, the MCRT will connect over 20 communities and provide over 100 miles of interconnected walking and biking trails. DCR has included the construction of the Sudbury-to-Hudson portion of the MCRT in a long-range capital planning request for Fiscal Year 2021. The Massachusetts Department of Transportation (“MassDOT”) Project Review Committee has also approved the MCRT for design as MassDOT Project #608995. DCR completed the Weston-to-Wayland portion of the MCRT in Fall 2019.

- **Project Route**

As approved by the EFSB, the Project traverses an approximately nine-mile route

underground primarily along the disused MBTA ROW between Eversource's Sudbury Substation and the Hudson Light & Power Department's Substation in Hudson. The Project will pass primarily through the towns of Sudbury and Hudson and will cross short sections of the town of Stow and the city of Marlborough.

In Sudbury, the project route commences on the MBTA ROW at the Marlborough border and continues beneath the MBTA ROW in a southeasterly direction approximately 7,945 linear feet (LF) to Dutton Road. The route continues beneath Dutton Road and then in a southeasterly direction approximately 3,070 LF beneath the MBTA ROW to Peakham Road. The route continues beneath Peakham Road and then continues southeast approximately 2,525 LF beneath the MBTA ROW to Horse Pond Road. The route continues beneath Horse Pond Road and then continues in a southeast direction beneath the MBTA ROW approximately 4,650 LF to Union Avenue. The route continues beneath Union Avenue and then continues southeast approximately 1,215 LF beneath the MBTA ROW to Boston Post Road. The route continues beneath Boston Post Road and progresses southeasterly beneath the MBTA ROW approximately 4,630 feet to Landham Road. The route continues beneath Landham Road and then approximately 965 feet to Eversource's existing Sudbury Substation. A locus map of the route is provided in Exhibit A.

- **Project Sequencing**

The Project will be constructed in Sudbury in a two-phased approach. Phase 1 of the project will be under the control and responsibility of Eversource and will include all major earthwork, bridge rehabilitation (Bridge 128) and bridge reconstruction (Bridge 127), the installation of the new line and stormwater management features, installation of supplemental woody plantings, and restoration of all disturbed areas outside of the 14-foot-wide gravel base. Phase 2 of the project will be under the control and responsibility of DCR and will include installation of facilities for road crossings, paving the MCRT, installation of fencing, benches and bikepaths, restoring the two-foot-wide shoulders next to the paved 10-foot-wide path, and installation of safety plantings. Best Management Practices ("BMPs") will be employed to minimize potential environmental impacts, and Environmental Monitors will be present throughout construction to confirm that all activities are being conducted in accordance with applicable permit conditions.¹

Construction of Phase 1 will generally require a 22-foot-wide construction zone within the MBTA ROW. The 22-foot width is the minimum width that will provide for two-way construction vehicle traffic, allowing multiple crews to work concurrently within the same section of the MBTA ROW, maximizing construction efficiency and reducing construction duration and impacts to abutting residents. This also allows sufficient space for construction vehicles to be safely staged

¹ The Project was extensively reviewed by the Sudbury Conservation Commission and the Sudbury Planning Board to ensure proper protection of wetlands and stormwater management. The Sudbury Planning Board issued a Stormwater Management Permit for the Project on January 27, 2021 and the Sudbury Conservation Commission issued an Order of Conditions for the Project on February 4, 2021.

and to travel alongside the excavated and shored trench and allows for easier access and egress of emergency vehicles in the event of an incident that would require first responders to be deployed to the construction area.

Phase 1 construction activities include:

- Development of the Stormwater Pollution and Prevention Plan (“SWPPP”) for the Eversource activities
- Identification of contractor access and laydown areas, to be located outside of wetland jurisdictional areas
- Limits of work will be established via land survey with clearly visible marking or fencing place in the field
- Vegetation will be removed to facilitate installation of erosion and sediment controls (no grubbing)
- Installation of erosion and sediment controls with on-going monitoring and maintenance during Phase 1
- Installation of new equipment at Sudbury Substation
- Rail and tie removal
- Grubbing and stumping will occur within the limit of work
- Grading and add eight inches of gravel to create 14-foot construction platform
- Installation of stormwater management features (for the final MCRT condition)
- Construction of bridges and other crossings
- Installation of manholes and duct bank
- Installation of electrical and signal conduit for MCRT at road crossings
- Final grading of the gravel base for the paved MCRT
- Cable pulling, splicing, testing, and commissioning
- Loaming and seeding with native species seed mix of disturbed areas outside of the 14-foot-wide gravel base and installation of plantings in select restored areas
- Development of as-builts for all Phase 1 activities

Phase 2 construction activities include:

- Development of the SWPPP for DCR activities
- Monitoring and maintenance of all erosion and sediment controls for Phase 2
- Installation of posts and mast arms at road crossings
- Grading and compacting gravel base
- Placement of intermediate and surface course of pavement for 10-foot MCRT and turn outs
- Installation of imprinted resin median and detectable warning panels at road

crossings

- Installation of fencing, benches, and bike racks
 - Installation of “safety” woody vegetation plantings
 - Loaming and seeding with native species seed mix along shoulders, side slopes, and any other disturbed areas
 - Installation of roadway and trail markings and signs
 - Removal of erosion controls by hand and reseeded of footprint once vegetated areas are established and applicable final conditions are achieved
 - Development of as-builts for all Phase 2 activities
- **Earth Removal**

A completed Application for Earth Removal form is provided in Exhibit B. A plan set showing existing and proposed contours along the project route is provided in Exhibit C.

The earth work associated with the Project will not be detrimental to the neighborhood. The following narrative addresses the criteria listed in Section 6 of the Bylaw.

- a. ***Method of removal*** – An estimated 24,123 cubic yards of soil are expected to be excavated by standard methods and loaded into dump trucks for removal from the MBTA ROW in Sudbury during Phase 1 of the Project. The surplus excavated materials will be transported to an off-site temporary storage yard where they will be reloaded and transported to a licensed facility for appropriate reuse, recycling, treatment or disposal. The transport and off-site management of surplus material will be performed in accordance with applicable local, state and federal regulations and policies.
- b. ***Type and location of temporary structures*** – there are no temporary structures.
- c. ***Hours of operation*** – work is proposed within the hours of operation authorized by the EFSB, which are 7:00 a.m. to 6:00 p.m., Monday through Friday.
- d. ***Routes for transporting the material through the Town*** – access to and from the project site will be predominantly via White Pond Road (Hudson), Dutton Road, Peakham Road, Horse Pond Road, Union Avenue, and Boston Post Road. These roads will be used to transport material removed from the project site to the contractor’s offsite laydown yard. The location of the offsite yard will not be known until a contractor is selected and a location is secured that complies with all applicable rules and regulations. The laydown yard location will be provided when it is established.
- e. ***Area and depth of excavation*** - The transmission line trench will be four feet wide and average depth of excavation will be approximately five feet below existing grade.

Larger excavations (approximately 10 feet wide by 10 feet deep) will occur at locations where electric manholes are installed. There will also be some excavation (typically one to 2 feet deep) to create a 14-foot-wide platform for the gravel access road to be used during new line construction that will be completed as the MCRT path after the new line construction is complete. Excavation widths and depths are shown on the cross sections included in the plans in Exhibit C.

- f. ***Distance of excavation from street and lot lines*** – The distance of the work limits from street and lot lines is variable along the route in Sudbury as shown on the plans in Exhibit C. The distance of excavation from street lines ranges from 0 feet (at street crossings) up to 6,500 feet, while excavation is typically about 20 to 25 feet from the MBTA ROW lot lines. All excavation is located in the previously disturbed area of the rail bed and embankment that are encompassed by vegetated areas within the 80-foot wide MBTA ROW.
- g. ***Steepness of slopes excavated*** - Any existing slopes to be excavated along the MBTA ROW have a maximum grade of two-feet horizontal to one-foot vertical. Most of these slopes were created during initial railroad construction, and the intention of this Project is to retain these slopes as much as practicable and to tie in any proposed slopes to the existing with a similar maximum grade of 2:1. Where this maximum slope could not be met, such as at the two Hop Brook crossings, short walls are proposed running parallel to the MCRT to limit impacts to wetland resource areas.
- h. ***Re-establishment of ground levels and grades*** – The final grades along the MCRT will generally follow the existing grades. Existing grades will be met at all roadway intersections. The proposed longitudinal grades of the MCRT cross sections are blended into the existing grades within approximately 16-feet of the center line, all within the MBTA right-of-way. Cuts of less than four feet are made along the embankment in areas throughout the corridor to provide a level area for the gravel base and MCRT. These cuts are made to limit impacts to sensitive environmental resources along the rail bed. Areas of fill less than four feet will be made in places along the alignment to provide satisfactory MCRT profiles (4.5% max grade) and required elevations over both Hop Brook crossings. Up to nine feet of fill will be placed where the rail bed passes through a deep rock cut between Dutton Road and Peakham Road.
- i. ***Provisions for permanent and temporary drainage*** – drainage and stormwater management plans for the project have been reviewed and approved by the Sudbury Planning Board (Stormwater Management Permit, issued January 27, 2021, SWMP #20-07) and the Sudbury Conservation Commission (Order of Conditions, issued February 4, 2021, DEP File #301-1287). Drainage during construction will be managed in accordance with the SWPPPs for both phases of the Project.
- j. ***Disposition of boulders and tree stumps*** – boulders and stumps encountered that

- require removal, if any, will be taken offsite to the contractor's laydown yard and then disposed of at an approved/licensed facility.
- k. ***Replacement of loam over the area of removal*** – Clean loam free of invasive plant species will be placed in the restored areas outside of the 10-foot-wide paved MCRT.
 - l. ***Planting of the area to suitable cover*** - All disturbed areas will be fully restored following completion of construction. Eversource will stabilize disturbed areas outside of the 14-foot gravel base with loam, native herbaceous and woody seed mixes and select plantings containing only species native to New England. At the conclusion of Phase 2, all remaining disturbed areas outside of the 10-foot-wide paved MCRT will be restored by loaming and seeding with the same seed mix and woody plantings. As shown on the submitted landscaping plans, there are a total of 10,845 supplemental plantings proposed in addition to the woody and herbaceous seed mixes. These plantings are a combination of herbaceous and woody species selected during review by the Sudbury Conservation Commission and Sudbury Planning Board and include: 838 sweet fern, 504 black huckleberry, 1,667 lowbush blueberry, 5,465 Pennsylvania sedge, 9 red maple, 23 serviceberry, 14 gray birch, 6 black oak, 16 white pine, 630 sweet pepperbush, 511 American hazelnut, 520 northern bayberry, 470 alternate-leaved dogwood, 31 silky dogwood, 52 highbush blueberry, 69 cinnamon fern, 20 and winterberry. Exact locations of plantings by species and station are provided on the submitted plans.
 - m. ***Inspection of the premises at any time by the Board or its representative*** – A representative of the Board or its representative may inspect the premises. Reasonable notice is required so any representative visiting the site can comply with the health and safety protocols and procedures established by Eversource, DCR and their contractors.
 - n. ***Soil Testing*** – Following the Massachusetts Department of Environmental Protection's "Best Management Practices for Controlling Exposure to Soil during the Development of Rail Trails," Eversource conducted a due diligence investigation to determine if there were any areas of potential soil contamination either from former railroad operations on the ROW or from properties adjacent to the ROW that might be encountered during the project excavation. Soil sampling conducted at select locations did not identify any potential contamination that would require implementation of special measures. However, a Soil and Groundwater Management Plan ("SGMP") will developed in coordination with the selected contractor to establish protocols for evaluation and response if any soil conditions are encountered during the work where visual or olfactory observations indicate that soil may be impacted significantly by oil or hazardous materials subject to M.G.L. c. 21E.

Exhibit A

Locus Map

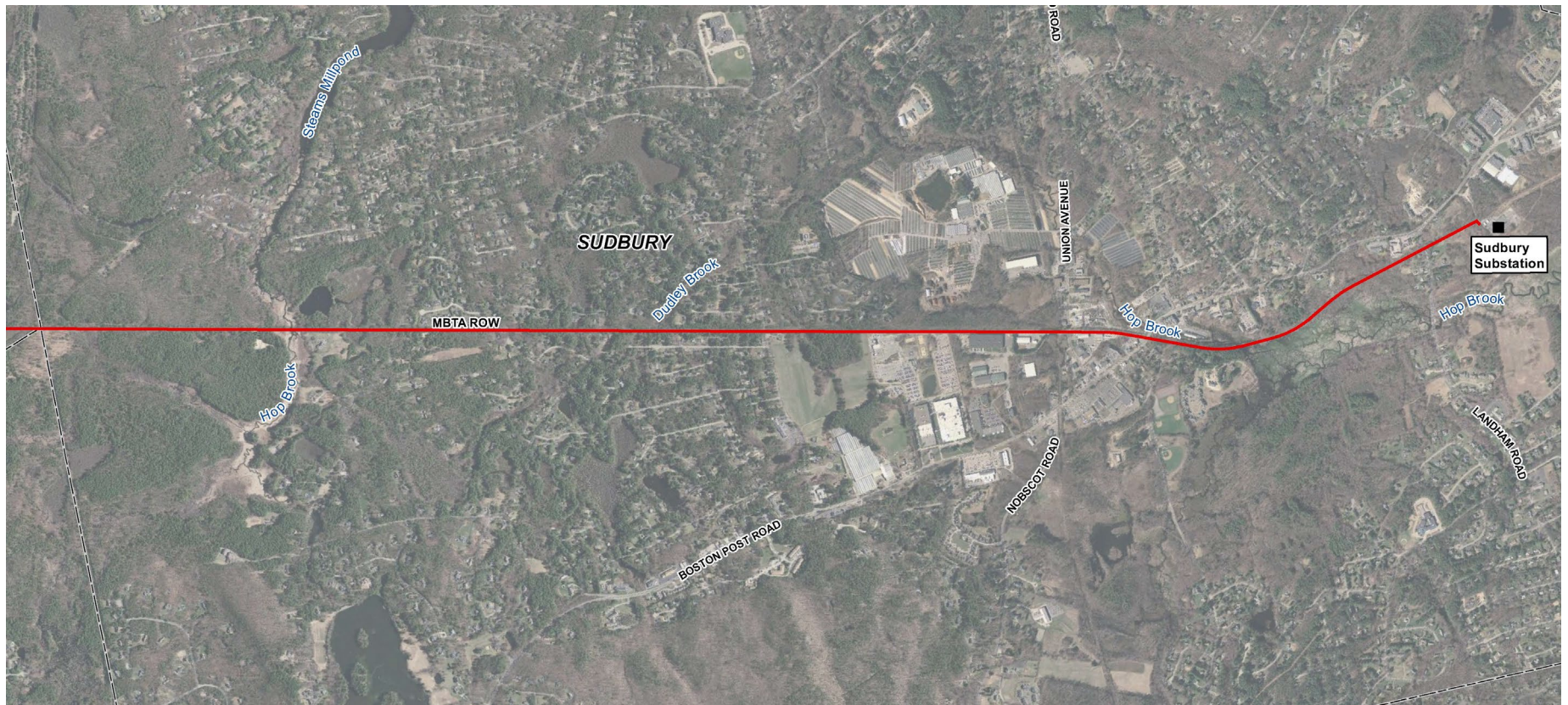
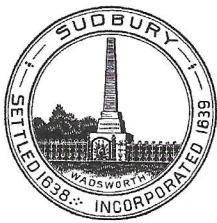


Figure 1 - Locus Map within Town of Sudbury

Exhibit B

Application for
Earth Removal



Town of Sudbury

Earth Removal Board

appeals@sudbury.ma.us

<http://www.sudbury.ma.us/services/planning>

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776
978-639-3389
Fax: 978-443-0756

APPLICATION FOR EARTH REMOVAL

Date: March 5, 2021

1. Location of proposed excavation: Along MBTA right-of-way beginning at Sudbury/Hudson border and continuing to Lanham Road.
2. Legal name and address of owner of property involved.
Massachusetts Bay Transportation Authority
10 Park Plaza
Boston, MA 02116
Telephone: _____
E-mail: _____
3. Legal name and address of petitioner. This will be used by the Board for all correspondence in the case. NOTE: If the petitioner is not the owner of property, a statement must be provided to the effect that the petitioner is a party with standing authorized to execute a permit.
NSTAR Electric Company d/b/a Eversource Energy
247 Station Drive
Westwood, MA 02090
Telephone: (860) 665-2671
E-mail: shawn.southworth@eversource.com
4. Estimate of the quantity and type of material to be removed. approx. 9,119 CY (industrial), and approx. 15,014 CY (residential) material. Materials are classified as Type A, Type B-1, and Type C-1
5. Description and location of any temporary structures. none
6. Description of the proposed method of removal, hours of operation, and routes for transporting material through the town. Material will be loaded into dump trucks and taken to an off site lay down yard, then reloaded and disposed of at a licensed facility. Work will be conducted between the hours of 7 a.m and 6 p.m. Monday through Friday. Vehicles will exit the ROW onto Dutton Rd, Peakham Rd, Horse Pond Rd, Union Ave, and Rt 20 and travel to the yard
7. Start date for removal September 2021 Completion date Late 2022

APPLICATION FOR EARTH REMOVAL

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8. Petitioner must provide a plan of the land involved, prepared by a registered land surveyor or civil engineer, showing by 5-foot contours within 100 feet of the proposed excavation or to the property line: (a) existing topography and (b) contours of the site as of the proposed completion of the excavation. See the Rules of the Earth Removal Board for number of copies required to be submitted.

Where the natural grade is not to be changed by more than 5 feet at any point, or where, in the opinion of the Board, existing and proposed conditions can adequately be determined without benefit of a plan, this requirement may be waived. If a waiver of the plan is believed justified, attach a statement to this application containing a description and sketch of the property and a justification on which the Board may evaluate the request for a waiver.

9. Be advised that the Board may require the submission of additional information or supporting documentation with regard to this application.
10. Proposed form of bond or security to be used (circle one):

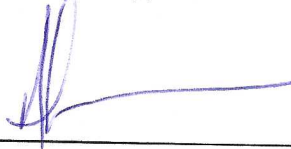
Certified Check

Surety Company Bond

11. This application must be submitted in duplicate and must be accompanied by the following:

\$100.00 filing fee (payable to the Town of Sudbury)

\$25.00 advertising fee (payable to the Town of Sudbury)



Signature of Applicant

August 2010

Exhibit C

Plan Set