



**SUDBURY CONSERVATION COMMISSION**  
**Meeting Minutes of November 23, 2020**

**Present via Roll Call:** Thomas Friedlander, Chair; David Henkels, Vice Chair; Bruce Porter; Richard Morse; Mark Sevier; Kenneth Holtz; Kasey Rogers; Jeremy Cook, Associate Member, and Lori Capone, Conservation Coordinator.

Chair Friedlander opened the meeting under the MA Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw at 6:45 PM.

**Continued Wetland Applications:**

**Notice of Intent: Massachusetts Bay Transportation Authority Right-of Way, DEP**

**File #301-1287:** Eversource/Department of Conservation and Recreation, applicants: Installation of a new 115kV underground electrical transmission line and the construction of a portion of the Mass Central Rail Trail, from the existing Sudbury Substation to the Hudson town line, along the inactive Massachusetts Bay Transportation Authority Right-of-Way, in Sudbury, MA, under the State Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw, last continued from November 2, 2020.

K. Rogers recused herself from the hearing, as she is a direct abutter to the project.

The Chairman opened the hearing and outlined the areas to be discussed at this meeting. The topics to be covered would be 1. Soil and groundwater management, 2. Stormwater management, 3. Issues related to Limited Project and Bylaw mitigation, 4. Culverts, 5. Independent Environmental Monitor, the 6. Beta Review and next meeting. He stated he would then recognize the public for comments. He identified George Pucci, Counsel for the Town of Sudbury, as being present at that time.

In attendance for the applicants was Denise Bartone and Mike Hager, Eversource; Mark Bergeron, Epsilon Associates; Gene Crouch, VHB (attending on behalf of Paul Jahnige of DCR), Katie Kinsella, VHB; Attorney Barry Fogel; Keegan and Werlin, Counsel for the Applicant; and Paul McKinley, Weston and Sampson.

Chair Friedlander proceeded to introduce the first topic; Soil and Groundwater management, and recognized Denise Bartone/Eversource for some brief comments. The Coordinator requested the Applicant review the memorandum that they had submitted as part of the Application in response to Protect Sudbury's report from Partners, Inc. (their peer reviewer).

Atty. Fogel stated they had received the report from Partners and it was reviewed by the Applicants Licensed Site Professional, Paul McKinley, and Dean Bebis. He noted that they have conducted their due diligence and there was nothing in the memo that needed to be addressed. Paul McKinley, LSP for the Applicant, began by stating they had provided a written response to Partners comment letter. He recognized the follow up questions, and stated there was no new information that would change their due diligence or assessment or management approach. He felt that their conclusions and targeted approach were sound. The Peer reviewer and Mr. McKinley agreed on impacts, and that the Soil and Groundwater Plan approach that had been developed by the Applicant was sound. The Coordinator said she believed Tom Campbell; Partners Engineering and Science (hired by Protect Sudbury), was prepared to respond. The Chair recognized him to speak.

Tom Campbell, Partners, Inc., expressed concern that the collection of three samples across a four-mile corridor may not be sufficient. He pointed out there were no samples in the location of the former Rod and Gun Club that had lead contamination. He saw gaps in the collections. There was discussion on collection of samples and what they were looking for. He maintained the composite sample, did not give a good representation of the potential contamination throughout the corridor. The Chair then confirmed the concerns of the LSP for Partners, which were the insufficient soil borings to reach an appropriate conclusion, and they agreed to this assessment.

Coordinator Capone asked Mr. McKinley to discuss the Soil and Groundwater Management Plan which had yet to be presented, and whether in that, they planned to address these findings by Mr. Campbell. Mr. McKinley responded that they had looked at the lead contamination site, which had been remediated. They determined that this location is a fill area and will not have substantial excavation and therefore would not impact the project. Mr. McKinley also reviewed the Raytheon site, and stated that area did not encroach on the right of way. There was a monitoring well installed to complete coverage of the area.

The Chair recognized Ray Phillips, 40 Whispering Pine Road and President of Protect Sudbury, who stated the lead remediation work did not extend into the Right of Way at the Rod and Gun Club and was concerned with lead contamination and encouraged the Commission require additional testing on this area.

Comments were then made by Vincent Roy, Executive Director of the Sudbury Water District. He stated he had provided the Coordinator with a list of their concerns which included post construction use of herbicides, damage to water lines at crossings, use of materials used for cooling the lines, access to water mains within the ROW, and finally he mentioned protection of the aquifer within Zone 2. He said the Raymond Road aquifer was in the area. He requested a clay barrier be installed in the transmission line trench as a precaution for groundwater protection.

The Chair then recognized Rebecca Cutting, 381 Maynard Road, for her comments. She asked about the location of the Raytheon monitoring well in relation to the direction of groundwater flow. Mr. McKinley responded it was side gradient to groundwater flow.

The Chair recognized Mike Hager, Project Manager for Eversource. He reviewed the statements from Mr. Roy, and stated that each issue had a plan for management, i.e. Spill Management Plan, no herbicides would be used during construction, there would be no fluids in the transmission line and pipe crossings were at road crossings, which would be addressed by the Select Board through the Grant of Location process.

Coordinator Capone requested further assessment from Mr. Roy on the need for a clay barrier who confirmed the desire for the clay barrier was primarily for any future contamination, not just during construction. They want to cap the groundwater for the aquifer, for the future, so they did feel a clay barrier was warranted.

Ray Phillips stated the EFSB had stated no herbicide use anywhere, any time. He said that DCR was not being cooperative in this, and encouraged the Commission require this.

Coordinator Capone said she wanted to get clarity on the clay barrier for the Water District, a commitment from DCR to not use herbicides with the exception for limited use on Japanese Knotweed, which was a particularly difficult invasive to eradicate.

Ms. Bartone questioned the reasoning behind the clay barrier. Mike Hager suggested the depth they planned to excavate to was probably not an issue and offered to meet with Mr. Roy for further discussions.

Rebecca Cutting, 381 Maynard Road, asked Mr. Roy about the infiltration of BMPs and Stormwater in the area of Zone 2. She thought a clay lining there would be a good plan to add robustness to the Stormwater Plan. Atty. Fogel responded that a clay barrier would not be appropriate for stormwater features as they are meant to infiltrate.

The Chair introduced the second discussion point, Stormwater Management, currently under reviewed by the Planning Board. Katie Kinsella (VHB) reviewed the status of the review. The Planning Board had requested additional infiltration in five watersheds be provided. Four have been addressed but the applicant was still evaluating the area south of Union Avenue. The applicant stated they were looking to crown the rail trail in this location to encourage additional infiltration. They were scheduled to meet with the Planning Board next on December 9<sup>th</sup>.

The next topic discussed was substantial revegetation regarding limited project. Marc Bergeron, reviewed the area of restoration, noting that about 6,088 linear feet falls within the Riverfront Area of which 3,165 linear feet of the transmission line will be next to as opposed to under the rail trail. They have added 295 additional shrub plantings since the last plan. Coordinator Capone said the increase in plantings would count towards the substantial revegetation under the Limited Project provision, not as mitigation. She discussed the areas of revegetation, and said that some areas that currently do not have vegetation, will now have vegetation to offset some other areas that currently have vegetation that will no longer have the same type of vegetation that had previously been there. The net result being the Plan complied substantially with what was being required under the Limited Project provision. There was some further discussion on plantings and revegetation.

Additional Bylaw mitigation was the next topic for discussion. Chair Friedlander recognized Laura Mattei, Sudbury Valley Trustees, for comments. She synopsised a letter submitted to the Commission. She appreciated the efforts by the Commission towards the substantial planting plan and highlighted some areas that SVT still wanted to emphasize. One was to consider the use of a hard-packed surface for the trail, rather than asphalt, particularly in sensitive areas of habitat. She then discussed mitigation, and asked that the Commission require the applicant be responsible for results-based mitigation. She said SVT agrees the area of phragmites removal would be a good mitigation opportunity and requested a third area of phragmites, as well as buckthorn along Hop Brook, be included if this mitigation is considered. She also asked the Applicant to avoid the area of native lupine. She asked that the proponents not use loam for sandy soils within the desert area and possibly reuse any non-contaminated soil, when possible. The Coordinator concurred that using the current soils would be appropriate. Mr. Friedlander then requested Eversource offer their position to which Ms. Bartone said that Eversource is looking to fund projects that would provide additional mitigation for this project, such as the areas identified by Ms. Mattei. There was discussion about \$300,000 being put forth for mitigation funds and how it would be controlled. Eversource stated they were being flexible relative to how this mechanism would work. Coordinator Capone asked Ms. Mattei if they were requesting that the Applicant perform mitigation, rather than having the Town handle it. She stated this was correct. The Coordinator said the majority of the work on the phragmites is on SVT property, so they would need to be a party to the conversation.

The Chair recognized B. Porter who made comments about use of stone dust for the trail. D. Henkels asked about jurisdiction on soil treatment in what was known as 'the Desert' and if there was any change to the area. Mr. Bergeron stated Natural Heritage would be notified of the work under separate application.

The Chair recognized Steven Gabler, 28 Mossman Road, who asked about the Desert area not being under jurisdiction. Coordinator Capone explained it was within Natural Heritage jurisdiction, but mostly outside wetland/Commission jurisdiction, which led her to ask why the sand could not be returned to that area, rather than loam. Mr. Bergeron said he understood DCR and SVT had discussed this area. In the immediate work area, Mr. Bergeron said he believed there was not an appreciable amount of sand, so loam would better integrate into the current soil. Gene Crouch (VHB) stated that sand within the shoulder would create a hazard for public safety. He said they had looked at different sources of material and mentioned the pipeline area that had a sandy character, but it would be out of place elsewhere. Ms. Mattei said matching soils was important. She said the entire area was sandy and loam was not consistent with what was there.

The Chair recognized Nicholas Pernice, 255 Peakham Road, who asked about excavated soil storage, how it would be transported, tested, and reused. He also asked about impacts from heat eliminating from the transmission line. Mr. Hagar responded that soil would be stockpiled for a limited amount of time within the limit of work and/or trucked to an off-site facility outside wetlands jurisdiction. There was no plan to retest the soil removed unless contamination became apparent during excavation. He stated whatever can be reused on-site, will be used. The project will result in about 10,000 cubic yards of soil being removed from the site.

The Chair recognized Renata Aylward, 265 Dutton Road, who asked if this project did not go forward from Eversource, but DCR wanted to continue to construct the trail in this area, did the work have to start over. Coordinator Capone stated that all Orders have a three-year completion timeline. She said if DCR wanted to continue, they could if nothing changed overall within the project design.

To a question by Ray Phillips regarding about testing for soil contaminants, Paul McKinley responded that this will be addressed in the Soil and Groundwater Management Plan. If contamination is witnessed either visually or by smell, additional testing will be conducted.

Nick Pernice asked about PFAS issues and if it related to this project. Mr. Vince Roy, Sudbury Water District, said all wells have been tested for PFAS and there are signs that it is present and have seen a slight increase in the numbers. He said that PFAS is uniform from all areas. There was discussion about additional testing during the project.

The Chair then asked for a response from Eversource relative to osprey platforms. Ms. Bartone stated Eversource was interested in installing an osprey platform to house an existing nest on their Boston Post Road location. Coordinator Capone said she was willing to work with Eversource, but asked for a plan to mitigate for the many (80) snags being removed. There was additional discussion about the wildlife habitat plan relative to snags. There would be opportunity to further discuss under the local Bylaw. Coordinator Capone stated this should be taken into consideration when reviewing the planting plan.

The next topic of discussion was the existing culverts. The Chair recognized Diana Warren 32 Old Framingham Road, speaking as a member of the Historic Commission. She stated the culverts have some historic components at various locations on the Right of Way. She urged an assessment of the function of the historic culverts prior to issuing the Order of Conditions or language be included in the Order that would ensure any culverts found of historic value, that they be repaired in lieu of replaced to maintain the historical significance. She further stated that review under Section 106 has not yet been completed and could affect the design of the bridges. Ms. Warren stated that the Historical commission is also not in favor of an asphalt trail and requested attachment 6 referenced in the Stormwater Report be provided. The Chair commented that some of Ms. Warren's points were not

within the jurisdiction of the Conservation Commission. Coordinator Capone commented on the culvert repairs vs. replacement particularly in regards to historic concerns. She said any condition would include a structural analysis of all culverts within the project prior to work. The Applicant had agreed to do this. They needed to be structurally sound and able to withstand any heavy equipment. Following the work, the areas would be reevaluated to ensure no structural damage had been done and if there were any, would require the Applicant to return to the Commission for an Amendment to the Order, or the filing of another Notice of Intent. Atty. Fogel stated that DCR had been clear that they would not entertain any other path substance than what was being proposed. Atty. George Pucci, Counsel for the Town of Sudbury, stated the Commission was required to only discuss and condition the Application being proposed to the Commission. He stated the Historical Commission was advisory only, and that this should not be a determining factor when making a decision from the Conservation Commission standpoint.

Mr. Bergeron stated through the history of the project, there have been many evaluations of the culverts, and confirmed that the Table 4 in the NOI reflects current conditions.

The next topic was to discuss the list of services that would be provided by an Independent Environmental Monitor. The Chair stated the Applicant had agreed in an email that they were willing to fund an independent monitor. Coordinator Capone outlined the responsibilities of the third party monitor. It was not the intention for this third party monitor to be onsite at all times, rather, during crucial times during construction. She outlined the activities that would be overseen by the monitor and asked for Commission input. Ms. Bartone agreed to those parameters.

The Chair requested a synopsis from the Coordinator of all activity to date. She agreed to do this for the next meeting. She requested information about the height of clearance required for the crane to traverse the corridor, and asked how snow would be managed during construction. Mr. Hager responded they would stockpile snow within the limit of work or move off site and would not use deicing products.

Coordinator Capone informed the Commission of upcoming hearings on this project regarding the Chapter 91 Licenses for the bridges and Grant of Location for work in the Town right-of-way. There was further discussion about setting the next meeting. On motion by B. Porter, seconded by R. Morse, to continue the hearing to December 10, 2020, via roll call vote, the Commission so voted unanimously. (K. Holtz abstained.)

On further motion by B. Porter, seconded by M. Sevier, the Commission voted unanimously, via roll call vote, to adjourn the meeting at 8:54 PM.