



July 7, 2020

The Honorable James B. Eldridge, Massachusetts State Senator
The Honorable Kate Hogan, Massachusetts State Representative
The Honorable Carmine L. Gentile, Massachusetts State Representative
State House
Boston, MA 02133

Dear Senator Eldridge and Representatives Hogan and Gentile,

Thank you for your letter of May 14, 2020 concerning the proposed Eversource Transmission Line and Mass Central Rail Trail partnership project in Hudson, Marlborough, Stow and Sudbury. I want to address the concerns raised in your letter and provide you with information about the background of the rail trail project, DCR's position, and our next steps.

BACKGROUND

The Mass Central Rail Trail (MCRT) – Wayside is a 23-mile long, multi-use pathway project stretching from Waltham to Berlin. Construction of this rail trail is a long-standing priority for DCR's trail team and is currently identified as a priority for the Governor's Inter-Agency Trail Team.

DCR acquired the rights to build the trail under a lease from the MBTA in 2010. Since then, we have worked continuously to conduct environmental assessments, permit the project, including review under the Massachusetts Environmental Policy Act (MEPA), collaborate with private parties and municipalities along the route, prepare construction documents, and now build and open sections of the trail to the public.

HUDSON TO SUDBURY PUBLIC – PRIVATE PARTNERSHIP

For three years, DCR has partnered with Eversource Energy to design, permit and build 7.5 miles of the MCRT – Wayside from Hudson to Sudbury, including a few feet in Marlborough and 350 feet in Stow. Eversource Energy holds an easement over a portion of the MBTA right-of-way and desires to install a new, buried transmission line on the MBTA corridor and, similar to our partnership in Weston and Wayland, build the sub-base for our trail, as well as construct three (3) trail bridges and one (1) underpass. Subsequently, DCR will pave the trail surface, seed the shoulders, install safety rail fencing, construct safe road crossings, and provide other amenities.

The Eversource transmission project completed MEPA review and was reviewed and approved by the Energy Facilities Siting Board (EFSB) after extensive public process and testimony.



In large part due to the fact that this is a proposed new transmission line along a former rail corridor, there is opposition to this project by abutters and others, which includes opposition from the Towns of Sudbury and Hudson and the advocacy group “Protect Sudbury.”

In your May 14, 2020 letter, you expressed five concerns regarding the proposed Eversource transmission line along the inactive MBTA railroad corridor along which DCR also plans to build the MCRT. To summarize, these included:

- 1) Eversource’s use of the Department of Environmental Protection’s (DEP) “Best Management Practices for Controlling Exposure to Soil during the development of Rail Trails” (DEP BMPs); and a general concern over potential soil and ground water contamination from the project;
- 2) The suggestion that the subsurface transmission line runs counter to DCR’s mission;
- 3) The combined permitting strategy of the transmission line and rail trail;
- 4) Use of pesticides as a tool for post construction vegetation management; and
- 5) The perceived lack of public process for the rail trail.

I believe that some of these concerns conflate issues between the two projects and to some extent are unrelated to DCR. I want to make sure that I provide you with accurate and current facts about the DCR MCRT project itself, which will advance connections across the statewide trail network:

- 1) It is important to note that Eversource’s project is heavily regulated by DEP, the Department of Public Utilities and the Energy Facilities Siting Board (EFSB) and will need to meet the requirements of M.G.L. Chapter 21E and the federal Resource Conservation and Recovery Act (referred to as RCRA) for cleaning up and off-site disposal of contaminated soils, if any. Also, the DEP rail trail BMPs were specifically designed by DEP to be protective of public health, safety and the environment. In that regard, the DEP BMPs have been implemented many times over the years by municipalities and non-profit organizations for successful and safe conversion of idle rail beds to dynamic recreation corridors, as we are confident will happen here. Within that context, a transmission line is not itself a contaminant and its existence below grade has no bearing on the DEP BMPs and their implementation. Furthermore, in pre-project consultation with DEP, the use of the “DEP BMPs was confirmed as an appropriate guide for protecting public health, safety and the environment for the project.
- 2) As you may know, on April 18, 2017, my predecessor, DCR Commissioner Roy sent a letter to the EFSB advocating for the underground transmission line option (rather than overhead) and supporting the partnership on this project between Eversource and DCR. This letter demonstrates that these joint projects are, in fact, compatible with DCR’s mission. More importantly, the combination of these two projects, especially on a former rail corridor, are by their nature a model for co-locating infrastructure to protect the environment. This partnership will allow DCR to complete a large segment of the trail

years ahead of schedule at limited cost to the Commonwealth due to Eversource's investment as part of its transmission project.

- 3) The two projects are separate, but overlap significantly, both in terms of space covered by DCR's lease rights and Eversource's easement rights, and also in terms of construction approaches, limits of work, potential impacts, potential timing and final condition. A combined permitting strategy for the two separate, but overlapping, projects was recommended by state permitting agencies, including DEP and the Natural Heritage and Endangered Species Program, and was highlighted in the MEPA filings. A joint permitting strategy is the only approach that makes sense and is protective of environmental resources, which know no limits of work or municipal boundaries.
- 4) Under Eversource's EFSB approval, Eversource cannot use herbicides on the corridor. DCR has been working with Eversource on a Memorandum of Agreement (MOA) to address roles and responsibilities for this coordinated effort. The EFSB requires Eversource to submit the MOA to the EFSB and to provide updates concerning how DCR may plan to use herbicides on the corridor. The EFSB approval does not apply to DCR since DCR is not proposing a transmission line, and the EFSB does not regulate DCR or its trails. DCR, as a general matter, does not plan to use herbicides. However, DCR has been clear that it reserves the right for controlled herbicide use in limited circumstances, such as to address invasive plant species for which hand-pulling is not a feasible control measure. DCR will include this within the final MOA that Eversource would include in its required report back to the EFSB.
- 5) DCR engaged in extensive community outreach, public involvement and community input as this project has developed over many years, including public presentations, public site walks, formal written comment periods, and local permitting meetings. Attached (Attachment A) is a listing of the 11 separate venues through which DCR has presented, solicited and incorporated community and public input on DCR's rail trail project. These are in addition to various other smaller meetings and communications, and in addition to the extensive Eversource MEPA and EFSB public processes.

While DCR does not have a role in Eversource's decisions to exercise its easement rights to construct its transmission line, we do believe that this is an important public-private partnership project that minimizes environmental impact and maximizes a cost-effective tax-payer benefit.

Finally, I would like to highlight the importance of DCR's MCRT project for our communities, including those of your districts. Rail trails, especially in this time of Coronavirus, have proven themselves as incredibly valuable community assets serving all ages, families and commuters, and peoples of all walks of life, incomes and races.

As we move through the local permitting processes, DCR will continue to listen to public input and work to address concerns.

I thank you for your interest in this project and your support of DCR's mission. Should you have any questions, please contact DCR's Director of Government Affairs, Craig Cashman, at craig.r.cashman@mass.gov.

Sincerely,

A handwritten signature in black ink that reads "Jim Montgomery". The signature is written in a cursive, flowing style.

Jim Montgomery
Commissioner

cc: Kathleen Theoharides, Secretary of Energy and Environmental Affairs
State Representative Smitty Pignatelli, Chair, Joint Committee on Environment, Natural Resources & Agriculture
State Senator Anne Gobi, Chair, Joint Committee on Environment, Natural Resources & Agriculture
U.S. Senator Ed Markey
U.S. Senator Elizabeth Warren
U.S. Congresswoman Katherine Clark
Sudbury Conservation Commission
Stow Conservation Commission
Hudson Conservation Commission
The Sudbury Valley Trustees
Protect Sudbury Inc.
DCR Special Commission
DCR Stewardship Council

**Attachment A:
MCRT - SUDBURY-HUDSON: PUBLIC AND COMMUNITY OUTREACH AND
INVOLVEMENT**

Multi-Community Official and Stakeholder Meeting and Public Presentation: November 2012

- Presentation Slides Available

Public Presentation (Waltham): May 2012

DCR Info Page, since 2013: <https://www.mass.gov/service-details/mass-central-rail-trail-wayside>

MassTrails Conference, Concurrent Session: November 2013

DCR MEPA Public Meeting, Site Visit, Comments and Proceedings: December 2013

- Public and Community Comments Available

Sudbury Town Officials Meeting with Planning and Conservation: July 17, 2014

- Presentation Slides Available

Multi-Community Official and Stakeholder Meeting and Public Presentation: November 2014

- Presentation Slides Available

Eversource Stakeholder Site Visit: June 2015

Eversource MEPA Site Visit, Comments and Proceedings: 2018-2019

- All Proceedings Available

Eversource Energy Facilities Siting Board Proceeding: 2018-2019

- All Proceedings Available

MassTrails Conference, Concurrent Session: November 2019

- Presentation Slides Available

Hudson Conservation Commission Public Meetings: January, May, June, 2020

- Presentation Slides and Public Comments Available

Stow Conservation Commission Public Meetings: March & May 2020

- Presentation Slides and Public Comments Available

Sudbury Conservation Commission Public Meetings: May & June 2020

- Presentation Slides and Public Comments Available