

# Town of Sudbury

## Historical Commission

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July 7, 2022

Brona Simon  
State Historic Preservation Officer  
Executive Director  
State Archaeologist  
Massachusetts Historical Commission  
220 Morrissey Boulevard  
Boston, MA 0225

By USPS and email to [brona.simon@state.ma.us](mailto:brona.simon@state.ma.us) and [mhc@sec.state.ma.us](mailto:mhc@sec.state.ma.us)

RE: Section 106 Review Sudbury-Hudson Reliability Transmission Line and MA Department of Conservation and Recreation (DCR) MA Central Rail Trail Projects: USACE NAE-2017-01406, MHC #RC.62384, ACHP Case #16522

Dear Ms. Simon,

The Sudbury Historical Commission (SHC) wishes to thank the Massachusetts Historical Commission (MHC) for providing our Commission with a copy of its June 30, 2022, letter to Paul Maniccia, Permits and Regulatory Chief, NE District, US Army Corps of Engineers (USACE) as well as for MHC's ongoing Section 106 review of the above-named undertakings.

Recently, the SHC received a copy of the Advisory Council on Historic Preservation's (ACHP) June 27, 2022, letter to the USACE (attached) in which the Council provides advisory comments pursuant to 36 CFR 800 regarding the USACE's compliance with Section 106. We concur with the Council's advisory recommendations concerning the MOA.

The SHC would like to offer the following comments and information.

### **33 CFR 325 - Appendix C**

Both the February 17, 2022, and May 27, 2022, versions of the MOA the SHC has received contain a whereas clause and stipulations which explicitly refer to 33 CFR 325, Appendix C, indicating to the SHC the USACE's continued reliance on and application of Appendix C.

The recent ACHP letter comments, "A whereas clause references 33 CFR 325, Appendix C, alongside 36 CFR 800, as the regulations implementing Section 106, which is not the case." ACHP also commented that "The post-review discovery stipulation (in the MOA) should

specially reference the Post Review Discoveries Plan instead of referring to the requirements of 36 CFR 800.13 and 33 CFR 325, Appendix C.”

Reference to 33 CFR 325, Appendix C, should be deleted from the MOA.

### **Evaluation of Alternatives to Demolition and Replacement of Bridge 127**

The SHC notes that the MHC June 30<sup>th</sup> letter requests that the USACE modify the MOA by adding “a new Whereas clause that explains the lack of prudent and feasible alternatives to the proposed demolition and replacement of Bridge #127 in Sudbury.”

Absent supporting documentation, the SHC is unable to determine if it is factually correct that there is a “lack of prudent and feasible alternatives to the proposed demolition and replacement of Bridge #127.”

Section 106 regulations state under part 800.6 (a): Resolution of Adverse Effects, Continue Consultation: the agency “shall consult with ...consulting parties...**to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.**”

The SHC’s experience with the USACE is that there has not been a consultation with the SHC “to develop and evaluate alternatives or modifications.” The Commission has not received documentation that substantiates that the agency has, either.

The project consultant, VHB’s November 14, 2019, letter to the USACE addressed to Michael Wierbonics stated that “an **in-depth evaluation** of eight alternatives was completed” for Bridge 127, but it did not describe those alternatives or provide backup documentation. VHB’s September 30, 2020, letter to the SHC provided brief summaries of the eight alternatives – conclusions as to why none of the alternatives except demolition and replacement were feasible. This letter did not provide specific detailed analysis or backup documentation to substantiate the conclusions. The SHC has never received a copy of the “**in-depth evaluation**” referenced in the November 2019 letter and therefore the Commission has not been able to assess its validity.

Since 2020 the SHC has requested that VHB, Eversource and the USACE provide the Commission with any documentation to substantiate that (1) a professional “in-depth evaluation” has been conducted “to develop and evaluate alternatives...” and (2) to determine if as a result of the in-depth evaluation there is a “lack of prudent and feasible alternatives to the proposed demolition and replacement of Bridge #127.”

Also, during the April 5, 2022, SHC meeting, the SHC asked the USACE if the USACE had received the VHB November 2019 referenced “in-depth evaluation” or any professional engineering alternatives analysis to avoid demolition of Bridge 127. The USACE did not answer if it had received a copy of an “in-depth evaluation,” instead referred the SHC’s question to VHB to answer. VHB’s verbal response was that there had been a discussion among structural

engineers and the November 2019 letter “summarized” what their conclusions were about the alternatives. VHB did not confirm that an “in-depth evaluation” had in fact been performed.<sup>1</sup>

At this time, the SHC cannot determine if rehabilitation and restoration of Bridge #127 cannot be feasibly done instead of it being demolished and replaced. Has the MHC received a copy of the “in-depth evaluation” referred in the November 2019 VHB letter?

### **MOA Allows Removal of *Any* Railroad Feature**

The whereas clause in the second paragraph of the May 27, 2022, MOA added the wording, “but not limited to”, which the prior February 17, 2022, MOA version lacked. This wording provides a loophole to allow any, and in fact, all railroad contributing elements of the Central Massachusetts Railroad Corridor Historic District (CMRCHD) to be removed. Therefore, any of the railroad features listed in the Exhibit I Spreadsheet of the Historic Properties Avoidance and Protection Plan may be removed contrary to what the Spreadsheet indicates. MOA Section II, H, refers to “...markers for railroad features to be removed.”

The possible removal of more railroad features is especially concerning because the 2010 Lease Agreement between the Massachusetts Bay Transportation Authority (MBTA) and DCR permits both parties to remove any and all railroad infrastructure. The SHC has repeatedly asked the MBTA<sup>2</sup> and DCR<sup>3</sup> to state in writing that neither party will exercise this Lease Agreement provision to remove any railroad features. The Commission has also asked Eversource for confirmation of what railroad infrastructure it proposes to remove or not remove during Phase I other than the railroad features (track, diamond junction, several culverts, Bridge #127, and partial removal of Bridge #128) that it has informed the Commission it plans to permanently remove or remove by demolition.

### **MOA Stipulations**

The SHC appreciates that the MHC has recommended that a sentence be added to Stipulation II Section I: “Design plans for the rehabilitation of Bridge #128 shall be submitted to the MHC for review and comment.” The SHC suggests that wording be added to the end of this sentence: “prior to commencement of Bridge 128 construction activities or alterations.” The SHC would prefer that the MHC review and comment on the design plans prior to execution of the MOA.

The ACHP June 27<sup>th</sup> letter comments that “It is not clear from the documentation shared with the ACHP that the Corps has clearly addressed how the components of DCR’s rail trail project (Phase II) further compound the adverse effect on historic properties or interfere with the steps proposed by Eversource (Phase I) on the Historic Properties Avoidance and Protection Plan

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<sup>1</sup> Recording, Sudbury Historical Commission April 5, 2022, Meeting with USACE, [www.sudburytv.org](http://www.sudburytv.org), start at 1:57.

<sup>2</sup> Correspondence, Sudbury Historical Commission to Jamey Tesler, Secretary of Transportation, MA DOT, March 15, 2022.

<sup>3</sup> Correspondence, Sudbury Historical Commission to Paul Jahnige, MA DCR August 18, 2021.



(HPAPP) to avoid or minimize effects to the Central Massachusetts Railroad Corridor Historic district (CMRRCHD) from the transmission line project.”

The SHC lacks documentation and is concerned that components the DCR’s MCRT project Phase II further compound adverse effects on historic properties of Phase I. Has MHC received documentation that clarifies DCR Phase II activities on historic properties?

The SHC is disappointed that issues<sup>4</sup> concerning the Section Tool House (SUD.282) have not been addressed in the MOA.

### **Conclusion**

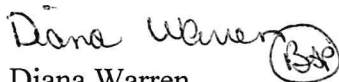
In addition to the issues referenced in this letter, other issues remain unresolved for the SHC which have been the subject of comment in the SHC’s October 25, 2021, and March 14, 2022, letters to the US Army Corps of Engineers.

As the Sudbury Historical Commission has often stated – we and the community of Sudbury highly value our cultural legacy. We care about our unique historical and archaeological resources and recognize the important part the 1881 Central Massachusetts Railroad played in the transformative development of our town and its agricultural economy.

Thank you for your attention to the issues raised in this letter and for assisting our local historical commission in its effort to protect and preserve our heritage.

Please contact the Sudbury Historical Commission if you have any questions.

Sincerely,

A handwritten signature in cursive that reads "Diana Warren". To the right of the signature is a circular stamp containing the initials "B&B".

Diana Warren  
Vice Chair  
Sudbury Historical Commission

cc: US Senator Edward Markey  
Tammy Turley, USACE  
Paul Maniccia, USACE  
John T. Eddins, ACHP  
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah) THPO  
David Weeden, Mashpee Wampanoag Tribe THPO  
John Brown, Narragansett THPO  
Peter Breton, Hudson Historical Commission  
Sudbury Select Board  
Sudbury Town Manager  
Sudbury Town Counsel

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<sup>4</sup> Correspondence. Sudbury Historical Commission Letter to Tammy Turley, US Army Corps of Engineers, October 25, 2021, page 6.