

January 27, 2021

**DRAFT**

DECISION

STORMWATER MANAGEMENT PERMIT

Eversource Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project  
183 Boston Post Road, Sudbury, MA  
SWMP #20-07

DECISION of the Planning Board of the Town of Sudbury, Massachusetts (the "Board") on the petition of NSTAR Electric Company d/b/a Eversource of 247 Station Drive, SE270 Westwood, MA 02090 and Department of Conservation and Recreation (DCR) of 251 Causeway Street, Suite 600, Boston, MA 02114 ("Applicants") and Massachusetts Bay Transportation Authority (MBTA) of 10 Park Plaza, Boston, MA 02116 ("Owner") for approval of a Stormwater Management Permit to construct a new 115-kV underground transmission line and a multi-use path within an existing inactive railroad right-of-way, which will require removal of the existing rails and ties; vegetation clearing; grading; installation of the underground transmission line, duct bank, and manholes; installing a 14-foot-wide gravel base; paving of the 10-foot-wide rail trail, multi-use path; installation of stormwater management features; and site restoration, (the "Project") on the property (the "Property") located at 183 Boston Post Road and within the 4.3 mile long MBTA Right-of-Way subject to a lease agreement with the DCR in Sudbury, MA. The Project proposes alteration of approximately 643,985 sq. ft. (14.8 acres) of land, including approximately 221,410 sq. ft. of land area on slopes greater than 10% and a total increase in impervious area of 226,556 sq. ft., on a 54.4 acre parcel located at 183 Boston Post Road and the MBTA Right-of-Way, Sudbury, MA, Town Assessor Maps K10-0014, K11-5000, K09-5000, K08-5000, K07-5000, J06-5000, J05-5000, and H03-5000, zoned Residential A, Residential C, Business, and Limited Industrial, Water Resource Protection Overlay District Zone II and III, and Flood Plain Overlay District.

This Decision is issued in response to an application submitted to the Board on July 15, 2020 by the Applicants for a Stormwater Management Permit (the "Permit") under Article V (F), Section 5.C of the Town of Sudbury Bylaws (the "Bylaw") and the Town of Sudbury Stormwater Management Bylaw Regulations (the "Regulations").

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Applicants, Owners, abutters, and other parties in interest, as required by law, the public hearing was opened on August 12, 2020 and continued on September 9, 2020, September 23, 2020, October 28, 2020, November 18, 2020, December 9, 2020, January 13, 2021, and January 27, 2021, when it was closed. The project was deliberated on August 12, 2020, October 28, 2020, November 18, 2020, December 9, 2020, January 13, 2021, and January 27, 2021. The following members of the Board were present throughout the proceedings: Stephen Garvin, Charles Karustis, John Hincks, Justin Finnicum, and John Sugrue. The record of the proceedings and submissions upon which this Decision is based may be referred to in the office of the Town Clerk or the Planning and Community Development Department.

Documents submitted for the Board's consideration and collectively referenced as the "Plan", include:

- 1) Sudbury Stormwater Bylaw Permit Application for the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, issued to Sudbury Planning Board, prepared by VHB, dated July 15, 2020 (1,356 pages).

- 2) Sudbury Stormwater Management Plan Narrative for the Sudbury Hudson Transmission Reliability Project and Mass Central Rail Trail Project, Sudbury Massachusetts (Stormwater Management Report), dated March 7, 2018, last revised October 21, 2020, received January 13, 2021 (1,349 pages).
- 3) Site Plans Eversource, Sudbury-Hudson Transmission Reliability Project, Sudbury Stormwater Permit Plans, prepared by VHB, dated July 2020, (181 pages), last revised January 13, 2020, received January 13, 2021 (206 pages). This Plan set represents Project Phase I.
- 4) Site Plans Commonwealth of Massachusetts, Department of Conservation and Recreation, Division of Planning and Engineering, prepared by VHB, dated July 2020, (52 pages), last revised January 13, 2020, received January 13, 2021 (52 pages). This Plan set represents Project Phase II.
- 5) Stormwater Pollution Prevention Plan (SWPPP) Manual Sudbury-Hudson Transmission Reliability Project, Sudbury, Marlborough, Stow, Hudson, prepared by VHB and dated May 2020
- 6) Stormwater Pollution Prevention Plan (SWPPP) Manual Mass Central Rail Trail – Wayside, Sudbury, Marlborough, Stow, Hudson, prepared by VHB and dated May 2020.
- 7) Letter to the Sudbury Conservation Commission, regarding the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, prepared by BETA Group, Inc., dated May 11, 2020 (27 pages).
- 8) Letter to the Sudbury Conservation Commission, in response to BETA’s stormwater peer review, prepared by VHB, dated July 30, 2020 (11 pages).
- 9) Letter to the Sudbury Conservation Commission, regarding the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, prepared by BETA Group, Inc., dated August 31, 2020 (20 pages).
- 10) Peer Review Memo from Horsley Witten, dated September 18, 2020.
- 11) Memorandum regarding the Underground Transmission Line Stormwater Management Standards Compliance for Hypothetical Development Scenario, prepared by VHB, dated November 10, 2020 (5 pages).
- 12) Memorandum regarding the response to comments from Horsley Witten Peer Review of the Stormwater Management, prepared by VHB, dated November 10, 2020 (10 pages).
- 13) Letter to the Sudbury Planning Board, in response to HW’s Comment Letter, prepared by VHB, dated October 21, 2020 (14 pages).
- 14) Sudbury Stormwater Management Plan Narrative, for the Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project, Sudbury Massachusetts, prepared by VHB, revised October 21, 2020 (1,349 pages).
- 15) MassCentral Rail Trail (MCRT) – Wayside Section Stormwater Management System Operation and Maintenance (O&M) Plan and Long-Term Pollution Prevention Plan (LTPPP), dated June 2020.
- 16) Stormwater Pollution Prevention Plan (SWPPP) Construction Site Inspection Report – form template (5 pages).
- 17) Email from Lori Capone, Sudbury Conservation Coordinator regarding Conservation Commission review of the Stormwater Standards, dated November 3, 2020.
- 18) Peer Review Memo (#2) from Horsley Witten, dated November 23, 2020.
- 19) Letter to the Sudbury Planning Board, Supplemental Submission, in response to HW’s Comment Letter, prepared by VHB, dated December 2, 2020 (67 pages).
- 20) Peer Review Memo (#3) from Horsley Witten, dated December 4, 2020.
- 21) Corridor Management Plan for Massachusetts Central Rail Trail and Sudbury-Hudson Transmission Reliability Project, dated August 7, 2020, received January 26, 2021.

## I. BASIS FOR DECISION

The Board bases its Decision on the following:

- A. The Applicants filed for approval of a Stormwater Management Permit to construct a new 115-kV underground transmission line and a multi-use path within an existing inactive railroad right-of-way, which will require removal of the existing rails and ties; vegetation clearing; grading; installation of the underground transmission line, duct bank, and manholes; installing a 14-foot-wide gravel base; paving of the 10-foot-wide rail trail; installation of stormwater management features; and site restoration, (the "Project") which will disturb on the property (the "Property") located at 183 Boston Post Road and within the 4.3 mile long MBTA Right-of-Way, in Sudbury, MA on a 54.4 acre parcel located at Boston Post Road and the MBTA Right-of-Way, Sudbury, MA, Town Assessor Maps K10-0014, K11-5000, K09-5000, K08-5000, K07-5000, J06-5000, J05-5000, and H03-5000.
- B. Granting the Permit is in harmony with the general purpose and intent of the Bylaw in that the proposed drainage system design and controls will protect and maintain the public health, safety, environment and general welfare by controlling the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with the proposed development; and shall protect the health, safety, environment and general welfare by controlling runoff and preventing soil erosion and sediment resulting from construction/alteration and development.
- C. The Project complies with the applicable regulations and performance standards of the most recent version of the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy and Standards.
- D. The development and related activities shall maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics from the site in order to avoid flooding, stream bank erosion, siltation, nonpoint source pollution, property damage and to maintain the integrity of stream channels and aquatic habitats.
- E. The Project is designed to minimize or avoid damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff. The project conforms to the general criteria of the Bylaw and Regulations to the maximum extent feasible.
- F. The Plan establishes provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.
- G. In addition to structural components, the Project design uses nonstructural stormwater management, stormwater better site design practices, and/or "low impact development practices", such as the use of bio-retention basins, to the maximum extent practicable.
- H. The Project represents a two-phased project with Phase I the Eversource Transmission Reliability Project and Phase II the DCR Mass Central Rail Trail. Additional development upon the Project Site and Property that does not relate to the Project or the Plan may require separate approval and is not subject to this Permit.

- I. The Stormwater Management Standards shall apply to the maximum extent practicable to footpaths, bike paths and other paths for pedestrian and/or nonmotorized vehicle access. The Planning Board finds the completed Project as presented will meet the Stormwater Management Standards to the maximum extent practicable. After construction is complete, the 14-foot wide gravel path will be utilized by Eversource once every three years and the primary purpose of the path will be for a multi-use rail trail.
- J. The proposed design will include best management practices and pre-treatment of runoff for water quality improvement. Erosion and sedimentation control are proposed on the Plan. Long term maintenance, operation and reporting will be required.
- K. The Applicants have submitted a Stormwater Management and Erosion Control Plan and project description and Operation and Maintenance Plan, which are satisfactory.

THEREFORE, the Board hereby GRANTS the requested Stormwater Management Permit, as requested in the application and shown on the Plan, located in Sudbury, Middlesex County, Massachusetts, with the benefit of the following Plan modifications, conditions and limitations. The approval herein granted is based on the Plan as described above.

## II. CONDITIONS AND REQUIREMENTS

The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and Permit conditions shall give the Town the rights and remedies set forth in Section 12 of the Regulations.

- A. Conformity: All construction at the Project Site shall be in substantial conformity with the Plan, which is on file with the Board, and representations made by the Applicant during the public hearing.
- B. Access During Construction: The Applicant shall ensure safe and convenient vehicular access to the Project Site during the entire duration of the construction period. The Board and its representatives shall be permitted access to the Project Site to observe and inspect the site and construction progress until such time as the Project has been completed. When possible prior to Project Site access, reasonable advance notice will be made. Compliance with health and safety protocols for the Project Site will be followed.
- C. Conditions prior to any vegetation removal, site disturbance, or construction activities:
  - 1) The Applicant shall submit \$10,000.00 for the purpose of the Town hiring a construction monitor to perform the inspections set forth in Section II. R. below for compliance with the stormwater management permit, design, and plans. If prior to completion of the Project, the Board finds that this initial deposit is not sufficient to cover actual costs incurred by the Town for these purposes, the Applicant shall be required to submit forthwith such additional amount as is deemed required by the Board to cover such costs. If the actual cost incurred by the Town for such purposes is less than the amount on deposit as specified above, the Board shall authorize that such excess amount be refunded to the Applicant concurrently upon issuance of a Certificate of Completion.

- 2) The Project will disturb more than one acre of land and is therefore required to obtain coverage under the Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Construction General Permit. Draft Stormwater Pollution Prevention Plans (SWPPP) have been included in the application. The draft SWPPP includes recommended construction period pollution prevention and erosion and sedimentation controls. For each Project Phase, the final SWPPPs with all applicable attachments shall be submitted to the Board for review and approval prior to commencement of any work in connection with the Project. If a response is not received within 10 days of receipt, the Plan shall be deemed approved. All work on the Project Site shall be conducted in accordance with the requirements of those permits and plans. Any changes made to the SWPPP during the course of the project shall be submitted and approved by the Planning Board or its representative prior to implementation.
- 3) Erosion control methods shall be installed as shown on the Plan and any updates shall be provided to the Planning Board's representative as work progresses on the Project Site.
- 4) A performance bond shall be submitted and held by the Planning Board until the paved rail trail, multi-use path is constructed, the Premises are fully stabilized with vegetation, and the stormwater structures have been cleaned and deemed functional by the Director of Public Works. The initial bond amount shall be established by the Town Engineer and may be adjusted at the discretion of the Town Engineer based on a detailed estimate provided by the Applicant. The bond amount may be reduced as progress is made during construction subject to review by the Town Engineer and approval of the Planning Board
- 5) The Applicant shall provide for review and approval by the Planning Board or a representative a construction schedule detailing construction activities and sequencing, that limits the area of the Site disturbed at any one time to the extent possible to mitigate environmental impacts and risk of erosion. If a response is not received within 10 days of receipt, the Schedule shall be deemed approved. The schedule shall be updated as necessary throughout construction and provided to the Planning Board.
- 6) At least two weeks prior to any land disturbance, a structural engineer shall inspect the culverts and drainage structures within the Project Site to determine whether they are structurally sound to (a) function hydrologically and (b) withstand the planned construction activities and shall provide a report of the findings to the Planning Board. If any culvert does not meet these requirements or is damaged during construction, it shall be replaced with a culvert that meets current MA Stream Crossing Standards to the maximum extent practicable, as determined by the Sudbury Conservation Commission or its Agent. Any recommended improvements to these structures, not included in this Permit, shall be required to submit a separate permit application and/or permit amendments for further evaluation.
- 7) This Decision and the Operations and Maintenance Plan shall be recorded in the Middlesex South District Registry of Deeds, within the chain of title of the affected property. The recording information shall be submitted to the Planning Board.
- 8) An Illicit Discharge Compliance Statement, signed by the Applicant, shall be submitted to the Planning Board.
- 9) The Soil and Groundwater Management Plan (SGMP) prepared in conjunction with the selected contractor and meeting the requirements of the Sudbury Conservation Commission as conditioned in the Order of Conditions shall be submitted to the Planning Board.

- 10) A Project Compliance Manual shall be submitted to the Planning Board for review and approval. The document shall include the requirements for compliance with the various permits for the Project, including this Decision and Conditions herein. If a response is not received from the Planning Board or its representative within 10 days of receipt, the Project Compliance Manual shall be deemed approved.
  - 11) The Applicant shall provide to the Planning Board copies of both the executed Memorandum of Understanding between Eversource and Department of Conservation and Recreation and the lease agreement between Eversource and the MBTA to ensure the obligations of the project are fulfilled.
  - 12) The project engineer, contractors, and all subcontractors must be informed of the conditions in this Decision.
- D. A Stormwater Construction Site Inspection Report (Stormwater Pollution and Prevention Plan Inspection Report) shall be generated by the Applicant or its representative for this Project, at a minimum, every two weeks during construction, and after every major storm event.
  - E. Access to the drainage structures for inspection and maintenance shall be kept clear of obstruction.
  - F. Additional soil testing shall be conducted during construction in the vicinity of “areas of increased infiltration” to verify soil conditions, infiltration rates, and groundwater levels. At a minimum, soil tests shall be conducted in the vicinity of Station 502+00, Station 511+00, Station 570+00, and Station 579+00. A report of the findings, comparison with expectations, and a statement on the appropriateness of the design shall be provided to the Planning Board by the design engineer for review. If findings are not consistent with the assumptions made for the stormwater management design, revisions to the design and approval of modifications to the Plan may be required.
  - G. Construction reports with a summary of past week activities and look ahead at anticipated activities with advanced notification of anticipated phasing transitions shall be provided to Planning and Community Development on a weekly basis. On-site meetings shall be provided throughout construction, as needed and indicated by the Planning and Community Development Environmental Planner. Site stabilization measures should be reviewed for adequacy and adjustments to the sediment and erosion control plan may be considered to optimize site stabilization. Reports shall include the location of active stockpiles with confirmation that appropriate erosion control measures are being implemented.
  - H. Soil stockpiles shall be placed on a tarp or plastic sheet as well as covered with tarp or plastic sheet and surrounded by erosion controls.
  - I. Responsibility of sediment and erosion control will depend on project phasing.
    - 1) During Phase I, Eversource shall be responsible for installing and maintaining erosion controls within the project site. Eversource may remove erosion controls from areas restored and revegetated as part of Phase I work if the Planning Board representative has inspected those areas and confirmed they are stabilized sufficiently. In the period between Phase I and Phase II, any erosion controls removed in areas that have been properly stabilized shall be reinstalled prior to commencement of Phase II.

- 2) During Phase II, DCR shall be responsible for installing and maintaining erosion controls on the Project Site during the performance of all Phase II construction activities, which may include utilizing erosion controls that were installed and maintained by Eversource if those erosion controls remain in proper condition and demarcate the limit of Phase II work. Otherwise, DCR shall install new erosion controls as required for Phase II, including in any restored and revegetated areas where Eversource was authorized to remove erosion controls.
  - 3) Following completion of Phase II and inspection by a Planning Board representative, DCR shall be responsible for removal of all erosion control barriers.
- J. Proposed infiltration basins shall not be used as sediment basins during construction. Additional erosion controls shall be installed to protect infiltration basins from sedimentation until contributing areas are stable.
- K. Evaluation of appropriate screening for adjacent properties has not been completed. Alterations to the Landscape Plan shall be submitted to Planning and Community Development for review and approval. If a response is not received within 10 days of receipt, the Plan shall be deemed approved.
- L. Native plants should be used for plantings throughout the site.
- M. All equipment, including timber mats, shall be cleaned and certified invasive species free, prior to entering the site. Such certification shall occur prior to commencement of mobilization into the site and when remobilized within the project site. All areas of disturbance shall be monitored for invasive species, which shall be manually removed if encountered.
- N. The Applicant, DCR, and its successors and assigns shall be responsible for maintaining the stormwater management system for the development in accordance with the Operation and Maintenance (O&M) Plan submitted and applicable DEP regulations. An annual Operation and Maintenance inspection shall be conducted by a certified inspector who will prepare an annual status report for delivery to the Board demonstrating compliance with the O&M Plan. Revisions to the O&M Plan may be proposed to and accepted by the Planning Board or its representative.
- O. The following source control and pollution prevention measures shall be employed on the site to prevent contamination of stormwater runoff:
- 1) Debris shall be removed from the paved path regularly, ideally swept with a vacuum or regenerative air sweeper.
  - 2) Measures shall be taken to control litter on the site.
  - 3) No chemicals or hazardous wastes shall be stored on the property.
  - 4) Slow release nitrogen and low phosphorus fertilizers shall be applied sparingly to prevent wash off.
  - 5) No fertilization, herbicide, or pesticide application shall occur within any vernal pool, vegetated wetland or waterway. Eversource, as part of their operations, shall not conduct fertilization, herbicide, or pesticide application. DCR shall not use herbicides within any vernal pool, vegetated wetland or waterway. Invasive species removal by DCR will be by mechanical means when possible and spot treatments of herbicide by a licensed applicator when other approaches are not effective. This Condition is ongoing and does not expire with the expiration of the Order of Conditions or the issuance of a Certificate of Compliance.
  - 6) Hazardous wastes shall be used and disposed of properly.
  - 7) No vehicle washing shall be allowed on the property.

- 8) Vehicles shall be maintained and clean up fluid spills/drips shall occur with absorbent materials immediately.
  - 9) Personnel shall be educated on implementation of spill abatement and containment procedures.
  - 10) No de-icing products shall be used on the site.
  - 11) No coal tar-based pavement sealants are to be used on site.
- P. If developed by DCR, and as approved by the Department of Agricultural Resources, any Vegetation Management Plan/Integrated Pest Management Plan shall be submitted to the Planning Board annually, and if chemicals will be used, the Board shall be notified in advance.
- Q. The Applicant, DCR, has indicated no snow and ice management will occur on the multi-use path and such operations are not included in this permit. Any change to snow and ice operations shall require a modification to the permit. As needed during construction, the Applicant shall designate areas for snow storage in upland locations where meltwater can drain onto pervious surfaces away from water resources, infiltration BMPs, bio-retention areas, and wells.
- R. Inspections: In accordance with Section 9.B of the Regulations, the Board, or its designee, may inspect the Project Site at the following stages, at a minimum. The Applicant shall inform the Board of these stages in construction at least two days prior to commencement or completion, whichever is applicable, for scheduling of an inspection:
- 1) Pre-Construction Site Inspection – prior to commencement of construction for each Project phase, during which the construction schedule and acceptance of erosion control barriers can be finalized.
  - 2) Erosion and Sediment Control Inspection – to ensure erosion control practices during and after construction are in accordance with the approved Plan.
  - 3) Construction Inspection – multiple inspections will be made of the stormwater management system facilities, including but not limited to infiltration systems, BMPs, and connections to existing pipes, prior to backfilling of underground drainage or stormwater conveyance structures. It is recommended the Planning Boards designee inspect all permanent stormwater infiltration BMPs for acceptance prior to construction demobilization to a new location within the ROW. The Applicant and Planning Board designee will develop and agree to an inspection plan at the Pre-Construction Site Inspection.
  - 4) Phase I Completion Inspection - after Phase I has been constructed, once the as built plan is prepared, and before partial Certification of Completion is issued.
  - 5) Final Inspection – after the Phase II has been constructed, once the final as built plan is prepared, and before the final Certificate of Completion has been issued.
- S. As-built Plan: The Applicant shall submit an as-built plan, containing all elements listed in Section 11.A.2 of the Regulations, to the Board upon completion of this Project and prior to the issuance of the Certificate of Occupancy. The plan shall be signed by a land surveyor or other qualified professional. A registered engineer shall certify that the work has been completed in accordance with the approved Plan and the Stormwater Management Permit.
- 1) Since the project is phased, the submission of current status, as-built plans shall be presented at the phasing transition
  - 2) Following completion of Phase I, Eversource shall request a Partial Certificate of Completion. This Request shall be accompanied by as-built plans, stamped by a professional land surveyor or other qualified professional, detailing all elements of Phase I including all stormwater management elements, post construction structural report, and

affidavit from all site professionals that all aspects of this Decision were adhered to. Any deviations from the approved plans shall be specifically called out on the as-built plan. Vegetation outside the limit of work shall also be evaluated to confirm no negative impacts occurred outside the limit of work.

- T. No use or occupancy (except in connection with the construction activity authorized by this Permit) shall be conducted on the Project Site until a Certificate of Completion is issued by the Board in accordance with Section 11.0 of the Regulations. A Partial Certificate of Completion will be issued upon the satisfactory completion of Phase I. To the extent that the requirements of this Permit have been met with respect to such completed phase of the Project on the Project Site, the Board may permit the use and occupancy of the completed phase in accordance with Section 11.0 of the Regulations.
- U. Should Phase II not commence within two years of completion of Phase I, the Applicant shall file an Amendment to bring the stormwater management into full compliance with the Town of Sudbury Stormwater Regulations.
- V. The Planning Board shall be notified, in writing, within forty-eight hours of any transfers of title on this property. In the event the Property ownership or trail, multi-use path management transfers to a non-public entity, a covenant requiring maintenance of the stormwater management system in accordance with Best Management Practices and the Operation and Maintenance Plan shall be recorded on the Project Site. This covenant shall allow for the placement of municipal liens on the Project Site if the Applicant fails to maintain the system and the Town needs to do so. The Town shall be granted an easement to access the site in case emergency maintenance is needed. The Applicant shall submit the covenant for review and approval of the Select Board prior to recording at the Middlesex South District Registry of Deeds. A template will be provided by the Town.
- W. The culverts and drainage structures shall be inspected at least annually and cleared of debris as needed. If culverts become damaged or no longer function as required, they shall be replaced according to most current MA Stream Crossing Standards to the maximum extent practicable, as determined by the Sudbury Conservation Commission or its Agent. Any recommended improvements to these structures, not included in the application for this Permit, shall be subject to a separate permit application and/or permit amendments for further evaluation.
- X. The corridor and all components of the stormwater management system shall be maintained in compliance with the Mass Central Rail Trail (MCRT) – Wayside Section Stormwater Management System Operation and Maintenance Plan (O&M) and the Long Term Pollution Prevention Plan.
- Y. The Project is subject to an Energy Facility Site Board (EFSB) Decision (EFSB 17-02/E.P.U. 17/82/17/83). Since this EFSB Decision is currently under Appeal by the Town of Sudbury, any changes to the project as a result of the appeal process may cause the need for project modifications to undergo further review by the Planning Board, [in which case the applicant shall return to the Board to seek the necessary modifications.](#)
- Z. Violation of Conditions: Violation of any of the conditions of this Stormwater Management Permit may be grounds for revocation of this Permit, or of any building or occupancy permit granted hereunder, or both. In the case of violation of the continuing obligations of this Permit, the Town shall notify the Owner and Applicant of such violation and give the Owner and Applicant reasonable time, not to exceed thirty days, to cure the violation. If at the end of said thirty-day period, the Applicant has not cured the violation, or, in the case of violations requiring more than thirty days to

cure, has not commenced the cure and prosecuted the cure expeditiously, the Board may, after notice to the Applicant or owner of the Project Site, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of the Permit. As an alternative, the Town may enforce compliance with the conditions of this Permit by an action for injunctive relief before any court of competent jurisdiction. The Applicant/Owner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Permit.

- AA. The Applicant by accepting this Permit warrants that the Applicant has included all relevant documentation, reports, and information available to Applicant, in the application submitted and that this information is true and valid to the best of the Applicant's knowledge.
- BB. The project requires an Earth Removal Permit. An application should be submitted to and permit issued by the Earth Removal Board prior to any site disturbance. The project also requires an Order of Conditions from the Sudbury Conservation Commission. Inconsistencies between plans approved by and conditions issued by other permitting authorities may require the Applicant to return to the Planning Board to review and approve the modifications.

### III. LIMITATIONS

The authority granted to the Applicant by this Permit is limited as follows:

- A. **Applicability of Permit:** This Permit applies only to the proposed construction of a new 115-kV underground transmission line and a multi-use path within an existing inactive railroad right-of-way, which will require removal of the existing rails and ties; vegetation clearing; grading; installation of the underground transmission line, duct bank, and manholes; installing a 14-foot-wide gravel base; paving of the 10-foot-wide rail trail, multi-use path; installation of stormwater management features; and site restoration, on the Project Site, as shown on the Plan. This Permit does not apply to other portions of the Property. Construction of the Project shall be conducted in accordance with the terms of this Permit and shall be limited to improvements shown on the Plan referenced above as amended by the conditions of this Decision. Any change of use for the Project or change to the Plans shall require notice to the Board and may require a new or amended Stormwater Management Permit from the Board.
- B. **Limitations of Further Development:** There shall be no further development, material increase in intensity of use, change in use as per the Sudbury Zoning Bylaw, modification of the approved development plan of the Project without either a new Permit or the written consent of this Board. This does not absolve the Applicant from securing any permits required by other governmental boards, agencies or bodies having jurisdiction related to water quality or quantity.
- C. **Other Permits or Approvals:** This decision applies only to the requested Stormwater Management Permit. Other permits or approvals required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- D. **Bylaw Compliance:** The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Bylaw.
- E. **Lapse of Permit:** Should the land-disturbing activity approved under this Permit not begin within 12 months following Permit issuance, the Board may evaluate the existing stormwater management plan to determine whether the plan still satisfies local program requirements and to verify that all

design factors are still valid. If the Board finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the commencement of land-disturbing activities. If the Project associated with an approved Stormwater Management Permit granted under the Bylaw has not been substantially completed within three years of Permit issuance, a new Permit or a Permit extension will be required by the Board.

- F. Appeals: Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 249, Section 4.

The provisions of this Permit shall be binding upon every owner or owners of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown as the Property on the Subdivision Plan, in full force and effect for the benefit of and enforceable by the Town of Sudbury.

This Permit shall not take effect until a copy of this Decision has been recorded with the Middlesex South District Registry of Deeds and until a certified copy of the recorded document is submitted to the Board.

Witness our hands this 27<sup>th</sup> day of January, 2021.

SUDBURY PLANNING BOARD

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Stephen Garvin, Chair

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Charles Karustis, Vice Chair

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John Hincks, Clerk

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Justin Finnicum

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John Sugrue