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September 30, 2024

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
EXPANDED ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Palmer to Ware Improvements Project
PROJECT MUNICIPALITY : Ware, West Brookfield, and Palmer
PROJECT WATERSHED : Chicopee River
EEA NUMBER : 16866
PROJECT PROPONENT : New England Power Company (d/b/a National Grid)
DATE NOTICED IN MONITOR : August 23, 2024

Pursuant to the Massachusetts Environmental Policy Act (MEPA; M.G.L. c. 30, ss. 61-62L) and Section 11.06 and 11.11 of the MEPA Regulations (301 CMR 11.00), I have reviewed the Expanded Environmental Notification Form (EENF) and hereby determine that this project **requires** the submission of an Environmental Impact Report (EIR). In accordance with Section 11.06(8) of the MEPA regulations, the Proponent requested that I allow a Single EIR to be submitted in lieu of the usual two-stage Draft and Final EIR process. I hereby grant the request to file a Single EIR, which the Proponent should submit in accordance with the Scope included in this Certificate.

Project Description

As described in the EENF, the project consists of upgrading an existing 10.35-mile-long section of overhead transmission line (O15N Line) from Palmer Substation #503 to Ware Substation #501. Specifically, the project involves replacing the existing line and structures to improve telecommunications between the two substations, address widespread damage to the existing structures, and improve reliability of the transmission line. The transmission line will be moved to the center of the existing right-of-way (ROW), completely replacing the existing structures, conductor, and shield wire. Work will include minor vegetation management, upgrading existing access roads, and creating new access as required to construct and maintain the rebuilt line. New access road construction will consist of grading and laying gravel. Work pads will be constructed/utilized to facilitate the removal of existing structures and new pole installations. As described in the EENF, work pads constructed in wetlands will consist of temporary construction mats. Work pads constructed within Riverfront Area or Rare Species Habitat will be graded and restored after construction is complete. Work pads in the remaining upland

areas will be constructed through grading and installation of gravel. All work is proposed within the existing, maintained ROW.

The rebuilt line will generally be constructed with light-duty steel single-pole structures, ranging in height from approximately 75 feet to 110 feet above ground. Where the O15N Line crosses under a different existing transmission line (the 345 kV 301 Line north of Smith Street in Palmer), engineered steel H-frame structures will be utilized instead. The existing steel shield wire will be replaced with optical ground wire (OPGW) and will include 15 OPGW splice boxes. The line will continue to be operated at 69 kilovolts (kV), but designed to allow future operation at 115 kV, if needed. According to the Proponent, New England Power Company (NEP), additional upgrades to the connecting substations (which are not proposed as part of this project) would be required prior to the line operating at 115 kV. The rebuilt line will utilize fewer structures than the existing line, with a total of 147 structures proposed to be removed, and 112 structures proposed to be installed. The EENF indicates that the project will improve the reliability, safety, and resiliency of the transmission line.

Project Corridor

The 150-acre project corridor consists of a 10.35-mile section of the O15N ROW, traversing the Towns of Ware, West Brookfield, and Palmer. This section of the O15N originates at Palmer Substation #503 (located southeast of downtown Palmer), crosses Route 9 and Route 32, and terminates at Ware Substation #501 (located northeast of downtown Ware). The eight-mile stretch of the ROW from the Ware Substation to Structure 118 is approximately 100 feet wide and generally cleared; in the remaining two miles of the project corridor to the Palmer Substation, the ROW is approximately 200 feet wide and similarly cleared to the edge of the Proponent's easement rights. For its entire length, the existing O15N Line is off-center, with the outermost conductor only approximately 30 feet away from the edge of the ROW. All but eight (8) of the 147 structures supporting this section of the existing 69 kV O15N line are wood, with a majority (six) of the eight steel structures installed in 2021 to replace extensively damaged wooden structures. Adjacent land uses are predominantly forest, with some residential, agricultural, and light industrial uses.

According to the EENF, while all work will be contained within the existing, maintained ROW, there are Article 97 Land¹ within and adjacent to the project corridor (as further described below). The project includes work in *Estimated and Priority Habitat of Rare Species* as delineated by the Natural Heritage and Endangered Species Program (NHESP) in the 15th Edition of the Massachusetts Natural Heritage Atlas. Wetland resource areas within the ROW include Bordering Vegetated Wetland (BVW), Land Under Water (LUW), Bank, and Riverfront Area. There are 16 Certified Vernal Pools within 0.5 miles of the project corridor, but none within the existing ROW. Lower Graves Brook, an Outstanding Resource Water (ORW) is located approximately 0.5 miles from the edge of the existing ROW.

The project corridor does not cross any mapped Environmental Justice (EJ) populations (as defined in M.G.L. c. 30, § 62) but is within one mile of three EJ populations; all of which are characterized by Income criteria. There are seven (7) additional EJ populations located within 5 miles of the project corridor. As described below, the EENF included a review of potential impacts and benefits to EJ populations and described public involvement efforts undertaken to date.

¹ Article 97 refers to Article 97 of the amendments to the state constitution, which require a 2/3 vote of the General Court to authorize any change in use or disposition of land or interest in land that was acquired for the purposes set forth in Article 97, such as park and conservation land.

Environmental Impacts and Mitigation

According to the EENF, potential environmental impacts associated with the project include the alteration of ±19 acres of land and the alteration of several wetland resource areas, including approximately 4,811 square feet (sf) of LUW; 2,617 linear feet (lf) of Bank; 200,080 sf (4.59 acres) of BVW; and 98,523 sf (2.26 acres) of Riverfront Area. The project involves the alteration of approximately 20.86 acres of Priority/Estimated Habitat (all located within the maintained ROW) that may result in a “Take” of mapped rare species, as further discussed below.

Measures to avoid, minimize, and mitigate project impacts include containing all proposed work to the existing ROW; use of temporary construction mats where crossing wetlands or water courses is unavoidable; use of erosion and sedimentation controls and other best management practices (BMPs) during construction; restoration of any work pads proposed within Riverfront Area or Priority/Estimated Habitat; complete avoidance of work within the 100-year floodplain; and implementation of measures to protect identified rare species in consultation with NHESP. As discussed below, the Single EIR should provide more detail on avoidance and minimization measures, particularly with regard to the proposed access roads and work pads.

Jurisdiction and Permitting

The project is undergoing MEPA review and is subject to a mandatory EIR pursuant to 301 CMR 11.03(3)(a)(1)(a) of the MEPA regulations because it requires Agency Actions and will result in the alteration of one or more acres of BVW (4.59 acres). The project is also required to prepare an EIR under 301 CMR 11.06(7)(b) of the MEPA regulations because it is located within one mile of one or more EJ populations. Additionally, the project exceeds the Environmental Notification Form (ENF) thresholds at 301 CMR 11.03(3)(b)(1)(d) and 11.03(3)(b)(1)(f) as it will result in the alteration of 5,000 or more sf of BVW, and alteration of one-half acre or more of any other wetlands, respectively. The project may also exceed the ENF threshold at 301 CMR 11.03(2)(b)(2), alteration of greater than two acres of disturbance of designated Priority Habitat, as defined in 321 CMR 10.02, that results in a Take of a state-listed endangered or threatened species or species of special concern.

The project requires a 401 Water Quality Certification (WQC) from the Massachusetts Department of Environmental Protection (MassDEP), an Access Permit from the Massachusetts Department of Transportation (MassDOT), Energy Facilities Siting Board (EFSB) Approval, and potentially a Conservation and Management Permit (CMP) from NHESP.

The project requires Orders of Conditions (OOC) from the Palmer and Ware Conservation Commissions (or in the case of an appeal of either OOC, a Superseding Order of Conditions from MassDEP) and review by the West Brookfield Authority. The project also requires Section 404 Pre-Construction Notification (PCN) from the U.S. Army Corps of Engineers (USACE) and a National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) from the U.S. Environmental Protection Agency (EPA).

Because the project is not seeking Financial Assistance from an Agency, MEPA jurisdiction extends to those aspects of the project that are within the subject matter of required or potentially required Permits and are likely, directly or indirectly, to cause Damage to the Environment.

Request for Single EIR

The MEPA regulations indicate a Single EIR may be allowed provided I find that the EENF:

- a) describes and analyzes all aspects of the project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the Scope;
- b. provides a detailed baseline in relation to which potential environmental impacts and mitigation measures can be assessed; and,
- c. demonstrates that the planning and design of the project use all feasible means to avoid potential environmental impacts.

For any Project for which an EIR is required in accordance with 301 CMR 11.06(7)(b), I must also find that the EENF:

- d. describes and analyzes all aspects of the Project that may affect EJ Populations located in whole or in part within the Designated Geographic Area around the project; describes measures taken to provide meaningful opportunities for public involvement by EJ Populations prior to filing the EENF, including any changes made to the project to address concerns raised by or on behalf of EJ Populations; and provides a detailed baseline in relation to any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)(1)

Consistent with this request, the EENF was subject to an extended comment period under 301 CMR 11.05(8). For the reasons state below, I hereby grant the request to file a Single EIR.

Review of the EENF

The EENF provided a description of existing and proposed conditions, preliminary project plans, a copy of NEP's construction BMPs ("Maintenance and Construction Best Management Practices for New England" (EG-303NE)), and copies of correspondence with the Massachusetts Historical Commission (MHC). It identified measures to avoid, minimize and mitigate environmental impacts. Consistent with the MEPA Interim Protocol on Climate Change Adaptation and Resiliency, the EENF contained an output report from the MA Climate Resilience Design Standards Tool prepared by the Resilient Massachusetts Action Team (RMAT) (the "MA Resilience Design Tool"),² together with information on climate resilience strategies to be undertaken by the project. It also included a description of measures taken to enhance public involvement by EJ populations and a baseline assessment of any existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ Populations in accordance with 301 CMR 11.07(6)(n)(1).

The Proponent provided additional information to the MEPA Office regarding the avoidance of environmental impacts, access road and work pad construction, open space impacts, and transmission upgrades on September 26, 2024. For purposes of clarity, all supplemental materials provided by the Proponent are included in references to the "EENF," unless otherwise indicated.

² https://resilientma.org/rmat_home/designstandards/

Alternatives Analysis

As described in the EENF, a review of the 69 kV O15N transmission line's recent operating history, design, and physical condition indicates that it should be rebuilt to ensure reliable service. Specifically, the project is proposed to address the existing line's off-center location within the ROW, resulting in an increased outage risk due to fallen trees; a documented history of outages from lightning, thunderstorms, and fallen trees; poor access for maintenance and outage restoration; and widespread woodpecker damage and structure deterioration. In addition, the EENF states that the project is needed to provide increased shielding to protect the line from lightning and fiber optic capability to improve telecommunications. To address these issues, the EENF evaluated a No-Build Alternative, Partial Rebuild Alternative, Non-Wires Alternative, Rebuild with Spacer Cable Alternative, New Build/New Route Alternative, and Complete Rebuild Alternative (the Preferred Alternative). The EENF included a table comparing each alternatives' feasibility, environmental impacts, and ability to meet project goals (Table 2-2).

The No-Build Alternative was dismissed because, according to the EENF, the transmission structures have a documented history of widespread damage requiring repair and replacement. While this Alternative would avoid environmental impacts associated with construction of a completely rebuilt line (as with the Preferred Alternative), it would result in repeated temporary environmental impacts for access to stage equipment to repair or replace structures on an as-needed basis. It would also not address the poor configuration of the line within the existing ROW, as well as the associated potential for outages due to trees. As such, this Alternative was dismissed.

The Partial Rebuild Alternative would consist of a targeted structure repair program that would address only the structures in the worst condition. As stated in the EENF, replacing individual structures in stages/as necessary would require keeping the existing line in its current configuration in the existing off-center alignment on the ROW. This Alternative would involve similar impacts to the No-Build Alternative and was dismissed for similar reasons; i.e., it would not address the inherent design issues, and would not completely avoid environmental impacts as repeated temporary impacts would still be incurred to obtain access to and safely stage equipment around the existing structures.

The Non-Wires Alternative (NWA) would involve utilizing a combination of energy efficiency and demand response programs, new distributed generation, and new energy storage facilities as alternative means of addressing the need for transmission line improvements. According to the EENF, NWAs are generally appropriate when the underlying need for a project is driven by increasing load levels. Potential environmental impacts of NWAs vary, but would potentially result in fewer impacts to wetlands resources as compared to the Preferred Alternative, while likely resulting in greater tree clearing as new construction would be required (there is no tree clearing proposed as part of the Preferred Alternative). As stated in the EENF, while the project will provide additional, reliable capacity to support anticipated future loads, in this case, the project is not primarily driven by increasing load levels, but by the need to address the deteriorating condition and design of the existing line, as well as the need for increased fiber optic capability. The implementation of an NWA would not address the poor condition of the structures, or the structure constraints/alignment that predispose the existing line to outages from lightning strikes or impacts from trees. As such, the Non-Wires Alternative was dismissed. As noted, the project also intends to increase voltage on the transmission lines to support a future expansion in capacity based on need. The Single EIR should clarify the circumstances under which this future expansion would be implemented, what permitting or approvals would be required at that time, and how the project will demonstrate measures to minimize impacts, including measures to maximize energy efficiency and clean energy generation as part of any future expansion.

A New Build/New Route Alternative would involve reconstructing the transmission line on a new route. Linear corridors located within or adjacent to the O15N transmission corridor were evaluated, included existing electric transmission, railroad, pipeline, and highway and roadway corridors. Based on this review, five potential routes were evaluated to determine if any alternative route would result in fewer impacts than the Preferred Alternative while still meeting project goals. All routes were longer in length compared to the proposed project, and while they may potentially result in fewer wetland impacts as compared to the Preferred Alternative, they would likely involve impacts to Article 97 Land (whereas no impacts are currently proposed), and were more difficult and/or costly to construct. As such, the alternative routes were dismissed.

The EENF indicates that the Preferred Alternative (described herein) was selected as it is the only Alternative that will improve performance of the existing line by addressing all existing deficiencies, while also providing additional thermal capacity and voltage support required to support future load growth. Environmental impacts will be minimized by utilizing the existing ROW to construct the new line, utilizing construction BMPs, and allowing a majority of new access roads and work pads to revegetate following project construction.

The Proponent considered two transmission structure designs for the new line: one that complies with 115 kV design standards, and a second that complies with 69 kV design standards. As stated in the EENF, both the 69 kV and 115 kV designs would be able to support the new conductor and OPGW, and in both cases, the project would still be rebuilt in the center of the ROW. Slightly taller structures would be required to support the 115 kV due to safety requirements; however, 33 fewer structures would be required for the 115 kV line as compared to the 69 kV line, as the taller structures for the 115 kV design allow for greater span lengths. According to the EENF, the 115 kV line will provide both near-term and longer-term transmission system reliability benefits that the 69 kV design would not. It would also allow the line to operate at 115 kV in the future, if necessary, without costly transmission upgrades in the future and associated environmental impacts. The EENF notes that there are no reliability needs observable now that would necessitate the operation of the new transmission line at 115 kV within the 10-year planning horizon. It does not indicate whether this project is part of a master plan developed by NEP for this region or the state, nor does it indicate what additional permitting and approvals would be needed to operate the line at a higher voltage. These issues should be addressed in the Single EIR.

Environmental Justice

As noted above, the project corridor does not cross through any EJ populations, but is located within one mile of three (3) EJ populations, all characterized by Income criteria. There are seven (7) additional EJ populations located within 5 miles of the project corridor (all characterized by Income criteria, with the exception of one census tract characterized by Minority and Income criteria). Within the census tracts containing the above EJ populations within 1 mile of the project site, there are no languages spoken by 5% or more of residents who also identify as not speaking English very well (Limited English Proficiency (LEP) individuals). The EENF indicates that the DGA for the project is 1 mile.

Effective January 1, 2022, all new projects in “Designated Geographic Areas” (“DGA,” as defined in 301 CMR 11.02, as amended) around EJ populations are subject to new requirements imposed by Chapter 8 of the Acts of 2021: An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (the “Climate Roadmap Map”) and amended MEPA regulations at 301 CMR 11.00. Two related MEPA protocols—the MEPA Public Involvement Protocol for Environmental

Justice Populations (the “MEPA EJ Public Involvement Protocol”) and MEPA Interim Protocol for Analysis of project Impacts on Environmental Justice Populations (the “MEPA Interim Protocol for Analysis of EJ Impacts”)—are also in effect for new projects filed on or after January 1, 2022. Under the new regulations and protocols, all projects located in a DGA around one or more EJ populations must take steps to enhance public involvement opportunities for EJ populations, and must submit analysis of impacts to such EJ populations in the form of an EIR.

The EENF describes public involvement activities conducted prior to filing, including advance notification of the project circulated to a list of community-based organizations (CBOs) and tribes/indigenous organizations (the “EJ Reference List”) provided by the MEPA Office. Information circulated by the Proponent included the EJ Screening Form which identified ways to request additional information or a community meeting. NEP also created a public website for the project, which provides details of the project and contact information for review.³ Additionally, NEP hosted two in-person open houses in Ware (May 22, 2024) and Palmer (May 28, 2024); invitations to these meetings were sent to the EJ Reference List and all 300-foot abutters along the route in Ware, Palmer, and West Brookfield, and noticed in three local newspapers.

The EENF contains a baseline assessment of existing unfair or inequitable Environmental Burden and related public health consequences impacting EJ populations in accordance with 301 CMR 11.07(6)(n)1 and the MEPA Interim Protocol for Analysis of EJ Impacts. The EENF indicates that three census tracts within Billerica were identified by the Massachusetts Department of Public Health (DPH) EJ Tool as exhibiting “vulnerable health EJ criteria”; this term is defined in the DPH EJ Tool to include any one of four environmentally related health indicators that are measured to be 110% above statewide rates based on a five-year rolling average.⁴ Specifically, Ware exhibits vulnerable health EJ criteria for childhood asthma, while Palmer and West Brookfield exhibit vulnerable health EJ criteria for heart attack. One census tract in Ware exhibits vulnerable health EJ criteria for both childhood blood lead levels and low birth weight, and one census tract in Palmer exhibits vulnerable health EJ criteria for solely childhood blood lead levels. In addition, the EENF indicates that the following sources of potential pollution exist within the identified EJ populations, based on the mapping layers available in the DPH EJ Tool:

- Major air and waste facilities: 3
- M.G.L. c. 21E sites: 1
- “Tier II” Toxics Release Inventory Site: 10
- MassDEP sites with AULs: 1
- Wastewater treatment plants: 1
- Underground storage tanks: 3
- EPA facilities: 1

Although not required by the MEPA Interim Protocol for Analysis of EJ Impacts, the EENF also surveyed environmental indicators tracked through the U.S. EPA’s “EJ Screen,” which shows the indicators measured at the following percentiles for the identified EJ populations as compared to the MA

³ Website available here: <https://www.palmetowareimprovementproject.com/index.htm>

⁴ See <https://matracking.ehs.state.ma.us/Environmental-Data/ej-vulnerable-health/environmental-justice.html>. Four vulnerable health EJ criteria are tracked at the municipal level in the DPH EJ Viewer (heart attack hospitalization, childhood asthma, childhood blood lead, and low birth weight); of these, two (childhood blood lead and low birth weight) are also available at the census tract level.

statewide average. The EENF indicates that the following indicators are elevated at 80th percentile or higher of statewide average within the DGA:

- Particulate Matter (PM_{2.5}): 83rd percentile
- Ozone: 88th percentile

While the EENF concludes that there is some indication of an existing “unfair or inequitable” burden in certain EJ populations within the DGA based on the screening indicators above, it asserts that the project will not result in disproportionate adverse effects, or increase the risks of climate change, on the EJ populations by materially exacerbating such existing burdens. As further discussed below, the transmission lines were assessed as having a “High” risk rating for extreme precipitation (urban and riverine flooding) and extreme heat. According to the EENF, the project will improve the overall reliability of the power transmission system which both EJ and non-EJ communities rely on. There is no proposed work within the 100-year floodplain, and the project does not involve any tree clearing. As described in the EENF, there is no new impervious surface proposed and no stormwater impacts are anticipated. The EENF indicates that project impacts will be limited to the construction period, and measures will be employed to mitigate these impacts, including potential noise, traffic, and water quality impacts.

Land Alteration

The EENF indicates that the project will involve the alteration of approximately 19 acres of land, all contained within the existing, actively managed ROW. The EENF does not clarify what portion of land alteration is associated with the construction of access roads or work pads/pull pads. A total of 190 gravel work pads are proposed as part of the project; 65 of these work pads will be permanent and the remaining 125 will be temporary. Work pads will vary in size from 60 ft x 50 ft to 250 ft x 80 ft. Access to the current and proposed structures will be achieved by using a mix of existing access roads and constructing new access roads within the existing ROW. There are currently 18,472 lf (~3.5 miles) of existing gravel access roads. Approximately 16,996 lf (~2.9 mi) of new permanent gravel access roads are proposed. All newly constructed gravel roads will be 16 feet in width. While tree trimming may be required, no tree cutting is proposed. The EENF contains a breakdown of land use types within the project area, which includes residential, commercial, industrial, agricultural, forested land, and ROWs (Table 1-1).

Wetlands

According to the EENF, the project is proposed to result in the temporary alteration of 199,967 sf (4.59 acres) of BVW; 2,617 lf of Bank; 4,811 sf of LUW; and 93,989 sf (2.16 acres) of Riverfront Area. The project will permanently impact an additional 113 sf of BVW and 4,534 sf of Riverfront Area. Permanent impacts to BVW are related to the installation of steel structures; these impacts will be mitigated through 1:1 replication of BVW, although the EENF does not clarify where wetlands replication is proposed. The Palmer and Ware Conservation Commissions will review the project for its consistency with the provisions of the Wetlands Protections Act (WPA), the Wetland Regulations (310 CMR 10.00), and associated performance standards. MassDEP will review the project for its consistency with the 401 WQC regulations (314 CMR 9.00). As stated in comments from MassDEP, the project will require a Section 401 WQC for impacts to Vegetated Wetlands greater than 5,000 square feet. I echo comments from MassDEP, which recommend that the Proponent request that the local Conservation Commissions defer a decision on the filing and keep the meeting open until MEPA review is complete,

and the 401 WQC is issued, to ensure consistency with any requirements in the final MEPA Certificate or conditions of the WQC.

As described in the EENF, the above-listed temporary impacts to wetland resource areas are primarily associated with the use of construction mats within wetland resource areas. This includes the placement of matting within wetlands and over waterways, resulting in temporary impacts to these resource areas and to wildlife. The construction mats will be installed to allow access for heavier equipment and vehicles to support the road building and line work and are considered a BMP to reduce wetland impacts by avoiding soil compaction. Construction mats will be removed from all resource areas once construction is completed, and disturbed areas will be restored. Permanent impacts to wetland resource areas from the project are associated with the replacement and installation of new caisson supported structures, the construction of access roads within the ROW, and the construction of stone and gravel work pads within the ROW.

Article 97

The EENF identifies four state- and municipal -owned open space lands located within or adjacent to the ROW, consisting of a total of approximately 42 acres of open space within the ROW and 247 acres within 300 feet of the ROW. As described in the EENF, alteration to open space within the ROW will occur in the form of newly constructed gravel access roads and permanent work pads. Impacts to open space owned by the Massachusetts Department of Fish and Game (DFG) will consist of 0.25 acres of permanent impact from work pads and 6 acres of permanent impact from new access roads, and 2.64 acres of temporary impacts from work pads and construction matting. Impacts to open space managed by the Town of Palmer will consist of 0.01 acres of permanent impacts from work pads and 0.37 acres of permanent impact from new access roads, and 0.02 acres of temporary impacts from construction matting. The EENF states that NEP's easements for the existing line predate the establishment of the open space properties in these areas and, further, that the project has been designed to utilize existing access or develop new access within NEP's existing easements. The EENF indicates that no legislative authorization is needed as no disposition or change in use of such land will result from the project. To mitigate temporary construction-phase disturbances to public open spaces and existing trail systems, NEP will coordinate with the affected stakeholders and will develop an outreach plan to include safety signage and temporary detours around active construction zones.

Rare Species

As noted above, portions of the project area are mapped as Priority Habitat for the Orange Sallow Moth (*Pyrrhia aurantiago*), Climbing Fumitory (*Adlumia fungosa*), Jefferson Salamander (*Ambystoma jeffersonianum*), Green Rock-Cress (*Boechera missouriensis*), and Lion's foot (*Nabalus serpentarius*). These species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (M.G.L. c.131A) and its implementing regulations (MESA; 321 CMR 10.00). The EENF indicates that the project will temporarily alter 18.5 acres and permanently alter 2.36 acres of Priority and/or Estimated Habitat. Project-specific BMPs will be designed with NHESP and are likely to include time-of year (TOY) restrictions, pre-construction surveys, and/or use of temporary avoidance fencing during construction.

Comments from NHESP state that, based on the information included in the EENF, it is anticipated that the project will be able to avoid a Take of Orange Sallow Moth and Jefferson Salamander. The Division will coordinate with the proponents to conduct botanical surveys for the Climbing Fumitory, Green Rock-Cress, and Lion's foot to determine the appropriate permitting pathway

for state-listed plants and if the project will require a Conservation and Management Permit (CMP; 321 CMR 10.23) for any of the three state-listed plants. As stated in comments from NHESP, projects resulting in a Take may only be permitted if they meet the performance standards for a CMP, which require the Proponent to demonstrate that the project has avoided, minimized, and mitigated impacts to state-listed species.

Climate Change

Adaptation and Resiliency

Effective October 1, 2021, all MEPA projects are required to submit an output report from the MA Resilience Design Tool to assess the climate risks of the project. Based on the output report attached to the EENF, the project has a “High” risk for extreme precipitation (urban flooding), extreme precipitation (riverine flooding), and extreme heat. Based on the 50-year useful life identified and the self-assessed criticality of the project asset, the Tool recommends a planning horizon of 2070 and a return period associated with a 50-year (2% chance) storm event when designing the project (a “utilities” asset) for the extreme precipitation parameter. The Tool recommends planning for the 90th percentile when designing for extreme heat. There is no proposed work within the 100-year floodplain, and the project does not involve any tree clearing. As described in the EENF, there is no new impervious surface proposed and no stormwater impacts are anticipated. The EENF states that the project will result in a more climate-ready and resilient transmission system that can withstand more extreme weather events, address existing system capacity shortages and increasing demand, and support future interconnection of renewable energy projects. The EENF further states that the increased capacity of the new line will allow it to support higher volumes of currently active and forecasted renewable energy resources in this region. As noted, the Single EIR should further describe the process by which the need for increased capacity will be determined in the future, and whether alternatives to maximize opportunities for energy efficiency and clean energy generation will be explored.

Greenhouse Gas Emissions

This project is subject to review under the May 2010 MEPA Greenhouse Gas Emission (GHG) Policy and Protocol (Policy) because it exceeds thresholds for a mandatory EIR. The GHG Policy includes a de minimis exemption for projects that are expected to produce minimal GHG emissions. The EENF indicates that GHG emissions associated with the project will be limited to the construction period and are de minimis. The Proponent therefore was not required to submit a GHG analysis in conjunction with the EENF.

Construction Period

The EENF indicates that project construction is expected to commence in July 2027 and conclude in December 2028. As described in the EENF, the project construction manager will implement a waste management plan to divert project-related construction waste material from landfills through recycling and salvaging where practicable. All construction activities should be managed in accordance with applicable MassDEP’s regulations regarding Air Pollution Control (310 CMR 7.01, 7.09-7.10), and Solid Waste Facilities (310 CMR 16.00 and 310 CMR 19.00, including the waste ban provision at 310 CMR 19.017). The project should include measures to reduce construction period impacts (e.g., noise, dust, odor, solid waste management) and emissions of air pollutants from equipment, including anti-idling measures in accordance with the Air Quality regulations (310 CMR 7.11). I encourage the Proponent to require that its contractors use construction equipment with engines

manufactured to Tier 4 federal emission standards, or select project contractors that have installed retrofit emissions control devices or vehicles that use alternative fuels to reduce emissions of volatile organic compounds (VOCs), carbon monoxide (CO) and particulate matter (PM) from diesel-powered equipment. Off-road vehicles are required to use ultra-low sulfur diesel fuel (ULSD). If oil and/or hazardous materials are found during construction, the Proponent should notify MassDEP in accordance with the Massachusetts Contingency Plan (310 CMR 40.00). All construction activities should be undertaken in compliance with the conditions of all State and local permits.

SCOPE

General

The Single EIR should follow Section 11.07 of the MEPA regulations for outline and content and provide the information and analyses required in this Scope. It should clearly demonstrate that the Proponent has sought to avoid, minimize and mitigate Damage to the Environment to the maximum extent practicable.

Project Description and Permitting

The Single EIR should identify any changes to the project since the filing of the EENF. It should identify and describe State, federal, and local permitting and review requirements associated with the project and provide an update on the status of each of these pending actions. The Single EIR should include a description and analysis of applicable statutory and regulatory standards and requirements, and a discussion of the project's consistency with those standards.

The Single EIR should include detailed site plans for existing and post-development conditions at a legible scale. Plans should clearly identify buildings, interior and exterior public areas, impervious areas, transportation improvements, and stormwater and utility infrastructure. The Single EIR should provide detailed plans, sections, and elevations to accurately depict existing and proposed conditions, including proposed above- and below-ground structures, on- and-off-site open space, and resiliency and other mitigation measures. The Single EIR should update quantified temporary and permanent environmental impacts (including to specific resource types) to the extent these impacts have changed since the filing of the EENF.

As noted above, the project will increase the capacity of the O15N transmission line from 69 kV to 115 kV; however, the line will continue to operate at 69 kV until operation at 115 kV is warranted, which would also require upgrades to connecting substations. The Single EIR should clarify what additional work would be required for this section of the O15N Line to operate at 115 kV. It should clarify whether the upgrades to the adjoining substations are currently proposed as part of any long-term planning, and whether the upgrades to the substations are being evaluated as part of EFSB review of this project. The EENF indicates that there are no reliability needs observable now that would necessitate the operation of the new transmission line at 115 kV within the 10-year planning horizon; the Single EIR should clarify when the need for this line to operate at 115 kV is expected to occur, based on any long-term forecasting undertaken by the Proponent. The Single EIR should address whether this ACR project is part of a master plan developed by NEP for this region or the state. It should describe what permitting or approvals would be required to operate at a higher voltage, and how the project will demonstrate measures to minimize impacts, including measures to maximize energy efficiency and clean energy generation as part of any future expansion.

The information and analyses identified in this Scope should be addressed within the main body of the Single EIR and not in appendices. In general, appendices should be used only to provide raw data, such as drainage calculations, traffic counts, capacity analyses and energy modelling, that is otherwise adequately summarized with text, tables and figures within the main body of the Single EIR. Information provided in appendices should be indexed with page numbers and separated by tabs, or, if provided in electronic format, include links to individual sections. Any references in the Single EIR to materials provided in an appendix should include specific page numbers to facilitate review.

Environmental Justice / Public Health

The Single EIR should include a separate section on “Environmental Justice” and contain a full description of measures the Proponent intends to undertake to promote public involvement by such EJ populations during the remainder of the MEPA review process including a discussion of any of the best practices listed in the MEPA EJ Public Involvement Protocol that will be employed. It should describe any outreach that will be conducted as part of local review processes. The Single EIR should include an update on any outreach conducted since the filing of the EENF and a description of any changes made to the project (including mitigation measures) in response to this outreach. The Single EIR, or a summary thereof, should be distributed to the “EJ Reference List,” with any updates to the list provided by the MEPA Office upon request.

The Single EIR should provide additional information regarding measures to mitigate any potential impacts to EJ populations during the construction period. Specifically, the Single EIR should provide more detail regarding construction period activities, including the estimated number of construction period truck trips that are anticipated for the project, and the potential for increased emissions within EJ populations near the ROW. The Single EIR should indicate whether any significant vegetation management will occur near EJ populations and/or identified “Hot Spots,” as indicated in the Climate Change section below.

Land Alteration and Article 97

The Single EIR should provide an update of total of land alteration, distinguishing between temporary and permanent impacts. It should clarify the land cover types (scrub shrub, grassland, etc.) associated with other types of land alteration. The Single EIR should clarify what the proposed vegetation management will entail. It should identify the total number of work pads and access roads proposed to be constructed as part of the project, and the number that are proposed to be permanent. It should describe any restoration measures following project construction for temporary access roads/work pads. The Single EIR clearly show the area and location of work pads on site plans, as well as the areas to be restored following project construction. The Single EIR should demonstrate that the size of work pads has been minimized to the maximum extent possible, particularly in environmentally sensitive areas (NHESP habitat, Article 97 Land, wetland resource areas, etc.). The Proponent should consult with DFG to confirm that no Article 97 disposition is required. Although work pads, new sections of access road, and widening of access roads will not result in significant forest clearing, shrub/herbaceous vegetation will be permanently converted to gravel. The Single EIR should identify the total existing and proposed gravel areas, including access roads and work pads. It should describe any stormwater management that will be constructed as part of the project.

Wetlands

The Single EIR should provide updated estimates of permanent and temporary impacts to wetland resource areas as appropriate, and clarify the activities with which these impacts are associated. The EENF indicates that the project will result in 4,811 sf of temporary impacts to LUW. The Single EIR should clarify the nature of the temporary impacts (i.e., are the impacts solely from the placement of mats over the waterway or are there impacts from placing material directly into the waterway), as requested in comments from MassDEP. The EENF indicates that 1:1 replication will be provided for permanently impacted BVW. As noted in comments from MassDEP, the design of any replacement area should incorporate the recommendations from the *Massachusetts Inland Wetland Replacement Guidelines*, second edition (dated September 2022). Efforts should be made to identify areas where naturally functioning wetlands can be created, potential areas for wetland replication should be identified in the Single EIR. The Single EIR should describe long-term monitoring of the BVW replication areas to ensure they establish effectively. Work pads, new access roads, and expanded road widths should be considered new degraded areas; the Single EIR should identify the new creation of degraded areas within each resource area. The Single EIR should evaluate offsite mitigation and/or restoration of onsite degraded areas to compensate for conversion of vegetated areas to degraded areas. The Proponent is expected to expand upon the proposed mitigation measures to include mitigation for the large areas of vegetation and soil that will be replaced with gravel throughout the project.

Rare Species

The EENF indicates that NEP will continue to consult with NHESP. The Single EIR should provide an update on this consultation, and identify whether the project is anticipated to result in a Take requiring a CMP, if that determination has been made at the time of filing of the Single EIR. The Single EIR should identify any mitigation measures that have been incorporated into the project. It should update the calculations of impacts to Priority and Estimated Habitat (separately) as necessary and distinguish between temporary and permanent impacts to these resources. It should continue to evaluate measures to reduce impacts to rare species habitat, particularly through the reduction of work pads within these areas.

Climate Change

While the EENF indicates that there is no work proposed within the 100-year floodplain/Bordering Land Subject to Flooding, the EENF does identify the presence of mapped 100-year floodplain (with no Base Flood Elevation (BFE)) within the project corridor. The Single EIR should clarify whether there is any existing transmission structure within the project corridor that is currently, and will remain, within the 100-year floodplain. The Single EIR should include a narrative explaining whether proposed infrastructure improvements will make the project assets more resilient to risks associated with riverine flooding from a 50-year (2%) storm event estimated as of 2070 specifically. In particular, the Single EIR should discuss whether new foundations are being elevated above any defined BFEs or other similar water/flood elevation measure to ensure that the structures are resilient to future flooding risks. This value can be determined either through use of the Tier 2/3 methodologies provided by the MA Resilience Design Tool.⁵ Alternatively, the Single EIR should compare elevations to any BFEs determined at locations in close proximity to the project corridor. The

⁵ <https://msc.fema.gov/portal/advanceSearch>

Single EIR should clarify whether the project corridor is located within or near “Hot Spots” as identified by the RMA data dashboard.⁶

Construction Period

The Single EIR should confirm that the project will include a spills contingency plan that addresses prevention and management of potential releases of oil and/or hazardous materials from pre- and post-construction activities. It should confirm that this plan will be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential releases.

Mitigation and Draft Section 61 Findings

The Single EIR should include a separate chapter summarizing all proposed mitigation measures including construction-period measures. This chapter should also include a comprehensive list of all commitments made by the Proponent to avoid, minimize, and mitigate the environmental and related public health impacts of the project, and should include a separate section outlining mitigation commitments relative to EJ populations. The Single EIR should contain clear commitments to implement these mitigation measures, estimate the individual costs of each proposed measure, identify the parties responsible for implementation, and contain a schedule for implementation. The list of commitments should be provided in a tabular format organized by subject matter (land alteration, wetlands, rare species, climate change, environmental justice, etc.) and identify the Agency Action or Permit associated with each category of impact. Draft Section 61 Findings should be separately included for each Agency Action to be taken on the project. The filing should clearly indicate which mitigation measures will be constructed or implemented based upon project phasing to ensure that adequate measures are in place to mitigate impacts associated with each development phase.

Responses to Comments

The Single EIR should contain a copy of this Certificate and a copy of each comment letter received. The Single EIR should contain a direct response to the scope items in this Certificate. To ensure that the issues raised by commenters are addressed, the Single EIR should also include direct responses to comments to the extent that they are within MEPA jurisdiction. This directive is not intended, and shall not be construed, to enlarge the scope of the Single EIR beyond what has been expressly identified in this certificate.

Circulation

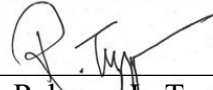
The Proponent should circulate the Single EIR to each Person or Agency who previously commented on the EENF, each Agency from which the Project will seek Permits, Land Transfers or Financial Assistance, and to any other Agency or Person identified in the Scope. The Proponent may circulate copies of the Single EIR to commenters other than Agencies in a digital format (e.g., CD-ROM, USB drive) or post to an online website. However, the Proponent should make available a

⁶ See <https://resilientma-mapcenter-mass-eoeea.hub.arcgis.com/#DataViewer>. As explained in the dashboard, a statewide Land Surface Temperature (LST) Index was created by combining estimates of surface temperature from days in 2018, 2019, and 2020 where the high air temperature exceeded 70 degrees Fahrenheit. Hot spots are areas with the 5% highest LST Index values within each RPA region.

reasonable number of hard copies to accommodate those without convenient access to a computer to be distributed upon request on a first come, first served basis.

September 30, 2024

Date



Rebecca L. Tepper

Comments received:

- 09/11/2024 Massachusetts Division of Fisheries and Wildlife (MassWildlife), Natural Heritage and Endangered Species Program (NHESP)
- 09/23/2024 Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO)

RLT/ELV/elv



MASSWILDLIFE

DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

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[MASS.GOV/MASSWILDLIFE](https://www.mass.gov/masswildlife)

September 11, 2024

Rebecca Tepper, Secretary
Executive Office of Energy and Environmental Affairs
Attention: MEPA Office
Eva Vaughan, EEA No. 16866
100 Cambridge St.
Boston, Massachusetts 02114

Project Name: Palmer to Ware Improvement Project
Proponent: New England Power Company d/b/a National Grid
Location: Ware, West Brookfield, & Palmer MA
Document Reviewed: Expanded Environmental Notification Form
EEA No.: 16866
NHESP No.: 23-8371

Dear Secretary Tepper:

The Natural Heritage & Endangered Species Program of the Massachusetts Division of Fisheries & Wildlife (the "Division") has reviewed the Expanded Environmental Notification Form (the "EENF") for the proposed Palmer to Ware Improvement (the "Project") and would like to offer the following comments regarding state-listed species and their habitats.

According to the Massachusetts Natural Heritage Atlas, portions of the Project site are mapped as *Priority Habitat* for the Orange Sallow Moth (*Pyrrhia aurantiago*), Climbing Fumitory (*Adlumia fungosa*), Jefferson Salamander (complex) (*Ambystoma jeffersonianum*), Green Rock-Cress (*Boechera missouriensis*) and Lion's foot (*Nabalus serpentarius*). These species and their habitats are protected pursuant to the Massachusetts Endangered Species Act (MGL c.131A) and its implementing regulations (MESA; 321 CMR 10.00).

The MESA is administered by the Division and prohibits the Take of state-listed species, which is defined as "in reference to animals...harm...kill...disrupt the nesting, breeding, feeding or migratory activity...and in reference to plants...collect, pick, kill, transplant, cut or process...Disruption of nesting, breeding, feeding, or migratory activity may result from, but is not limited to, the modification, degradation, or destruction of Habitat" of state-listed species (321 CMR 10.02).

The Project, as proposed and described in the EENF, includes the rebuild of an existing utility line to address widespread damage to existing structures and provide improved telecommunications between two substations. Work will include minor vegetation management, upgrading existing access, and creating new access as required to construct and maintain the rebuilt line.

MASSWILDLIFE

Based on the information in the ENF, the Division anticipates that the Project will be able to avoid a Take of Orange Sallow Moth and Jefferson Salamander. The Division will coordinate with the proponents to conduct botanical surveys for the Climbing Fumitory, Green Rock-Cress, and Lion's foot to determine the appropriate permitting pathway for state-listed plants and if the project will require a Conservation and Management Permit (CMP; 321 CMR 10.23) for any of the three state-listed plants. The Proponent can update the Secretary about the CMP in the next MEPA submission including, if required, how the project will qualify for a CMP by demonstrating that the project has avoided, minimized and mitigated impacts to state-listed species consistent with the following performance standards: (a) adequately assess alternatives to both temporary and permanent impacts to the state-listed species, (b) demonstrate that an insignificant portion of the local population will be impacted, and (c) develop and agree to carry out a conservation and management plan that provides a long-term net benefit to the conservation of the state-listed species.

Further, we note that the utility right-of-way that is the subject of this filing occupies about 0.41 acres of parcel 52-8 (117 acres) and about 0.41 acres of parcel 49-4 (374.4 acres) which are owned by the Palmer Motorsports Project and subject to restrictions. The development of the Palmer Motorsports site was reviewed by MEPA in 2013 (EEA No. 14089). Due to unpermitted work on the project, on August 20, 2015, a Consent Judgement (CJ) was entered by the Suffolk Superior Court on in Commonwealth v. Palmer Motorsports Park, LLC and J. Read Corp (15-2506). Parcel 52-8 and 49-4 are within the "Project Site" as described in the CJ Section I.2(o) and the right-of-way is located in the areas described as Easement 6 and Easement 5, respectively. The proposed utility right-of-way work appears to be entirely independent from the Palmer Motorsports project as reviewed by MEPA and described in the CJ, however, we provide this information for completeness.

The Division will not render a final decision until the MEPA review process and its associated public comment period is complete. As the MESA review process is ongoing, no alteration to the soil, surface, or vegetation associated with the proposed Project shall occur until the Division has made a final decision.

If you have any questions about this letter, please contact Tim McGuire, Endangered Species Review Biologist, at timothy.mcguire2@mass.gov or 508-389-6366. We appreciate the opportunity to comment on the Project.

Sincerely,



Jesse Leddick
Assistant Director

Cc: Joe Rogers, District Supervisor, Connecticut Valley District Office, MassWildlife
Betsy Harper & Turner Smith, Office of the Attorney General



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Gary Moran
Acting Commissioner

September 20, 2024

Rebecca L. Tepper, Secretary
Executive Office of Energy & Environmental Affairs
Massachusetts Environmental Policy Act Office
Eva Vaughan, EEA No. 16866
100 Cambridge Street, 9th Floor
Boston, MA 02114-2524

Re: Palmer to Ware Improvement Project
Ware, West Brookfield, and Palmer - EENF

Dear Secretary Tepper,

The Massachusetts Department of Environmental Protection (MassDEP), Western Regional Office (WERO) appreciates the opportunity to comment on the Expanded Environmental Notification Form submitted for the proposed Palmer to Ware Improvement Project in Ware, West Brookfield and Palmer (EEA #16866).

The applicable MassDEP regulatory and permitting considerations regarding wetlands, air pollution, solid waste and waste site cleanup are discussed.

I. Project Description

The Proponent, New England Power Company is proposing to upgrade the existing 10.35-mile-long overhead transmission line that originates at Palmer Substation #503 and terminates at the Ware Substation #501. The Project Site is approximately 150 acres, and passes through Palmer, Ware and West Brookfield. The Proponent intends to move the transmission line to the center of the existing 100-200-foot-wide O15N right-of-way, completely replacing the existing structures, conductor, and shield wire. The Project will remove 147 existing structures and install 112 new structures, predominantly light-duty and engineered steel. This work will require vegetation management, upgrading existing access and creating new access for construction and maintenance. Work is anticipated to be completed by November 2028.

Three Environmental Justice populations are located within a one-mile radius of the Project Site, in the communities of Ware, Warren and Monson. These populations are characterized as Income.

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

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Environmental Impacts associated with this project include:

- Total site acreage – 150 Acres
- New acres of land altered – 19 Acres
- Maximum structure height (feet) – 90 ft Existing, 125 ft Proposed, Difference +35ft
- Square feet (SF) of Bordering Vegetated Wetlands alteration: 199,967 SF – Temporary, 113 SF - Permanent
- Square feet (SF) of other wetland alteration:
 - Land Under Water – 4,811 SF – Temporary, 0 SF Permanent
 - Riverfront Area – 93,989 SF - Temporary, 4,534 SF – Permanent
 - Bank – 2,617 Linear Feet – Temporary, 0 Linear Feet Permanent
 - Total other Wetland Alteration - 70,313 SF

II. Required Mass DEP Permits and/or Applicable Regulations

Wetlands

310 CMR 10.000

Water Quality Certificate

314 CMR 9.00

Water Quality Standards

314 CMR 4.00

Air Pollution

310 CMR 7.00

Solid Waste

310 CMR 16.00

Hazardous Waste

310 CMR 30.00

Bureau of Waste Site Cleanup

310 CMR 40.000

III. Permit Discussion

Bureau of Water Resources

Wetlands Protection Act

As indicated by the project proponent, this project is subject to the Wetlands Protection Act (WPA) and the associated regulations. As noted below, the proponent states that the project will require a 401 Water Quality Certification (WQC). Further, in the event the municipal Order of Conditions is appealed to MassDEP, the subsequently issued Superseding Order of Conditions issued by MassDEP meets the definition of an “Agency Action” contained at 301 CMR 11.02. MassDEP cannot issue its WQC or a Superseding Order of Conditions until after the Project has received a final Certificate from the Secretary. Therefore, to ensure full opportunities for public involvement and to avoid any potential conflict with the final Certificate from the Secretary or the WQC, MassDEP recommends that no such filing occur until after the Project has received a final Certificate from the Secretary. Should the Proponent choose to file a Notice of Intent prior to the

issuance of a final Certificate from the Secretary, MassDEP recommends that Proponent request that the local conservation commissions defer a decision on the filing and keep the meeting open until such time as a final Certificate from the Secretary has been issued, as well as the WQC, to ensure consistency with any requirements in that Certificate or conditions of the WQC.

Limited Project

The project may be eligible for review under the Limited Project provisions contained at 310 CMR 10.53(3)(d). As for all Limited Projects, allowance under these provisions is at the discretion of the local Commission and to the extent practicable, work must comply with the General Performance Standards. As described in the EENF, the project proposes to permanently alter Bordering Vegetated Wetland, and Riverfront Area. The proposed temporary stream-crossings have the potential to alter Inland Bank and Land Under Waterbodies and Waterways. Activities will also be occurring in the buffer zone of resource areas. During the WPA permitting process, the proponent will need to demonstrate how the project will protect the interests of the Act.

Riverfront Area Impact Figures

On the ENF Form, Wetlands, Waterways, Tidelands Section, Part I, subpart B, the Proponent states: *Access roads constructed in Riverfront Areas will be permanent and will result in 4.534 square feet of permanent impact.* 4.534 appears to be a typo, as the Table at Part II subpart C identifies 4,534 square feet of permanent impact. To avoid any potential confusion the typo should be corrected.

Riverfront Area Performance Standards

The Proponent indicates that the proposed project will result in 4,534 square feet of permanent impacts to Riverfront Area from the construction of access roads. As part of the NOI filing the proponent must demonstrate how the project meets the general performance standards at 310 CMR 10.58(4) and/or how the project will protect the interests of the Act.

LUWW Impacts

The Proponent indicates that the project will result in 4,811 square feet of temporary impacts to Land Under Water Bodies or Waterways. The Proponent should clarify the nature of the temporary impacts. i.e. are the impacts solely from the placement of mats over the waterway or are there impacts from placing material directly into the waterway?

Temporary Impacts

Some resource area and waters of the commonwealth impacts are listed as “temporary” in the EENF; the Proponent should be aware that the Wetlands Protection Act and associated regulation do not have a designation of “temporary impacts” to resource areas. The activities proposed in the EENF meet the definition of “Alter” contained in 310 CMR 10.04. The 401 Water Quality Certification regulations, 314 CMR 9.00 specifically include “temporary” activities as being subject to the regulations (310 CMR 9.02). However, temporal impacts to resource areas can be mitigated through “in-situ” replication and/or restoration, as well as via off-site considerations.

Replication

The Proponent indicates that they will provide 1:1 replacement for permanently impacted BVW. The design of any replacement area should incorporate the recommendations from the

Massachusetts Inland Wetland Replacement Guidelines, second edition, September 2022. The Department discourages creating replacement wetlands within areas that will be subsequently subject to vegetation maintenance. Efforts should be made to identify areas where naturally functioning wetlands can be created. Additionally, projects that qualify for Limited Project status can consider alternative mitigation. See Chapter 5 of the *Massachusetts Inland Wetland Replacement Guidelines* for further information.

Resource Areas

Section 1-2 of the ENF Narrative identifies *Land subject to flooding; and vegetated wetlands, and intermittent and perennial streams* as resource areas identified on the site. However elsewhere in the document the Proponent identifies Bordering Land Subject to Flooding, Bordering Vegetated Wetlands, Riverfront Area, Bank (inland), and Land Under Water Bodies or Waterways as resource areas present on the site. To avoid potential confusion, the EENF should consistently identify all Resource Areas. The term Resource Area is defined at 310 CMR 10.04: Resource Area.

401 Water Quality Certification

The Wetlands Program administers the Section 401 Water Quality Certification regulations on behalf of the US Army Corps of Engineers and under the Massachusetts Clean Waters Act, MGL c. 21, §§ 26 through 53, inclusive, and the Regulations promulgated there under at 314 CMR 9.00. The proponent is required to provide sufficient information to adequately describe cumulative impacts to “Waters of the United States within the Commonwealth” and Waters of the Commonwealth. The proponent should clarify which WQC permit application it will be filing. Please note that the project Proponents must request a pre-filing meeting with MassDEP at least 30 days prior to submitting requests for certification. Further information is available at: <https://www.mass.gov/how-to/ww-07-08-09-water-quality-certifications-dredging-projects>

Avoid, Minimize, Mitigate

The ENF Narrative, Chapter 7.1, Table 7-1 provides a Mitigation Summary Table. Several of the mitigation measures identified are minimization measures. To clarify: Minimization is managing the severity of a projects impacts, typically by incorporating design and risk avoidance measures; Whereas mitigation involves replacing or providing substitute resource areas to address impacts, and is typically accomplished by either restoring, creating, or enhancing, resource areas and the public interests they serve. In accordance with 314 CMR 9.00 impacts to Waters of the United States Within the Commonwealth and Waters of the Commonwealth are to be avoided where possible and if unavoidable, minimized and mitigated. During the 401-water quality certification permitting process the proponent will be required to document site specific efforts to avoid, minimize, and mitigate for each impact. Appropriate minimization and mitigation measures will be determined as part of the WQC application process. MassDEP staff are available for discussion.

Alternatives Analysis

As part of the WQC filing, the Proponent is required to prepare and submit a written alternatives analysis exploring alternatives to the specific proposed discharge of dredged or fill material that would have less adverse impact on the aquatic ecosystem in accordance with 314 CMR 9.06(1).

SWPPP

The Proponent indicates that the project is subject to the requirements of the EPA Administered National Pollutant Discharge Elimination System regulations to prepare a Stormwater Pollution Prevention Plan (SWPPP). MassDEP recommends that the Proponent ensure that the SWPPP includes clear provisions specific to the management and protection of the wetland resource areas within the project.

Priority Habitat

The Proponent indicates that the project site contains habitat for state listed species. The Proponent further states that there will be temporary and permanent impacts to such habitat. The Proponent indicates that they will work with NHESP to avoid and minimize impacts to habitat for the state listed species to the extent possible, and, if required, develop and meet the performance standards for a Conservation Management Permit issued by NHESP. The WPA regulations and WQC regulation both contain provisions prohibiting projects which will have an adverse effect on specified habitat for rare species. In order to document compliance with the provisions of those regulations, the Proponent should undergo NHESP review prior to filing the NOI and WQC application.

Bureau of Air and Waste

Air

Construction and Demolition Activities

The construction and demolition activity must conform to current Air Pollution Control Regulations. The proponent should implement measures to alleviate dust, noise, and odor nuisance conditions that may occur during the construction and demolition activities. Such measures must comply with the MassDEP's Bureau of Air and Waste (BAW) Regulations 310 CMR 7.01, 7.09, and 7.10.

Construction Equipment

MassDEP believes it is necessary to mitigate the construction-period impacts of diesel emissions to the maximum extent feasible and recommends that the project proponent to require the contractors and subcontractors to use diesel equipment/machinery that are fitted with pollution control devices as well as to minimize excessive idling. As of June 1, 2010, all non-road engines shall be operated using only ultra-low sulfur diesel (ULSD) with a sulfur content of no greater than 15 ppm pursuant to 40 CFR 80.510.

Dust

Proponent shall control dust related to the construction operation including the use of the existing roads and the creation of the new roads within the project zone.

Open Burning

Proponent shall not burn vegetative or any other waste unless it is performed in accordance with 310 CMR 7.00, has received prior written approved from by MassDEP **AND** has been approved by municipal fire department officials.

Asbestos

It is common for antiquated electrical components to be insulated with or made from asbestos material. The owner/operator shall ensure that all material be handled in accordance with all applicable state and federal regulations regarding asbestos handling, including testing prior to handling.

Solid Waste

The proponent shall properly manage and dispose of all solid waste generated or discovered by this proposed project, pursuant to this work, will need to be transported to permitted disposal or processing facilities. Unpainted/uncoated asphalt, brick and concrete (ABC) can typically be crushed and recycled as aggregate or hardpack and used as fill material. Non-recyclable solid wastes will need to be shipped to an appropriate disposal facility. Vegetative matter not retained on-site for ecological restoration or mitigation purposes could be composted or processed into mulch.

It is not unusual to encounter illegally dumped solid waste found in abandoned or vacant properties. The proponent shall be required to properly dispose of such waste in accordance with all applicable disposal and handling regulations, including but not limited to asbestos, hazardous waste and solid waste disposal and handling regulations: 310 CMR 16.00 and 310 CMR 19.000, including the regulations at 310 CMR 19.017 (waste ban).

Solid and Hazardous Waste Management (Soil Excavation)

If MassDEP determines that either because of the nature of the proposed activity, the amount of the excavated material, and/or the characteristics of the excavated material that the material requires management as a hazardous or solid waste, then the disposition of the material must comply with any applicable requirements pursuant to 310 CMR 30.0000, 310 CMR 16.00 or 310 CMR 19.000. In addition, compliance with COMM-97-001 *"Reuse and Disposal of Contaminated Soil at Massachusetts Landfills"* and the *"Revised Guidelines for Determining Closure Activities at Inactive Unlined Landfill Sites"*, may be applicable.

Hazardous Waste

1. Any illegally dumped hazardous wastes discovered at any part of the ROWs shall be properly managed in accordance with 310 CMR 30.0000 including reporting to MassDEP
2. If any hazardous waste, including waste oil, is generated at the site, the proponent must ensure that such generation is properly registered with the Department and managed in accordance with 310 CMR 30.0000.

Bureau of Waste Site Cleanup

There are disposal sites within a 0.5-mile radius from the project area with Response Action Outcomes (RAOs) and/or Permanent Solutions with or without conditions (PS/PSC). If soil and/or groundwater contamination is encountered during construction activities, the proponent should retain a Licensed Site Professional (LSP); the MCP details procedures to follow for the parties conducting work. MassDEP staff are available for guidance.

A spills contingency plan addressing prevention and management of potential releases of oil and/or hazardous materials from construction activities should be presented to workers at the site and enforced. The plan should include but not be limited to, refueling of machinery, storage of fuels, and potential releases.

IV. Other Comments/Guidance

MassDEP staff are available for discussions as the project progresses. If you have any questions regarding this comment letter, please do not hesitate to contact Sean Gonsalves at 781-400-4272.

Sincerely,



Sean Gonsalves, R.S. for
Michael Gorski
Regional Director

cc: MEPA File