



## Massachusetts Association of Conservation Commissions

*protecting wetlands, open space and biological diversity through education and advocacy*

October 25, 2013

Secretary Richard K. Sullivan, Jr.  
Executive Office of Energy and Environmental Affairs (EOEEA)  
Attn: Purvi Patel, MEPA Office  
100 Cambridge St., Suite 900  
Boston, MA 02114

Emailed to [purvi.patel@state.ma.us](mailto:purvi.patel@state.ma.us)

Re: EOEEA #14346 and NAE-2007-00698  
Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) on the  
South Coast Rail Project

Dear Secretary Sullivan:

The Massachusetts Association of Conservation Commissions (MACC) appreciates the opportunity to comment on the combined Final Environmental Impact Statement/Final Environmental Impact Report ("FEIS/FEIR") for the proposed South Coast Rail Project. We recommend that you require a supplemental document be produced that provides further analysis of impacts to wetland resource functions and values and rare species habitat, along with a specific set of mitigation measures that go beyond the conceptual mitigation outline provided in the FEIS/FEIR. While the public will have additional opportunity to comment through the Wetlands Protection Act review process, there is no public comment opportunity under the Massachusetts Endangered Species Act (MESA). Moreover, it is important that mitigation be coordinated to address all federal and state environmental permitting concerns. That would best be accomplished through development of a more detailed mitigation package with an opportunity for further public comment, either in the form of a Supplemental FEIR, or in another form with public notice in the Monitor of a public comment period.

MACC represents the 2,400 Conservation Commissioners in the 351 cities and towns of the Commonwealth, charged with protecting the natural resources of their communities under the Conservation Commission Act (G.L. c.40, §8c) and with administering and enforcing the Massachusetts Wetlands Protection Act (G.L. c.131, §40). MACC's goal is to promote strong, workable, science-based laws, regulations, and policies regarding wetlands, other water resources, open space and biological diversity.

Conservation Commissions and the communities they serve will be directly impacted by the proposed South Coast Rail project. We urge you to consider carefully comments submitted by conservation commissions and other local individuals and groups that are familiar with the local and regional resources that will be impacted by this project.

MACC's comments focus on the broad perspective of wetlands and natural resource protection throughout the entire designated south coastal area. We urge you and the state agencies involved in planning and permitting this project to carefully consider and address the full range of this large

infrastructure project's impacts to water resources, rare and endangered species habitat, protected public and private conservation lands, biodiversity, and related considerations. This project will require a variance under the Massachusetts Wetlands Protection Act. The project must demonstrate an Overriding Public Interest in a manner that does not undermine the application of this important provision, which is a key safeguard in the state wetlands protection program.

Our comment letter (dated May 27, 2013) on the Draft EIR/EIS stressed several points that we hoped would be addressed in the final documents. While some of the issues we raised in that earlier letter are adequately addressed in the FEIS/FEIR, others are not. Remaining critical issues of concern are the methodology and evaluation of direct and indirect impacts, and the explanation of how proposed compensatory mitigation relates to those impacts.

### **Direct and Indirect Impacts Not Adequately Addressed**

MACC believes firmly that the FEIS/FEIR underestimates the extent and range of adverse impacts, particularly for the preferred alternative. The description of direct adverse impacts to wetlands and water resources appears to be strictly an accounting of the square feet/acreage affected. There is little information about the substance of those direct impacts. An adequate description of direct adverse impacts should thoroughly explain not just which ecological functions would be affected, but how and why. It is the how and why of adverse impacts that provides the substantive description. Little or none of that substance is contained in the FEIS/FEIR.

MACC is concerned that the FEIR continues to downplay the habitat fragmentation and ecological integrity loss impacts of this large linear project through not only the Hockomock Swamp but also several other ecologically significant areas including the Pine Swamp and Assonet Cedar Swamp. Both the evaluation of impacts and proposed mitigation do not, in our view, adequately account for the indirect impacts, including barriers to wildlife migration; edge effects; alterations in light, temperature, and water quality; or the spread of invasive species along the right-of-way. The FEIR also does not adequately acknowledge the degree to which reconstruction and reactivation of rail beds that have been abandoned (or even those that have been used only lightly for freight with minimum maintenance) for more than 50 years will impact natural resources both directly and indirectly.

With respect to indirect adverse impacts, MACC has two concerns. First, the 100-foot lateral zone used for analyzing indirect impacts may be sufficient for some affected functions and not for others. The FEIR/FEIS mentions, in response to the Environmental Protection Agency's comments, that the "road effect" zone concept was considered but discarded as inapplicable in this instance. There is no explanation why this well-documented science-based concept was discarded. MACC believes that, though the entire suite of road effect zone impacts may not be applicable, certain types of impacts from that suite would be expected to occur. More importantly, no explanation is provided to substantiate the 100-foot zone used. The CAPS analysis results depicted in the Figures show that substantial adverse changes would occur well beyond 100 feet from the edge of the rail corridor. We believe that MassDOT and the Corps should reconsider the methodology used and re-evaluate indirect impacts.

Second, though there is some narrative describing the types of anticipated indirect adverse impacts (*e.g.*, wildlife habitat, changes to the plant community), it is cursory at best and omits several important types of impacts (*e.g.*, increased light penetration, temperature increases) likely to adversely affect out-of-service rail segments. Again, the FEIS/FEIR provides little or none of the how and the why for the enumerated indirect impacts (*e.g.*, which mammals and herptiles will be affected; how and why will they

be affected; and how significantly).

### **Mitigation**

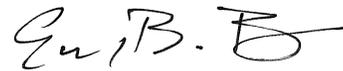
Our other principal concern remains the unsatisfactory explanation of the proposed compensatory mitigation. MACC commends MassDOT for the extensive search and listing of potential mitigation sites. It is clear that MassDOT “beat the bushes” across much of the southeast area to find potential sites. The physical description of the sites appears adequate as well for this point in the process. Unacceptably, however, the narrative describing the sites determined to be most suitable provides only the types of wetlands to be established, restored, or enhanced at those sites. There is no explanation that relates how those sites would or might compensate for the specific ecological functions (at both the site and watershed scales) that would be adversely affected by constructing and operating the rail line. As with the description of adverse impacts, compensatory mitigation is treated mostly as an accounting exercise.

MACC believes strongly that the estimation of likely impacts on wetlands-related resources and the scope of needed mitigation means and methods, as briefly summarized above, do not meet the standards set forth in the MEPA Certificate and do not satisfy the MEPA regulations. To address the deficiencies, additional analysis is needed, which would best be provided in a Supplemental FEIS/FEIR. We understand and appreciate the time and effort expended to produce the volume of information provided in the FEIS/FEIR. Nevertheless, a Supplement would be an appropriate mechanism to address the deficiencies noted above.

Sincerely,



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President



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