



October 25, 2013

Secretary Rick Sullivan, EOEEA  
Attn.: MEPA Office (Purvi Patel)  
100 Cambridge Street, Suite 900  
Boston MA 02114

**Sent via email and regular mail to [purvi.patel@state.ma.us](mailto:purvi.patel@state.ma.us)**

RE: Executive Office of Energy and Environmental Affairs EEA No. 14346  
Department of the Army Permit Application Number NAE-2007-00698

Dear Secretary Sullivan,

Public Employees for Environmental Responsibility (PEER) is writing to provide comments on the Final Environmental Impact Report (FEIR)/Final Environmental Impact Statement (FEIS) on the South Coast Rail Project proposed by the Massachusetts Department of Transportation (MADOT). PEER is a Washington D.C.-based non-profit, non-partisan public interest organization concerned with honest and open government. Specifically, PEER serves and protects public employees working on environmental issues. PEER represents thousands of local, state and federal government employees nationwide; our New England chapter is located outside of Boston, Massachusetts.

While we are not surprised by the selection of the Stoughton Alternative in the FEIR/FEIS, we were disappointed at the inadequacy of the document. Specifically, we

believe that the need for the project, the alternatives analysis, the description of impacts, and the mitigation are all fatally flawed. Unfortunately, we also understand that this comment letter is an exercise in futility, as the Commonwealth will undoubtedly issue itself permits for this environmentally devastating and financially irresponsible project. Therefore, we will be providing more detailed comments when the U.S. Army Corps of Engineers (Corps) issues its Public Notice on the Section 404 permit. Our specific comments on the FEIR/FEIS are set forth below.

**MEPA Comment Period Does Not Allow for Comprehensive Public Review.** The Executive Office of Energy and Environmental Affairs (EOEEA) should consider revising the Massachusetts Environmental Policy Act (MEPA) regulations regarding the comment period of FEIRs. We understand that current MEPA regulations appear to prohibit extension of the comment period beyond 30 days absent public notice flaws, but it is physically impossible to do a thorough and comprehensive review of a document such as this in that timeframe. If the Commonwealth truly wants to receive insightful comments on these massive projects, rather than just rubberstamp them, then extensions should be allowed.

**There Is No Demonstrated Need for This Project.** As PEER has pointed out repeatedly throughout this long review process, the Commonwealth has failed to demonstrate a valid need for the project. Rather than reiterate our specific concerns, please note that our comments on this topic remain the same as those expressed on the DEIR/DEIS. The FEIR/FEIS was not responsive to these concerns. Specifically, in our comment letter dated May 27, 2011, we said:

*Definition of the South Coast study area is inconsistent, and renders many analyses worthless. The DEIS/DEIR defines the South Coast study area in several different ways. For example, pages 4.2-4 and 4.2-5 state:*

*The communities that would be served or that could be impacted by the proposed South Coast Rail alternatives are listed in Table 4.2-1. The alternative railroad or highway alignments pass through or near these 27 communities, and new station sites are within or near each.*

*Table 4.2-1, labeled “Land Use Study Area Communities” then lists the following communities: Acushnet, Attleboro, Berkley, Canton, Dartmouth, Dighton, Easton, Fairhaven, Fall River, Foxborough, Freetown, Lakeville, Mansfield, Mattapoissett, Middleborough, New Bedford, North Attleborough, Norton, Raynham, Rehoboth, Rochester, Sharon, Somerset, Stoughton, Swansea, Taunton, and Westport.*

*However, the January 28, 2011 memorandum from Scott Peterson of the Central Transportation Planning Staff (CTPS) regarding South Coast Rail Work Trips to Boston, which is cited in the DEIS/DEIR states, “The SCR study area consists of 28 communities, which are identified below....” The memo then lists the following towns: Acushnet, Attleboro, Berkley, Bourne, Carver, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, Lakeville, Mansfield, Mattapoissett, Middleborough, New Bedford, North*

*Attleborough, Norton, Raynham, Rehoboth, Rochester, Sharon, Somerset, Stoughton, Swansea, Taunton, and Westport. Therefore, this SCR study area deleted the five towns of Canton, Easton, Foxborough, Sharon, Stoughton, and added the six towns of Bourne, Carver, Marion, Plainville, Seekonk, and Wareham. Since this latter study area was used to determine ridership, it is critical to the analysis contained in the DEIS/DEIR.*

*The DEIS/DEIR then states, “**No commuter rail service is offered within the South Coast Rail study area.** The nearest commuter lines (MBTA’s Providence Line and Middleborough Lines) terminate northwest and northeast of the South Coast region” (see p. 4.1-14; *emphasis added*). This statement is patently false and misleading. In fact, at least four towns defined as being within the SCR study area by Mr. Peterson have **existing** commuter rail stations: Attleboro, Lakeville, Mansfield, and Middleborough. Moreover, there are eight **existing** commuter rail stations in the South Coast study area as defined by Table 4.2-1 of the DEIS/DEIR: Attleboro, Canton (two stations), Lakeville, Mansfield, Middleborough, Sharon, and Stoughton.*

*Further, in the Socioeconomics section of the DEIS/DEIR, Table 4.3-1:*

*lists the communities that would be served or that could be impacted by the proposed project, which includes 17 municipalities in Bristol County and 3 municipalities in Plymouth County. The alternative railroad or highway alignments pass through or near these 20 communities, and new station sites are within or near each. The social and economic conditions within each of these municipalities, relative to the alternative alignments and station sites, are discussed in Section 4.3.2.1.1 (see p. 4.3-2).*

*Table 4.3-1, labeled “Social and Economic Environment Study Area Communities,” lists the following municipalities: Acushnet, Attleboro, Berkley, Dartmouth, Dighton, Easton, Fairhaven, Fall River, Freetown, Lakeville, Mattapoisett, New Bedford, Norton, Raynham, Rehoboth, Rochester, Somerset, Swansea, Taunton, and Westport. Again, this list is different than **both** the other lists presented in the DEIS/DEIR.*

*Yet another definition exists on p. 4.14-3 of the DEIS/DEIR: “The South Coast Rail Study Area is considered to be the region of southeastern Massachusetts consisting of southern Bristol and Plymouth Counties, bordering on Buzzards Bay or Mount Hope Bay, including the cities of Fall River and New Bedford and nearby towns.”*

*Finally, the South Coast Rail Corridor Plan includes 31 cities and towns; again, different than the other three lists. The Corridor Plan is used to justify MassDOT’s smart growth plan, on which it relies to minimize sprawl that would otherwise be a direct result of this project.*

*When PEER asked MassDOT to define the “South Coast Region” in its comment letter on the ENF, MassDOT responded that:*

*...the South Coast Rail study area ...[includes] ....all of the communities that would be served by, or could be impacted by, the proposed South Coast Rail alternatives. These are the communities that the proposed railroad or highway alignments pass through or near, and that would be served by proposed stations...[t]he referenced 8,000 riders represent commuters from the region, which includes all of the communities that would be served by the South Coast Rail project (pp. 363-364, Appendix 8.2-A).*

*The fact that the Corps and MassDOT cannot provide a consistent definition of the South Coast Region, **on which all the analyses are based**, is of grave concern to PEER. As such, we urge the Corps and MassDOT to produce a Supplemental DEIS/DEIR (SDEIS/SDEIR) so that the public is confident that the analyses are correct. The SDEIS/SDEIR must provide a single, consistent definition of the study area, and calculate ridership, impacts, and alternatives based upon this single definition. Moreover, we suggest that the Corps and MassDOT read the DEIS/DEIR and supporting documentation more carefully, to catch these blatantly false statements and eliminate them from the documents. PEER believes that any court would agree that such basic mistakes must be remedied before issuance of a FEIS/FEIR; to do otherwise makes a mockery of the NEPA/MEPA process.*

In response to these comments, the FEIR/FEIS stated:

For most analyses, the South Coast Region is defined as the 27 communities within Massachusetts listed in Table 4.2-1 of the DEIS/DEIR, plus the four neighboring Rhode Island communities of Bristol, Portsmouth, Tiverton, and Warren that would be served by the South Coast Rail project. The ridership demand modeling is influenced by the transportation network of a much broader area, encompassing much of eastern Massachusetts. A four-step process (trip generation, trip distribution, mode choice, and trip assignment) encompassed 182 cities and towns in eastern Massachusetts to develop a regional travel model upon which the ridership demand for the South Coast Rail project could be based. The methodology that was used is described in DEIS/DEIR Appendix 3.2-C.

This reply is completely unresponsive to our comment. To summarize our comments written 2.5 years ago, PEER's concern was that the South Coast study area, upon which the demand for the project is based (and thus the ridership and the practicability of alternatives), was inconsistently defined. In response, the Commonwealth and the Corps referred us to a memorandum entitled "Methodology and Assumptions of Central Transportation Planning Staff Regional Travel Demand Modeling" which never once mentions the South Coast study area, or the 27, 28, or 31 towns variously described as the study area (see <http://www.srpedd.org/scr/doc/scr-deis-appendix-03-2-c.pdf>; hereinafter "Methodology Memo"). Instead, Appendix 3.2-C of the DEIR mentions in passing 182 cities and towns in the area. Specifically, the Methodology Memo states, "The model developed for the South Coast Rail project encompasses the 182 cities and towns in eastern Massachusetts indicated in Figure 2, which include the 101 municipalities of the Boston Region Metropolitan Planning Organization area and 81 additional communities"

(Id. at 6). PEER does not understand how this sentence explains why there is not a consistent definition of the South Coast study area in either the DEIR/DEIS or the FEIR/FEIS.

However, the Methodology Memo does disclose another interesting fact: the underlying data on which the Commonwealth relied to determine the demand for the project was from the year 1991 (Id. at 7). Therefore, these data are **22 years old**. It appears to us that the entire basis (i.e., the demand) for the proposed project is not only based on data that is 22 years old, but is also developed with arbitrary and capricious methodologies. It is, therefore, risky for the Corps to adopt this FEIS for federal purposes. The National Environmental Policy Act (NEPA) regulations state: “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” See 40 CFR § 1500.1(b). It is difficult, if not impossible, to argue that 22-year old data on travel demand would be of “high quality.” Courts have agreed that old data are not suitable for EIS analyses. For example, the court in Northern Plains Resource Council, Inc. v. Surface Transp. Bd., 668 F.3d 1067, 1086 (9th Cir. 2011) held that ten-year old survey data for wildlife was “too stale,” thus reliance on it in an EIS was arbitrary and capricious; in Lands Council v. Powell, 395 F.3d 1019, 1031 (9th Cir. 2005) the court held that six year-old survey data for cutthroat trout was “too outdated to carry the weight assigned to it,” and reliance on that data violated NEPA; in Seattle Audubon Soc. v. Espy, 998 F.2d 699, 704 (9th Cir. 1993) the court held that “[r]eliance on stale scientific evidence is sufficient to require re-examination of an EIS”; in City of Carmel-by-the-Sea v. U.S. Dept of Transportation, 95 F.3d 892, 900 (9th Cir. 1995) the court held that “the EIS/R’s reliance on stale scientific [wetland] evidence renders it inadequate.” In this case, reliance on 22-year old data regarding the demand for a project, which would also impact the Vehicle Miles Traveled (VMT), air quality analyses, and – most importantly – the alternatives analysis, renders this FEIR/FEIS inadequate. This issue should be explored further in a Supplemental EIS (SEIS).

**The Ridership Analysis Is Flawed.** As PEER stated in its comments on the DEIR/DEIS:

*The DEIS/DEIR ridership analysis is flawed due to the area from which it obtains the initial Journey to Work (JTW) data, and due to assumptions that are incorrect. The DEIS/DEIR explains its ridership analysis as follows:*

*Traffic demand estimated for the alternatives are based on ridership forecasts developed by the CTPS. CTPS developed these forecasts based on a number of variables, such as observed commuter rail ridership in similar areas, magnitude of service to be provided, and future estimates of population and employment within the South Coast region and greater Boston area. All of these data were analyzed via a regional travel demand model, which ultimately provided a future ridership estimate for the proposed service (DEIS/DEIR p. 4.1-7).*

*The DEIS/DEIR also states:*

*In order to estimate overall transit demand for the region, an optimal transit system with no constraints such as construction costs or environmental impacts would have to be simulated. While this optimal transit demand has not been quantified, demand was measured in terms of the number of daily work-related trips between South Coast communities and Boston. For this screening analysis, transit demand was based on 2000 Journey to-Work (JTW) data. Total service to the South Coast Region was considered the total station boardings as projected for each alternative in addition to boardings at existing commuter bus services, which is anticipated to continue to operate with the South Coast Rail project in place. According to the JTW data, the number of daily work trips from the South Coast region to Boston is approximately 8,000. The ability of the alternative to meet possible future ridership potential was calculated as the percent of met ridership demand (DEIS/DEIR, p. 3-122).*

*As stated above, the South Coast region is defined throughout the DEIS/DEIR in several different ways. It is not clear which of the various definitions was used to determine that there are 8,000 daily work trips to the Boston area.*

In response to this comment, the FEIR/FEIS states:

The 8,000 JTW trips was based on the 28 communities listed in the 2011 CTPS memo Work Trips to Boston, included in the FEIS/FEIR as Appendix 2.2-A. A 2013 CTPS memo also included in Appendix 2.2-A discusses the latest available American Community Service Journey to work data for 2006-2010 in comparison to the 200 Census data.

As stated above, the rationale behind those 28 communities serving as the basis for ridership forecasts was never explained. In addition, it is interesting to note that the 2013 memo from CTPS in the Appendix to which we were directed discloses that it “didn’t make sense” to utilize the new data for their analysis. Specifically, the 2013 memo states:

The Census Bureau has discontinued the long form for JTW data set in favor of the ACS data set, so a perfect comparison between travel patterns from the 2010 Census and the 2000 Census, is not possible ... A major limitation of the ACS data is that it is not available below the level of the municipality. During preliminary environmental permitting phase, prior to the FEIR, 2000 JTW data was used to identify 8,000 work trips from the South Coast area to select neighborhoods in Boston. This neighborhood level of analysis is not possible with the ACS data. The neighborhood analysis was important because the alternatives that were examined only served a portion of Boston and given the size of Boston, ***it didn’t make sense*** to examine the JTW flows to all of Boston when only certain markets would likely benefit from the service improvements....

ACS data that currently has been released is limited to town level flows, does not include information regarding mode, and has a higher level of error associated with it due to data suppression and sample size [emphasis added; see Appendix 2.2-A, CTPS Journey to Work Memoranda].

Therefore, it appears that the FEIR/FEIS response to our concern about the validity of the ridership data is simply that the data has become even less certain. While we appreciate the candor, our original concern has not been addressed. The ridership analysis should be explored further in a SEIS.

We also stated in our comments on the DEIR/DEIS:

*However, as we stated in our letter on the ENF, the Journey to Work data state that 741 people from New Bedford commute to the Boston area, and 714 commute there from Fall River (see <http://www.census.gov/population/www/cen2000/commuting/mcdworkerflow.html>). This is a total of 1,455 commuting to Boston and Cambridge from Fall River and New Bedford. What the DEIS/DEIR does **not** mention is that 1,667 people from Fall River commute to New Bedford for work, with another 1,248 commuting to Somerset, and another 1,078 commuting to Swansea (Id.). Similarly, 1,902 people living in New Bedford commute to Fall River, 2,145 to Fairhaven, and 3,761 to Dartmouth (Id.). Therefore, it is worth noting that 11,801 people travel among the cities and towns of Fall River, New Bedford, Somerset, Swansea, Fairhaven and Dartmouth, while only 1,455 travel to Boston. It seems clear that the transportation need is between and among these southern cities, and not to Boston.*

The response in the FEIR/FEIS was:

As described in Chapter 2 the transportation system between the South Coast Region and Downtown Boston is inadequate in meeting existing and future demand in terms of capacity and public transportation options, as indicated by the congestion of the existing transportation system. It is inadequate to meet the demand of the growing South Coast region, both in terms of connectivity to Boston and in terms of regional mobility. Furthermore, the existing transportation system's lack of public transportation options contributes to negative effects on air quality and transportation safety resulting from vehicle emissions and traffic congestion.

Again, this comment is non-responsive to our concern. Specifically, our concern in 2011 was that there were far more people traveling among Fall River, New Bedford, and Taunton than there were people traveling from these towns and cities to Boston. Based on this, we questioned the need for the project. The Commonwealth's and the Corps' response to this concern was, basically, that there is no train from Fall River and New Bedford to Boston, and there is congestion on the highways. The fact that there is no train, and that the highways are congested, does not demonstrate a need for a new \$2 billion train. In fact, when the Massachusetts Bay Transit Authority (MBTA) proposed

the Greenbush Line, they stated that 4,200 riders would board each morning, and that these riders would result in a reduction in highway congestion (see [http://www.mbta.com/about\\_the\\_mbt/news\\_events/?id=10890](http://www.mbta.com/about_the_mbt/news_events/?id=10890)). In fact, by October of 2010, an average of only 2,133 riders used the train each morning, ([http://www.boston.com/news/local/massachusetts/articles/2010/10/31/after\\_3\\_years\\_greenbush\\_ridership\\_below\\_projections/](http://www.boston.com/news/local/massachusetts/articles/2010/10/31/after_3_years_greenbush_ridership_below_projections/)) and there was no measurable reduction in highway congestion. Given the MADOT's track record in estimating riders and the beneficial impacts from new train lines, we would hope that the regulatory authorities would require a more thorough and valid ridership analysis.

Finally, in order to obtain a variance from the Wetlands Protection Act (WPA), MADOT has to show that a variance is necessary to accommodate an overriding public interest. Unless and until these data are fixed, it will be impossible to show such overriding public interest.

**The Alternatives Analysis Is Flawed.** Because the FEIR/FEIS did not correct any of the DEIR/DEIS errors regarding alternatives, the alternatives analysis remains flawed. The reliance on stale data, and other errata in the document, render the selection of the Stoughton Alternative suspect. PEER would also like to point out that the Commonwealth has for years appeared to manipulate data to render the Stoughton Alternative the most practicable alternative. It is abundantly clear that the Stoughton Alternative was chosen years ago, and the "facts" stretched to fit the selection. See, for example, this MBTA map, which shows the Fall River/New Bedford line going through Stoughton. These maps have been available online for several years now.



PEER continues to believe that if indeed a transportation option from Fall River and New Bedford to Boston is needed, the Rapid Bus would be the least environmentally damaging practicable alternative (LEDPA).

**The Cost Estimates for the Stoughton Electric Alternative Are Suspect.** In the 2011 DEIR/DEIS, the estimated cost of the Stoughton Electric Alternative was \$1.88 billion. DEIR/DEIS, p. 1-8, Table 1-2. Now, in 2013, the cost is \$1,817,435,000 (in 2012 dollars). How did the project get \$62 million dollars cheaper?

**Air Quality Analysis Is Impossible to Decipher, and May Be Flawed.** The decision to move forward with an electric train as opposed to diesel certainly reduces local emissions. However, PEER was unable to find the section of the FEIR/FEIS where the

emissions associated with the generation of electricity were discussed in any detail. As you are aware, an electric train – unless powered by solar, wind, and other completely renewable sources – will result in emissions of greenhouse gases (GHG). In fact, it is possible for this electricity generation to result in more GHG emissions than a diesel train. The FEIR/FEIS should have discussed how the electricity would be generated: it could be from coal-fired plants, oil, natural gas, or nuclear. Unless we know how the electricity is being generated, it is impossible to determine which of the alternatives is better for air quality. The FEIR/FEIS did state that “the emission rate of 1,107 lbs of CO<sub>2</sub> per mwh is based on the 2005 marginal emission rate for New England electricity generation as calculated by ISO New England Inc.<sup>14</sup> (the New England Independent System Operator [ISO] for electricity). This rate takes into account the various electricity sources used in the New England system (coal, nuclear, natural gas, hydroelectric, etc.)” However, this is insufficient to draw any conclusions about the actual emissions associated with the electric train. The FEIR/FEIS should have used more recent data, and determined where the electricity would be coming from. At the very least, the MADOT should commit to using electricity sources that would result in a lower net emissions rate than the diesel alternative.

The FEIR/FEIS also states:

In order to have a net reduction in greenhouse gas emissions, a Build Alternative would have to divert automobile travel to transit to a degree that the reduction in motor vehicle emissions from automobiles would more than offset the increase resulting from a Build Alternative’s CO<sub>2</sub> emissions. The extent to which Build Alternatives would reduce greenhouse gas emissions associated with vehicular travel depends on the estimated diversion of the use of motor vehicles to transit. This “mode-shift” from motor vehicles to transit results in reductions of VMT, which reduces motor vehicle emissions. It also contributes to reduction in traffic congestion, which can also reduce vehicular emissions due to lower emissions associated with improved traffic flow, rather than stop-and-go (FEIR/FEIS, p. 4.9-13).

The FEIR/FEIS fails to take into account the fact that even if the proposed train did result in fewer cars on the highway, this benefit would disappear as more cars began to use the highway (induced traffic). This is a well-known traffic phenomenon which MADOT and the Corps continue to ignore. Failure to take induced traffic into account renders the VMT, and the air quality analysis, invalid.

**The Proposed Station Locations Are Putting Lives at Risk from EEE.** Given the high infection rates of mosquitoes with Eastern Equine Encephalitis (EEE) in the Hockomock Swamp and immediate environs over the past several years, PEER questions the wisdom of placing a train station, where people wait outside for trains at dawn and dusk, at Ground Zero. Specifically, the proposed Raynham Park Station is literally at the edge of the existing Hockomock Swamp, and on old filled swamp. PEER envisions that placing the station in this location would result in a call for additional pesticide spraying,

which is not only costly, but has adverse environmental impacts. A new station should simply not be built in this location.

**The Rapid Bus Alternative Analysis Continues to Be Flawed.** The FEIR/FEIS continues to perpetuate misleading and false statements about the Rapid Bus Alternative. For example, page 3-24 of the FEIR/FEIS states that the Rapid Bus Alternative would have a “greater impact on the environment” than the other alternatives. As we and many others have stated before, the fact that the Rapid Bus has a higher acreage impact of wetlands does *not* mean it has a greater impact on the environment. The functions and values of the wetlands, and the indirect impacts, are far more important in this case. From an ecological standpoint, it is preferable (and less environmentally damaging) to fill more wetlands adjacent to an existing highway than it is to construct a new train line through fewer acres of a vast forested wetland. Statements like these that are undeniably false support our contention that the FEIR/FEIS is not an unbiased document. PEER continues to believe that the Rapid Bus is a less environmentally damaging practicable alternative (LEDPA).

**Costs of Mitigation Are Not Revealed.** The Commonwealth and the Corps state that “Overall project mitigation costs have been updated and are included in the cost estimate presented in Table 3.2-22. The cost estimate includes projected environmental resource mitigation costs consistent with the FTA-approved methodology.” Table 3.2-22 reveals the estimated capital costs of the project, but the Table only lists costs associated with total infrastructure, real estate, professional services, contingency, and vehicle cost. There is no way to determine what the actual cost of mitigation is. In addition, Chapter 7 of the FEIR/FEIS (Proposed Mitigation and Section 61 Findings) does not include any cost estimates of the proposed mitigation measures.

While we realize that the Commonwealth and the Corps do not feel the need to address mitigation costs, PEER maintains that they are a critical element of the FEIR/FEIS. In the reply to our comments regarding cost on the DEIR/DEIS, the FEIR/FEIS states, “Funding issues are beyond the scope of the issues required to be addressed in an EIS/EIR. The impacts of funding decisions (deciding to fund one project over another) are not an element of USACE’s public interest determination” (see p. 73 of Volume III, Part B). However, the Corps cannot deny that mitigation costs, like the technical feasibility and logistics of mitigation, must be considered in the Section 404 analysis, and disclosed in a NEPA analysis. Because mitigation is used to offset what may be unacceptable (and therefore unpermittable) impacts to waters of the United States, the applicant’s ability to carry out such mitigation is critical. Therefore, PEER maintains that mitigation costs should have been disclosed in the FEIR/FEIS.

**Mitigation Plan Is Wholly Inadequate.** The MEPA certificate issued on the DEIR/DEIS stated that given the severity of the impacts proposed to the Hockomock and Pine Swamps, “detailed wetland mitigation plans are required in the FEIR” and a “robust and detailed mitigation plan for unavoidable impacts is a core requirement of the FEIR.” PEER believes that the words “required” and “requirement” indicate a mandatory duty. The FEIR/FEIS does not provide robust and detailed mitigation plans, and thus is

inadequate. For example, although the FEIR/FEIS outlines potential mitigation, it does not include a discussion of how the lost functions and values would be mitigated. In fact, the FEIR/FEIS concedes that the MEPA certificate required a description of “how lost wetland functions and values will be mitigated” and how the FEIR “should describe specific mitigation measures that will directly mitigate wetland impacts, improve wetland conditions and avoid future indirect and cumulative impacts” (see p. 7-14). The FEIR/FEIS does not do this. Restating the requirements of the MEPA certificate does not absolve the Commonwealth of actually carrying out the tasks required by the words. The EOEEA should examine this issue very carefully before issuing any decisions on the adequacy of this document.

Moreover, the MEPA certificate stated:

The smart growth aspect of the project, as described in the DEIS and the South Coast Rail Economic Development and Land Use Corridor Plan has the potential to substantially reduce the amount of land consumption and related impacts that might otherwise occur if existing development patterns continue. By concentrating development in Priority Development Areas (PDAs) and protecting habitat of high ecological value in Priority Protection Areas (PPAs), MassDOT’s smart growth plans could reduce by up to 50 percent the amount of habitat degradation projected to occur in the region by 2030. Another core requirement of the FEIR Scope relates to further refinement and specificity of MassDOT’s commitment to the South Coast Rail Economic Development and Land Use Corridor Plan *through land acquisition* and other smart growth measures as part of a comprehensive mitigation plan for the project’s direct and indirect impacts to the Commonwealth’s natural resources and wildlife habitat [emphasis added].

Reading this, PEER assumed that the Commonwealth would show its commitment to the South Coast Rail Economic Development and Land Use Corridor Plan [hereinafter “Corridor Plan”] by discussing land acquisition of PPAs in the FEIR/FEIS. However, the FEIR/FEIS states that, “The cost of implementing smart growth measures is not part of the South Coast Rail project...MassDOT is not funding land acquisition in the priority protection areas. The implementation of the Corridor Plan will be the responsibility of local governments” (see p. 73 of Volume III, Part B).

As we had feared, the Corridor Plan appears to be nothing more than words on paper, and as such, the Corridor Plan cannot be used as a mitigation measure. Without proper implementation of the Corridor Plan (e.g., promoting development in the PDAs while preventing development on the PPAs), smart growth will not occur. Rather, the proposed South Coast Rail will lead to even more sprawl. Designating certain parcels of land as PPAs does not, in fact, do anything to prevent development on those parcels. Therefore, unless and until the Commonwealth makes a commitment to land acquisition, the Corridor Plan is meaningless.

Finally, PEER is baffled as to why the Corps and the Commonwealth believe that bisecting a massive swamp with an electric train could itself be considered mitigation.

Specifically, the FEIR/FEIS states, “The Corps recognizes the unique habitat provided to the blue-spotted salamander...and other sensitive species, and believes that prevention of ATV use within and through vernal pools and the ROW would be facilitated by closing the ROW to those users.” This reasoning is convoluted and incorrect. MADOT is proposing to partially or completely fill 10 vernal pools, run a train through the center of the swamp, and refers to this as mitigation. There are other ways of preventing ATVs from using the ROW, as PEER has pointed out numerous times over the years, but MADOT has refused to consider them.

**Wetland and Wildlife Impacts Are Severely Underestimated.** As stated earlier, the FEIR/FEIS overestimates the impacts associated with alternatives the Commonwealth does not want to pursue, and also underestimates the impacts associated with its preferred alternative. Given the short time frame within which we had to comment on this voluminous document, we will give several examples of the failures in the FEIR/FEIS rather than an exhaustive recounting. Please note, though, that the portions of the FEIR/FEIS relating to wetland impacts and biodiversity impacts are incorrect and misleading.

First, PEER is extremely concerned at MADOT’s brazen refusal to assess impacts beyond 100 feet of the right of way in most instances. The FEIR/FEIS states:

The assessment of secondary and/or indirect impacts focuses on wetlands within 100 feet of the right-of-way along the South Coast Rail project corridor. At the request of the ICG, MassDOT was asked to consider assessing additional secondary and/or indirect impacts more than 100 feet from the right-of-way. Based on a literature review and a solid understanding of the construction and operations of the South Coast Rail corridor, in comparison to the road-effects of new road construction or an operating highway, MassDOT concluded that there is *no scientific basis* for considering the South Coast Rail project’s “road effect zone” for impacts to aquatic resources to extend further than 100 feet from the right-of-way (emphasis added, 4.16-23 to 4.16-24).

The FEIR/FEIS also states:

MassDOT met with the South Coast Rail Interagency Coordinating Group (ICG) in 2012 to develop a methodology for evaluating secondary and/or indirect impacts to wetlands from the South Coast Rail project. The methodology was presented in a memorandum prepared by MassDOT that incorporated ICG comments (Appendix 4.16-B)” (see p. 4.16-23).

(Please note that Appendix 4.16-B discusses potential land preservation areas, not secondary and indirect impacts.) When PEER did locate the proper memo, we noted that indeed, the several federal resource agencies “asked that the impact analysis look at wetlands that were more than 100 feet from the right-of-way, and cited studies associated with the Vermont Circumferential Highway that required analysis of the secondary and/or indirect effects of a highway at least 300 feet from the roadway.” MADOT

refused, claiming that “there are few if any studies of the effects of railroads on wildlife.” This is simply not true. MADOT goes on to state that they “were unable to find any published studies of the effects of railroads on aquatic ecosystems.” These studies do exist. In fact, the CAPS analysis that MADOT had completed for this project itself shows that impacts extend beyond 100 feet of the rail bed.

Regardless of what MADOT and its consultants were able to find, the ecological fact remains that railroads do, in fact, cause environmental impacts more than 100 feet away. The federal resource agencies agree with this, and MADOT’s refusal to address it is unacceptable. The U.S. Fish and Wildlife Service, together with the U.S. Environmental Protection Agency, have stated that indeed there *is* a scientific basis to looking at impacts more than 100 feet from a linear transportation project. MADOT is simply substituting its own uninformed opinion in place of the federal resource agencies’ scientific knowledge. The fact the Corps is adopting the *opinion* of the MADOT over *facts* stated by its sister federal agencies is astounding.

A second area where the FEIR/FEIS fails to adequately disclose environmental impacts is with vernal pools. Page 4.16-22 of the FEIR/FEIS states, “vernal pool boundaries have not been field delineated.” If the boundaries of these Outstanding Resource Waters (ORWs) have not been delineated, how can the measurement of impacts to these resource areas be correct? Moreover, the FEIR/FEIS also reveals that 10 vernal pools will be partially or completely filled, and six of these are in the Town of Easton alone. The majority of these pools contain state-listed species. The FEIR/FEIS characterizes these impacts by saying, “Overall, impacts to vernal pools along the South Coast Rail project corridor are small and are not likely to compromise the functions of pools or communities of pools along the route.” PEER cannot recall when such massive impacts to vernal pools have been allowed in the Commonwealth of Massachusetts, and the characterization of this impact as “small” is mind-boggling. The vernal pool impact by itself is unacceptable, and cannot be mitigated.

A third area where the FEIR/FEIS fails to adequately disclose impacts is in regard to clearing of the canopy through the Hockomock Swamp. The MEPA certificate stated, “Direct and indirect wetlands impacts related to canopy clearance should be further evaluated in the FEIR.” The FEIR/FEIS claims that the canopy gap through the Hockomock will only be 30 feet wide. However, given that there are no construction drawings other than conceptual ones, it is impossible to tell if this is true. Moreover, it seems difficult to believe that branches and trees will not have to be cleared near the electric lines given the shallow root systems in the wetland and the potential for tree blowdown. It is also entirely unclear whether the impacts associated with cutting vegetation in wetlands, streams, and vernal pools is included in the discussion of impacts within the FEIR/FEIS.

Finally, the FEIR/FEIS does not properly disclose impacts associated with fragmentation. The Hockomock is the largest vegetated freshwater wetland in Massachusetts, and MADOT proposes to bisect it with an electric train. From an ecological perspective, it is

impossible to mitigate for this huge indirect impact without restoring connectivity to a similarly sized wetland, with similar habitat, in the vicinity.

**Cultural Resources Were Not Addressed Properly.** The MEPA certificate states that the “FEIR should include an update on historical and archaeological studies conducted since the DEIR/S and an update on consultations with the Massachusetts Historical Commission and local historic boards and societies.” PEER could not find this; instead, we found statements that indicated no consultation was done. Moreover, the MEPA certificate states that the FEIR should “address potential conflicts with proposed station parking” at the site of the historic H.H. Richardson station. PEER could not find where this was done in the FEIR/FEIS. The MEPA certificate also asked for a “detailed mitigation plan for impacts to significant historical and archaeological resources.” PEER could find no such plan.

**Conclusion.** Although PEER was unable to conduct a comprehensive review of this voluminous document due to the limited 30-day comment period, we read enough to see that the FEIR/FEIS is insufficient. The flawed analyses regarding demand, ridership, environmental impacts, alternatives, and mitigation render the document inadequate. PEER would also like to point out that even if the Stoughton Electric Alternative were the LEDPA, it does not mean that the project can legally receive a permit. PEER believes that the proposed project would cause or contribute to significant degradation waters of the United States, and thus be ineligible for a permit under Section 404 of the federal Clean Water Act.

Sincerely,

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