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Secretary Richard K. Sullivan, Jr.
Executive Office of Energy and Environmental Affairs (EOEEA)
Attn: Aisling O'Shea, MEPA Office
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Via Email: SCREIS@USACE.army.mil
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Re: **Draft Environmental Impact Statement/Report (DEIS/R) for South Coast Rail NAE-2007-00698 and EOEEA #14346**

Dear Mr. Anacheka-Nasemann and Secretary Sullivan:

The Massachusetts Association of Conservation Commissions (MACC) thanks you for the opportunity to submit comments with respect to the combined Draft Environmental Impact Review/Draft Environmental Impact Statement ("DEIR/DEIS") for the proposed South Coast Rail Project.

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. Ch.40 sec.8c) and with administering and enforcing the Massachusetts Wetlands Protection Act (G.L. Ch.131 sec.40). MACC's mission 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 have been in coordination with some of them, and their individual members, in developing these comments. Nevertheless, these comments are submitted solely on behalf of MACC, and our intent is to speak from the broad perspective of wetlands and natural resource preservation throughout the entire

designated south coastal area. We offer these comments in concert with other environmental organizations which address a wide range of other topics regarding impacts to water resources, impacts to rare and endangered species habitat, proposed sacrifices of designated public lands, biodiversity issues and a range of other considerations.

MACC commends the effort in completing the DEIR/DEIS document. However, the DEIS is overly broad and lacking in specificity and detail, especially with regard to the estimation of wetlands and habitat impacts and the proposed mitigation measures to account for these impacts. The document defers analysis of proposed mitigation measures for wetland and habitat loss based on assumed uncertainties in final construction and layout details, yet the MEPA Certificate on the ENF clearly calls for the presentation of such a mitigation plan in reasonable detail. The DEIR/DEIS falls short of fulfilling the requirements of the MEPA scope in numerous specific areas.

In the document, a number of preliminary design decisions, which will have substantial environmental impacts, have been given only passing consideration. One example of this would be the failure to consider appropriate access allowances for 3.3 miles of single line of the rail proceeding through the Hockomock Swamp for repair and emergency response services. Although we appreciate the environmental considerations which led to this decision of a single line, we question whether an honest assessment of the likely full range of those impacts is possible without more detailed consideration of emergency access, maintenance, and other safety issues associated with a “stranded” single line layout.

Moreover, the overall level of the analysis is insufficient to determine the full range of impacts for the preferred alternative and, in so doing, gives short shrift to the difficulties that will be encountered in meeting the requirements of the project to comply with critical environmental laws, including the federal and state Clean Water Acts, the Massachusetts Wetlands Protection Act (WPA), the Massachusetts Endangered Species Act (MESA), and Article 97 of the State Constitution¹.

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 in the following comments, do not meet the standards set forth in the MEPA Certificate. In order to address these deficiencies, additional analysis is needed, which would best be provided via a Supplemental DEIS/DEIR. At a minimum, the serious concerns related to an underestimation of the full range of impacts - present in the current document - should be addressed in appropriate detail and scope in the Final EIR/EIS for this project.

¹ We note as well that pursuant to Section 4f of the USDOT Act of 1966 that federal transportation funds may not be used to take land from federal state or local parks and similar public open space unless 1) there is no feasible alternative, 2) that mitigation is provided or the impacts of the work are found to be “*de minimis*.” Proper estimation of the needed right of way is essential to determine what aspects of this statute will apply.

- Sufficient detail has not been provided to determine the full range of impacts that will be associated with the inevitable fragmentation of the major wetlands associated with the preferred Stoughton alternative, the major impact on highly sensitive populations including loss of over 32 acres from the habitat of nine state-listed species, and the potentially serious impacts that even slight changes in hydrology (related to stream relocation and construction/replacement of stream crossings) may have on the rare Atlantic White Cedar Swamp ecosystem.
- The DEIS/DEIR has substantially underreported the full number and distribution of affected vernal pool habitats, in addition to the likely substantial impacts within 100 feet of those pools as identified in the document.
- No specific information is presented regarding mitigation measures that will be undertaken to comply with requirements under the Clean Water Act, WPA, and MESA. Variances under the WPA and Section 401 of the Clean Water Act will be needed. Such variances are contingent on a variety of findings, including a determination that proposed mitigation measures will contribute to the protection of interests identified in these laws. The absence of concrete mitigation planning in many instances raises significant concerns as to how such mitigation measures are to be structured, permitted and funded.
- Overall, MACC is highly concerned with the continuing, un-fragmented viability of the Hockomock Swamp and preservation of its unique status as the largest freshwater wetland in the Commonwealth. The fragmentation issues associated with the loss of forest canopy, and the apparent balkanization of the hydrologic analysis related to the various stream crossings suggest that the level of detail offered is simply insufficient to determine the full range of plausible impacts and the degree of difficulty associated with their compensation. The Conservation and Assessment Prioritization System analysis included in the DEIR/DEIS shows that large areas of this natural area will suffer significant loss of ecological integrity. These impacts extend well beyond the boundaries of the rail right-of-way, and will affect Article 97 lands owned by the Massachusetts Department of Fish and Game, all in an Area of Critical Environmental Concern.
- The issues associated with the acquisition and indirect alteration of protected lands have not been adequately considered. Further consideration of the legal and access difficulties should be addressed.

MACC does not offer these comments by way of criticism, and commends the level of effort and scope of activity that has been carried out in preparing the DEIS/DEIR for public review. At the same time, there is a perceived public preference for certain rail line alternatives at the expense of the bus line alternative which presents ecological impacts that are only a tiny fraction of those expected from rail line construction. Given this compelling logic, it appears reasonable and fair to expect that the full extent of those rail line impacts, and an honest assessment of the difficulties and feasibility of necessary mitigation methods, should be presented. MACC hopes to see some of this hard thinking

and detailed assessment, in the next phase of the analysis which we hope will comprise a Supplement document to the DEIR/DEIS.

Very truly yours,

Ken Whittaker
Director of Advocacy

Linda Orel
Executive Director