There have been important developments on the legal front that I would like to share with the Protect Sudbury community.

On Thursday, March 11th, Protect Sudbury filed a petition (see attachment) with the Surface Transportation Board (STB) seeking to clarify whether they have jurisdiction over the Central Massachusetts railroad right of way (ROW). The Surface Transportation Board is an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily rail. Part of their mission is to preserve railroad corridors that may someday be needed for future transportation needs. They have a long-term perspective and realize that as populations shift, transportation needs can change. They also administer the Interim Trail Use program which provides communities the ability to use the corridor for recreational needs. The Minuteman Bikeway in Lexington and the CSX corridor which the Town of Sudbury recently purchased are both local examples of this program.

The Central Mass Right of Way (ROW) is the same railroad corridor that Eversource wishes to use for an unnecessary high voltage transmission line that we have fought for over five years. Protect Sudbury contends that the MBTA cannot give Eversource an easement as their transmission line would render the corridor permanently unsuitable for use as a railroad since the MBTA would allow the transmission line down the centerline and would waive their own rail construction standards.

Our research and investigations show that these actions are beyond the MBTA’s sole jurisdiction.

We know that the overhead option is a non-starter because the environmental impact of an 85’ clearance is huge. The underground MBTA Eversource option also has significant environmental impact as it poses a threat to our water supply in will result in the clear cutting of 55’ of forest at each manhole location every 1800 feet. Eversource has an under-street option available to them which involves NO tree clearing and which Town Dept of Public Works has no problem with. In fact, a similar Eversource transmission line exists beneath Goodman’s Hill Road for the past 40 years without endangering the community’s health and safety.

Every other project that Eversource is involved with is located under street with distances far greater than the proposed new line. If we can force Eversource off the Right of Way and remove the threat of the high voltage transmission line over our aquifer and through our wetlands and neighborhoods, the Town and the Department of Conservation and Recreation could resume discussions regarding a partnership on a rail trail that is consistent with the wishes of the community and less environmentally egregious.

Our ability to develop and fund this legal action is only possible as a result of our entire community’s determination to stop the environmental destruction that will certainly result from the proposed high voltage transmission line. The donations of your time, treasure and talent have provided us the time necessary to develop and implement this legal action.

This is an important first step and we anticipate resistance from Eversource and the MBTA as they go on the defensive.

Protect Sudbury has retained the services of Washington D.C. based attorney Daniel R. Elliott to represent us in this matter. Dan was presidentially appointed and Senate confirmed to two terms in 2009 and 2015 on the U.S. Surface Transportation Board (STB and was confirmed by the U.S. Senate both times. He was designated by the President to be Chairman for both of these terms until January 2017. We are fortunate to have found Dan and are confident in his ability to bring this matter to a favorable conclusion.

The following excerpt from our filing articulates the essence of our argument.

“In addition, when a line has not been abandoned, like the one that runs through Sudbury, the owner cannot encumber the line to the extent that reactivation of rail service is not possible. In this situation. MBTA, as described above, has agreed to two easements over the right-of-way that prohibit reactivation of rail service in the future for at least twenty-five years. One of the Board’s primary purposes is to protect the United States rail system and to make sure that railbanked lines are not interfered with in such a manner. As a result, a determination about whether these easements prohibit rail service reactivation on this Line is important for the protection of U.S. rail-banked lines.”

We will continue to work hand in hand with the Town to defend our position so that together we can achieve the victory that our community has fought for over the past five years.

I once again respectfully ask for your continued support and donations to fund these efforts.

I have attached the filing for those wishing to review.