

June 26, 2022

Dear members of the Select Board and the Sudbury Historical Commission,

With respect to the following two matters, the Board of Protect Sudbury and the many citizens we represent,

1. Request that the Town sign the landowner's petition to the Surface Transportation Board
2. Request to refrain from signing the Army Corps of Engineers (ACOE) Memorandum of Agreement (MOA)

We believe that both of these actions are crucial to protect the Town and its resources, historical and otherwise.

First of all, in the matter of the legal status of the Right of Way (ROW), Protect Sudbury has consulted with the Rail Customer and Public Assistance Office at the Surface Transportation Board (STB). We located and reviewed all Abandonment records for owners of the Central Mass ROW. Protect Sudbury and the STB legal advisors have concluded there is no legal record of abandonment for this ROW. The Central Mass was and is an active ROW.

As an active ROW, the Mass Central ROW cannot be reconfigured for alternate uses that interfere with operation or restoration of railroad services. The purpose of the Landowners Petition to the STB is to obtain a legal declaration confirming the active status. Only the full STB has exclusive and plenary authority in these matters; and only railroads, rail customers and landowners/abutters have legal standing to request these declarations. Protect Sudbury has assumed that the Town, as the largest landowner along the ROW, would be interested in joining other landowners and businesses in signing the petition to eliminate controversy and confirm the legal status of the ROW.

**Protect Sudbury respectfully requests the Select Board sign the petition and join the landowners in confirming the status and lawful uses of the Central Mass ROW.**

We know that there are a few in Town and perhaps on the Board as well that are in favor of accepting what Eversource and the DCR have proposed, so the Town can get a bike trail along the Mass Central Right of Way (ROW). Although Protect Sudbury has remained agnostic to and refrained from taking a position on the bike trail, we have been steadfast in our belief that if the Town desires a bike trail, we can build it along with DCR without having to sell out to Eversource to do so. Furthermore, although we have shown that Eversource does not need the high-voltage transmission line, if they are committed to doing so, we have been open to it being constructed under the streets, which can be done without sacrificing our conservation lands and environment.

Over the past couple of years, the Sudbury Historical Commission, Protect Sudbury and other citizens' groups interested in preserving historical resources in Town have tried to get the Army Corps of Engineers to address concerns of significant resources in the Town. Although some very small concessions may have been made by the ACOE in the MOA, there are still significant

resources at risk such as the historic bridges and the Section Tool House. When pressed to provide analysis of alternatives and to continue to attempt to reach consensus to avoid destruction or damage to these resources, the ACOE refused to entertain further discussion, leaving those items still at substantial risk.

There are other deficiencies pointed out by the Advisory Council for Historic Preservation (ACHP), the federal agency that wrote the statutes which the ACOE has so far ignored. The ACHP has told us in plain words, that the MOA is deficient and the ACOE is treading on shaky legal ground if they proceed.

Some believe that we would give up our monitoring rights if we don't sign the MOA, but what exactly is the value of such monitoring if we agree to the destruction and lack of protection spelled out in the MOA for the very resources we are trying to protect? There is very little value in preserving that monitoring, and by not signing it, doesn't mean we'd necessarily be giving up that monitoring ability anyway.

**Unless and until the above issues are addressed, it is our firm belief that signing the MOA either by the Select Board or the Sudbury Historical Commission would be a big mistake and leave the Town very little recourse in attempting to save these precious historical resources.**

With respect to the bike trail, if we fail in our efforts to stop the transmission line from being built on the ROW, we would want it to be the best possible bike riding experience possible. **Preserving the historical resources—the two historic bridges, the section tool house, signals, and many of the other 62 railroad features identified, as well as any potential archaeological treasures—would make for a far richer bike riding experience than if those items are gone or improperly protected. The bottom line here is that if the MOA is signed, we give up on the protection needed and sends the clear message that the Town surrenders and acquiesces to conditions that have failed to protect and preserve the Town's significant historical resources.**

In summary,

1. Signing the STB petition will settle the question as to whether Eversource has the legal right to build the transmission line on the ROW.
2. Refraining from signing the MOA preserves the Town's rights to challenge the deficiencies in the MOA rather than acquiescing to conditions that do not satisfy the Town's requirements for historic preservation
3. Protecting the historical resources along the ROW will make for a richer cultural experience for those making use the bike trail as well as providing additional historic context for the overall Town in terms of the history and importance of the railroad.

Thank you for considering these requests. As elected and appointed stewards of the Town, you have the awesome responsibility and obligation to protect the environment and protect and preserve the Town's cultural and historic resources. The citizens of the Town have placed their trust in you and have voted time and time again to allocate many dollars and have donated large

sums of time and money to stop the Eversource project and protect the environment and historical assets of the Town. Sudbury's interests are served best by listening to its residents as well as the federal agency—the ACHP—that has clearly identified both the legal and substantive issues in the MOA. As the Town embarks on a comprehensive historic preservation endeavor, it's important to not lose sight of the many resources we could save, but will most certainly lose, by adhering to a policy of signatory compliance with the ACOE.

Sincerely,

The Protect Sudbury Board of Directors –

Ray Phillips, President

Renata Aylward

Rebecca Cutting

Jim Gish

Chris Hamilton