

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

NOTICE OF CLAIM / REQUEST FOR AN ADJUDICATORY HEARING

NOW COMES Conservation Law Foundation plus seventeen East Boston residents (“Ten Residents Group”) and hereby respectfully submits the following Notice of Claim and requests an Adjudicatory Hearing concerning the Draft Waterways License Pursuant to M.G.L. c. 91 concerning Waterways Application No. W14-4297 (“Draft License”). The Massachusetts Department of Environmental Protection Waterways Division wrongfully issued to NSTAR Electric Company d/b/a Eversource Energy a Draft License for an electrical substation and associated equipment in East Boston, Massachusetts. The Draft License was improperly issued because the Department did not find that the applicant’s ancillary structure is a water-dependent use, that the project’s public benefits outweigh its public detriments, and that the license promotes the Commonwealth’s principles of environmental justice. The Draft License should be denied.

In support hereof, pursuant to 310 CMR 9.17(3), Conservation Law Foundation and the Ten Residents Group respectfully states as follows:

a) MassDEP Waterways Application File Number

Waterways Application No. W14-4297

b) Complete name, address, fax number, and telephone number of the Applicant

The Applicant is NSTAR Electric Company d/b/a Eversource Energy (hereinafter “Eversource” or “Applicant”). The Applicant Information listed on the Transmittal Form for Permit Application and Payment is the following:

NSTAR Electric Company
c/o Kevin McCune
One NSTAR Way, NE 250
Westwood, MA 02090
Phone: (781) 441-3808
Email: Kevin.McCune@nu.com

The Applicant’s Transmittal Form for Permit Application and Payment does not list a fax number. Furthermore, this contact information is likely outdated as a different point of contact is provided by the Applicant’s most recent supplemental application materials submitted in February of 2020. This document lists the following contact information:

Sean D. Hale
Project Manager, VHB
99 High Street
10th Floor
Boston, Massachusetts 02110
Phone: (617) 728-777
Fax: (617) 728-7782
Email: Shale@VHB.com

Likewise, MassDEP’s Draft License is addressed to the following:

NSTAR Electric Company
c/o Sean Hale, VHB, Inc.
500 Scarborough Drive, Suite 105B
South Portland, ME, 04106

c) Address of the Project

The Project address is as follows:

Lot 2, 338 East Eagle Street,
Boston, MA 02128.

The address has also been listed as 400 Condor Street, Boston, MA 02128 in separate MassDEP proceedings under the state’s Wetlands Protection Act. M.G.L. c.131, § 40.

d) Complete name, address, fax number, and telephone number of the Party and if represented by counsel, the name address and telephone number of the attorney

Conservation Law Foundation (“CLF”) is the authorized representative of CLF plus the Ten Residents Group. Staci Rubin, Esq. and Peter Shelley, Esq. will represent CLF and the Ten Residents Group as counsel.

Staci Rubin’s contact information is as follows:

Staci Rubin, Esq.
Vice President, Environmental Justice
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62 Summer Street, Boston 02110
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Email: srubin@clf.org

Peter Shelley’s contact information is as follows:

Peter Shelley, Esq.
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CLF is a nonprofit, member-supported organization dedicated to protecting New England’s environment. CLF protects New England’s environment for the benefit of all people and uses the law, science, and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy. CLF’s mission includes safeguarding the health and quality of life of New England communities facing the adverse effects of air pollution. CLF is incorporated under the laws of Massachusetts, with a principal place at 62 Summer Street, Boston, Massachusetts. CLF has over 5,000 members, including more than 450 residing in Boston.

The Ten Residents Group includes the following members:

1. Joe Aponte
[REDACTED]
2. John Daniel Bailey
[REDACTED]
3. Lara Caralis
[REDACTED]
4. Patricia D'Amore
[REDACTED]
5. Neenah Estrella-Luna
[REDACTED]
6. Zachary Hollopeter
[REDACTED]
7. Marcos Luna
[REDACTED]
8. Giordana Mecagni
[REDACTED]
9. Sandra Nijjar
[REDACTED]
10. Heather O'Brien,
[REDACTED]
11. Jane O'Reilly
[REDACTED]
12. Noemy Rodriguez
[REDACTED]
13. Michael Russo
[REDACTED]
14. Paul Shoaf Kozak
[REDACTED]
15. Rebecca Shoaf Kozak
[REDACTED]

16. Susanna Starrett

[REDACTED]

17. John Walkey

[REDACTED]

Pursuant to 310 CMR 9.17(1)(c), each member of the Ten Residents Group files herewith an affidavit stating their intent to be a part of the group and to be represented by its authorized representative. *See* Appendix A, Affidavits. All identified members of the Ten Residents Group filed public comments during the public comment period for this license.

e) If claiming to be a person aggrieved, the specific facts that demonstrate that the party satisfies the definition of “aggrieved person” found in 310 CMR 9.02

In addition to having submitted public comments during the public comment period in its corporate capacity, CLF qualifies as a person aggrieved by the decision of the Department to grant a license who submitted written comments during the public comment period in accordance with 310 CMR 9.17(1)(c). CLF is aggrieved pursuant to 310 CMR 9.17(1)(c), because the organization may suffer an injury in fact, which is different either in kind or magnitude, from that suffered by the public and which is within the scope of the public interests protected by M.G.L. c. 91. CLF has more than 450 members residing in Boston, including several who reside in East Boston.

Since its founding over fifty years ago, CLF has had a strong focus on representing the interests of its members and the public in tidelands and associated public trust matters in Massachusetts. CLF has made major investments of staff and resources in this area, including participating in every significant MassDEP rulemaking connected with the Public Waterfront Act from the initial set of regulations to the most recent revisions; serving, at MassDEP’s request, as special advisors in at least one rulemaking; and participating in numerous legal

challenges to the Public Waterfront Act, both in response to solicitation by the Massachusetts Supreme Judicial Court (“SJC”) and on CLF’s own initiative.

Through this work, CLF has developed a reputation as a strong advocate for the Public Waterfront Act and been the principal voice holding Massachusetts accountable as public trustee of the natural resources guaranteed to CLF’s members and the public by Article 97 of the Massachusetts Constitution. For decades, CLF has engaged with regulators responsible for the management and stewardship of tidelands to increase members’ and the public’s use and enjoyment of all tidelands held in trust for the public. Another central aspect of CLF’s work has been advocacy, policy, and educational activities connected to the Public Waterfront Act to ensure Massachusetts fulfills its responsibilities to CLF’s members and the public in providing access to and use of current or former tidelands to the full extent guaranteed by the law.

As part of its ongoing efforts to ensure that “tidelands are utilized only for water-dependent uses or otherwise serve a proper public purpose,” 310 CMR 9.01(2)(b), CLF submitted written comments on the Applicant’s 2020 Revised Chapter 91 Application. CLF urged MassDEP to not grant a Chapter 91 License to the Applicant because it failed to meet the statutory requirements of the Public Waterfront Act. If the Draft License is not reversed, vacated, or otherwise rescinded such that the substation facility is not licensed for construction pursuant to M.G.L. c. 91, the foundational principles of the Public Waterfront Act, which CLF has long fought to defend, will be undermined. Moreover, CLF’s members and the public will be deprived of their rights in the Commonwealth’s tidelands.

As part of its ongoing efforts to ensure that people of color, low-income residents, and people with limited English language proficiency benefit from equal environmental protections under the law and are able to participate meaningfully in decisions about what happens in their

communities, CLF was an active participant in the development of An Act Creating A Next-Generation Roadmap For Massachusetts Climate Policy (“Roadmap Law”). The Roadmap Law protects vulnerable environmental justice populations and codifies environmental justice principles. If the Draft License is not reversed, vacated, or otherwise rescinded such that the substation facility is not licensed for construction pursuant to M.G.L. c. 91, the environmental justice principles of the Roadmap Law, which CLF has long fought to advance, will be undermined.

f) A clear statement that a formal adjudicatory hearing is being requested

CLF and the Ten Residents Group hereby respectfully requests a formal adjudicatory hearing.

g) A clear statement of the facts which are grounds for the proceedings, specific objections to MassDEP’s Draft Waterways License, and the relief sought through the adjudicatory hearing

I. Facts Which are Grounds for the Proceedings

This request for an adjudicatory hearing concerns the construction and operation of a highly contentious, dangerous, and ill-sited electrical substation facility (“Project”) in an environmental justice population¹ on filled tidelands, “one of the Commonwealth’s most precious natural resources.” *Boston Waterfront Dev. Corp. v. Commonwealth*, 378 Mass. 628,

¹ M.G.L. c. 30, § 56 (“Environmental justice population”, a neighborhood that meets 1 or more of the following criteria: (i) the annual median household income is not more than 65 per cent of the statewide annual median household income; (ii) minorities comprise 40 per cent or more of the population; (iii) 25 per cent or more of households lack English language proficiency; or (iv) minorities comprise 25 per cent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 per cent of the statewide annual median household income; provided, however, that for a neighborhood that does not meet said criteria, but a geographic portion of that neighborhood meets at least 1 criterion, the secretary may designate that geographic portion as an environmental justice population upon the petition of at least 10 residents of the geographic portion of that neighborhood meeting any such criteria; provided further, that the secretary may determine that a neighborhood, including any geographic portion thereof, shall not be designated an environmental justice population upon finding that: (A) the annual median household income of that neighborhood is greater than 125 per cent of the statewide median household income; (B) a majority of persons age 25 and older in that neighborhood have a college education; (C) the neighborhood does not bear an unfair burden of environmental pollution; and (D) the neighborhood has more than limited access to natural resources, including open spaces and water resources, playgrounds and other constructed outdoor recreational facilities and venues.”).

629 (1979). NSTAR Electric Company d/b/a/ Eversource Energy, the Applicant, seeks to connect the Project to the Chelsea Creek Crossing facility, a separate piece of infrastructure that received a prior Waterways License (DEP License No. 12943).

a. Chapter 91 License Application Process

Over a six-year period, the Applicant submitted various application materials to the Massachusetts Department of Environmental Protection (“MassDEP” or the “Department”) in pursuit of a Waterways License pursuant to M.G.L. Chapter 91 (“Chapter 91”). On November 19, 2014, the Applicant filed its original Chapter 91 Application (“2014 Application”) with MassDEP. The 2014 Application included a “Chapter 91 Narrative” describing various aspects of the Project including its intended role in the Applicant’s larger Mystic-East Eagle-Chelsea Reliability Project (“MEECRP”). As discussed in greater length below, the 2014 Application included a brief alternatives analysis to support the Applicant’s assertion that the Project is “a water-dependent ancillary facility.” 2014 Application at A-7.

Four years later, the Applicant filed an “updated and revised” application on November 15, 2018 (“2018 Revised Application”).

Despite modifying the proposed location of the Project, the Applicant included limited detail in this filing and did not supplement or otherwise modify its previous alternatives analysis. In 2019, MassDEP notified the Applicant that the 2018 Revised Applicant was deficient because it had yet to submit a Notice of Intent to the Boston Conservation Commission. Consequently, MassDEP put the application on hold until 2020 when MassDEP received said Notice of Intent.

On February 4, 2020, the Applicant submitted an additional revision to its application (“2020 Revised Application”). The Revised 2020 Application summarily described “minimal changes” to the Project including modifications to the Project’s outer fence configuration, stormwater basin size, and a proposed layout of infrastructure and equipment. 2020 Revised

Application at 2. Yet again, the Applicant did not include any additional alternatives analysis in this document.

The Applicant claims that MassDEP “has properly found three times that the Substation is a water-dependent use project on the Substation Site.” Response to Public Comments (July 23, 2020) (“2020 Response to Public Comments”). To support this assertion, the Applicant points only to MassDEP’s three public notice announcements for each of the Project’s relevant public comment periods. 2020 Response to Public Comments at 2. In previous public notices, MassDEP has categorized the Project as both a “Water-Dependent Use Project”² and an “ancillary facility to a water-dependent industrial infrastructure crossing facility.”³ Despite these assertions, we have no evidence that MassDEP ever issued a water-dependent use determination for the Project in accordance with 310 CMR 9.12(2)(d).

Thus far, the Applicant has failed to provide sufficient information and MassDEP has failed to provide sufficient reasoning behind the Project’s categorization as an ancillary facility. Further, the Applicant has not provided sufficient information for MassDEP to make a water-dependency determination. In the Draft License, MassDEP simply describes the Project as “ancillary” to the existing Chelsea Creek Crossing facility. Draft License at 1. Nowhere in the Draft License does MassDEP explicitly describe the Project as a water-dependent use. As discussed in more detail below, MassDEP is required to make such a determination based upon the information submitted by the Applicant and during the public comment process. 310 CMR 9.12(2)(d).

² See MassDEP, Notice of License Application pursuant to M.G.L. Chapter 91 Waterways Application Number W [sic] W14-4297 (Dec. 21, 2018).

³ See MassDEP, Notice of License Application pursuant to M.G.L. Chapter 91 Waterways Application Number W14-4297 (April 10, 2020).

b. Changes in Project Site Location

Over the course of the application process, the Applicant changed the Project's proposed location on two separate occasions. Prior to the submission of its 2014 Application, the Applicant "intended" to construct the Project at 365 Prescott Street ("Bremen Street Parcel"), an inland location falling outside of jurisdictional tidelands. 2014 Application at A-5. In January 2011, the Applicant transferred the Bremen Street Parcel to the City in exchange for a then-City-owned parcel, 338 East Eagle Street ("2014 Project Site"), located on filled Commonwealth tidelands within the Chelsea Creek Designated Port Area ("Chelsea Creek DPA"). *Id.* According to Eversource's application materials, the City promised to "reasonably cooperate with [the Applicant]' in connection with the development of the Substation [at the 2014 Project Site]" within the relevant Purchase and Sale Agreement. *Id.* at A-9.

In 2018, the Applicant again changed the proposed Project location through an additional exchange with the City. 2018 Revised Application at 1. This new site ("Current Proposed Project Site"), located at the same address as the 2014 Project Site, lies 190 feet to the west of the 2014 Project Site. *Id.* at 2. The Applicant claimed that this move was made to accommodate the wishes of Channel Fish Company, Inc., an abutter to the 2014 Project Site. *Id.* At the time of transfer, the Current Proposed Project Site was undeveloped. *Id.* In addition, the Current Proposed Project Site is surrounded by City-owned property to its north, south, and east. *Id.*

As discussed above, both location transfers were accompanied by an associated revision to the Applicant's License Application. However, neither application revision substantially modified the Applicant's original 2014 Chapter 91 Narrative, including the Applicant's 2014 alternatives analysis. Neither of the location transfers demonstrated that there was any functional relationship between the proposed substation and the licensed Chelsea Creek crossing.

The Current Proposed Project Site is located in the Chelsea Creek Designated Port Area. The Bremen Street Parcel, 2014 Project Site, and Current Proposed Project Site are all located in a community designated by the Commonwealth of Massachusetts as an environmental justice population in accordance with M.G.L. c. 30, § 62. The area bears a disproportionate concentration of environmental burdens including an international airport, accompanying ground support industries, the entrances and exits to two tunnels, busy shipping terminals that house 100 percent of the jet fuel used by the airport, multiple petroleum terminals, and other businesses that involve water and air pollution, greenhouse gas emissions, odors, and noise.

c. Public Outreach and Notice

Since the Project's initial 2014 License Application, community members, environmental justice advocates, and elected officials have all raised significant opposition to the Project through multiple avenues. In accordance with the Applicant's multiple application revisions, the Project has undergone three public comment periods: the first occurred from November 25, 2014 to January 2, 2015; the second took place from December 21, 2018 through January 22, 2019; and the third occurred from April 10, 2020 to May 10, 2020.

Despite significant community concerns raised throughout related project proceedings, the Applicant only provided notice in English, Spanish, and Portuguese during the third 2020 public comment period.⁴ Likewise, community-based organizations expressed concern that the public comment notice was not adequately provided to Spanish-speaking residents.⁵

⁴ Final Decision: *Petition of NSTAR Electric Company, d/b/a Eversource Energy*, EFSB 14-04A/D.P.U. 14-153A/14-154A, Final Decision, at 50-53 (Feb. 26, 2021), <https://www.mass.gov/doc/efsb14-04adpu-14-153a14-154a-final-decision/download> (hereinafter "EFSB Final Decision").

⁵ *Mayor Janey Calls on Eversource to Cancel the Proposed Substation in East Boston*, CITY OF BOSTON (May 6, 2021), <https://www.boston.gov/news/mayor-janey-calls-eversource-cancel-proposed-substation-east-boston> (Hereinafter "Mayor Janey news article").

CLF and the members of the Ten Residents Group filed written comments on the 2020 Revised Application during MassDEP's third public comment period. *See* Appendix B, Comment Letters. The Comment Letters raised concerns regarding the risks the Project poses to public safety, the environment, coastal resiliency, as well as concerns around the insufficient notice and translation procedures and the effects of the COVID-19 pandemic. The comment letters also challenged MassDEP's alleged finding that the Project is water-dependent pursuant to the Waterways Regulations. Those comments recommended considering alternative locations.

i. Response of Elected Officials

Elected officials at multiple levels of government, including members of the Massachusetts Congressional delegation, the Massachusetts state legislature, and Boston City Council have repeatedly expressed opposition to the Project since the Applicant's 2014 License Application due to the inappropriate siting of an electrical substation in an overburdened community.⁶ In letters and other statements elected officials raised legitimate concerns about the location of the Project, including but not limited to, concerns about the safety of the location, flood risk, lack of public access, the accuracy of the need for the Project, and inadequate consideration of the significant public opposition to the Project. Considering these environmental and public safety concerns, then-Boston City Councilor Wu deemed the Project's current location an "injustice [that] cannot [be] allow[ed] to stand."⁷

Three elected officials, including then-Boston City Councilor (District 1) Lydia Edwards, then-State Senator (1st Suffolk & Middlesex District) Joe Boncore, and State Representative (1st

⁶ *See* Letter regarding EFSB Final Decision, Congress of the United States (December 7, 2020), <https://d279m997dpfwgl.cloudfront.net/wp/2020/12/LETTER-Proposed-East-Boston-Substation-12.7.20.pdf>.

⁷ Danny McDonald, *'The project is idiotic': East Boston residents encourage authorities to derail substation proposal*, Boston Globe (Oct. 14, 2020), <https://www.bostonglobe.com/2020/10/14/metro/project-is-idiotic-east-boston-residents-encourage-city-authorities-derail-substation-proposal/>.

Suffolk District) Adrian Madaro, submitted a strong comment letter during the Project’s third public comment period. City Councilor Lydia Edwards, State Senator Joe Boncore, and State Representative Adrian Madaro, Comment Letter on Chapter 91 Application No. W14-4297 at 3 (May 8, 2020) (“Elected Officials 2020 Comment Letter”). Based on regulatory, public access, environmental justice, language access concerns, and additional community concerns, the elected officials explicitly requested that MassDEP deny the Project’s Waterways Application. Elected Officials 2020 Comment Letter at 3. Likewise, then-Councilor Edwards has publicly deemed the Project “an infrastructure that has unacceptable significant or cumulative adverse effects on the health, safety or welfare of [the] public.”⁸

ii. November 2021 Ballot Question

Boston residents overwhelmingly reject the Project’s current location. In a nonbinding advisory ballot question in the November 2021 Boston municipal election, 83.75% of voters answered “no” to the following question:

Should a high voltage, electric substation be built at 400 Condor Street in East Boston,⁹ along the Chelsea Creek, near homes, parks, playgrounds, jet fuel storage, and in a flood risk area rather than in a nearby alternative safe and secure location such as non-residential Massport land at Logan Airport?¹⁰

Voters’ near-unanimous rejection of the planned location of the Project is consistent with the sustained public opposition to the Project, including protests attended by hundreds of Boston

⁸ Sean Phillip Cotter, *Fearing ‘explosion’ activists, councilors push back against East Boston power substation*, BOSTON HERALD (Oct. 14, 2020), <https://www.bostonherald.com/2020/10/14/fearing-explosion-advocates-councilors-push-back-on-east-boston-power-substation/>.

⁹ Note, although the address of the Project is 338 East Eagle Street, the Ballot Question listed its address as 400 Condor Street.

¹⁰ Nik DeCosta-Klipa, *Boston voted on 3 municipal ballot questions—and at least one will make a major change* BOSTON.COM, (Nov 3, 2021), <https://www.boston.com/news/politics/2021/11/03/boston-ballot-question-results-2021-election/>.

residents in the seven years since the Applicant's submission of its initial 2014 Project Application.¹¹

iii. *Multiple Other Proceedings Involving the Project Have Faced Significant Opposition*

Since 2014, the Project has been challenged in multiple fora. In addition to the strong opposition expressed throughout the Project's Chapter 91 License Application process, East Boston residents and community organizations have challenged each of the Project's state permitting proceedings. Collectively, these efforts underscore the strong community sentiment that the Project does not belong on the shores of Chelsea Creek.

The Applicant's petitions to the Massachusetts Energy Facilities Siting Board ("the Board"), from which it was required to obtain approval for the Project, generated significant and sustained opposition, including the trustee of a local realty trust, GreenRoots (also identified by its parent organization at the time, the Chelsea Collaborative), individual members, and CLF, who have all opposed the Project and its subsequent Project Change Petitions as Intervenor or Limited Participants. Despite this opposition, the Board approved the construction of the Project on February 22, 2021; the Board's decision is the subject of a pending appeal before the SJC.

CLF, GreenRoots, and Lawyers for Civil Rights also filed a complaint under Title VI of the Civil Rights Act of 1964 with multiple federal agencies after officials failed to make meetings about the Project accessible to all residents by providing the necessary language translation and simultaneous interpretation at public EFSB hearings.¹² The federal agencies' resolution Title VI complaint is pending.

¹¹ See Press Release, *Hundreds Protest Planned Eversource Substation in East Boston and Rally for Safe Jobs, Immigrant Rights, and a Livable Climate*, Sierra Club (Sept. 8, 2018), <https://www.sierraclub.org/press-releases/2018/10/hundreds-protest-planned-eversource-substation-east-boston-and-rally-for-safe>.

¹² *GreenRoots, Inc. and Conservation Law Foundation v. Massachusetts Executive Office of Energy and Environmental Affairs et al.*, Complaint Under Title VI, Environmental Protection Agency (June 1, 2020), <https://www.clf.org/wp-content/uploads/2020/06/Consolidated-Title-VI-Complaint-06-01-2020.pdf>.

The Applicant must also gain approval for the Project from the Boston Conservation Commission, which regulates projects and their impacts on the environment and climate change adaptation efforts under the Local Wetlands Ordinance (“the Ordinance”). The Applicant’s Notice of Intent was again met with significant opposition, including but not limited to opposition from Michelle Wu (then-City Councilor At-Large), Lydia Edwards (then-City Councilor, District 1), Michael F. Flaherty (City Councilor At-Large), Annissa Essaibi George (then-City Councilor At-Large), and Julia Mejia (City Councilor At-Large).¹³ On November 19, 2020, the Boston Conservation Commission approved an Order of Conditions for the Project. After a group of residents appealed the Conservation Commission’s decision, MassDEP issued a subsequent Superseding Order of Conditions approving the Project under the state’s Wetlands Protection Act (M.G.L. c.131, § 40) on October 29, 2021.

d. Project is Located in East Boston, an Environmental Justice Population

East Boston is a neighborhood of Boston bordered on the east by the City of Revere and the Town of Winthrop and is located across Chelsea Creek from the City of Chelsea to the north. East Boston is a state-designated environmental justice population pursuant to M.G.L. c. 30, § 62.¹⁴ East Boston is home to more than 45,000 residents, most of them working-class immigrants of color. More than half of East Boston residents identify as Hispanic or Latino/a/x (53 percent), and almost half were born outside the United States to non-citizen parents.¹⁵ More than 51

¹³ Michelle Wu, @wutrain, “Tweet Message,” TWITTER (June 17, 2020), <https://twitter.com/wutrain/status/1273362904209915904/photo/3>.

¹⁴ *Massachusetts 2020 Environmental Justice Populations*, MAPS ARCGIS, <https://mass-eoea.maps.arcgis.com/apps/webappviewer/index.html?id=1d6f63e7762a48e5930de84ed4849212> (hereinafter “MA EJ Populations”).

¹⁵ See, e.g., *Boston in Context: Neighborhoods: 2014-2018 American Community Survey*, Boston Planning & Development Agency, at 8, 10 (Feb. 2020), <http://www.bostonplans.org/getattachment/1882b00d-48fe-41bc-ac1a-6979e25dbaf1> (reporting that 56.4% of East Boston residents are Hispanic or Latino and that 49.5% are foreign born).

percent of the population surrounding the Current Proposed Site speak Spanish or Spanish Creole.¹⁶ East Boston's median household income is almost \$10,000 below that of Boston's city-wide median household income, and 17 percent of East Boston residents are below the poverty line.¹⁷

The additional impacts the Project would have on East Boston and its residents cannot be overstated. For decades, East Boston's residents have shouldered a disproportionate share of environmental burdens, with numerous heavy industrial sites located in close proximity to residential neighborhoods. This includes Logan International Airport, which is one of the busiest airports in the country and subjects East Boston's residents to air pollution and almost constant noise. There are numerous other heavy industrial and diesel-truck reliant facilities and pollutant sources.

The Project is located directly across the street from one of the few green spaces in the heavily industrial area including American Legion Playground, a children's playground, two basketball courts, and a soccer/softball field, and is adjacent to the Condor Street Urban Wild, a public green space with restored salt marshes, meadow grasses, and walking paths. Using this open parcel for the substation precludes its use for community green and recreative space, which is an especially important consideration since East Boston and neighboring Chelsea have the "lowest amounts of open space per person" compared to other Boston neighborhoods and nearby communities.¹⁸

¹⁶ *Languages spoken by at least 5% of the census tract population*, MAPS ARCGIS, <https://mass-eocei.maps.arcgis.com/apps/webappviewer/index.html?id=dffdbf9c109647fc9601f7524c1fd9f4> (last accessed on Jan. 24, 2022).

¹⁷ *East Boston and Power: An Environmental Justice Community in Transition*, UNION FOR CONCERNED SCIENTISTS (Oct. 13, 2019), <https://blog.ucsusa.org/science-blogger/east-boston-and-power-an-environmental-justice-community-in-transition/>.

¹⁸ *Green Infrastructure Program, Community Partner Profiles*, United States Environmental Protection Agency, Region 1: Chelsea, Massachusetts, at 1 (2011), <https://www.epa.gov/sites/production/files/2015-10/documents/region-1.pdf> (hereinafter "Chelsea Profile").

e. Potential Dangers and Hazardous Conditions

The Project poses significant potential dangers to the surrounding community. The Current Proposed Project Site lies roughly 80-feet from the high-water mark of Chelsea Creek. 2018 Revised Application at 3. Likewise, portions of the Current Proposed Project Site will flood in the next 50 years under a 36-inch sea-level rise scenario according to projections by Climate Ready Boston.¹⁹ Inundation at the Current Proposed Project Site would not only damage the area's energy infrastructure; such flooding events may additionally lead to on-site electric fires and explosions. Substation fires and explosions have been known to occur during large storms,²⁰ which are expected to increase in frequency and intensity as a result of climate change.²¹ According to Daniel Faber, Director of the Northeastern University Environmental Justice Research Collaborative, as sea levels rise between 6 and 15 feet, there is a "high . . . risk for catastrophic failures" at industrial sites along the banks of the Creek.²²

These potential dangers are further exacerbated by the fact that the high-voltage electric substation would sit on the banks of the "highly industrialized and severely degraded" Chelsea Creek, in close proximity to a dense residential neighborhood filled with hard-working families, people of color and limited English proficient households, as well enormous tanks of jet fuel and home heating oil.²³ Given the Project's vicinity to heavily utilized community open space and playgrounds, many East Boston residents understandably fear a disastrous scenario.²⁴ Finally, the

¹⁹ See *Climate Ready Boston Map Explorer*, City of Boston, BOSTON MAPS GIS, <https://boston.maps.arcgis.com/apps/View/index.html?appid=7a599ab2ebad43d68adabc9a9e0e6&extent=-71.1583,42.2897,-70.9309,42.4060> (last accessed on Jan. 21, 2022) (hereinafter "Boston Maps").

²⁰ *ConEd Explosion During Hurricane Sandy Rocks Manhattan's Lower East Side*, HUFFINGTON POST (Oct. 30, 2012), https://www.huffpost.com/entry/coned-explosion-hurricane-sandy-video_n_2044097.

²¹ Adrea Alfano, *Nor'easters May Become More Intense with Climate Change*, SCIENTIFIC AMERICAN (Jan. 26, 2020), <https://www.scientificamerican.com/article/nor-easters-may-become-more-intense-with-climate-change/>.

²² Shannon Dooling, *'Hit first and worst': Region's communities of color brace for climate change impacts*, WBUR (Jul. 26, 2017), <https://www.wbur.org/news/2017/07/26/environmental-justice-boston-chelsea>.

²³ Chelsea Profile, *supra* note 18, at 1.

²⁴ See Miriam Wasser, *Some East Boston Residents Are Wary of Proposed Electrical Substation*, WBUR (Aug. 22, 2019), <https://www.wbur.org/news/2019/08/22/eversource-east-boston-substation-eagle-hill>.

Project would subject nearby residents to increased truck traffic, as well as increased noise and light pollution.²⁵

II. Specific Objections to MassDEP’s Draft Waterways License

a. The Department Has Not Properly Found that the Project is a Water-Dependent Use.

As stated above, MassDEP has yet to issue a water-dependency finding for the Project. Simply put, the Applicant’s claims that the agency has made this finding on “three separate occasions” is a blatant mischaracterization of the Project’s review process. MassDEP has yet to issue a supported finding that the Project meets the regulatory definition of a water-dependent use as required by the Department’s own regulations at 310 CMR 9.00 (“Waterways Regulations”). Further, as discussed in more detail below, the Department would be unable to make such a finding due to the lack of evidentiary support provided by the Applicant and information presented during the public comment periods thereon.

i. The Project Requires a Water-Dependency Finding under the Waterways Regulations.

A primary purpose of MassDEP’s Waterways Regulations is to “preserve and protect the rights in tidelands of the inhabitants of the Commonwealth by ensuring that the tidelands are utilized only for water-dependent uses or otherwise serve a proper public purpose.” 310 CMR 9.01(2)(b). Accordingly, alleged water-dependent uses must undergo a strict analysis. 310 CMR 9.12. This analysis is important for those uses which are not independently water-dependent but instead become so only due to their intrinsic, interconnected relationship to a separately licensed facility.²⁶ Such uses, although they are not inherently water-dependent and deemed to serve a

²⁵ See EFSB Final Decision, *supra* note 4.

²⁶ Substation facilities are often located outside of jurisdictional tidelands. In fact, many properly licensed substations throughout the region successfully operate away from tidal waters. See National Grid Waterways License Application No. W-16-4967.

proper public purpose, may fall under the regulatory definition of an “ancillary facility” to a water-dependent infrastructure crossing facility. *See* 310 CMR 9.02 (definitions). The Applicant claims that the Project meets this definition. 2020 Response to Public Comments at 2.

As noted, ancillary facilities are not inherently water-dependent under the relevant statutory scheme. Instead, the Waterways Regulations require the Department to make objective water-dependent use findings for such uses in accordance with the following provision:

In the case of an infrastructure crossing facility, *or any ancillary facility thereto*, for which an EIR is submitted, the Department shall find such facility to be water-dependent *only* if the Secretary has determined that *such facility cannot reasonably be located or operated away from tidal or inland waters*, based on a comprehensive analysis of alternatives and other information analyzing measures that can be taken to avoid or minimize adverse impacts on the environment, in accordance with M.G.L. c. 30 §§ 61 through 62H. *If an EIR is not submitted, such finding may be made by the Department based on information presented in the application and during the public comment period thereon.*

310 CMR 9.12(2)(d) (emphasis added). Thus, for the Project to be properly classified as a water-dependent use, MassDEP must find that the substation facility cannot reasonably be located or operated away from jurisdictional tidelands. This analysis may only take place upon the completion of the public comment period with full consideration of all materials submitted therein. MassDEP must further determine that the proposed substation associated with the Draft License meets the definition of “infrastructure crossing facility,” as being any structure which is operationally related to such crossing facility and requires an adjacent location shall be considered an ancillary facility thereto.” 310 CMR 9.02.

MassDEP has yet to issue a water-dependency finding for the Project as expressly required by the Waterways Regulations. Although the Department’s Draft Waterways License refers to the Project as “ancillary” to the Chelsea Creek Crossing facility, this factual conclusion assumes the predicate facts on which it must be based and by itself is insufficient. To license the

Project at the Current Proposed Project Site, the Department must find that the substation facility meets the definition of a “infrastructure crossing facility” and water-dependent use as defined by 310 CMR 9.02 & 9.12(2)(d), which the Department has failed to do.

ii. *The Applicant Provides Insufficient Evidence that the Project is a Water-Dependent Use.*

The Applicant’s application materials provide scant substantive evidentiary support upon which the Department may find that Project meets the relevant definition of a water-dependent use project or infrastructure crossing facility. In fact, the only substantive support offered by the Applicant is a haphazard alternatives analysis amounting to roughly a page of its initial 2014 Application. The Applicant has repeatedly claimed that this analysis effectively demonstrates that the Project “cannot reasonably be located or operated away from tidal or inland waters” and must therefore be located at the Current Proposed Project Site. 2014 Application at A-5; 2020 Response to Public Comments at 4. In conducting this “analysis,” the Applicant imposed multiple site restrictions to artificially narrow the scope of its search for suitable alternative project sites. *Id.* at A-5 - A-6. Unsurprisingly, this limited investigation yielded no locations that could adequately host the Project. Over the span of two application revisions, including a Project location change in 2018, the Applicant has continued to support its assertion that the Current Proposed Project Site is the only suitable Project location with the results from this outdated and insufficient search. *See* 2020 Response to Comments at 5.

In its 2014 Application, the Applicant identified four essential criteria for a potential alternative project site:

- Sites must be located in East Boston;
- Sites must be greater than or equal to 0.4 acres;
- Sites must be undeveloped and developable; and
- Sites must be located outside of tidelands.

2014 Application at A-6. These criteria are far from essential and not sufficient to support MassDEP's required determinations for the Draft License. For example, the Applicant's third criterion is not relevant to the Department's water-dependency analysis, since the Waterways Regulations do not require a project site to be currently undeveloped and developable. Further, the Applicant offers no evidence to suggest that a developed parcel would unreasonably hinder the construction of the Project. As acknowledged by the Applicant, East Boston is "a very densely developed"²⁷ and populated area. This criterion only serves to unduly limit the scope of the Applicant's search. Contrary to the Applicant's conclusion, the density of development around the Current Proposed Project Site should have precluded its inclusion in any alternatives analysis.

As a result of these self-serving and artificial limitations, the Applicant identified two potential locations to serve as the Project Site: the Frankfort Street Parcel and the WMF McClellan Highway Parcel. *Id.* The Applicant quickly determined, in only three sentences for each parcel, that neither property would be eligible to serve as the Project site. *Id.* As discussed below, both dismissals were based on conclusory facts as well as factors inconsequential to the water-dependency analysis at hand.

The Applicant claimed that the Frankfort Street Parcel was ineligible to serve as the Project location due in part to its location in a "densely populated neighborhood and next to a school." 2014 Application at A-6. The Applicant further alleged that the "noise and visual impacts during construction would affect the surrounding community while providing little direct benefit to the residents." *Id.* Additionally, the Applicant noted that this parcel would require an additional mile of trenching to connect to the Chelsea Creek Crossing facility. *Id.*

²⁷ As stated by the Applicant in its 2020 Response to Public Comments at 4.

The Applicant rejected the WMF McClellan Highway Parcel on the grounds that the property's value to its current owner allegedly outweighs the value of the parcel as a potential Project site. *Id.* Relatedly, the Applicant claimed that this site is not “economically feasible” for the Applicant due the cost associated with purchasing the site, evaluated by the Applicant as \$3 million. *Id.* In dismissing this location, the Applicant again noted that this parcel would require an additional mile of trenching to connect the substation facility to Chelsea Creek Crossing.

The nature of these summary dismissals serves only to underscore the Applicant's limited understanding of the greater East Boston area and general apathy towards the search for a truly suitable alternative site. In fact, the Applicant's Director of Siting and Project Outreach previously admitted that “We didn't look at a lot of other areas because we had the available land.”²⁸ As expressed countless times throughout the application process, the Current Proposed Project Site is situated in the Eagle Hill neighborhood, a densely populated environmental justice population.²⁹ The Project's Current Proposed Project Site is adjacent to two important outdoor community amenities, Condor Street Urban Wild and the American Legion Playground. The Applicant fails to explain how the Current Proposed Project Site will insulate the surrounding community from the same “noise and visual impacts” which rendered the Frankfort Street Parcel unsuitable. Likewise, estimates put the total cost of the Project at roughly \$66 Million.³⁰ In light of this cost, the Applicant's claims that WMF McClellan Highway Parcel fails for “economic feasibility” are baseless, arbitrary and self-serving. Further, the Waterways Regulations do not require the Applicant to weigh location decisions against a parcel's value in the hands of the

²⁸ Wasser, *supra* note 24.

²⁹ See MA EJ Populations, *supra* note 14.

³⁰ Danny McDonald, *State board OK's controversial East Boston substation; foes vow to appeal*, BOSTON GLOBE (Feb 22, 2021), <https://www.bostonglobe.com/2021/02/23/metro/controversial-east-boston-substation-project-receives-green-light-state-board/>.

current property owner, and even if they did, surely that alleged value would need to be reassessed since 2014.

Collectively, this data offers no support that the Project cannot be “reasonably located or operated away from tidal waters.” 310 CMR 9.12(2)(d). The Applicant’s alternatives analysis is insufficient, outdated, and relies on artificially limited and irrelevant criteria. Yet it is the only evidence Applicant provides to support its claim that the Project is water-dependent. The limited record evidence before the Department on viable alternative sites does not provide an adequate basis for MassDEP to give the green light to a Project that will have severe and unjust consequences for East Boston and its residents. There is no information or analysis in the record for the Draft License that the substation in this case meets the minimum conditions applicable to the substation under 310 CMR 9.02.

iii. Public Comments Demonstrate Significant Opposition to the Project and Concerns Were Not Addressed by the Applicant.

The information presented during the public comment periods must play a crucial role in MassDEP’s Water-Dependent Use determination. As stated above, the Department’s finding must be based “on information presented in the application and during the public comment period thereon.” 310 CMR 9.12(2)(d).

During the first comment period ending in January of 2015, MassDEP received public comments from 43 residents who strongly opposed the Project’s East Boston location. The residents cited the risks the Project would pose for the safety of local residents and workers, for the progress of municipal conservation and revitalization efforts, and for Chapter 91’s goal of promoting public access and water-dependent uses of the waterfront. *See* Victor A. Benetez et. al. Comment Letter Re: NSTAR Electric Company’s Chapter 91 License Application No. W14-4297 (Jan. 2, 2015).

MassDEP received public comments, all in opposition to the Project, during the third comment period in 2020.³¹ Three comment letters were filed: (1) on May 8, 2020 from then-Boston City Councilor (District 1) Lydia Edwards, then-State Senator (1st Suffolk and Middlesex District) Joe Boncore and State Representative (1st Suffolk District) Adrian Madaro; (2) on May 10, 2020 from GreenRoots and 55 individuals; and (3) on May 20, 2020 from CLF and 17 organizations (together, “Comment Letters”). All letters raise similar concerns to those expressed by residents in the 2015 public comment period, including the risks to public safety and the environment posed by the Project, as well as concerns about coastal resiliency, the insufficient notice and translation procedures, and the effects of the COVID-19 pandemic. Importantly, the Comment Letters also challenge MassDEP’s alleged finding that the Project is Water-Dependent pursuant to the Waterways Regulations. The Comment Letters highlight that a “*comprehensive alternatives analysis*” was not completed. The Comment Letters also assert that the Project is not water-dependent as it does not meet the Waterway Regulations’ requirement that it “cannot reasonably be located or operated away from tidal or inland waters.” 310 CMR 9.12(2)(d).

iv. *MassDEP Could Not Make Water-Dependent Finding Based on the Information Submitted in the Application and During the Public Comment Period.*

The Waterways Regulations are clear that since an EIR was not submitted for the Project, a finding of water-dependency could only be made based on the information presented in the Application and during the public comment period. Since the Applicant failed to provide any evidence that the substation meets the definition of an ancillary facility (*See* Section II(a)(ii)), MassDEP could only rely on the information presented during the public comment period to

³¹ MassDEP did not receive any comment letters during the Project’s second comment period beginning in December of 2018. *See* Cover Letter Re: Substation 131 - Eversource Mystic, East Eagle, Chelsea Reliability Project Waterways License Application Number W14-4297 (Feb 4, 2020) (“2020 Cover Letter”).

make its determination. The information presented during the public comment period, however, was entirely in opposition to the Project and to MassDEP's classification of the Project as Water-Dependent (*See* Section II(a)(iii)).

MassDEP could not properly find that the Project is water-dependent based on the evidence presented in the Application, which was insufficient, and the information provided during the public comment period, which alleged that the Project is non water-dependent.

b. The Project Does Not Serve a Proper Public Purpose in Accordance with 310 CMR 9.31(2).

The Waterways Regulations provide that “no license or permit shall be issued by the Department for any project on tidelands or Great Ponds...unless said project serves a proper public purpose which provides greater benefit than detriment to the rights of the public in said tidelands.” 310 CMR 9.31(2). As discussed above, the Department has not made a water-dependent use finding for the Project as required by the Waterways Regulations. *See* 310 CMR 9.12(2)(d). Thus, the Waterways Regulations’ presumption that water-dependent uses sufficiently fulfill a proper public purpose does not apply to the Draft Waterways License currently at issue.

i. The Project’s Public Detriments Strongly Outweigh any Alleged Public Benefits.

In the absence of this presumption, the Department must weigh the Project’s many public detriments against its alleged benefits. As described by copious residents and elected officials throughout the Project’s three comment periods, the burdens associated with the construction and operation of the substation facility are plentiful.

Many of the Project’s expected burdens will be exacerbated by its proposed location a mere 80 feet from the banks of Chelsea Creek. *See* 2018 Revised Application at 3. As stated previously, the Current Proposed Project Site is vulnerable to flooding due to sea level rise and

storm-related events. Projections for 2030, 2050, and 2070 show that flood risk will progressively increase on all sides of the site with direct flood risk to the site expected by 2070.³² The site is already at risk of storm water flooding.³³ There is also significant flood risk on all sides of the property projected as early as 2030.³⁴ Roughly a football field's length away are large jet fuel terminals housing thousands of gallons of hazardous and flammable material. Residents fear that a flooding event at the Current Proposed Project Site may result in a fire which may in turn catalyze dangerous explosions due to the close proximity of the jet fuel tanks and thereby endanger the surrounding community. The community's concern is well-founded; electrical fires and explosions at substation facilities are far too common.³⁵ As local residents have made clear, "[s]ubstations have caught on fire before.... during Hurricane Sandy, a Manhattan substation caught fire and exploded, turning the sky bright green. And... substations caught fire and exploded in Queens, New York, and Madison, Wisconsin."³⁶

In addition, these impacts will not be equitably distributed. East Boston residents will shoulder nearly all of the public detriments of the Project on behalf of Eversource customers across the city and region. Residents of the Eagle Hill neighborhood and users of the adjacent American Legion Playground and Condor Street Urban Wild open space will suffer noise and

³² Boston Maps, *supra* note 19.

³³ *Id.*

³⁴ See 338 East Eagle Street, Boston, Massachusetts, First Street Foundation, FLOOD FACTOR, https://floodfactor.com/property/338-east-eagle-street-boston-massachusetts/251754862_fsid#environmental_changes (last accessed Jan. 23, 2020).

³⁵ See Christopher Gavin, *'I heard a boom': Video captures electrical explosion in Brockton amid raucous nor'easter*, BOSTON.COM (Oct. 27, 2021), <https://www.boston.com/news/weather/2021/10/27/i-heard-a-boom-video-captures-electrical-explosion-in-brockton-amid-raucous-noreaster/>; see also Giacomo Luca and Brandon Rittiman, *Everything we know about the substation explosion in downtown Sacramento*, ABC10 (Dec. 16, 2021), <https://www.abc10.com/article/news/local/sacramento/downtown-sacramento-substation-explosion/103-332d7475-6fc3-4b7c-8714-9fc35c9ecf84>.

³⁶ Wasser, *supra* note 24.

visual impacts throughout the duration of the project's construction and operation. *See* 2014 Application at A-6.

Opponents of the Project have also raised important questions about the alleged benefits of the Project, including for example that Eversource's justification for the substation is "based on flawed projections and flawed priorities."³⁷ Eversource's 2014 estimates of the energy need justifying the Project have not been met, and Eversource has not provided updated public information on these estimates. *Id.* Issuance of this license in the absence of a demonstration of any offsetting public need is in error.

ii. *The Project Does Not Comply with Applicable Regulatory Programs of the Commonwealth.*

In the event that the Department properly determines that the Project is in fact a water-dependent use, the Project will still fail to meet the Department's basic licensing requirements. Although the Waterways Regulations instruct the Department to presume that a qualifying water-dependent use serves a proper public purpose, such a presumption is not absolute and may be overcome by a showing that "the basic requirements specified in 310 CMR 9.31(1) have not been met." 310 CMR 9.31(3)(a). Projects in violation of these basic requirements are ineligible for a license. 310 CMR 9.31(1). As provided by the Waterways Regulations, these mandatory and basic requirements include "compli[ance] with applicable regulatory programs of the Commonwealth, according to the provisions of 310 CMR 9.33." 310 CMR 9.31(1)(b). 310 CMR 9.33 provides an inexhaustive list of such regulatory programs. As discussed at more length below, the Project fails to comply with multiple components of the Commonwealth's Environmental Justice statutory and regulatory provisions. Therefore, the Project is ineligible to receive a Waterways License.

³⁷ Mayor Janey news article, *supra* note 5.

c. MassDEP Was Required to, and Did Not, Adequately Consider the Roadmap Law and Environmental Justice in Issuing the Draft License.

An Act Creating A Next-Generation Roadmap For Massachusetts Climate Policy, which became effective in June 2021, protects environmental justice populations and codifies environmental justice principles.³⁸ St. 2021, c. 8 (“Roadmap Law”). The Roadmap Law specifically requires the Secretary of the Executive Office of Energy and Environmental Affairs (“EEA”) and its agencies to consider environmental justice principles when approving projects and licenses. M.G.L. c. 30, § 62K. In this matter, MassDEP’s decision to tentatively grant the Draft License” on January 3, 2022, does not comply with the environmental justice principles and violates M.G.L. c. 30, Section 62K due to procedural inequities and the fact that environmental benefits and burdens are not equitably distributed. *See* Draft License, at 1.

i. Definitions under the Roadmap Law.

The Roadmap Law defines environmental justice principles as “principles that support protection from environmental pollution and the ability to live in and enjoy a clean and healthy environment, regardless of race, color, income, class, handicap, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief or English language proficiency.” M.G.L. c. 30, § 62. The law further requires agencies to assess two prongs: (i) “the meaningful involvement of all people with respect to the development, implementation and enforcement of environmental laws, regulations and policies, including climate change policies; and (ii) the equitable distribution of energy and environmental benefits and environmental burdens.” *Id.* The Roadmap Law also sets specific criteria for what constitutes an environmental

³⁸ *See also* ENVIRONMENTAL JUSTICE POLICY OF THE EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS, at 2 (June 24, 2021) (“EEA 2021 Policy”) (Note, there was a 2017 version of the environmental justice EEA policy, as well as a 2002 version).

justice population.³⁹ With these set definitions, agencies must acknowledge “environmental justice principles, ..., in making any policy or determination, or taking any action relating to a project review ... to reduce the potential for unfair or inequitable effects upon an environmental justice population.” M.G.L. c. 30, § 62K.

Since the Roadmap Law became effective before the decision to grant the License, MassDEP was required to assess whether environmental justice principles were followed throughout the development process. MassDEP failed to do so.

ii. East Boston as an Environmental Justice Community.

The Applicant seeks to “install and maintain an electrical substation” in East Boston, connecting with the Chelsea Creek Crossing facility.⁴⁰ See Draft License, at 1. The Project is located in a state-designated environmental justice population that meets three of four criteria of the statutory definition on the basis of race, income, and limited English proficiency.⁴¹ See M.G.L. c. 30, § 62. The community is also experiencing higher rates of infection and death from the COVID-19 pandemic, as well as issues with underlying respiratory conditions like asthma. Eversource Joint Letter, at 4 (May 10, 2020). Considering the various and multiple challenges the community already faces, MassDEP has a legal obligation to assess whether meaningful public engagement was present during the development process and render a finding that granting the license is consistent with environmental justice principles, as well as the environmental benefits and burdens that may arise from the Project.

³⁹ See M.G.L. c. 30, § 56, *supra* note 1 (definition of Environmental justice population).

⁴⁰ See also East Boston is a designated environmental justice community. *2020 Environmental Justice Populations*, MASS GOV, <https://www.mass.gov/doc/massachusetts-cities-towns-with-environmental-justice-populations/download>.

⁴¹ *Id.*

iii. *There Was Insufficient Public Engagement During the Public Comment Process.*

The three public comment periods occurred prior to the Roadmap Law enactment. Notwithstanding, MassDEP was required to comply with Executive Order 552 and the Executive Office of Energy and Environmental Affairs 2017 Environmental Justice Policy. Executive Order 552 on Environmental Justice holds that “all residents of the Commonwealth should be involved in the development, implementation, and enforcement of environmental laws, regulations, and policies, as well as equal beneficiaries of them.” Exec. Order No. 552 (2014). It also emphasizes a right to a clean and healthy environment regardless of race, income, national origin, or English language proficiency. *Id.* § 2.

Additionally, EEA’s 2017 Environmental Justice Policy, in effect during the 2020 comment period, stated that “EEA agencies shall establish an inclusive, robust public participation program for key agency actions that focuses agency resources on outreach activities that enhance public participation opportunities for agencies activities that potentially affect EJ populations. Each EEA agency must create a Public Involvement and Community Engagement Strategy for key activities.” 2017 EEA EJ Policy at 9. The Policy further supports that the EEA will increase “opportunities for residents to participate in environmental, energy, and climate change decision-making.” *Id.* at 5. Here, MassDEP did not require and ensure adequate public participation, nor did the agency require the Applicant to take enhanced outreach opportunities for a key environmental justice decision. Further, MassDEP did not have a Community Engagement Study throughout the duration of the public comment periods rendering the Department out of compliance with the EEA EJ Policy.

For example, Spanish-speaking residents have largely been left out of the process. MassDEP had an obligation to do more than require publication of its notice in a newspaper and

mail notices to abutters. While Eversource states that Spanish translation was provided for the 2020 notice, services were not provided in the earlier processes. Additionally, the Applicant did not create a local repository for project review. Instead, Eversource published the Public Notice in the following four publications: the *Boston Herald*, the *East Boston Times*, *El Mundo*, and *Brazilian Times*. Eversource Response to Comments, at 8. As stated by the Applicant, “MassDEP did not receive any public comments during the second comment period,” shedding light on the inadequate public knowledge about the proposed substation. Sean Hale, Eversource Mystic Letter, at 1-2.

Overall, many “measures” could have been taken to inform East Boston residents of the comment period such as providing translation services, requiring the Applicant to send notices to community-based organizations, post flyers at known public gathering locations, holding one or more informational meetings at accessible locations, and establishing a local repository. Eversource Response to Comments, at 8. MassDEP should therefore reconsider granting the License due to the lack of meaningful public engagement.

iv. *Granting a Chapter 91 License Does Not Result in Distributing Energy and Environmental Benefits and Burdens Equitably.*

The Roadmap Law states that “[t]o further the environmental justice principles the secretary shall direct its agencies, including the departments, divisions, boards and offices under the secretary’s control and authority, to consider the environmental justice principles in making any policy, determination or taking any other action related to a project review, or in undertaking any project pursuant to said sections 61 through 62J, inclusive, and related regulations that is likely to affect environmental justice populations.” M.G.L. c. 30, § 62K. The environmental justice principles require MassDEP to review “the equitable distribution of energy and environmental benefits and environmental burdens” when approving licenses. M.G.L. c. 30, §

62. The 2021 EEA EJ Policy, which was effective prior to MassDEP issuing the Chapter 91 license for the Project, requires the “equitable distribution of energy and environmental benefits and burdens.” 2021 EEA EJ Policy at 3. Further, the policy requires “enhancing the environmental review of new or expanding significant sources of environmental burdens in these neighborhoods...ensuring that residents are prepared for and resilient to the effects of climate change.” 2021 EEA EJ Policy at 5. Executive Order 552 requires that environmental justice be “an integral consideration in the development and implementation of all state programs.” Exec. Order No. 552 (2014).

The Project will be in a location that contains populations that have been historically burdened by environmental harms and the Applicant has not proven that there are less harmful alternatives that would respond to legitimate and well-documented public comments. Residents in East Boston experience noise and air pollution from Logan International Airport and are at risk of coastal flooding, intensified by the impacts of the climate crisis.

Substations also have an environmental impact. During the construction process, surrounding areas often experience noise and airborne dust, soil erosion, and stormwater runoff.⁴² The long-term effects of constructing an electric substation include reducing the overall aesthetic of the surrounding area, increasing electric and magnetic fields within the area of the substation, reducing natural area (land use/habitat), increasing noise and light pollution, disrupting vegetation growth, and interrupting wetland areas.⁴³ The overall impacts of the substation will add risks to a community already burdened by environmental harm, who were not

⁴² *Environmental Impacts of Substations*, Public Service Commission of Wisconsin, at 3, <https://psc.wi.gov/Documents/Brochures/Impacts%20of%20Substations.pdf> (hereinafter “Impacts of Substations”); see also EFSB Final Decision, *supra* note 4.

⁴³ *Impacts of Substations*, *supra* note 42, at 3-5.

adequately part of the process, and, for those residents who took the time to participate, clearly raised monumental concerns that were not addressed by the Applicant or MassDEP.

The additional impact of the substation will contribute to the cumulative impacts and remove the opportunity to convert the site into green space, an environmental benefit. Rather than converting the area to natural and working lands, M.G.L. c. 21, § 21N,⁴⁴ the Project will disrupt those that already face higher environmental pollution in a residential area compared to other parts of Boston and the Commonwealth.⁴⁵ The proposed location is also adjacent to a public park and playground.⁴⁶ MassDEP must reconsider granting the License since it does not protect individuals from environmental harm, imposes additional burdens, and is counter to the environmental justice principles articulated in the Roadmap Law, 2021 EEA EJ Policy, and Executive Order 552.

Since it is the policy of the Commonwealth to hold environmental justice principles as an “integral consideration”⁴⁷ when determining actions related to a project review, the Eversource License should be revoked because DEP’s decision does not align with environmental justice principles and violates the Roadmap Law. *Id.*

⁴⁴ M.G.L. c. 21, § 21N (The Roadmap Law defines “natural and working lands” as “lands within the commonwealth that: (i) are actively used by an agricultural owner or operator for an agricultural operation that includes, but is not limited to, active engagement in farming or ranching; (ii) produce forest products; (iii) consist of forests, grasslands, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands or wildlife habitats; or (iv) are used for recreational purposes, including parks, urban and community forests, trails or other similar open space land.”).

⁴⁵ Miriam Wasser, *In A Blow To Environmental Justice Advocates, State Regulators Approve Controversial East Boston Substation*, WBUR: LOCAL COVERAGE (February 22, 2021), <https://www.wbur.org/news/2021/02/22/east-boston-substation-final-approval-eversource-environmental-justice> (“East Boston is a state-designated Environmental Justice Community with a long history of pollution and environmental burdens. It is home to Logan Airport, bisected by multiple highways, and houses all of the region’s jet fuel and most of its heating oil. The proposed substation is in the densely populated Eagle Hill neighborhood and will be constructed on a parcel of land adjacent to Chelsea Creek and directly across the street from a popular playground.”).

⁴⁶ *Id.*

⁴⁷ See Exec. Order No. 552.

III. Relief Sought through the Adjudicatory Hearing

In accordance with the above information, MassDEP should issue findings confirming:

1. The substation facility is nonwater-dependent;
 2. The substation facility does not meet the definitional requirements for an infrastructure crossing facility.
 3. The Applicant did not complete adequate alternatives analysis considering other locations;
 4. The substation facility does not serve a proper public purpose in accordance with 310 CMR 9.31(2)(a);
 5. Any presumption that the substation facility does serve a proper public purpose is properly rebutted pursuant to 310 CMR 9.31(3)(a);
 6. The granting of a Chapter 91 Waterways License does not comply with the environmental justice principles in violation of M.G.L. c. 30, Section 62K, the EEA EJ Policies of 2017 and 2021, and Executive Order Number 552;
 7. The substation facility is not eligible for a Chapter 91 Waterways License; and
 8. The Draft Chapter 91 Waterways License is reversed, vacated, or otherwise rescinded such that the substation facility is not licensed for construction pursuant to M.G.L. c. 91.
- h) A statement that a copy of the request has been sent to the Applicant and the municipal official of the city or town where the Project is located.

A copy of the instant Notice for Claim and Request for Adjudicatory Hearing has been sent to the Applicant at the following address:

NSTAR Electric Company
c/o Sean Hale, VHB, Inc.
500 Scarborough Drive, Suite 105B
South Portland, ME, 04106

A copy of the instant Notice for Claim and Request for Adjudicatory Hearing has been sent to the municipal office of the city or town where the Project is located care of the following:

Mayor Michelle Wu
City of Boston
1 City Hall Square, Suite 550
Boston, MA 02201-2043

A copy of the instant Notice for Claim and Request for Adjudicatory Hearing has been sent to the issuing office of MassDEP care of the following:

MassDEP
Waterways Regulation Program
One Winter Street, 5th Floor
Boston, MA 02108

Respectfully submitted,

TEN RESIDENTS GROUP

By Their Authorized Representative,



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Dated: January 24, 2022

APPENDIX A

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Joe Aponte, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22nd day of January 2022.

Joe Aponte

Signature

Joe Aponte

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

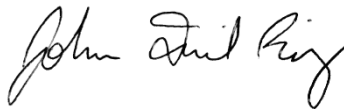
In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, John Daniel Bailey, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22nd day of January 2022.



Signature

John Daniel Bailey
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Lara Gordon Caralis, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.

DocuSigned by:
Lara Gordon Caralis
Signature ID: 0515429374A3...

Lara Gordon Caralis
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

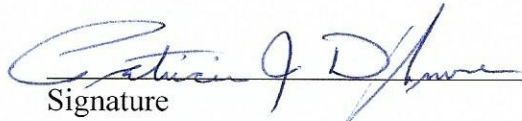
In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Patricia J. D'Amore hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22nd day of January 2022.


Signature

Patricia J. D'Amore
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Neenah Estrella-Luna, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.



Signature

Neenah Estrella-Luna
Printed Name

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Zachary Hollopeter, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 21st day of January 2022.

Signature



Printed Name

Zachary Hollopeter

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

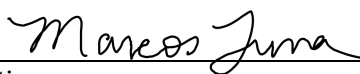
In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Marcos Luna, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22nd day of January 2022.



Signature

Marcos Luna
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Giordana Mecagni, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.

Giordana Mecagni

Signature

Giordana Mecagni

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**


In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Sandra L. Nijjar, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.



Signature

Sandra L. Nijjar

Printed Name

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

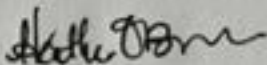
OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Heather O'Brien, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 21 day of January 2022.

Signature



Heather O'Brien

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Jane O'Reilly, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 23 day of January 2022.

Jane O'Reilly
Signature

JANE O'Reilly
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**


In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Noemy Rodriguez, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.



Signature

Noemy Rodriguez

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Michael C. Russo, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 23rd day of January 2022.

A handwritten signature in black ink, appearing to read "Michael C. Russo", is written over a horizontal line.

Signature

Michael C. Russo

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**


In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Paul Shoaf Kozak, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 24 day of January 2022.


Signature

Paul Shoaf Kozak
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Rebecca Shoaf Kozak, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 24 day of January 2022.



Signature

Rebecca Shoaf Kozak
Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, Susanna Starrett, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 22 day of January 2022.

Susanna Starrett

Signature

Susanna Starrett

Printed Name

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

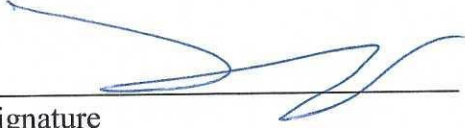
In the Matter of
NSTAR Electric Company
d/b/a Eversource Energy

OADR Docket No. _____
DEP File No.: Waterways Application
No. W14-4297

AFFIDAVIT

I, John Walkey, hereby state my intention to be a part of the ten persons group seeking to be named as an appellant in the above referenced proceeding, and I agree to be represented by the group's authorized representative, Conservation Law Foundation, as more fully set forth in the Notice of Claim.

Signed under the pains and penalties of perjury this 21 day of January 2022.



Signature

John Walkey

Printed Name

APPENDIX B

Submitted electronically to Jerome.Grafe@mass.gov

May 10, 2020

Daniel Padien, Waterways Program Chief
Department of Environmental Protection
One Winter Street
Boston, MA 02108

Subject: 338 East Eagle Street and Condor Street, Waterways Application #W14-4297

Dear Mr. Padien:

We, the undersigned, write to you with continued concerns about the Eversource proposal to construct and maintain an electrical substation on East Eagle Street in East Boston. We do not believe that the proposed project should be designated a water-dependent use nor do we think it should be located within the Chelsea Creek Designated Port Area. We urge the Department to reject the Waterways Application and require the Proponent to evaluate alternative locations for the substation.

Water-dependent use status

As described in the Waterways license application and on its website, Eversource has proposed to construct and maintain a new electrical substation on a 0.38-acre parcel it owns on East Eagle Street in East Boston ("Project"). The new substation would be connected to existing substations in Everett and Chelsea via high-voltage underground electric transmission cables.

Eversource has stated that the proposed Project use is water-dependent as it cannot reasonably be located further inland, and because it supports existing water-dependent uses along Chelsea Creek. However, Eversource has also stated that it had originally intended to construct the substation on a Bremen Street parcel but agreed to change the location when the City indicated a strong desire to obtain the Bremen Street parcel for the new East Boston Public Library. If the Project was originally intended for the Bremen Street parcel as stated by the Proponent, it is clearly not a water-dependent use since the Bremen Street site is not located on the waterfront.

As Eversource well knows, substations are not inherently water-dependent. In fact, Eversource has a number of other substations located inland throughout the Commonwealth including facilities in Dorchester, Walpole, Medway, and Waltham. In accordance with 310 CMR 9.12(2)(c) and (d), the presumption is that a project is not water-dependent unless the presumption is overcome with a "clear showing that the facility cannot reasonably be located or operated away from tidal or inland waters." To our knowledge, the Proponent has failed to provide any compelling analyses or evidence to support this claim. We therefore strongly urge the Department to reconsider its determination that the Project is a water-dependent use.

Moreover, it seems that the Department's determination that this Project is a water-dependent use is inconsistent with its past treatment of similarly situated projects. For example,

in a 2018 determination on National Grid's Waterways License Application No. W16-4967 (170 Medford Street, Malden), the Department determined that the use of filled tidelands for an identical land use in a similar setting was nonwater-dependent. This determination is seemingly in conflict with the determination for the Eversource substation project. We request clarity on why the Eversource project meets the criteria for water-dependent use when the National Grid project did not. It remains unclear what evidence, if any, was provided by Eversource to the Department to support this finding.

Location in the Chelsea Creek Designated Port Area

The proposed substation would be located within a Designated Port Area (DPA), which is expressly designed to prevent water-dependent industrial uses from being encroached upon. The primary regulations addressing DPAs are codified at 301 CMR 25, Waterways regulations (301 CMR 9) and Municipal Harbor Plans regulations (301 CMR 23).

DPAs seek to ensure that water-dependent industrial uses are encouraged in areas that contain three essential components for their success (1) waterways and developed waterfronts (especially those with deep enough channels to support larger vessels); (2) backlands (the land situated behind these waterways and waterfronts) of supporting industrial facilities and operations; and (3) transportation and public utilities appropriate to service industrial operations.

As an increasing percentage of Boston's waterfront is converted to residential and commercial development, such areas appropriate for water-dependent industrial uses are becoming increasingly rare. Therefore, the "industrialized coast should be preserved to the maximum extent practicable in order to meet the long term, cumulative space needs of the water-dependent industries" (301 CMR 25). As a result, DPAs are currently restricted to those activities defined in 310 CMR 9.12(2)(b-d), including as examples marine terminals, commercial fishing facilities, marine repair and construction facilities, manufacturing facilities that rely primarily on bulk receipt, or facilities accommodating the shipment of goods by water.

The Eagle Street site is located within a concentration of existing marine industrial uses. But the Proponent has provided no analysis demonstrating that this substation, and its location within the Chelsea Creek DPA, would support the operation of existing adjacent maritime uses. Once again, the fact that the substation was initially envisioned to be built at the Bremen Street parcel demonstrates that support for maritime uses was not even contemplated, let alone was it a main driver of this project.

To our knowledge, Eversource has never indicated that the industrial users along the Creek are an increasing source of demand or a prime factor in driving need for the substation. If Eversource asserts that the East Eagle substation is needed to support the adjacent marine industrial uses, the company should provide estimates of exactly how much of the electrical capacity of the substation would support the marine industrial users of the Creek. This information is needed in order to determine the degree to which the construction of this facility in this location can reasonably be assumed to be driven by marine industrial users' needs.

Finally, the location of the substation at the northwest-most corner of the property cuts off the entire extent of the waterfront along that stretch of the Creek, precluding any

continuation of public access to the waterfront from the Condor Street Urban Wild. What is left of the so-called “City Yards” property is an isolated piece of waterfront that has been rendered inaccessible to the public and unusable for any marine industrial use. Allowing this substation to be constructed at this location will effectively isolate a large DPA property rendering it useless due to encroaching, nonwater-dependent uses that are not intended to support maritime economic activity.

While we understand the need to ensure East Boston’s electrical supply, we continue to believe that there are other viable solutions and locations to this proposed substation, especially in light of the recently proposed construction of similar infrastructure some 1,800 feet away on Massport property.

Procedural Concerns

The process with which this project has proceeded has been complex and challenging for all involved, especially the directly affected members of this Environmental Justice community. The interplay between the procedures of the Energy Facilities Siting Board (EFSB) and the Waterways licensing process has resulted in a series of starts and stops of the process whereby Eversource has received a determination of water dependency and then stopped the permit application process to return to the EFSB process, leaving advocates and the public confused over where and when comments should be addressed. A separate, but related, Waterways application was filed for this project, concerning the conduit under the Chelsea Creek and surfacing on the property in question, which served to confuse matters more as many community members erroneously thought that the application was for the substation project and therefore the process was done.

Furthermore, even the most recent public announcement of the License Application (dated December 21, 2018) was incorrectly worded in that it specifies “the project site is not located within the Boston Inner Harbor DPA.” While true, this is irrelevant and misleading. The relevant information that should have been divulged in this notice is that the project site is within the Chelsea Creek DPA. 310 CMR 9.13(1)(c)(2) states that notices shall contain, “a description of the location of the project, including whether it is located in an ACEC, DPA, or an Ocean Sanctuary.”

The notice itself was provided to direct abutters and announced in the paper of record, according to your office. However, it is unclear whether the notice was also published in Spanish. In a March 2020 letter to City Councilor Lydia Edwards, the Department indicated that it would work with Eversource to “ensure that the notice is published in appropriate languages and newspapers in the community to address environmental justice concerns.” We request clarification from the Department on whether the notice was published in local Spanish language media. In this same letter, the Department states that due to the changes to the project subsequent to the previous notification, the Boston Planning and Development Agency was notified of the review process and will be given the opportunity for “review and recommendation.” We would like to note for the record that the City of Boston has signed a Purchase and Sales agreement with Eversource that expressly prohibits the City from opposing the project or supporting anyone that opposes it.

Other Considerations and Local Context

There are several other reasons that this project should not move forward. While these considerations are not squarely within the Waterways Regulations, they should be considered by the Department in its review of this application.

First, the proposed substation would be located in a floodplain and is likely to experience an increased amount of flood risk from both sea level rise and an increase in extreme precipitation and associated stormwater over the useful life of the facility. According to the Union of Concerned Scientists, the substation could face flooding of at least one foot of water or more over the next fifty years and by the end of the century will suffer chronic inundation with floods occurring at least twenty-six times per year. Siting a substation in a flood-prone area with little to no consideration for long-term and cumulative climate impacts is not only inconsistent with both City and State policy, but it is highly irresponsible. As previously stated, there is no practicable reason why this substation cannot be sited in an alternative, less risky location.

In addition to this increased flood risk, the proposed substation would be located in a densely populated neighborhood that has historically been subjected to environmental injustices. The East Boston community, home to more than 40,000 people, has more than its fair share of these types of facilities. The population is predominantly Latinx and low-income with 17 percent of residents living below the poverty line. For over a hundred years, industrial uses have left a burden of contamination in the soil, the water, and the air. The ongoing COVID-19 crisis has highlighted the ramifications of these generational inequities. Communities like East Boston are experiencing higher rates of infection and deaths from COVID-19 and studies suggest that air pollution, as well as related underlying respiratory conditions like asthma, play a role in the severity of illness and risk of death.

Finally, the permitting and review processes for this project, which have been ongoing for over five years, have failed to incorporate adequate public engagement and participation. Residents with limited English abilities have been repeatedly left out of permitting and review processes, including the EFSB review process. In fact, the EFSB failed to fulfill its legal obligation for language access by consistently failing to provide adequate interpretation services. Spanish-speaking residents have thus been systematically left out of the process, rendering impossible meaningful public engagement. Language justice is essential to health equity, environmental, and climate justice. For communities like East Boston and Chelsea, where the land and communities bear both pollution burdens and climate risks, the need is especially vital.

The EFSB review process, which has been riddled with public participation inadequacies, is still ongoing. Although a tentative decision was issued in February 2020, the process cannot conclude until the final public hearing and comment period are held and the EFSB issues a final decision. A public hearing was scheduled for March 11 but had to be postponed due to the ongoing COVID-19 crisis. It is unclear when the hearing will be rescheduled or when the review process will resume. We strongly urge you to delay consideration of this Waterways Application until the EFSB process has concluded. It would be premature for this process to move forward before the EFSB has issued its final decision on the siting of the substation at this location.

Separately, a Boston City Council hearing concerning the project was called for by Ward 1 Councilor Lydia Edwards and has been rescheduled for May 22, 2020. The Boston Conservation Commission at their May 6, 2020 meeting ruled that they will not

issue an Order of Conditions on this project until after that hearing, and that they fully expect that Eversource will participate in good faith. Given that this is yet another permitting process for the project that has been delayed, it is even more appropriate for the Department to delay review of this Waterways Application.

Thank you for your consideration of these comments. We respectfully request that you reject this Waterways Application, reconsider the water-dependent status of the project, and encourage Eversource to evaluate alternative locations for the facility.

Sincerely,

Deanna Moran
Director, Environmental Planning
Conservation Law Foundation

Roseanne Bongiovanni
Executive Director
GreenRoots

Aaron Toffler
Director of Policy
Boston Harbor Now

Magdalena Ayed
Executive Director
The Harborkeepers

Patrick Herron
Executive Director
Mystic River Watershed Association

Dwain Tyndal
Executive Director
Alternatives for Community & Environment (ACE)

Cindy Luppi
New England Director
Clean Water Action and Clean Water Fund

Andrea Nyamekye
Campaign and Policy Director
Neighbor to Neighbor Massachusetts

Paula García
Bilingual Energy Analyst
Union of Concerned Scientists

Lee Matsueda
Executive Director
Community Labor United

Jen Stevenson Zepeda
Deputy Director
Climable.org

Deb Pasternak
Massachusetts Chapter Director
Sierra Club

Claire Müller
Lead Community Organizer
Toxics Action Center

Laura Wagner
Executive Director
Unitarian Universalist Mass Action

Sonja Tengblad
Mothers Out Front - East Boston

Heather O'Brien
Boston Harbor Storm Surge Working Group

Mary Mitchell
President
The Friends of Belle Isle Marsh

Lara Caralis
Chair
Beautification Committee of the Eagle Hill Civic Association

Submitted electronically to Jerome.Grafe@mass.gov

May 10, 2020

Daniel Padien, Waterways Program Chief
Department of Environmental Protection
One Winter Street
Boston, MA 02108

RE: 338 East Eagle Street and Condor Street, Waterways Application #W14-4297

Dear Mr. Padien:

GreenRoots, an Environmental Justice organization working in the communities that border the Chelsea Creek, joins with our neighbors and allies in opposition to the referenced project and submits to you our repeated concerns about this misguided proposal to construct and maintain an electrical substation on East Eagle Street in East Boston. We strongly feel that the entire process for this project has been purposefully confusing and lacking in transparency, and in particular the Chapter 91 permitting process has been uncommonly convoluted and inaccessible to the environmental justice community members who will be impacted by this project. We wish to outline our beliefs that the proposed project should NOT be designated a water-dependent use nor do we think it should be located within the Chelsea Creek Designated Port Area. We urge the Department to reject the Waterways Application and require the Proponent to evaluate alternative locations for the substation. We request of your office an extra effort to reach out and explain your reasoning on this permit application directly to the community that has been so frequently excluded from and left in the dark concerning the complex regulatory process surrounding this unwise, unwanted and unneeded additional environmental burden on an already overburdened community.

Water-dependent use status

Eversource proposes to construct and maintain a new electrical substation on a 0.38-acre parcel it owns on East Eagle Street in East Boston ("Project"). The new substation would be connected to existing substations in Everett and Chelsea via 115kV high-voltage underground electric transmission cables. A conduit under the Chelsea Creek would bring these cables to the property in question which locally has been referred to as the "City Yards." The entirety of that property falls within the Chelsea Creek Designated Port Area and the vast majority falls under Chapter 91 jurisdiction.

Eversource contends that the proposed Project use is water-dependent as it cannot reasonably be located further inland, and because it supports existing water-dependent uses along Chelsea Creek. However, Eversource has also stated that it had originally intended to construct the

substation on a Bremen Street parcel but agreed to change the location when the City indicated a strong desire to obtain the Bremen Street parcel for the new East Boston Public Library. If the Project was originally intended for the Bremen Street parcel as stated by the Proponent, it is clearly not a water-dependent use since the Bremen Street site is not located on the waterfront.

Obviously, substations are not inherently water-dependent; Eversource has a number of other substations located inland throughout the Commonwealth including facilities in Dorchester, Walpole, Medway, and Waltham.¹ In accordance with 310 CMR 9.12(2)(c) and (d), the presumption is that a project is not water-dependent unless the presumption is overcome with a “clear showing that the facility cannot reasonably be located or operated away from tidal or inland waters.” To our knowledge, the Proponent has failed to provide any compelling analyses or evidence to support this claim. We therefore strongly urge the Department to reconsider its determination that the Project is a water-dependent use.

We also request that there be some explanation as to the reasoning behind declaring this particular Project a water-dependent use in light of the Department’s determination of a similar use in a similar setting being not water-dependent. Your 2018 determination on National Grid’s Waterways License Application No. W16-4967 (170 Medford Street, Malden), that the use of filled tidelands for an identical land use in a similar setting was nonwater-dependent is in conflict with the determination for the Eversource substation Project. We request clarity on why the Eversource project meets the criteria for water-dependent use when the National Grid project did not. It remains unclear what evidence, if any, was provided by Eversource to the Department to support this finding.

Location in the Chelsea Creek Designated Port Area

The proposed substation would be located within a Designated Port Area (DPA), which is expressly designed to prevent water-dependent industrial uses from being encroached upon. The primary regulations addressing DPAs are codified at 301 CMR 25, Waterways regulations (301 CMR 9) and Municipal Harbor Plans regulations (301 CMR 23).

DPAs seek to ensure that water-dependent industrial uses are encouraged in areas that contain three essential components for their success (1) waterways and developed waterfronts (especially those with deep enough channels to support larger vessels); (2) backlands (the land situated behind these waterways and waterfronts) of supporting industrial facilities and operations; and (3) transportation and public utilities appropriate to service industrial operations.

There is increasing market pressure to convert all of East Boston’s waterfront to residential and

¹ Eversource operates a number of substations elsewhere in the Commonwealth that are located inland thus demonstrating that substations are not inherently water-dependent uses. These are just a few examples of inland substations owned and operated by Eversource. They include the Dewar Substation in Dorchester/South Boston, the Trapelo Road Substation in Waltham, Transmission Substations 65 and 446 in Medway, and the West Walpole and Dean Street Substations.

commercial development. Before the last economic recession, efforts were successful in cutting out chunks of property from the East Boston DPA, which are now developed with luxury residential units (e.g., the Eddy, Boston East, etc.). There is currently a push to continue this process and remove more properties from the East Boston DPA along Border Street. Whereas that effort is just beginning to pursue the regulatory review process of the Office of Coastal Zone Management, this subject property in the Chelsea Creek DPA seems to be getting removed from the DPA in a manner that circumvents this required review process.

The DPA program states that the “industrialized coast should be preserved to the maximum extent practicable in order to meet the long term, cumulative space needs of the water-dependent industries” (301 CMR 25). Accordingly DPAs are restricted to those activities defined in 310 CMR 9.12(2)(b-d), including as examples marine terminals, commercial fishing facilities, marine repair and construction facilities, manufacturing facilities that rely primarily on bulk receipt, or facilities accommodating the shipment of goods by water.

The Eagle Street site is located within a concentration of existing marine industrial uses. But the Proponent has provided no analysis demonstrating that this substation, and its location within the Chelsea Creek DPA, would support the operation of existing adjacent maritime uses. Once again, the fact that the substation was initially envisioned to be built at the Bremen Street parcel demonstrates that support for maritime uses was not even contemplated, let alone was it a main driver of this project.

To our knowledge, Eversource has never indicated that the industrial users along the Creek are an increasing source of demand or a prime factor in driving need for the substation. If Eversource asserts that the East Eagle substation is needed to support the adjacent marine industrial uses, the company should provide estimates of exactly how much of the electrical capacity of the substation would support the marine industrial users of the Creek. This information is needed in order to determine the degree to which the construction of this facility in this location can reasonably be assumed to be driven by marine industrial users’ needs.

Finally, the location of the substation at the northwest corner of the property effectively cuts off the entire extent of the waterfront of the City Yards site (see Figure 1) from the backlands. What is left of that property is an isolated piece of waterfront that has been rendered inaccessible to the public and unfeasible for any marine industrial use given its size and being cut off from either Condor Street to the west by the substation, and East Eagle Street to the south by the Boston Department of Public Works yard. Allowing this substation to be constructed at this location will effectively isolate a DPA property rendering it useless due to encroaching, nonwater-dependent uses that are not intended to support maritime economic activity. In fact, allowing this project to move forward within a DPA despite its conflicts with the existing maritime industrial uses will have the same effect as de-designation of this portion of the DPA without any formal CZM-led process.



Figure 1: Portion of CZM Chelsea Creek DPA Map, indicating Chapter 91 Presumptive Line in yellow, DPA boundary in red, approximate project site in purple and what is referred to locally as the “City Yards” in green-dashed.

The substation is a nonwater-dependent use unrelated to the requirements of adjacent maritime industry, and thus is not appropriate to be sited within the DPA. While we understand the need to ensure East Boston’s electrical supply, we continue to believe that there are other viable solutions and locations to this proposed substation. In particular, the revelation in a September 2019 Massport Board Presentation² that one of the largest single users of electricity in East Boston would be contracting Eversource to construct what is labeled a “substation” some 1,800 feet away from the subject Project, leads to a reasonable conclusion that this site should have been considered a reasonable alternative to the present site, as it is neither in a DPA nor Chapter 91 jurisdiction.

Coastal Resiliency Concerns

While it is understood that a License Application pursuant to Chapter 91 does not currently require a review of the suitability of a project from a point of view of climate change and resulting coastal impacts, we do feel that as residents of the Commonwealth we have a right to ask of those in charge of the proper and sound management of our coastal zone and resources to at least minimally take into consideration the current science-based understanding of the risks we are confronting and a degree of common sense.

The high voltage electrical infrastructure comprising this Project is located approximately 100 feet from the current high water mark of the Chelsea Creek, a tidal estuary. The entire stretch of Condor Street from beyond the Urban Wild to the west, around the low-lying bend at the Project site, up to East Eagle Street has been flooded multiple times in the past three years during strong winter coastal storms and sudden summer downpours. The City’s own data, based upon the Boston Research Advisory Group (BRAG) Report shows that expected sea level rise and increased coastal storm surge will increase flooding precisely in this area.

² http://www.massport.com/media/3417/website_september-board-deck_91919.pdf (slide #124)

Layering on top of that increased extreme rainfall events which are already overwhelming the local stormwater system, we can expect that within the reasonable lifespan of this facility there will be flooding concerns.

Additionally, according to the Union of Concerned Scientists, the substation could face flooding of at least 1 foot of water or more over the next 50 years and by the end of the century will suffer chronic inundation with floods occurring at least 26 times per year.³ Siting a substation in a flood-prone area with little to no consideration for long-term and cumulative climate impacts⁴ is not only inconsistent with both City and State policy, but it is highly irresponsible.

In consideration of appropriate coastal stewardship and the promotion of resilient coastal zone uses which promote benefits for the community, while providing protection from climate change impacts, it seems completely nonsensical to propose high voltage electrical infrastructure at this site. Again, it is understood that controlling specific land use decisions and promoting climate change preparedness is perhaps not within the purview of a Chapter 91 permit application. However, the determination of water dependency and the determination of the compatibility of a given use to the needs of a DPA should take into account these considerations. As previously stated, there is no practicable reason why this substation cannot be sited in an alternative, less risky location.

Procedural Concerns

The process with which this project has proceeded has been complex and challenging for all involved, especially the directly affected members of this Environmental Justice community. The interplay between the procedures of the Energy Facilities Siting Board (EFSB) and the Waterways licensing process has resulted in a series of starts and stops of the process whereby Eversource has received a determination of water dependency and then stopped the permit application process to return to the EFSB process, leaving advocates and the public confused over where and when comments should be addressed. A separate, but related, Waterways application was filed for this project, concerning the conduit under the Chelsea Creek and surfacing on the property in question, which served to confuse matters more as many community members erroneously thought that the application was for the substation Project and therefore the process was done.

Furthermore, even the most recent public announcement of the License Application (dated December 21, 2018) was incorrectly worded in that it specifies “the project site is not located within the Boston Inner Harbor DPA.” While true, this is irrelevant and misleading. The relevant

³ See <https://blog.ucsusa.org/paula-garcia/east-boston-controversial-substation-opportunities>

⁴ While Eversource has acknowledged sea level rise in its project documents, many stakeholders have pointed out the inadequacy of their climate risk assessment citing, among other issues, the company's failure to address other short- and long-term impacts like extreme precipitation and the cumulative impact of those impacts with sea level rise and more frequent storm events.

information that should have been divulged in this notice is that the project site is within the Chelsea Creek DPA. 310 CMR 9.13(1)(c)(2) states that notices shall contain “a description of the location of the project, including whether it is located in an ACEC, **DPA**, or an Ocean Sanctuary.”

The notice itself was provided to direct abutters and announced in the paper of record, according to your office. However, it is unclear whether the notice was also published in Spanish. In a March 2020 letter⁵ to City Councilor Lydia Edwards, the Department indicated that it would work with Eversource to “ensure that the notice is published in appropriate languages and newspapers in the community to address environmental justice concerns.” We request clarification from the Department on whether the notice was published in local Spanish language media. We also note that in this same letter, the Department states that due to the changes to the project subsequent to the previous notification, the Boston Planning and Development Agency was notified of the review process and will be given the opportunity for “review and recommendation.” We would like to note for the record that the City of Boston has signed a Purchase and Sales agreement with Eversource that expressly prohibits the City from opposing the project or supporting any one that opposes it.

Environmental Justice Considerations

Very much related to the procedural concerns is the reality that such a convoluted and sub rosa process to bring this Project to pass is happening in a working class community, Boston’s only majority Latino neighborhood, where over 55% of families speak Spanish in the home and 17% live below the poverty line, and already bears an environmental burden which includes an International Airport and accompanying ground support industries, two tunnels, busy shipping terminals bringing 100% of the jet fuel used by the airport, as well as other petroleum terminals. Accordingly, East Boston and the surrounding communities have the public health statistics that reflect the effects of generations of industrial air, land, water and noise pollution.

Now, in the midst of the current COVID-19 pandemic the consequences of the neighborhood’s industrial burdens have evidenced themselves in some of Boston’s highest coronavirus infection and death rates. Studies suggest that air pollution, as well as related underlying respiratory conditions like asthma, play a role in the severity of illness and risk of death^{6,7}.

Finally, the permitting and review processes for this project, which have been ongoing for over five years, have failed to incorporate adequate public engagement and participation. Residents with limited English abilities have been repeatedly left out of permitting and review processes, including an EFSB hearing (November 2017). In fact, the EFSB failed to fulfill its legal obligation for language access by consistently failing to provide adequate

⁵ Written communication between Assistant Director of the Waterways Program, Christine Hopps, and the Office of City Councilor Lydia Edwards.

⁶ <https://www.sciencedirect.com/science/article/pii/S0048969720321215>

⁷ <https://www.sciencedirect.com/science/article/pii/S0269749120320601?via%3Dihub=>

interpretation services. Spanish-speaking residents have thus been systematically left out of the process, rendering impossible meaningful public engagement. Language justice is essential to health equity, environmental, and climate justice. For communities like East Boston and Chelsea, where the land and communities bear both pollution burdens and climate risks, the need is especially vital.

The EFSB review process, which has been riddled with public participation inadequacies, is still ongoing. Although a tentative decision was issued in February 2020, the process cannot conclude until the final public hearing and comment period are held and the EFSB issues a final decision. A public hearing was scheduled for March 11 but had to be postponed due to the ongoing COVID-19 crisis. It is unclear when the hearing will be rescheduled or when the review process will resume. We strongly urge you to delay consideration of this Waterways Application until the EFSB process has concluded. It would be premature for this process to move forward before the EFSB has issued its final decision on the siting of the substation at this location.

Separately, a Boston City Council hearing concerning the project was called for by Ward 1 Councilor Lydia Edwards and has been rescheduled for May 22, 2020. The Boston Conservation Commission at their May 6, 2020 meeting ruled that they will not issue an Order of Conditions on this project until after that hearing, and that they fully expect that Eversource will participate in good faith. Given that this is yet another permitting process for the project that has been delayed, it is even more appropriate for the Department to delay review of this Waterways Application.

Finally, we would suggest to your office that given the above procedural failings and concerns, in keeping with the spirit and intent of the Governor's Executive Order on Environmental Justice (E.O. 522) and in light of the importance of your office's duties to the neighborhood of East Boston which has been undergoing such a sudden and profound transformation of its urban fabric and in particular along its cherished waterfront, that you make a special effort to reach out to the community to better inform them of your mission and appropriately engage them in participating in the processes which you oversee. A community which looks to the waterfront for recreation, for transportation, for employment, and for simple enjoyment could very well be strong advocates for Public Waterfront Act. Rather than seeing these regulatory procedures as some sort of inscrutable and unknowable bureaucratic process, they could begin to rely on them as the tools that they are to improve the quality of life for all residents of the Commonwealth. We offer our assistance in making an effective community outreach effort a reality.

Thank you for your consideration of these comments. We respectfully request that you reject this Waterways Application, reconsider the water-dependent status of the project, come to East Boston to speak to the community, and encourage Eversource to evaluate more appropriate, alternative locations for the facility.

Sincerely,

John Walkey /s/
GreenRoots

[REDACTED]

Noemy Rodriguez /s/
GreenRoots

[REDACTED]

Rebecca & Paul Shoaf Kozak /s/

[REDACTED]

Madeleine Steczynski /s/

[REDACTED]

Jesse Purvis & Tanya Hahnel /s/

[REDACTED]

Patricia J. D'Amore /s/

[REDACTED]

Capt. Mark Bisson /s/

[REDACTED]

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[REDACTED]

Marcos Luna & Neenah Estrella-Luna /s/

[REDACTED]

Heather O'Brien /s/

[REDACTED]

Karry Muzzey /s/

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Sharlene McLean /s/

[REDACTED]

Elsa Wiehe /s/

[REDACTED]

Giordana Mecagni /s/

[REDACTED]

Kannan Thiruvengadam /s/

[REDACTED]

Barbara Bernabei /s/

[REDACTED]

Lara & Archie Caralis /s/

[REDACTED]

Gail Miller & Evan Gellar /s/

[REDACTED]

Stephen Mahood /s/

[REDACTED]

Dan Bailey /s/

[REDACTED]

Matthew Rodgers /s/

[REDACTED]

Jessica & Shaun Cronin /s/

[REDACTED]

John Antonellis /s/

[REDACTED]

Sandra Nijjar /s/

[REDACTED]

Chris Marchi /s/

[REDACTED]

Jane O'Reilly /s/

[REDACTED]

Elena Bertkau /s/

[REDACTED]

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[REDACTED]

Leigh Forbush /s/

[REDACTED]

Mike Russo /s/

[REDACTED]

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Deb Micklos /s/

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Eric Burkman & Joe Aponte /s/

[REDACTED]

Kaitlyn Lund /s/
East Boston

Maria Belen Power & Fidel Maltez /s/

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Matt Walsh /s/

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Zachary Hollopeter /s/

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Susanna Starrett & Jorge Tobon /s/

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Caroline Ellenbird /s/

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Nat Taylor /s/

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Jeeyoon Kim /s/

[REDACTED]

Danielle Emond /s/

[REDACTED]

Li Wang /s/

[REDACTED]

Sharon Gentges /s/

[REDACTED]

Roseann Bongiovanni /s/

[REDACTED]

Rashaun and Andrea Martin /s/

[REDACTED]

Charlie Lograsso /s/

[REDACTED]

Sandy & Javier Caraballo /s/

[REDACTED]

/s/ - all digital signatories have emails on file confirming their authorization to sign on to this letter.