Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

Martin Suuberg
Commissioner

MEMORANDUM

TO: Federal Energy Regulatory Committee

FROM: Deputy Commissioner Gary Moran
Massachusetts Department of Environmental Protection

DATE: May 31, 2016

RE: EIS Scope Comments to FERC for the *Access Northeast Project (ANE)*;
FERC Docket No. PF16-1-000

The Massachusetts Department of Environmental Protection (MassDEP), appreciates the opportunity to provide comments to the Federal Energy Regulatory Commission (FERC) as part of the Environmental Impact Statement (EIS) for the Spectra Energy – Access Northeast Project (ANE Project). MassDEP understands that FERC will require a full EIS and that the proponent will file an Environmental Notification Form with the Massachusetts Environmental Policy Act Office (MEPA). MassDEP expects to file detailed comments as part of the MEPA review process.

The MassDEP recognizes that the ANE Project is in the process of preparing a cumulative impact analysis for the Project that will be provided in the draft Resource Reports to be filed with the FERC within 60 days following the end of the scoping period. To assist in this effort, the following comments are being provided to FERC for consideration in its scoping of a comprehensive review of environmental impacts in accordance with the National Environmental Policy Act. The attached comments arise from the Notice of Intent issued by FERC on April 29, 2016 requesting preparation of an EIS.

ANE Project Description –

The components of the ANE Project consist of pipeline facilities, compressor stations, and a Liquid Natural Gas (LNG) storage facility. The specific project elements in Massachusetts include:

1. **Mainline Pipeline Facilities**
   In Massachusetts, the project will involve the construction of approximately 28.9 miles of mainline pipeline and looping comprised of the following:
   - 3.0 miles of 24-inch diameter connector pipeline from Algonquin's existing G-System pipeline to the Access Northeast LNG Facility in Bristol County;
   - 21.7 miles of 30-inch diameter pipeline loop in Norfolk County, along Algonquin's existing Q-1 System; and
   - 4.2 miles of 30-inch diameter pipeline loop in Norfolk County ("I-8 System Loop").
2. **Pipeline Lateral Facilities**
   Construction of 26.8 miles of 16-inch diameter pipeline lateral ("West Boylston Lateral") in Middlesex and Worcester Counties;
3. **New Compressor Station**
   Construct a new compressor station in Rehoboth, Bristol County;
4. **Upgrade to Proposed New Compressor Station**
   Add 10,320 horsepower to a compressor station proposed for construction as part of the Atlantic Bridge Project Weymouth, Norfolk County and currently under FERC review.
5. **LNG Storage**
   Construction of a new LNG facility on approximately 210-acre site in Acushnet adjacent to an existing Eversource-owned LNG facility. The LNG facility will be run as a peaking facility to supply natural gas during peak periods of demand and interconnected to the Algonquin Mainline Pipeline G-System. The LNG facility components include:
   - two LNG storage tanks with a total combined capacity of 6.8 billion cubic feet;
   - liquefaction and regasification capability;
   - an on-site pipeline that connects the LNG facility to the proposed pipeline connecting to the Algonquin Mainline;
   - a new access road to serve both construction and operation of the LNG facility;
   - assorted on-site operation and maintenance structures and equipment.

Regulatory Review Discussion –

Wetlands Program

The wetlands proposed to be impacted by this project are presumed to serve important statutory public interests including storm damage prevention, flood control, prevention of

pollution, protection of public and private water supplies, protection of ground water supply and protection of fisheries. The total wetland impacts in the ANE Project Supplemental Report (Table 5-3) for the project are estimated to total 158.8 acres. The individual project elements, and associated wetland impacts, are comprised of the following:

- Lateral - West Boylston 16-inch Lateral [Medway to West Boylston] 26.3 acres
- Mainline –
  - Acushnet 24-inch Connector [Freetown to Acushnet] 4.9 acres
  - Q1 30-inch Loop [Medway to Canton] 55.9 acres
  - I8 30-inch Loop [Braintree to Weymouth] 6.5 acres
- Rehoboth Compressor Station 0.0
- Weymouth Compressor Station 0.0
- Access Northeast LNG Facility [Acushnet] 65.0 acres

The Supplemental Report indicates that, of the five project elements, wetland impacts are limited to the Mainline and Lateral pipelines as well as the LNG Facility. No impacts were identified for the compressor stations however Table 5-5 of the report includes a quantitative assessment of soil characteristics and identifies 12.2 acres of hydric soils at the Rehoboth Compressor Station. The EIS should reconcile this information and describe clearly what, if any, wetland impacts will also result from work related to the Rehoboth Compressor Station.

The EIS scope should require that all delineation of jurisdictional resource areas be accomplished through flagging in the field, surveying, and then presented on a scaled site plan. All resource delineations should comport with the following guidance:

- Boundaries of Bordering Vegetated Wetlands (BVW) - *"Wetlands Protection Program Policy: Bordering Vegetated Wetlands Delineation Criteria and Methodology" (MassDEP 1995), Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act (MassDEP 1995);.*
- Delineation of the Mean Annual High Water Line (MAHWL) of all perennial rivers should be performed in accordance with regulations and the use of "bankfull field indicators";
- USGS topographic quadrangle maps reviewed to identify "presumptive" perennial streams; streams should be included in plans – unless the presumptive status of a mapped perennial stream is overcome. Identification of Riverfront Area should be placed on the plan;
- Jurisdictional intermittent streams should have the Bank resource area identified in addition to the centerline of the stream.

MassDEP does not distinguish permanent from "temporary impacts" in the Act or regulations. The EIS scope should include requirement for the description of "in-situ" replacement, i.e., the

excavation and fill disturbance will be "replaced" in accordance with regulation within the footprint of that disturbance. Mitigation for the project should consider: 1) project design modifications that avoid and minimize wetland impacts; 2) wetland replication; 3) wetland enhancement; 4) stormwater management and erosion and sedimentation controls; 5) mitigation for impacts to vernal pool and rare species habitat, including in-place and in-kind restoration and 6) mitigation to replace lost functions and values in a manner consistent with the Wetlands Function and Value Methodology promulgated by the USACOE.

The Proponent should also include the project's impacts on Coldwater Fishery Resources, Massachusetts Habitat of Regional or Statewide Significance (CAPS), and Prime Farmland.

It is anticipated, that numerous mitigation sites will need to be presented. The EIS should be scoped to require a range of mitigation proposals for review and evaluation by regulatory agencies comprising mitigation measures, including replication and restoration, sufficient to contribute to the protection of wetland resource interests. An evaluation should include the evaluation of off-site replication areas with the expectation that more detailed information on mitigation will be developed as part of the permit process. Mitigation sites should be designed to preserve critical functions, such as flood storage volume, at each locality. Restoration of various impacted wetlands may also be considered for inclusion as part of the mitigation effort. In addition, corrective measures or additional mitigation may be necessary in the event that those chosen or portions of those chosen are not successful. High levels of assurance are needed that any mitigation areas proposed on sites that would be taken by eminent domain can in fact be acquired and meet the requirements of the mitigation area. The ANE Project should provide a pre-qualification process to assure that parcels proposed for purchase or taking can be acquired and that said firms contracted to undertake mitigation are qualified and competent to perform projects of the size and scope expected. The ANE Project should also provide sound financial assurances to ensure financial capability to accomplish mitigation.

The EIS scope should also include a description of how each project component will comply with each of the MA Stormwater Standards. Stormwater discharges are subject to the stormwater standards in the Wetlands Protection Act Regulations and the Water Quality Certification Regulations.

Wetland Permitting Pathways

Unless a demonstration can be made that the ANE Project constitutes the maintenance, repair, or replacement, but not a substantial change or enlargement of an existing and lawfully located structure in the service of the public, the Project is not exempt from the Wetlands Protection Act. Other permitting pathways would include compliance with performance standards, qualification as a "limited project" pursuant to 310 CMR 10.53(3)(d), or a variance pursuant to 310 CMR 10.05(10). The project proponent and MassDEP have had a preliminary discussion

about the permitting pathway for various components of the project, but that discussion is not complete. Commitments have been made to further discussion of this issue in the near future.

As a limited project, the ANE Project is required to: seek reasonable alternative routes/facility locations (including regional alternatives beyond immediate local jurisdiction); use best available measures to minimize adverse effects during construction; and substantially restore the surface vegetation and contours of the area.

In the event that the project, or a portion of the project, is determined to require a variance under the Wetlands Protection Act, the proponent is required to address three criteria: 1) That there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with the Wetlands Regulations; 2) that mitigation measures are proposed that will allow the project to be conditioned so as to contribute to the protection of the interests identified in the Wetlands Protection Act; and 3) that the variance is necessary to accommodate an overriding community, regional, state or national public interest, or to avoid an unconstitutional taking of property without compensation. A Variance from the requirements for Water Quality Certification would be required for the placement of fill in an Outstanding Resource Water (ORW), including any Certified Vernal Pool.

The EIS should be scoped to clarify, justify, and provide both qualitative and quantitative data to support the proposal and facilitate MassDEP's review. MassDEP expects the ANE Project to apply and avoid, minimize, mitigate approach to wetland impacts.

LNG Facility Alternatives

The LNG Storage Facility portion of the project proposes significant impacts to as much as 65 acres of wetland resources areas by clearing, converting plant communities and by filling. As proposed, this project element would qualify as one of the largest proposed wetland alterations in the history of the Commonwealth of Massachusetts. The LNG Alternatives Study Area as presented in Figure 4.2-1 of the ANP Supplemental Project Information Filing (April 2016) should be fully vetted as part of the alternatives analysis associated with the proposed siting of the Acushnet LNG facility. Alternatives addressed in the EIS should include a description of each alternative, the cost of the alternative, the wetland impacts of the alternative, and an explanation of why the alternative was accepted or rejected.

The EIS should elaborate on why the proposed Acushnet LNG site will minimize the need for additional facility upgrades and/or equipment as opposed to the other LNG site alternatives within the Mendon to Rochester G-System study area. The EIS should demonstrate how the maximum of 5 miles from the mainline was determined to be the geographic limit for locating LNG sites and identify what the actual, versus potential, environmental and stakeholder impacts would be for installing the pipeline connection between the LNG facility and the mainline.

Another alternative LNG site was proposed in Burrillville, Rhode Island. Although this site appears to have been dismissed due solely to cost considerations, the FEIR should be scoped to require a cost comparison of this site with the costs **and** environmental impacts associated with the proposed Acushnet site or possible sites beyond the Mendon to Rochester G-System study area. The details on this site should include an evaluation of both the economic and environmental consequences of the Burrillville alternative associated with the installation and enlargement of the required pipeline. The cost comparison of each alternative should be reflected as a percentage of overall project cost.

Mainline and Lateral Pipeline Alternatives

The study corridor for the Access Northeast Project is listed as 600 feet wide. The EIS scope should include field evaluations that examine the whole width of 600' as part of the alternative analysis for avoiding wetlands in the pipeline. The EIS should also examine alternatives available for the replacement of existing pipeline with larger diameter pipeline. For all pipeline routes, the EIS should include a review of alternatives routes considered, particularly opportunities for co-location along existing routes parallel to the proposed routes. In addition, a discussion should be included about what, if any, alternative delivery points could be used to supply the Access Northeast Project service area. Include details of available route alterations.

- Provide any information on costs for installation, maintenance and replacement for standard and "non-standard" pipeline/facility configuration.
- More fully document the cost differentials among all alternatives. The comparison of estimated alternatives' costs should incorporate costs of land acquisition, construction, excavation, and mitigation.

The EIS scope should include a requirement for a complete and detailed description of the extent of the wetlands impacts, creating tables with potential wetlands impacts for each alternative. Critical areas such as Priority Habitats, Areas of Critical Environmental Concern (ACEC's), vernal pools, ORW's etc. merit particular attention. Each alternative should be closely evaluated based on the functions of these critical areas – rather than relying solely on the square footage of resource areas impacted. The EIS should also clarify the definition of Vernal Pool in use (as defined by which agency; Corps, State, local Bylaw) and should provide additional information about water withdrawals for hydrostatic testing.

The EIS should also be scoped to require a substantive review and/or documentation of efforts undertaken to obtain construction standard waivers which avoid and/or minimize environmental impacts but would still achieve project objectives.

401 Water Quality Certification for Discharge of Dredged or Fill Material Pursuant to the Federal Clean Water Act

For any portion of the project that involves dredging, the MassDEP will require that the ANE Project include a quantitative and qualitative evaluation of the physical and chemical characteristic of the dredge material, a description of dredge material dewatering methodologies, a discussion of the proposed beneficial reuse of sediment or disposal of excess dredged materials, and description of related mitigation measures.

The EIS should address the need for the ANE Project to coordinate with state and federal fisheries agencies to develop a work schedule that will ensure the protection of the species of concern during sensitive life-stages. The EIS should require the ANE Project to obtain documentation from the MDFW as to the presence or absence of mapped diadromous fish runs in the proposed project corridors and associated time-of-year (TOY) restrictions. Any such TOY restrictions will be applied to in-water construction activities in the 401 Water Quality Certification.

The Project is proposing Horizontal Directional Drilling beneath the Charles River (3 locations), Fisherville Pond, Flint Pond, Mill Pond, Newton Pond. The Proponent should address mitigation plans in the event that inadvertent returns occur during the drilling (i.e. bentonite spill into wetlands). There will be 158 acres of wetlands will be affected in Massachusetts. The Proponent should better define "Wetlands Affected" in the project planning (e.g. filled/replicated, lost, or temporary alteration/restoration).

Waterways: Chapter 91

Geographic areas subject to the jurisdiction of M.G.L. c. 91 and the Waterways Regulations at 310 CMR 9.04 include filled and flowed tidelands, navigable rivers and streams and Great Ponds. The navigable waterbody crossings referenced for each segment of the ANE Project are listed in Table 5-1 of the Supplemental Project Information Filing Report, include:

- West Boylston 16-inch Lateral [Medway to West Boylston] 31 (minor[1]), 11 (intermediate), and 6 (major) for a total of 48 waterbody crossings;
- Acushnet 24-inch Connector [Freetown to Acushnet] 1 (minor), 2 (intermediate), 1 (major) for a total of 4 crossing;
- Q1 30-inch Loop [Medway to Canton] 17 (minor), 14 (intermediate), 1 (major) for a total of 32

[1] Stream crossings are defined as Minor: ≤ 10 feet; Intermediate as >10 - ≤100 feet; and Major as >100 feet.

- I8 30-inch Loop [Braintree to Weymouth] 2 (minor), 1 (intermediate), 2 (major) for a total of 5 crossings.

The proponent proposes to utilize dry (dam-and-pump, flume crossing, etc.), open cut crossing methods, and horizontal directional drilling (HDD). In total, eighty-nine (89) waterbody crossing are intended for Massachusetts. Of these total crossings, Horizontal Directional Drilling is under consideration for twelve (12) crossings. See Table 5-2 of the Supplemental Project Information Filing Report.

The forthcoming EIS should be scoped to provide more detailed information as to: the extent of jurisdiction; the identity of the structures and uses within jurisdiction that require authorization; determination of the water-dependency of these structures and uses; evaluation as to whether these structures where previously authorized; and, whether the proposed uses meet the applicable performance standards.

Activities requiring chapter 91 authorizations include construction or substantial enlargement of an existing, previously authorized gas line, or accessory structures. Authorization is also required for any proposed dredging or fill within jurisdictional areas. The installation of temporary construction equipment crossings in non-tidal rivers or streams, Great Ponds, flowed or filled tidelands also requires Chapter 91 authorization. Conversely, no license is required for the maintenance, repair and minor modification of previously authorized structures and uses within c.91 geographic jurisdiction

In particular, the EIS scope for the ANE Project should include a discussion of the following for the Wetlands Protection Act, 401 Water Quality Certification and Chapter 91 filings:

- Identify the specific method for each water crossing where these methods will be employed;
- A schedule to consult state agencies regarding time restrictions of waterbody crossings.
- Consultations with state agencies to identify waterbody crossings on impaired streams/waterbodies containing contaminated sediments (if any).
- The review of construction methods appropriate for different flows and the waterbody width which minimize environmental impacts. Proposed crossing methods also should occur, where possible, at sites where the impact would be minimized and within the right of way (ROW). If HDD will be the preferred crossing method in a particular waterbody construction, the ANE Project should provide sufficient scientific data to determine the suitability of the geological properties that allows the achievement of the necessary cover depth below the riverbed.
- ANE needs to consider that the application of HDD technology requires a significant staging - workspace area. The minimum workspace footprint needed to operate the HDD equipment is 50,000 square feet (200 feet wide by 250 feet long, 1.15 acres,

approximately) at the entry and exit sides. The EIS should address foreseeable problem areas where the waterbody crossing is within a wetland or difficult at locations where other constraints such as geology or land ownership constrain the available lay-down area.

- The "Best Drilling Practices Plan & Monitoring and Clean-up of Horizontal Directional Drilling Inadvertent Returns" ("BDP Plan") should include mitigation measures for an inadvertent release of drilling fluid, or slurry of bentonite clay and water, into the aquatic environment or other wetland resources. Also, provide information of how bentonite waste will be handled before and after HDD process in and around a waterbody.
- Assess the potential impacts resulting from multiple crossings (i.e., Charles River).
- Blasting activities proposed at water crossings where dense till or bedrock is present and cannot be avoided. Potential impacts on waterways resulting from this activity should be discussed in the EIS and assessed in order to consider alternative excavation methods. Every effort should be made to minimize blasting in waterbody crossing.
- Site-specific construction plans and scaled drawings identifying all areas to be disturbed by construction for each waterbody crossing must be developed in consultation with MassDEP's Wetland and Waterways Program. The plan also should include a full description of all impacted areas at the waterbody crossing, such as: work areas, spoil storage areas, sediment control structures, etc. For the Ch. 91 application filing purposes, those maps should include:
    - Delineation of historic high and low water marks;
    - Indication of any base flood elevation of the statistical 100-year storm event.
    - Bathymetric data (soundings or contours).
    - Provide site-specific crossings construction plans, and a description of the equipment to be installed, and where construction equipment crossings will be installed.
    - Description of how the ANE Project will restore stream channels and banks to pre-construction conditions after the project is completed or at post-construction phase. Revegetation of disturbed riparian areas is required. These measures are included in the erosion and sedimentation control plan (E&SCP). Algonquin should prepare a separate revegetation and monitoring plan for the post-construction phase, not only for the riparian areas, but also for all affected areas (including ROW) in waterbody crossings.

Rare species Habitat

The EIS scope should require a completion of anticipated surveys for federal- and state-listed threatened and endangered species. The current assessment of Rare, Threatened, and Endangered Species includes:

- Northern long-eared bat (threatened);
- Box Turtle (special concern);
- Wood Turtle (special concern)
- Bald Eagle – Boylston, West Boylston, Freetown

The project should identify and map all estimated habitats of rare wildlife in the project corridor. Construction schedules should be proposed for work on the right of way which incorporates relevant time-of-year restrictions (TOY) and identifies areas required to be avoided or bypassed during the appropriate TOY restriction dates. Close coordination with the Massachusetts Natural Heritage and Endangered Species is urged.

Air Quality

MassDEP, through its regulations at 310 CMR 7.00, administers an air quality new source permitting program. Based on MassDEP's discussions with ANE Project representatives to date, three locations have been identified in Massachusetts that will require Air Quality permits: the proposed compressor in Rehoboth, the proposed compressor in Weymouth, and the proposed LNG storage facility in Acushnet.

Although MassDEP maintains the right to gather the necessary information under its own authority, we request that FERC also address the following issues as part of the EIS so the information can be presented in a holistic manner.

MassDEP will require that the Applicant submit a Comprehensive Plan Application ("CPA") for each of the three facilities. These applications will be reviewed in accordance with MassDEP Air Pollution Control Regulations at 310CMR 7.02. As part of each CPA, the Applicant will be required to submit the results of air dispersion modeling, used to predict the dispersion of the air emissions from the facility and estimate the resulting impacts. The air dispersion modeling will be used to determine whether the emissions from the proposed facilities will exceed the Significant Impact Level ("SIL") for each pollutant. The SIL is a *de minimis* threshold used to determine if pollutant emissions have a significant impact. If model-predicted results are below the SIL, it is presumed that the new emissions will not cause nor contribute to a violation of the National Ambient Air Quality Standards ("NAAQS"), and there will be no significant deterioration of air quality; i.e., emissions will not cause a worsening of the air quality. Additionally, the dispersion modeling will be used to ensure that the emissions from the facility, as a whole, with background concentrations added to the model-predicted results, do not exceed the NAAQS. The NAAQS, which are established by the EPA, are designed to provide

protection of the public health, including protecting the health of sensitive populations, such as asthmatics, children, and the elderly. Additionally, these standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

Each of the three applications will need to establish Best Available Control Technology ("BACT") for each criteria pollutant. BACT means an emission limitation based on the maximum degree of reduction of any regulated air contaminant emitted from, or which results from, any regulated facility which the MassDEP determines is achievable for such a facility. This determination is made on a case-by-case basis, taking into account energy, environmental, economic impacts and other costs. BACT may include a design feature, equipment specification, work practice, operating standard, or any combination thereof. The Applicant should clearly identify BACT, as proposed for each Facility.

Each of the turbines installed in conjunction with this project will have applicable requirements in the United States Environmental Protection Agency's ("USEPA")Regulations at 40 CFR 60 Subpart KKKK – "Standards of Performance for Stationary Combustion Turbines." Reciprocating engines installed in conjunction with this project must either comply with the requirements of MassDEP's Industry Performance Standards for Engines and Combustion Turbines at 310 CMR 7.26(40) through (44) or be included in the CPA for the purposes of air quality and BACT analysis. Additionally, engines will have applicable requirements in the USEPA's Regulations at 40 CFR 60 Subpart IIII - "Standards of Performance for Stationary Compression Ignition Engines or Subpart JJJJ – "Standards of Performance for Stationary Spark Ignition Internal Combustion Engines," and 40 CFR 63 Subpart ZZZZ "National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines." MassDEP has not accepted delegation for Part 60 Subparts IIII, JJJJ, KKKK or Part 63, Subpart ZZZZ for facilities that are not subject to the Title V Operating Permit program. The authority for the implementation and enforcement of these Federal regulations rests with the USEPA.

MassDEP Regulations at 310CMR 7.09 address nuisance conditions caused by dust during construction. The Applicant should indicate all dust mitigation measures that will be taken. This requirement is applicable to the entire length of the project and is not necessarily limited to the compressor and storage facilities.

If this project includes the disturbance of any facility or equipment that contains asbestos, the Applicant may be subject to the requirements in MassDEP's Asbestos Regulations at 310 CMR 7.15.

Noise Mitigation

FERC Regulations at 18 CFR 380.12(k)(4)(v)(A) limits noise attributable to any new compressor station to an average day-night sound level of 55 decibels A weighted ("dB(A)") at a noise sensitive area ("NSA"). This differs from the MassDEP Noise Control regulation at 310 CMR 7.10, which prohibits unnecessary or uncontrolled sound emissions that may cause noise, or the MassDEP noise policy, which quantifies the sound impact at the Facility's property line or nearest residence that constitutes noise, as 10 dB(A) over background. MassDEP's Noise Policy also prohibits the creation of a puretone, which is a variation of more than 3 dB(A) on adjacent octave bands. While a 55 DB(A) sound level may be generally protective of sound impacts, as a day-night average it may not adequately address peak, episodic events, which may have brief impacts in excess of MassDEP's 10 dB(A) standard. Specific noise mitigation strategies should be proposed. Additionally, the EIS should outline the strategy for noise impact modeling, including identifying all equipment that will be evaluated, identifying any nearby residences and sensitive receptors that will be evaluated for impacts and a discussion of any background monitoring that may be required.

Drinking Water

The Massachusetts of Environment Protection is tasked with the protection of Public Water Supplies. Massachusetts regulations (310 CMR 22.01 (1)) state that:

"310 CMR 22.00 is intended to promote the public health and general welfare by preventing the pollution and securing the sanitary protection of all such waters used as sources of water supply and ensuring that public water systems in Massachusetts provide to the users thereof water that is safe, fit and pure to drink."

It has been brought to MassDEP's attention that the proposed Access Northeast natural gas pipeline will pass through Zones I and II of several public supply wells owned by the Town of Walpole, presenting potential adverse effects on water quality in the area. Pertinent portions of the drinking water regulations are stated below.

310 CMR 22.21(1)(b)(5) states in part:*" that current and/or future land uses within the Zone I are limited to those directly related to the provision of public drinking water or will have no significant adverse impact on water quality."*

Additionally, 310 CMR 22.24 regarding the Sale, Transfer of Property Interest, or Change in Use of Water Supply Land states that:

(1) No supplier of water may sell, lease, assign, or otherwise dispose of, or change the use of, any lands used for water supply purposes without the prior written approval of the Department.

The Department will not approve any such disposition or change in use unless the supplier of water demonstrates to the Department's satisfaction that such action will have no significant adverse impact upon the supplier of water's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply.

(2) Land Transfers Any sale, transfer of property interest or change in use of land acquired for water supply purposes may also require approval by a b vote of the Legislature, in addition to Department approval. (Massachusetts Constitution Amend. Art. XCVII, Section 243)

(3) Easements The Department will not approve any grant of easement for pipelines, or other conduit, carrying liquid petroleum products within the Zone I of a PWS. For other public utility easements within Zone I, the Department may require as a condition of any grant of such easement an express perpetual prohibition on the use of fertilizers, pesticides, herbicides, and other non-mechanical means of vegetation control within the area subject to the easement.

As part of the approval of the easement, the Department will require information to determine that there no adverse impact on water quality.

This should include information that necessary measures are taken to prevent a release of oil and hazardous materials during construction in the Zones 1. These should include but not be limited to no fueling of machinery, no storage of oil and hazardous material, regular inspection of machinery for leaks and ready availability of spill containment materials. Information should also include any leaching that could occur of the pipeline materials into surrounding soils and groundwater.

The Former Metal Bellows Facility (RTN 4-0261) has contaminated the Town of Walpole Washington Well #6. There is concern that the disruption of the native soils and the placing of fill for the pipeline may cause a preferential pathway from the Former Metal Bellows Facility to the Walpole well felid. The EIS should provide information regarding the depth of the pipeline construction in relationship to historical groundwater elevations and any construction techniques, focusing on the backfill of the excavation, which will be used to prevent a preferential pathway for the migration of contamination to impact the Town of Walpole supply wells.

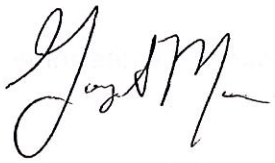
Water Supply

The proponent should notify MassDEP's Drinking Water Program in the appropriate Regional Office and the Public Water System(s) when work will commence in all Zone A and Zone I Protection Areas and at the completion of the work in these areas. All public water supply wells

and source waters should be clearly marked in the field for protection. The public water sources and Protection Areas should be depicted on all plans and maps given to contractors working in those areas along with instructions to be aware of the sensitive nature of the Protection Areas. Vehicle access to the Protection Areas should be limited to what is necessary for the project and no vehicles should be left overnight in the Protection areas. Tree cutting, stripping, and grading should be limited to what is required for the project and no fertilizers or other lawn application products are to be used after loaming and seeding. MassDEP should review and approve any easements in accordance with 22.24(3).

For additional information, please do not hesitate to contact MassDEP me or Director for the Office of Ombudsman and Special Projects Kathleen Kerigan at (617) 292-5915 or Kathleen.Kerigan@State.MA.US.

Sincerely,



Gary Moran
Deputy Commissioner
Massachusetts Department for Environmental Protection