

SUMMARY OF MACC ADVICE TO CONSERVATION COMMISSIONS

- Presented by Eugene Benson, Executive Director

What Can Commissions (and Land Trusts) Do Now?

- Inventory conservation lands and document valuable resources
- Submit rare species reports to NHESP
- Certify vernal pools
- Document archaeological resources
- Identify historic sites
- Make sure property deeds and conservation easements and restrictions have been recorded at the Registry of Deeds
- Do homework necessary to establish value of conservation land in case of a negotiated easement or an eminent domain taking
- Review conservation restrictions on conservation land to see if proposed survey methods would violate restrictions
- Make sure your commission has adopted rules for implementing Ch.44 §53G (hiring outside consultants at applicant's expense)
- Review Mass DEP's Wildlife Habitat Guidance document

After Pre-filing and Before KM Files Formal Application with FERC

- KM public meetings (open houses) in affected regions to discuss the project
- FERC should be there to explain the FERC pre-filing process and the public comment opportunities
- *MACC advises commission involvement in the open houses, including providing information on possible environmental impacts of the proposed pipeline route and asking that a full environmental impact statement be prepared for the project*

Participate in the NEPA Process

- KM's Pre-filing with FERC (filed September 15th) triggers review of the project under the National Environmental Policy Act (NEPA)
- NEPA goal: assess the environmental impact of the project and alternatives and identify mitigation for impacts
- NEPA requires public involvement, including public notice and public comment
- FERC will hold site visits and scoping meetings in the project area. Scoping highlights the issues that should be addressed in the NEPA review (for example, potential other routes for the pipeline, impacts on wetlands and endangered species, and the no-build alternative)
- *MACC advises that it is very important to be involved in the NEPA process, submit detailed comments, and show that there are significant environmental concerns*
- The NEPA process will conclude after KM's formal filing with FERC
- FERC ultimately decides if the NEPA review was adequate. The FERC decision can be appealed to court (issue for court review is process, not substance)

During the FERC Application Review Process

- KM files a formal application with FERC
- "Public convenience and necessity" must be shown by KM
- Environmental Report filed by KM / NEPA process completed
- People and groups can petition to intervene or protest the application
- Options to consider if involved in the FERC process include:
 - Request that FERC require KM to get approval from legislature to cross Ch. 97 land
 - Advocate for an alternative route with less environmental impact
- FERC will schedule a public hearing on the application – FERC process can be slow
- If FERC approves the project, it will issue a certificate of public necessity and convenience. **With that certificate, local and state laws and regulations are pre-empted unless the certificate states otherwise.**
- *Potential: use the FERC process to have the FERC include conditions in the certificate that require compliance with MESA, MA WPA and Ch.44 §53G*